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Book - 9430 Pg - 7558-7616
Gary W. Ott
Recorder, Salt Lake County, UT
SURETY TITLE
BY: eCASH, DEPUTY - EF 59 P.

When Recorded, Mail to:

D.R. Horton, Inc.
12351 South Gateway Park Place, Suite D-100
Draper, Utah 84020
Attention: Micah Peters

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
ROSE CREEK CROSSING SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ROSE CREEK CROSSING SUBDIVISION (this "Declaration"), is made this March 1st, 2007, by D.R. HORTON, INC., a Delaware corporation (herein referred to as "Declarant").

RECITALS:

A. D.R. Horton, Inc. owns 262 residential lots located in Riverton City, Salt Lake County, Utah (the "Property"), as more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

B. Declarant intends to develop a residential subdivision on the Property known as **ROSE CREEK CROSSING SUBDIVISION**. The Declarant will develop and convey all of the Property within the Rose Creek Crossing Subdivision subject to a general plan of development and subject to certain covenants, conditions and restrictions, all as set forth in this Declaration, which are deemed to be covenants running with the land, mutually burdening and benefiting all of the Property and each of the Lots.

**ARTICLE 1
DECLARATION**

1.1 Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to and in strict accordance with all of the terms and conditions of this Declaration, including without limitation all of the covenants, conditions and restrictions set forth herein, all of which are created for the mutual benefit of the Owners of the Property and the Lots. It is the intention of the Declarant in imposing the covenants, conditions and restrictions set forth in this Declaration to create a generally uniform pattern of development of the Property and to protect and enhance the property values and aesthetic values of the Property by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners of the Lots. All of the terms and conditions of this Declaration, including without limitation all covenants, conditions and restrictions set forth herein, are intended to and shall in all cases run with the title of the land comprising the Property

When Recorded, Mail to:

D.R. Horton, Inc.
12351 South Gateway Park Place, Suite D-100
Draper, Utah 84020
Attention: Micah Peters

This document has been recorded electronically.
Please see the attached copy to view the County
Recorder's stamp as it now appears in the public record.

Date: 03/05/07 Entry: 10022953
Book: 9420 Page: 7558-7616
Submitted by: Surety Title

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and shall be binding upon the Owners, their successors, assigns, heirs, lien holders, and any other person holding any interest in the Property and shall inure to the benefit of all other Property in the Project. All of the terms and conditions of this Declaration, including without limitation the covenants, conditions and restrictions set forth herein, shall be binding upon Declarant as well as all of Declarant's successors in interest, and may be enforced by Declarant, by the Architectural/Technical Committee, or by any Owner.

1.2 Notwithstanding the foregoing, no provisions of this Declaration shall prevent Declarant from the completion of the Project Improvements, or from using any Lot owned by Declarant as a model home, temporary construction or sales office, nor limit Declarant's right to post signs or engage in other reasonable activities on the Property incidental to sales or construction which are in compliance with the applicable ordinances of Riverton City.

ARTICLE 2 DEFINITIONS

2.1 Unless the context clearly requires the application of a more general meaning, the following terms, whether capitalized or not, when used in this Declaration, shall have the following meanings:

"Architectural/Technical Committee" shall mean the committee created under Article 10 of this Declaration.

"Articles" shall mean the Articles of Incorporation of Rose Creek Crossing Owners' Association, Inc.

"Association" shall mean Rose Creek Crossing Owners' Association, Inc., a Utah non-profit corporation, organized for the purposes set forth in this Declaration.

"Bylaws" shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference, as amended from time to time.

"Common Areas" shall mean all portions of the Project excluding Units and property dedicated to the public, as may be designated on the Plat, and as described on Exhibit B attached hereto. Each Owner owns an undivided interest in the Common Areas appurtenant to each Lot.

"Common Assessments" shall mean those Assessment described in Section 16.1 to fund the Common Expenses, and include Regular Common Assessment, Special Common Assessments and any other assessments levied by the Association.

"Common Expenses" shall mean all expenses of the administration, maintenance, repair, or replacement of the Common Areas and all other expenses denominated as Common Expenses by this Declaration.

"Common Expense Fund" shall mean one or more deposit or investment accounts of the Association into which are deposited the Common Assessments

"Declarant" shall mean and refer to D.R. Horton, Inc., a Delaware corporation.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Rose Creek Crossing Subdivision, together with any subsequent amendments or additions, and any other matters or conditions shown on the Plat which are incorporated into this Declaration by reference.

"Dwelling" shall mean the attached or detached single family residence built or to be built on any Lot.

"Excavation" shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than 12 inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the ordinances and regulations as adopted by Riverton City

"Fill" shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from offsite or resulting from the regrading of excavated material from on-site, to raise the natural elevation of the surface. Fill shall also include any fill material as defined under the ordinances and regulations as adopted by Riverton City.

"Improvements" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwellings, garages and storage buildings.

"Lot" shall mean any numbered Lot shown on the subdivision plats entitled Rose Creek Crossing Subdivision and Rose Creek Crossing Townhomes PUD.

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

"Management Committee" shall mean the Board of Directors of the Association, appointed or elected in accordance with this Declaration and the Bylaws.

"Mortgage" shall mean any mortgage, deed of trust or other security instrument (including the seller's rights under a contract for deed) by which a Unit or any part thereof or interest therein is encumbered. A "First Mortgage" is a Mortgage having priority as to all other Mortgages encumbering a Unit or any part thereof or interest therein.

"Owner" shall mean the person or persons having title to any Lot as shown on the Plats of the Rose Creek Crossing Subdivision and the Rose Creek Crossing Townhomes PUD. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

"Period of Declarant Control" shall mean the period of time during which Declarant shall be entitled, for purposes of the Association, to appoint all of the members of the Board of

Directors of the Association and all of the officers of the Association, as provided in Section 6.3 hereof.

"Permitted Improvements" shall mean any Improvements installed, constructed, maintained or allowed to stand on the Property in conformity with this Declaration.

"Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

"Plat" shall mean collectively the subdivision plats entitled Rose Creek Crossing Subdivision and Rose Creek Crossing Townhomes PUD, each as approved by Riverton City and recorded in the office of the Recorder of Salt Lake County, Utah, and any amendments that may be made from time to time.

"Project" shall mean the Property, the Units and Common Areas and all Improvements submitted by this Declaration.

"Property" shall mean all of the land described on the Plat, including Lots and Roadways.

"Public View" shall mean that the object, Improvement, or activity on the Property is or would be in the line of sight originating from a point five feet above the surface of any public streets, including Roadways within the Project.

"Regular Common Assessments" shall mean the annual assessments levied by the Association to pay the budgeted Common Expenses.

"Residential Unit" shall mean a Lot within the Project which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a detached single family residence built or to be built on any Lot within the subdivision plat entitled Rose Creek Crossing Subdivision. The term "Residential Unit" refers to the Lot, which is part of the Residential Unit, as well as any Dwelling or other Improvement on the Lot.

"Riverton City" shall mean Riverton City, a Utah Municipal Corporation, and its appropriate departments and officials.

"Roadway" shall mean those portions of the Property that have been or will be dedicated to Riverton City as a public way.

"Service Area Assessment" shall mean those assessment described in Section 17.5 to fund the Service Area Assessments, and any other assessments levied by the Association in connection with the Townhome Service Area.

"Service Area Committee" shall mean the committee elected by the Owners of the Townhome Units to act on behalf of such Owners with respect to the services and benefits that the Association provides the Townhome Service Area.

"Service Area Expenses" shall mean all the expenses that the Association incurs or expects to incur in connection with providing benefits or services to the Townhome Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Townhome Service Area.

"Special Common Assessments" shall mean assessments that the Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

"Total Votes of the Association" shall mean the total number of votes appertaining to all Units, as described in Section 15.6 hereof.

"Townhome Common Areas" shall mean all portions of the Townhome Plat, excluding Townhome Units and property dedicated to the public, as may be designated on the Townhome Plat, and as described on Exhibit C attached hereto. Each Owner of a Townhome Unit owns an undivided interest in the Townhome Common Areas appurtenant to each such Owner's Lot.

"Townhome Plat" shall mean the subdivision plat entitled Rose Creek Crossing Townhomes PUD, as approved by Riverton City and recorded in the office of the Recorder of Salt Lake County, Utah, and any amendments that may be made from time to time.

"Townhome Service Area" shall mean the property included on the Townhome Plat, which includes the Townhome Units and the Townhome Common Area, as designated by Declarant.

"Townhome Unit" shall mean a Lot within the Project which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as an attached single family residence built or to be built on any Lot within the subdivision plat entitled Rose Creek Crossing Townhomes PUD. The term "Townhome Unit" refers to the Lot, which is part of the Townhome Unit, as well as any Dwelling or other Improvement on the Lot.

"Unit" shall mean a Residential Unit or a Townhome Unit. A Unit does not include Common Areas or property dedicated to the public.

ARTICLE 3 PURPOSE OF DECLARATION

3.1 It is the purpose and intention of Declarant that the Property be developed and maintained as a high quality, attractive and well-designed residential development. It is the purpose of this Declaration that the natural beauty, serenity, views and present surroundings of the Property shall be protected as much as possible in connection with the Improvements to be constructed on the Property and the uses permitted on the Property as set forth in this Declaration.

ARTICLE 4

DESCRIPTION AND OWNERSHIP OF PROJECT

4.1 Description of Project. The Project shall consist of 166 Residential Units and 24 four-plex buildings, consisting of 96 Townhome Units. The Project includes the Common Areas described herein, which Common Areas shall initially include a clubhouse and an outdoor swimming pool. The Project also includes the Townhome Common Areas described herein, which Townhome Common Areas shall initially include the landscaped portions of the Townhome Plat, referred to thereon as a "Parcel D" and "Common Area B", and the private streets located within the Townhome Plat.

4.2 Ownership and Use of Units.

(a) Each Unit may be owned in fee simple title by the Owner. Each Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration. A Unit shall include any balcony, deck, patio, entryway, or porch adjacent to a Unit; the driveway located in front of a Unit; the backyard grass area behind a Unit within a fenced area. Subject to the limitations contained in this Declaration, each Owner, his or her agents, tenants, family members, invitees and all occupants shall have the exclusive right to occupy and use their Unit.

(b) Each Unit shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing authority. All such taxes, assessments, and other charged on each respective Unit shall be separately levied against the Owner thereof. No forfeiture or sale of any Unit for delinquent taxes, assessments, or other governmental charged shall divest or in any way affect the title to any other Unit.

4.3 Ownership and Use of Common Areas. Each Owner shall own an undivided interest in the Common Areas, and except as otherwise limited in this Declaration, shall have the right to use the Common Areas for all purposes incident to the use and occupancy of such Unit as place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his or her Unit. Such right to use the Common Areas shall extend to each Owner, his or her agents, tenants, family members, invitees and all occupants of the Units and shall be subject to this Declaration and the rule and regulations of the Management Committee. The undivided interest in the Common Areas appurtenant to each Unit shall be allocated equally among each Unit in the Project. The undivided interest in the Common Areas appurtenant to each Unit shall be a fraction, the numerator of which is "1" and the denominator of which is the total number of Units in the Project, as shown on the Plat. Alternatively, such fraction may be expressed as a decimal number. Except as otherwise provided in this Declaration, the undivided interest appurtenant to each Unit shall have a permanent character and shall not be altered. The sum of the undivided interest in the Common Areas allocated to all Units shall at all times equal one hundred percent (100%). Declarant is authorized to round the undivided interest of one or more Units in order to cause the total to equal one hundred percent (100%). The Association shall have the right and obligation to design, maintain, replace and otherwise alter in any manner the landscaping in the Common Areas.

4.4 Ownership and Use of the Townhome Common Areas. Each Owner of a Townhome Unit shall own an undivided interest in the Townhome Common Areas, and except as otherwise limited in this Declaration, shall have the right to use the Townhome Common Areas for all purposes incident to the use and occupancy of such Townhome Unit as place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his or her Townhome Unit. Such right to use the Townhome Common Areas shall extend to each Owner of a Townhome Unit, his or her agents, tenants, family members, invitees and all occupants of such Townhome Units and shall be subject to this Declaration and the rule and regulations of the Management Committee. The undivided interest in the Townhome Common Areas appurtenant to each Townhome Unit shall be allocated equally among each Townhome Unit in the Project. The undivided interest in the Townhome Common Areas appurtenant to each such Townhome Unit shall be a fraction, the numerator of which is "1" and the denominator of which is the total number of Townhome Units in the Project, as shown on the Townhome Plat. Alternatively, such fraction may be expressed as a decimal number. Except as otherwise provided in this Declaration, the undivided interest appurtenant to each Townhome Unit shall have a permanent character and shall not be altered. The sum of the undivided interest in the Townhome Common Areas shall at all times equal one hundred percent (100%). Declarant is authorized to round the undivided interest of one or more Townhome Units in order to cause the total to equal one hundred percent (100%). The Association shall have the right and obligation to design, maintain, replace and otherwise alter in any manner the landscaping in the Townhome Common Areas.

ARTICLE 5 TITLE TO UNITS

5.1 Title. Title to a Unit within the Project may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

5.2 No Severance of Ownership. Title to a part of a Unit within the Project may not be separated from any other part thereof during the period of ownership, and each Unit, and the undivided interest in the Common Areas, and Townhome Common Area where applicable, appurtenant to each Unit shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth.

5.3 No Partition of Common Areas. The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof. The Townhome Common Areas shall be owned in common by all of the Owners of Townhome Units, and no Owner may bring any action for partition thereof.

5.4 Encumbrance of Units. Each Owner shall have the right to encumber his interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas or any part thereof, or the Townhome Common Areas, or any part thereof, except the undivided interest therein appurtenant to his interest in a Unit. Any Mortgage

of any Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

5.5 No Unauthorized Liens. No labor performed or services or materials furnished with the consent of or at the request of an Owner may be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner, unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in this Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner may remove his Unit from a lien against two or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his Unit.

5.6 Description of Unit. Every contract for the sale of a Unit and every other instrument affecting title to a Unit within the Project may describe a Unit by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its address. Such description will be construed to describe the Unit, together with the undivided interest in the Common Areas appurtenant to a Unit, and to incorporate all the rights incident to ownership of a Unit within the Project and all of the limitations on such ownership as described in this Declaration.

5.7 Notice of Unit Ownership. Any person, on becoming an Owner, will furnish the Secretary of the Association with a photocopy or certified copy of the recorded instrument or such other evidence as may be specified by the Management Committee under the Bylaws or the Association rules, vesting the person with the interest required to make him an Owner. At the same time, Owner will provide the Association with the single name and address to which the Association will send any notices given pursuant to the governing documents of the Project. In the event of any change in the facts reported in the original written notice, including any change of ownership the Owner will give a new written notice to the Association containing all of the information required in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Owner.

ARTICLE 6 CERTAIN ADDITIONAL DEVELOPMENTAL RIGHTS

The following additional Developmental Rights are hereby granted or reserved by Declarant:

6.1 Reservation of Easement. Declarant hereby reserves an easement throughout the Project for a period of six (6) years from the recording of this Declaration for the purpose of completing all improvements contemplated by this Declaration and the Plat. Declarant's use of the easement reserved pursuant to this Section 6.1 is conditioned on the requirement that Declarant shall repair and restore any damage caused by Declarant as the result of the use of the

easement by Declarant. In order for Declarant to use the easement reserved pursuant to this Section 6.1, Declarant must reasonably determine that there is not a reasonably available alternate means of access.

6.2 Sales Office. Declarant hereby reserves the right to maintain sales offices, management offices, signs advertising the Project, and models in any of the Units that it owns or on the Common Areas of the Project for a period of up to ten (10) years from the recording of this Declaration. Declarant shall be entitled to utilize, at any one time, up to 4 Residential Units and 4 Townhome Units which it owns and some or all of the Common Areas as sales offices, management offices, and models anywhere in the Project. Declarant may relocate sales offices, management offices, and models to other Residential Units, Townhome Units or Common Areas at any time.

6.3 Declarant Control. There is hereby established a Period of Declarant Control of the Association during which period Declarant or persons designated by it shall have the authority to appoint and remove the Association officers and members of the Management Committee. The Period of Declarant Control shall terminate on the earlier of: (a) five (5) years after the recordation in the Office of the Recorder of Salt Lake County, Utah of the most recently recorded Plat; or (b) one hundred twenty (120) days after the date 75% of the total number of Units in the Project are conveyed to Owners other than Declarant; or (c) the date Declarant delivers to the Association written notice of Declarant's election to relinquish control of the Association.

Notwithstanding the foregoing, to assure the representation of Owners other than Declarant on the Management Committee, at least twenty percent (20%) of the members of the Management Committee shall be elected solely by the vote of the Owners other than Declarant so long as a majority of the voting power of the Association resides in Declarant. A member who has been elected to office solely by the vote of Owners other than Declarant may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in Owners other than Declarant. After termination of the Period of Declarant Control, the Management Committee shall be elected as provided in the Bylaws.

6.4 Construction. Declarant, its agents and contractors shall have the right to come upon the Property for the purpose of making alterations or improvements to the Property and shall have the right to store equipment and materials used in connection with such work on the Property without payment of any fee or charge whatsoever.

ARTICLE 7 EASEMENTS

7.1 If any part of the Common Areas or Townhome Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon the Townhome Common Areas, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on

the Common Areas, Townhome Common Areas, or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

7.2 Each Owner shall have a non-exclusive easement of use and enjoyment in the Common Areas which is appurtenant to and passes with title to such Owner's Unit. Each Owner of a Townhome Unit shall have a non-exclusive easement for ingress and egress over, upon and across the Townhome Common Areas as necessary for access to such Owner's Townhome Unit and for utilities serving such Townhome Unit, and shall have the right to the horizontal, vertical and lateral support of such Owner's Townhome Unit. In addition each Owner of a Townhome Unit shall have a non-exclusive easement of use and enjoyment in the Townhome Common Areas which is appurtenant to and passes with title to such Owner's Townhome Unit. The right of access for necessary ingress and egress to the Townhome Unit and utility services cannot be suspended by the Association for violations of this Declaration or nonpayment of assessments. The Owner's easement rights shall be subject to the following limitations:

7.2.1 The right of the Association, acting through the Management Committee, without Owner, Mortgagee and agency approvals, to grant easements across the Common Areas and/or Townhome Common Areas for any purpose not inconsistent with the use of such common areas by the respective Owners;

7.2.2 The right of the Association, acting through the Management Committee, without Owner, mortgagee and agency approvals, to adopt regulations governing the use of Common Areas and Townhome Common Areas, and the personal conduct of Owners, occupants and guests thereon;

7.2.3 The right of the Association, acting through the Management Committee, without Owner, mortgagee and agency approvals, to charge reasonable admission or other fees for special or extraordinary uses of the Common Areas and/or Townhome Common Areas; and

7.2.4 The right of the Association, acting through the Management Committee, without Owner, mortgagee or agency approvals, to suspend the right of any Owner, and the rights of any Owner's household, tenants, guests and invitees to use recreational facilities or other portions of the Common Areas and/or Townhome Common Areas (to the extent that access and utility service are not impaired) for a period not to exceed 60 days, unless such rights are suspended for failure to pay assessments, in which case such rights may be suspended until the assessments are fully paid.

7.2.5 The Association and the Manager shall have an easement to make such use of the Common Areas and/or Townhome Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Common Areas for use by the Owners and the Association.

7.2.6 All conveyances of Units within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

7.3 The [Salt Lake County Flood Control Agency] and [Stream Control] shall have an easement over the Creek Buffer Zone depicted on the Plat, for the purposes of owning, maintaining and operating Rose Creek.

ARTICLE 8 RESTRICTIONS ON PROPERTY

The following restrictions on use apply to all Property within the Project:

8.1 Governing Regulations. The lawfully enacted zoning regulations of Riverton City and of any other governmental body having jurisdiction with respect to the Property, including without limitation any and all applicable building, fire, and health codes, are in full force and effect in the Project, and no Lot may be occupied in a manner that is in violation of any such statute, law, ordinance or regulation. If the provisions of this Declaration are more stringent than any applicable governmental statute, law, ordinance or regulation, it is the intent that the provisions of this Declaration shall control. This Declaration shall not authorize any uses, improvements, or activities that are prohibited by any local, state or federal statute, law, ordinance or regulation.

8.2 Nuisances. No noxious, offensive or illegal activity shall be carried on in or upon any part of the Project, nor shall anything be done on or placed in or upon any part of the Project that is or may become a nuisance or may cause embarrassment, disturbance or annoyance to Owners.

8.3 No Business or Commercial Uses. The Property within the Project shall be used for residential purposes only. No portion of the Project may be used for any commercial or business use, provided however that nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of the Project Improvements or until the Lots are sold, or (b) the use by any Owner of his Lot for a home occupation. No home occupation will be permitted, however, which requires or encourages the Owner's clients, customers, patients or others to come to the Lot to conduct business, or which requires any employees outside of the Owner's immediate family or household to come to the Lot to conduct business. No signs or other advertisements relating to any such home occupation shall be placed upon any of the Property within the Project, nor shall any such sign or advertisement be visible from the outside of any of the Permitted Improvements constructed on the Property. No retail sales of any kind may be made in the Project. All home occupations operated or conducted from any of the Lots within the Project shall comply with all applicable local, state or federal statutes, laws, ordinances and regulations, including without limitation all statutes, laws, ordinances and regulations pertaining to licensing and permitting for the operation of any such home occupation.

8.4 Restrictions on Signs. No signs will be permitted on any Lot or within the Project; except for traffic control and directional signs for Roadways placed by Riverton City or

temporary signs warning of some immediate danger and except for such other signs as may be approved by the Architectural/Technical Committee. Signs indicating a Lot is for sale may be placed in accordance with Riverton City sign regulations. The Declarant may erect signs for Declarant's use acceptable to Riverton City at the entrance to the Project and/or within the Project announcing the availability of Lots and Dwellings within the Project and giving sales information. An entrance monument for the Project may be constructed by Declarant, at Declarant's sole discretion.

8.5 Dwelling to be Constructed First. No garage, storage unit, or other out-building may be constructed on any Lot prior to the construction of the Dwelling on such Lot.

8.6 Animals. The use of animals for pets, housing, breeding, or boarding must comply with the existing animal regulations for Riverton City.

8.7 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous, or which would cause the cancellation of conventional property casualty insurance. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses.

8.7 No Unsightliness. No unsightliness is permitted on any Lot. This requirement shall prohibit, without limitation, the open storage of any building materials (except during the construction of any Dwelling or Improvements); open storage or parking of construction equipment, trucks larger than pick-up trucks (except during periods of actual loading and unloading); accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage.

8.8 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by Riverton City.

8.9 No Transient Lodging Uses. The Lots are to be used for residential housing purposes only and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast," or other uses for providing accommodations to travelers.

8.10 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept on any Lot, except in sanitary containers approved by the Architectural/Technical Committee. All equipment for the storage or disposal of waste or rubbish shall be kept in a clean and sanitary condition and must meet the approval of the Architectural/Technical Committee.

8.11 Parking and Storage of Personal Property. No storage of any articles, material, equipment or vehicles of any nature is permitted in the front yard portion of any Lot, except that regularly used passenger cars and light pickup trucks may be parked on the driveway areas in the front yard. Boats, trailers, campers, motorized vehicles, motor homes and all other types of recreational and/or accessory equipment may be parked on the public right-of-way or in a

driveway for not more than twenty-four (24) hours. Such recreational vehicles or equipment may be parked on a Residential Unit on a parking pad separate from the driveway that complies with Riverton City regulations so long as such vehicles and equipment are inside of the Lot setback lines, do not encroach into the setback area, are not perpetually unsightly as determined by the Management Committee, and the parking pad and parking of vehicles and equipment comply with the rules and regulations promulgated by the Management Committee from time to time. Notwithstanding the foregoing, no boats, trailers, campers, motorized vehicles and all other types of recreational and/or accessory equipment may be parked within the Townhome Common Area or on a Townhome Unit. This provision may be amended unilaterally by the Declarant during the Period of Declarant Control, or by the Management Committee in the Association rules, without the written consent of Owners.

8.12 Outdoor Furniture. All furniture placed on the front porches and other outdoor areas within any Lot that is within Public View must be of a type and quality generally characterized as "outdoor furniture."

8.13 Common Areas. Nothing shall be altered or constructed in or removed from the Common Areas and/or Townhome Common Areas, except upon written consent on the Management Committee. There shall be no obstruction of the Common Areas or Townhome Common Areas by any Owner. Owners shall neither store nor leave any of their property in the Common Areas or Townhome Common Areas, except with the prior written consent of the Management Committee.

8.14 Division of Units. Except as otherwise provided in this Declaration, no Unit, or portions thereof, may be further divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership (as opposed to community property, tenancy in common, or other form of joint undivided ownership).

8.15 Insurance. Nothing shall be done or kept in any Unit or in the Common Areas Townhome Common Areas or any part thereof that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit that would increase the rate of insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas or Townhome Common Areas or any part thereof that would be in violation of any statute or rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and/or Townhome Common Areas or any part thereof shall be committed by any Owner or guest, lessee, licensee, or invitee of any Owner, and each Owner shall indemnify, defend and hold the Association and the other Owners harmless from and against all loss resulting from any such damage or waste caused by him or his guests, lessees, licensees, or invitees.

8.16 Rules. No Owner shall violate the rules and regulations for the use of Units and Common Areas and Townhome Common Areas as adopted from time to time by the Association.

8.17 Leases. Any lease or rental agreement for a Unit must be in writing and must be subject to the terms of this Declaration, the Bylaws, rules, regulations and other documentation of the Association. An Owner shall not lease such Owner's Unit for an initial term of less than six (6) months. The Owner shall provide a copy of the lease or rental agreement to the Management Committee within ten (10) days after the lease is executed and prior to occupancy. An Owner shall be responsible and liable for any damage to the Project caused by its tenants. Within ten (10) days after delivery of written notice of the creation of a nuisance or material violation of these restrictive covenants, the Owner shall proceed promptly to abate the nuisance or cure the default, and notify the Management Committee in writing of his or her intentions.

8.18 Creek Buffer Zone. No Owner nor any other person shall enter, disturb, or erect Improvements on the property within the Creek Buffer Zone as depicted on the Plat, without the prior written consent of [Salt Lake County Flood Control Agency] and [Stream Management].

ARTICLE 9 RESTRICTIONS ON LOTS

9.1 Dwelling and Ancillary Structures: No Dwelling or other Improvements shall be placed, erected, altered, or permitted to remain on any Lot other than one (1) single family Dwelling and one (1) garage together with related nonresidential Improvements which have been approved by the Architectural/Technical Committee. At the time of construction of the single family Dwelling on any Lot, said Lot must also be improved with a garage with at least a two (2) car capacity. The Dwelling on each Lot shall be used for private residence purposes only, and no structure of any kind shall be moved from any other location and placed upon a Lot, nor shall any incomplete building or Improvement of any type be permitted to remain incomplete on a Lot for a period in excess of one (1) year from the date the Improvement was started, unless otherwise approved by the Architectural/Technical Committee. No structure of a temporary character nor any trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No structure greater than one hundred (100) square feet in area may be built upon any Lot without the prior written consent of the Architectural/Technical Committee.

9.2 Towers, Satellite Receivers and Antennas: No towers, exposed or outside radio, television or other electronic antennae, with the exception of television receiving antennae, shall be allowed or permitted to remain on any Lot. Satellite receivers, in excess of eighteen (18) inches in diameter, must have an enclosure to screen them from view from any surrounding Lot Owner.

9.3 Used or Temporary Structures: No used or previously erected or temporary house, structure, house trailer, mobile home, camper, or nonpermanent outbuilding shall be placed, erected, or allowed to remain on any Lot except during construction periods, and no Dwelling shall be occupied in any manner prior to its completion and approval in accordance with Article 8 hereof.

9.4 Minimum Architectural Requirements: The following shall be considered to be minimum architectural requirements with respect to Dwellings constructed within the Project, although the Architectural/Technical Committee shall have broad discretion in the approval of

plans for Dwellings constructed in the Project and shall be entitled to consider factors in addition to the following minimum requirements:

(a) Exterior materials on all Dwellings shall be limited to brick, rock, cultured stone, stucco, hardy board, hardy plank or hardy shingle or similar manufactured materials of equal quality. Upon the express written approval of the Architectural/Technical Committee, other exterior building materials may be used. Exceptions to the foregoing requirements may be allowed to accommodate an architectural duplication of a certain era or style, such as Victorian. No Dwellings shall be constructed with readily combustible exterior finishes, which prohibition shall preclude without limitation wood shingles, wood soffits, wood facia and wood siding. No less than 25% of the combined area of the front and the two sides of each Dwelling must be finished with exterior materials consisting of either rock, brick or cultured stone. For purposes of calculating the combined area of the front and the two sides of each Dwelling, the windows, doorways and other cut-outs shall not be included. For example, the foregoing requirement may be satisfied by placing all of the required square footage of rock, brick or cultured stone on the front of the Dwelling (in excess of 25% of the area of the front of the Dwelling) and not placing any rock, brick or cultured stone on either of the two sides of the Dwelling.

(b) No dome, A-frame or modified A-frame Dwellings shall be allowed or constructed.

(c) No prefabricated Dwellings or trailers shall be allowed or constructed.

(d) Roofs on all buildings shall be constructed with a minimum pitch angle of 6:12. All roofs shall be made of fire resistant dimensional shingles or other roofing materials approved by the Architectural/Technical Committee. The shingles must be a minimum of 30 year dimensional shingles.

(e) All buildings, structures and improvements on any Lot shall comply with the construction guidelines and specifications of the planning and building department of the governmental authority having jurisdiction over the Project.

(f) All fencing within the Project must be approved by the Architectural/Technical Committee. All fencing must be in compliance with Riverton City's height and set-back requirements. No chain link fences of any type are allowed for perimeter fencing of any lot within the Project; provided, however, that fencing around a dog run in the back yard of a Lot shall not be considered perimeter fencing.

9.5 Slope and Drainage Control. No Improvement, planting or other material shall be placed or permitted to remain, nor shall any other activities be undertaken, which may damage or interfere with established slope ratios, which create erosion or sliding problems, or which may change the direction or flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot and all Improvements within them shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. All Lot Owners shall retain and control all water runoff from such Owner's Lot or Lots, so as not to damage or hinder other Lots or Owners.

9.6 Landscaping. The Landscaping of the front yard of each Lot, including the planting of grass or the placement of sod, and the planting of at least 3 trees per front yard and a minimal number of shrubs, must be completed within six (6) months from the time the construction of the Dwelling is completed, as may be reasonably extended due to inclement weather. In the event construction of the Dwelling is finished during a time of year when landscaping is difficult or impractical, the front yard landscaping shall be completed within sixty (60) days of the weather permitting installation of such landscaping, as determined in Declarant's sole discretion. The Landscaping of the back yard and side yards of each Lot does not need to be completed within such timeframe. The Owner of each Lot within the Project shall keep such Owner's Lot clean of weeds and trash. If the Owner fails to do so, the Declarant or the Architectural/Technical Committee shall have the right to cause such maintenance work to be done and to cause the cost of such maintenance work to be charged to and paid by the Owner of such Lot. The recordation by the Declarant and/or the Architectural/Technical Committee in the Office of the Recorder of Salt Lake County, Utah of a Notice of Charge against the Owner of any Lot shall constitute a lien against such Lot, which lien shall remain in effect until such amount, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of such Notice of Charge, is paid. Thereupon the Notice of Charge shall be released of record.

ARTICLE 10

ARCHITECTURAL/TECHNICAL COMMITTEE

10.1 Introduction. It is the intention and purpose of this Declaration to impose architectural design standards of a type and nature that result in Dwellings and Permitted Improvements which are compatible with a high quality, attractive and well-designed residential development. The placement, dimensions and materials of the Permitted Improvements will be guided, but still allow for diversity in style and vitality in design. To accomplish this goal, the Declarant hereby establishes the Architectural/Technical Committee, which is empowered to oversee and enforce the provisions of this Declaration.

10.2 Architectural/Technical Committee Created. The Architectural/Technical Committee will consist of three (3) people appointed by D.R. Horton, Inc., who do not need to be Owners. At the time Dwellings have been constructed on 60% of the Lots, all two members of the Architectural/Technical Committee will be elected by the Lot Owners. The above percentages are to be based on the total number of Lots in the Project so that the Declarant is able to remain active in the administration and enforcement of this Declaration while Lots are being marketed.

10.3 Approval by Architectural/Technical Committee. No Improvements of any kind, including without limitation the construction or installation of any Dwelling, garage, out building, fence or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Project without the prior written approval of the Architectural/Technical Committee. The fence materials acceptable in the community must be of a material and color similar to the masonry and vinyl perimeter fencing unless otherwise contemplated and approved by the Architectural/Technical Committee. The construction of all Improvements must occur within the portion of a Lot which is approved for the construction of Improvements by the ordinances of Riverton City and also in compliance with all set back requirements set forth in

this Declaration. No Excavation, Fill, grading, filling or draining shall be made without the prior written approval of the Architectural/Technical Committee. Approval of the Architectural/Technical Committee will be sought in the following manner:

(a) *Plans submitted.* A complete set of plans for the construction of any Improvement as described in this Section 9.3 must be signed by the applicant and submitted to the Architectural/Technical Committee for review. It is recommended that preliminary plans be submitted before the expense of final construction drawings is incurred. The plans must be in sufficient detail to show the location on the Lot of the Improvements, including without limitation, the exterior walls of any Dwelling and all other structures to be built with it and all fences to be constructed on the Lot; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior, roofing and fencing materials and/or a sample, including color samples. In the case of an addition or modification to an existing Dwelling, the Architectural/Technical Committee may waive any of the foregoing requirements.

(b) *Review.* The Architectural/Technical Committee shall exercise its best judgment in overseeing the construction of all Improvements on the Property within the Project. The Architectural/Technical Committee shall consider the materials to be used on the external features of all Improvements, including but not limited to exterior colors, harmony of external design with existing structures within the Project, location with respect to topography and finished grade elevations and harmony of landscaping with the natural settings and surroundings. While in receipt of a complete submission of the plans, the Architectural/Technical Committee will review the plans and make an initial determination whether or not the plans comply with the conditions imposed by this Declaration. If the plans do not comply, the plans will be rejected. If the plans are in compliance, the Architectural/Technical Committee will stamp and approve the plans. The Architectural/Technical Committee may approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans to the Architectural/Technical Committee for informal and preliminary approval or disapproval. The Architectural/Technical Committee will review preliminary plans and the Architectural/Technical Committee will make its comments known to the Owner. However, no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission of plans as set forth in this Declaration. All preliminary sketches will be kept by the Architectural/Technical Committee. Upon final approval, the Architectural/Technical Committee and the Owner will each sign a copy of the approved plans, which shall be left with the Architectural/Technical Committee. Any construction that is not in strict compliance with the approved plans is prohibited. Notwithstanding any provisions in the Declaration, all construction of any nature upon any of the Lots within the Project shall be performed in compliance with the requirements of the land management code and the building and zoning ordinances of all governmental entities having jurisdiction with respect to the Project.

(c) *Written Record.* The Architectural/Technical Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years.

(d) *Failure to Act.* If the Architectural/Technical Committee has not approved or rejected any submission within 45 days after the submission of complete plans, the submission shall be deemed to have been disapproved.

(e) *Permits and Approvals from Riverton City.* Notwithstanding any other provision of this Declaration to the contrary, prior to commencing the construction of any Improvements on any Lot, the Owner of each Lot must obtain from Riverton City all necessary permits and approvals required by Riverton City in connection with the construction of any such Improvements.

10.4 Variances. The Architectural/Technical Committee has the authority to deviate from the requirements contained in this Declaration under extenuating circumstances, when compliance with this Declaration would create an unreasonable hardship or burden for a Lot Owner. No such variance may be granted without the unanimous written consent of the Architectural/Technical Committee. The Architectural/Technical Committee does not, however, have the authority to deviate beyond the requirements of the land management code and the building code and zoning ordinances of all governmental entities having jurisdiction with respect to the Project.

10.5 General Design Review. The Architectural/Technical Committee will use its best efforts to provide a consistent pattern of enforcement and consistent application of this Declaration that results in a high quality, attractive, and well-designed residential development.

10.6 Declarant and Architectural/Technical Committee not Liable. The Declarant and the Architectural/Technical Committee and its members shall not be liable to the applicant or to the Owners of any Lots within the Project for damages or any other remedy as the result of their actions, inactions, or approval or disapproval of any set of plans submitted to the Architectural/Technical Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant, the Architectural/Technical Committee or its members as a result of the performance or failure to perform the duties created by this Declaration. Any person or persons acquiring title to any Lot in the Project shall be deemed to have agreed and covenanted that such Owner will not bring any action or suit to recover damages against the Declarant or the Architectural/Technical Committee or its members, or the advisors, officers, employees or agents of the any of the foregoing, as a result of the performance by the Architectural/Technical Committee of its duties and responsibilities under this Declaration. Each Owner has the right to enforce this Declaration against another Owner.

10.7 Limitations on Review. The Architectural/Technical Committee's review is limited to those matters expressly described in this Declaration. The Architectural/Technical Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. The Architectural/Technical Committee shall not be responsible for reviewing, nor shall the approval by the Architectural/Technical Committee of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or compliance with any applicable building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of the Property. The structural integrity of any

Improvements constructed within the Project is not the responsibility of the Architectural/Technical Committee. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable statutes, laws or ordinances must be reviewed and approved by the Architectural/Technical Committee prior to construction.

10.8 Approval to Proceed. The Architectural/Technical Committee shall stamp, date and sign the plans and deliver the plans to the applicant once the plans for any Permitted Improvements have been approved.

ARTICLE 11 MAINTENANCE OBLIGATIONS

11.1 Duty to Maintain. Except as otherwise provided herein, it is the obligation of the Owner of each Lot to maintain properly his Lot and the Improvements to the Lot in a good state of repair and an attractive, safe, and healthy condition at all times in order to preserve and enhance the enjoyment of the Project.

11.2 Alterations of Exterior Appearance. Except as otherwise provided herein, the Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Architectural/Technical Committee. No subsequent exterior alterations, improvements or remodeling, whether structural or cosmetic, will be made without the advance written consent of the Architectural/Technical Committee.

11.3 Repair Following Damage. Except as otherwise provided herein, in the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Architectural/Technical Committee, provided however that alterations or deviations from the originally approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Architectural/Technical Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Architectural/Technical Committee.

11.4 Common Areas. The maintenance, replacement and repair of the Common Areas shall be the responsibility of the Association, and the cost thereof shall be a Common Expense.

11.5 Townhome Common Areas. The maintenance, replacement and repair of the Townhome Common Areas, including, without limitation, all recreational facilities and the private roads, walkways and parking lots within the Townhome Service Area, shall be the responsibility of the Association, and the cost thereof shall be a Service Area Expense. The Association shall also maintain, replace and repair all conduits, ducts, plumbing, and wiring and other central facilities for the furnishing of gas, light, power, water and sewer service. All

incidental damages caused to a Townhome Unit by the maintenance, replacement and repairs of the Townhome Common Areas or utility services shall be repaired promptly and the cost thereof charged as a Service Area Expense.

11.6 Access. The Association shall have the irrevocable right to have access to all Common Areas and Townhome Common Areas from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and/or Townhome Common Areas or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas or Townhome Common Areas. The Association shall also have the irrevocable right to have access to any Townhome Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction of the Townhome Unit exterior for which the Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association. When practicable, Association shall provide Owner with prior written notice of such desired entry.

ARTICLE 12 INSURANCE

12.1 Commencing not later than the time of the first conveyance of a Unit to an Owner other than Declarant, the Association shall maintain, to the extent reasonably available, insurance as follows:

12.1.1 The Association shall maintain property insurance on exterior of the Townhome Units, the Common Areas and Townhome Common Areas, including any fixtures and personal property owned by the Association, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. All such insurance policies shall have the standard Mortgagee clause and provide for notice to the Mortgagee at least ten days before lapse, material modification or cancellation of the policy. The total amount of insurance, without regard to any deductibles, shall be not less than one hundred percent (100%) of the replacement value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. In addition, the Association shall obtain, if available, an Inflation Guard Endorsement, an Agreed Amount Endorsement, a Steam Boiler and Machinery Coverage Endorsement (with minimum liability of \$2,000,000 per accident) if the Project has a steam boiler, either a Guaranteed Replacement Cost Endorsement or a Replacement Cost Endorsement, and a Building Ordinance or Law Endorsement.

12.1.2 The Association shall maintain liability insurance in an amount determined by the Management Committee but not less than \$5,000,000 for all claims of personal injury, death and/or property damage arising out of a single occurrence pertaining to property damage in each occurrence covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the exterior of the Townhome Units, Common Areas and Townhome Common Areas. Such insurance policy shall contain a "severability of interest" endorsement

which shall preclude the insurer from denying the claim of a Owner because of negligent acts of the Association, its committee members, its officers or the Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage investors for similar projects in location, construction and use.

12.1.3 Such other insurance in types and amounts as determined from time to time by the Management Committee.

12.2 The insurance maintained under Section 12.1 shall include the exterior of the Townhome Units but need not include improvements and betterments installed by Owners or the personal property of Owners. The Association may carry any other insurance it deems appropriate to protect the Association or the Owners.

12.3 Where applicable, insurance policies carried by the Association shall provide the following:

12.3.1 Each Owner, or the Association, as agent for each of the Owners, shall be an insured person under the policy with respect to liability or loss arising out of his interest in the Common Areas, Townhome Common Areas or membership in the Association.

(a) The insurer waives its right to subrogation under the policy against any Owner or members of his household.

12.3.2 No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or operate as a condition to recovery under the policy by another person.

12.3.3 If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same property covered by the policy, then the Association's policy provides primary insurance.

12.3.4 All Owners as a class shall be named as additional insureds in any policy issued to the Association.

12.3.5 The insurer shall acknowledge the insurance trust agreement, if any.

12.4 An insurance policy issued to the Association shall not prevent an Owner from obtaining insurance for his own benefit.

12.5 Any loss covered by the property policy under Sections 12.1.1 shall be adjusted with the Association, but the insurance proceeds for that loss shall be payable to an insurance trustee designated for that purpose by the Association and not to the Association or any Mortgagee. The insurance trustee shall hold any insurance proceeds in trust for the Association, Owners and Mortgagees as their interests may appear. The Association or the trustee, as applicable, on behalf of and as trustee for all Owners and Mortgagees, individually and collectively, shall have the authority to adjust losses with respect to insurance secured and maintained by the Association, to pursue claims, negotiate and settle claims, and to enter into agreements relative to the same, and each Owner shall be deemed to have appointed the

Association or the trustee, as applicable, as an attorney in fact for such purpose. Subject to the provisions of Article 13 of this Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and Mortgagees shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Project is terminated.

12.6 An insurer that has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, on written request, to any Owner or Mortgagee. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner, and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

12.7 This Section does not prohibit the Management Committee from acquiring additional or greater amounts of coverage as it reasonably deems appropriate.

12.8 The Management Committee shall require the Manager to obtain and maintain fidelity bonding of the Manager and employees of the Association having control of, or access to, the funds of the Association with loss coverage ordinarily not less than the maximum amount of funds of the Association over which the principal(s) under the bond may reasonably be expected to have control or access at any time. The bonding company shall not cancel or refuse to renew the fidelity bond until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner, and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses. The bonding agreement shall require ten (10) days written notice to the Association or the insurance trustee prior to the delivery of the same notice to each servicer that services a FNMA-owned or FNMA-securitized mortgage in the Project.

12.9 All insurance policies shall be written by a company holding a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports - International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBq" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service. Each insurer must be specifically licensed to transact business within the State of Utah. Policies are unacceptable where (a) under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, any Owners or a Mortgagee; (b) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent a Mortgagee or the Association from collecting insurance proceeds. The maximum deductible amount for policies covering the exterior of the Townhome Units, Common Areas and Townhome Common Areas shall be the lesser of \$10,000 or 1% of the policy face amount.

ARTICLE 13 DESTRUCTION OR DAMAGE

13.1 Destruction or Damage of Common Areas.

13.1.1 In case of fire or any other disaster that causes damage or destruction to all or part of the Common Areas, the Management Committee, with the help of an independent appraiser, shall determine the percentage that was destroyed or substantially damaged. If less than two thirds (2/3) of the Common Areas was destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and restoration thereof, using the proceeds of insurance on the Common Areas for that purpose, and the Owners shall be liable for assessment for any deficiency in proportion to their respective ownership interests in the Common Areas. Reconstruction of the Common Areas shall mean restoring to substantially the same condition existing prior to the damage or destruction, with the Common Areas having approximately the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Article 14 hereof shall apply.

13.1.2 If two thirds (2/3) or more of the Common Areas is destroyed or substantially damaged, the Management Committee shall, within one hundred (100) days after such destruction or damage, call a special meeting of the Association for the purpose of deciding whether or not the Common Areas shall be repaired and restored. If Owners holding three fourths (3/4) or more of the Total Votes of the Association in the Project, in person or by proxy, vote to repair or restore the Common Areas, the Management Committee shall promptly arrange for the reconstruction of the Common Areas using the proceeds of insurance therefrom for that purpose, and the Owners shall be liable for assessment for any deficiency in proportion to their respective ownership interest in the Common Areas. If the destruction or damage is by reason of eminent domain, the provisions of Article 14 hereof shall apply. At such election, if Owners holding three fourths (3/4) or more of the Total Votes of the Association do not vote either in person or by proxy to make provision for reconstruction, the Management Committee shall record with the Recorder of Salt Lake County, Utah a notice setting forth such facts, and upon the recording of such notice (i) the Common Areas shall be deemed to be owned in common by the Owners as tenants in common, each Owner owning an undivided interest in the Common Areas; and (ii) the Common Areas shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Common Areas, shall be considered as one fund and shall be divided among all Owners in an amount equal to the ownership interest owned by each Owner in the Project, after first paying out of the respective shares of the Owners, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the Project owned by each Owner.

13.2 Destruction or Damage of Townhome Units and Townhome Common Areas.

13.2.1 In case of fire or any other disaster that causes damage or destruction to all or part of the Townhome Service Area, the Management Committee, with the help of an independent appraiser, shall determine the percentage that was destroyed or substantially damaged. If less than two thirds (2/3) of the Townhome Service Area was destroyed or substantially damaged, the Management Committee shall arrange for the prompt repair and

restoration thereof, using the proceeds of insurance on the Townhome Service Area for that purpose, and the Owners of the Townhome Units shall be liable for assessment for any deficiency in proportion to their respective ownership interests in the Townhome Common Areas. Reconstruction of the Townhome Service Area shall mean restoring to substantially the same condition existing prior to the damage or destruction, with each Townhome Unit and the Townhome Common Areas having approximately the same vertical and horizontal boundaries as before, unless the destruction or damage is by reason of eminent domain, in which event the provisions of Article 14 hereof shall apply.

13.2.2 If two thirds (2/3) or more of the Townhome Service Area is destroyed or substantially damaged, the Management Committee shall, within one hundred (100) days after such destruction or damage, call a special meeting of the Owners of the Townhome Units for the purpose of deciding whether or not the Townhome Service Area shall be repaired and restored. If such Owners holding three fourths (3/4) or more of the total votes of the Townhome Units, in person or by proxy, vote to repair or restore the Townhome Service Area, the Management Committee shall promptly arrange for the reconstruction of the same using the proceeds of insurance therefrom for that purpose, and the Townhome Owners shall be liable for assessment for any deficiency in proportion to their respective ownership interest in the Townhome Common Areas. If the destruction or damage is by reason of eminent domain, the provisions of Article 14 hereof shall apply. At such election, if Townhome Owners holding three fourths (3/4) or more of the total votes of the Townhome Units do not vote either in person or by proxy to make provision for reconstruction, the Management Committee shall record with the Recorder of Salt Lake County, Utah a notice setting forth such facts, and upon the recording of such notice (i) the Townhome Common Areas shall be deemed to be owned in common by the Townhome Owners as tenants in common, each Owner owning an undivided interest in the Townhome Common Areas equal to his ownership interest in the Townhome Common Areas; (ii) any liens affecting any of the Townhome Units shall be deemed to be transferred in accordance with the existing priorities to the Owner of the respective Townhome Unit; and (iii) the Townhome Service Area shall be subject to an action for partition at the suit of any Owner of a Townhome Unit, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Townhome Service Area, shall be considered as one fund and shall be divided among all Townhome Owners in an amount equal to the ownership interest owned by each Owner of Townhome Unit, after first paying out of the respective shares of the Owners of Townhome Units, to the extent sufficient for such purposes, all sums necessary to satisfy liens on the undivided interest in the Townhome Common Areas owned by each Owner of a Townhome Unit.

ARTICLE 14

EMINENT DOMAIN

14.1 Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas, Townhome Common Areas or one or more Townhome Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Management Committee and each Owner shall be entitled to notice thereof and the Management Committee shall, and the Owners at their respective expense may, participate in the proceedings

incident thereto. The Management Committee, on behalf of all Owners, individually and collectively, shall have the authority to represent the Association and all Owners and in such regard shall represent their interests in proceedings, negotiations, settlement and agreements, and each Owner shall be deemed to have appointed the Management Committee as attorney in fact for such purpose.

14.2 With respect to the Common Areas or Townhome Common Areas, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his ownership interest in the respective common areas. This provision does not prohibit a majority of the Owners from authorizing the Management Committee to use such damages or awards for replacing or restoring the Common Areas and/or Townhome Common Areas so taken on the remaining land or on other acquired land, provided that this Declaration and the respective Plat are duly amended.

14.3 With respect to one or more Townhome Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damages or destruction pursuant to Article 13 above and shall be deposited with the Management Committee as trustee. Even though the damage or awards may be payable to one or more Owners, the Owners shall deposit the damages or awards with the Management Committee as trustee. In the event an Owner refuses to so deposit his award with the Management Committee, then at the option of the Management Committee, either a special assessment shall be made against the defaulting Owner and his Townhome Unit in the amount of this award or the amount of such award shall be set off against the sum hereafter made payable to such Owner.

14.4 Changes in Townhome Units, in the Common Areas, in the Townhome Common Areas, and in the ownership of the Common Areas and and/or Townhome Common Areas that are affected by the taking referred to in this Article 14 shall be evidenced by an amendment to this Declaration and the respective Plat, which need not be approved by the Owners.

ARTICLE 15 OWNERS' ASSOCIATION AND MANAGEMENT COMMITTEE

15.1 Association Governance. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Management Committee consisting of five (5) natural persons as provided in the Bylaws. At least two (2) of the committee members shall be Owners of Townhome Units. The Management Committee and the officers of the Association shall be elected, appointed, removed and replaced as provided in this Declaration and in the Bylaws.

15.2 Management Committee Responsibilities. Except as otherwise provided herein, the Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by this Declaration and the Bylaws, including but not limited to the following:

15.2.1 To make and enforce all rules and regulations covering the operation, use and maintenance of the Project, the Units, the Common Areas, and the Townhome Common Areas.

15.2.2 To engage the services of the Manager, accountants, attorneys, or other employees or agents and to pay to said persons a reasonable compensation therefor.

15.2.3 To operate, maintain, repair, improve and replace the Common Areas and Townhome Common Areas.

15.2.4 To determine and pay the Common Expenses and Service Area Expenses.

15.2.5 To assess and collect the proportionate share of Common Expenses and Service Area Expenses, if applicable, from the Owners, as provided in Section 16.1 and Section 17.5 herein.

15.2.6 To grant easements and licenses and enter into contracts, deeds, leases, and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

15.2.7 To open bank accounts and borrow money on behalf of the Association and to designate the signatories therefor.

15.2.8 To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee.

15.2.9 To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Management Committee, the Association or the Project in excess of \$50,000 (as measured in year 2007 dollars and thereafter adjusted by the Cost of Living Index) without the prior approval of the majority of the Total Votes of the Association at a meeting or by written ballot distributed to Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Association's insurance carrier and which in either case results in no actual liability of funds of the Association in excess of \$50,000 shall not require Association approval.

15.2.10 To obtain insurance for the Association with respect to the Townhome Units, the Common Areas, and the Townhome Common Areas, workers' compensation insurance, and any other insurance it deems necessary or appropriate to protect the Owners and the Association.

15.2.11 To repair or restore the Townhome Units, Common Areas and/or Townhome Common Areas following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation.

15.2.12 To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Management Committee and to the operation of

the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

15.2.13 To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws.

15.2.14 To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Townhome Unit if the same is necessary to protect or preserve the Project.

15.2.15 To prepare, adopt, amend and disseminate budgets and other information from time to time in accordance with the terms of the Bylaws.

15.2.16 To grant easements and rights of way over the Common Areas and Townhome Common Areas and to approve signage for the Project and enter into contracts with other entities. Such contracts may, among other things, obligate the Association to pay assessments and other costs associated with the maintenance of roads and other amenities that benefit the Association.

15.2.17 The Management Committee may delegate to the Manager by written agreement all of the foregoing powers, duties and responsibilities referred to in this Section 15.2.

15.3 Mortgage. The Management Committee may convey or subject to a Mortgage all or portions of the Common Areas and Townhome Common Areas of the Project, if authorized by the Owners entitled to cast a majority of the Total Votes of the Association.

15.4 Liability.

15.4.1 Members of the Management Committee, the officers and any assistant officers, agents and employees of the Association (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Project, which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

15.4.2 When a member of the Management Committee is sued for liability for actions undertaken in his role as a member of the Management Committee, the Association shall indemnify him for his losses or claims, and undertake all costs of defense, until and unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the cost of defense and may recover costs already expended from the member of the Management Committee who so acted. Members of the Management Committee are not personally liable to the victims of crimes occurring at the

Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose activity gave rise to the damages.

15.4.3 Notwithstanding the duty of the Association to maintain and repair portions of the Project, and except to the extent covered by Association insurance as described herein, the Association shall not be liable to owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of those portions of the Project to be maintained and repaired by the Association, or caused by the elements or other Owners or persons.

15.5 Review of Records. The Association, acting through the Management Committee, shall make available to prospective purchasers of Units within the Project current copies of this Declaration, the Articles, the Bylaws, other rules and regulations adopted by the Management Committee governing or pertaining to the Project, and the most recent audited financial statement of the Association, if an audited financial statement is prepared. As used in this Section 15.5, the term "available" shall at least mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

15.6 Voting. At any meeting of the Association, each Owner of a Unit, either in person or by proxy, shall be entitled to vote the number of votes appurtenant to each respective Unit. Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Association. No vote shall be exercised for any property exempt from assessment under this Declaration. During the Period of Declarant Control, no vote shall be exercised for Units that the Declarant owns; rather, the Declarant's consent shall be required for actions of the Management Committee. The number of votes appurtenant to each Unit shall have a permanent character, and, except as otherwise permitted and provide for in this Declaration, shall not be altered without the unanimous consent of all Owners expressed in a duly recorded amendment.

ARTICLE 16 ASSESSMENT OF UNITS BY THE ASSOCIATION

16.1 Common Assessments. The making and collection of assessments by the Association from Owners of Units for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

16.1.1 Each Owner, including Declarant, for each Unit which it owns, shall be liable for a proportionate share of the Common Expenses, such share being the same as the ownership interest in the Common Areas appurtenant to the Unit owned by such Owner. Two separate and distinct funds shall be created and maintained hereunder; one for operating expenses and one for capital expenses. Such combined expenses shall constitute the Common Expenses, and the funds received from Common Assessments under this Article 16 shall be the Common Expense Fund. Common Assessments shall include both Regular Common Assessments and Special Common Assessments. Until the Association makes an assessment for Common Expenses, the Declarant shall pay all Common Expenses. After an assessment has been made by the Association, Regular Common Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Regular Common Assessments shall be levied against each

separate Unit, and shall commence as to all Units of the Project on the first day of the month following the closing of the first sale of a Unit.

16.1.2 The Association shall provide notice, by first class mail to all Owners, of any increase in the Regular Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date the increased Regular Common Assessment is due.

16.1.3 In addition to the Regular Common Assessments, the Association may levy in any calendar year Special Common Assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, or a described capital improvement upon any Common Areas, including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Common Assessments from the Owners. The portion of any Special Common Assessment levied against a particular Unit shall be equal to the percentage of undivided interest in the Common Areas appurtenant to such Unit. The Management Committee shall provide notice by first class mail to all Owners of any Special Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

16.1.4 All Common Assessments shall be due as determined pursuant to the Bylaws. Common Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Management Committee, from the date when due until paid. Furthermore, Owners who do not pay their Common Assessments when due shall be subject to a late fee in the amount of \$5.00 per day, plus interest, adjustable from year to year at the discretion of the Management Committee pursuant to the Cost of Living Index. Any payments of Common Assessments shall be first applied to accrued interest and late fees, and then to the Common Assessment payment first due. All Common Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to their liabilities for Common Expenses. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Unit(s). If the Owners' percentage interests in the Common Areas are reallocated, assessments for Common Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests of the Owners.

16.1.5 The Management Committee shall have the right to assess a fine against the Owner of a Unit, after the requirements of this Section 16.1.5 have been met, for a violation of the rules and regulations of the Association, which have been promulgated in accordance with this Declaration and the By-Laws. Before assessing a fine against the Owner of a Unit, the Management Committee shall give written notice to the Owner of the Unit of the violation, which notice shall inform the Owner that a fine will be imposed if the violation is not cured within the time limit provided in this Declaration, the By-Laws or the rules and regulations adopted by the Management Committee, which cure period shall be in any event at least 48 hours. A fine assessed under this Section 16.1.5 shall: (a) be made only for a violation of a rule or regulation which is specifically listed in this Declaration, the By-Laws or the rules and regulations adopted by the Management Committee as an offense which is subject to a fine; (b) be in the amount specifically provided for in this Declaration, the By-Laws or the rules and

regulations for that specific type of violation, not to exceed \$500; and (c) accrue interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Management Committee, if the fine is not paid on or before ten (10) days after the date that the notice of the fine is sent to the Owner. Cumulative fines for a continuing violation may not exceed \$500 per month. The Owner of a Unit who is assessed a fine under this Section 16.1.5 may request an informal hearing to protest or dispute the fine by delivering written notice to the Management Committee of the request for a hearing, which notice shall be delivered to the Management Committee within thirty (30) days after the date the fine is assessed. The informal hearing before the Management Committee shall occur within thirty (30) days after the date that the Owner of the Unit delivers to the Management Committee written notice requesting the hearing. At the hearing, one or more members of the Management Committee shall present in an informal setting evidence of the violation of the rule or regulation which gave rise to the fine. The Owner contesting the fine shall be entitled to present evidence in an informal setting to challenge the alleged occurrence of the violation of the rule or regulation and such other evidence and information as the Owner determines to be applicable or appropriate. The Management Committee shall issue its decision in writing with respect to such Owner's protest or dispute within ten (10) days following the conclusion of the hearing. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered. The Owner of a Unit may appeal a fine issued under this Section 16.1.5 by initiating a civil action within 180 days after: (a) a hearing has been held and a final decision has been rendered by the Management Committee as described in this Section 16.1.5; or (b) the time for the Owner to request an informal hearing under this Section 16.1.5 has expired without the Owner making such a request. A fine assessed under this Section 16.1.5 which remains unpaid after the time has expired for an Owner to commence a civil action to appeal the fine, as provided in the foregoing sentence, becomes a lien against the Unit owned by such Owner within the Project in accordance with the same standards as a lien for the non-payment of Common Assessments as provided in Section 16.1.6 of this Declaration.

16.1.6 There shall be a lien upon the applicable Unit for all unpaid Regular and Special Common Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to this Declaration and Utah State law and for unpaid fines as provided in Section 16.1.5 hereof. The lien for unpaid Regular and Special Common Assessments, fines, and related charges shall be effective upon recordation in the Office of the Recorder of Salt Lake County, Utah of a written notice of lien by the Management Committee or the Manager. Such lien shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a Mortgage on a Unit guaranteed by VA, a First Mortgage on a Unit, and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Unit. The sale or transfer of any Unit pursuant to mortgage foreclosure of a First Mortgage or any proceeding in lieu thereof extinguishes the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer of a Unit pursuant to a mortgage foreclosure of a First Mortgage or any proceeding in lieu thereof relieves such Unit from liability for any assessments thereafter becoming due or from the lien thereof. Such lien may be enforced by judicial foreclosure or by non-judicial foreclosure in the same manner in which mortgages and deeds of trust on real property may be foreclosed in the State of Utah. A lien for unpaid assessments shall be enforced in accordance with the provisions of this Article 16 or as provided by Utah State law. The lien procedures described herein do not prohibit actions to

recover sums for which the Utah State law creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. A judgment or decree in any action brought hereunder must include costs and reasonable attorneys' fees for the prevailing party. The Management Committee upon written request shall furnish to an Owner a statement setting forth the amount of unpaid assessments against the Unit. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Management Committee, the Manager and every Owner, in favor of all who rely on such statement in good faith. All Regular and Special Common Assessments, fines, late fees, interest and costs payable by an Owner to the Association, as provided in this Declaration, shall be the personal obligation of the Owner who is the Owner of the applicable Unit at the time the Regular or Special Common Assessment, fines or other charge is assessed. Even though the lien against the applicable Unit for all unpaid Regular and Special Common Assessments, fines, interest and costs continues until paid as provided in this Declaration, the personal obligation of an Owner for delinquent amounts shall not pass to such Owner's successor in title or interest, unless such delinquent amounts are assumed by the successors or unless required by applicable law.

16.2 Capital Reserves and Working Capital Fund. The Management Committee shall include in the periodic assessments to the Owners amounts representing sums to be set aside and accumulated in a reserve fund to be used for the periodic maintenance, repair and replacement of the Common Areas of the Project. Additionally, the Management Committee shall establish a working capital fund for the initial months of the Project operations equal to at least a 2 months' estimated Regular Common Assessment for each Unit. Such amount shall be determined by Declarant and shall be paid upon the closing of any purchase of a Unit.

16.3 Expenditure of Capital Reserves. The Management Committee shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Nevertheless, the Management Committee may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Management Committee may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and the Association, delay such restoration until the time it reasonably determines to be necessary. The Management Committee shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Common Assessment shall not be subject to the limitations set forth in Section 16.1.3 hereof. If the current replacement value of the major components of the Common Areas which the Association is obligated to repair, replace, restore or maintain is equal to or greater than one half of the total budgeted Common Expenses for any fiscal year, then at least once every three (3) years the Management Committee shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Management Committee shall, thereafter, annually review the reserve account study and shall

consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

(a) Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of less than 30 years.

(b) Identification of the probable remaining useful life of the items identified in subparagraph (a), above, as of the date of the study.

(c) An estimate of the cost of repair, replacement, restoration or maintenance of each item identified in subparagraph (a), above, during and at the end of its useful life.

(d) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each item during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Management Committee has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain.

16.4 If an Owner shall at any time lease his Unit and shall default in the payment of assessments, the Management Committee may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount so paid.

ARTICLE 17 TOWNHOME SERVICE AREA

17.1 Designation of Service Area. Declarant hereby designates the property included on the Townhome Plat as the "Townhome Service Area", which includes the Townhome Units and the Townhome Common Area. Such Townhome Service Area receives services from the Association that it does not provide to all Units within the Project. During the Period of Declarant Control, Declarant may unilaterally amend this Declaration to change boundaries of or services to the Townhome Service Area.

17.2 Service Area Committee. The Owners of Townhome Units shall elect a Service Area Committee in accordance with the Bylaws to represent and act on behalf of the Owners of Townhome Units with respect to the services and benefits that the Association provides the Townhome Service Area. The Service Area Committee shall coordinate with the Management Committee regarding matters affecting the Townhome Service Area. The Service Area Committee may be made up with as few as three (3) and as many as seven (7) members.

17.3 Provision of Services to the Townhome Service Area. The Association shall provide certain services to the Townhome Service Area (collectively, the "Services"), including, without limitation, maintenance of the Townhome Common Areas (including the private roads),

maintenance of the exterior of the Townhomes, and insurance on the exterior of the Townhomes. Maintenance of the Townhome Common Areas shall include landscaping and sprinkler services, water, power for street lights and path lighting, and snow removal. In addition, the Association shall provide to the Townhome Units basic cable television, water and sewer, trash collection and garbage cans. An increase or change in such Services shall require approval of 67% of Owners of Townhome Units, and approval of the Service Area Committee.

17.4 Service Area Expenses. The Service Area Expenses shall include, without limitation, all expenses that the Association incurs or expects to incur in connection with provision of the Services. Service Area Expenses may include a reasonable charge in such Amount, as the Management Committee deems appropriate, provided that any such administrative charge is applied at a uniform rate per Townhome Unit.

17.5 Service Area Assessments. Each Owner of a Townhome Unit, including Declarant, for each Townhome Unit which it owns, shall be liable for a proportionate share of the Service Area Expenses, which shall be levied as "**Service Area Assessments**". Except as otherwise provided herein, Service Area Assessments shall be allocated equally among the Townhome Units. Notwithstanding the foregoing, the Service Area Expenses incurred in connection with the provision of water, sewer service, insurance and maintenance of the exterior of the Townhomes shall be allocated on a pro rata share between the Townhome Units based on the square footage of the respective Townhome Units. Such pro rata share shall be expressed as a fraction, the numerator of which is the square footage of the Townhome Unit in question, and the denominator of which is the total number of square feet of all of the Townhome Units. Alternatively, such fraction may be expressed as a decimal number. All amounts the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Townhome Service Area and shall be accounted for separately from the Association's general funds. The Association shall all have collection, lien and foreclosure rights in connection with Service Area Assessments as granted the Association in connection with Common Expenses as set forth in Article 16 hereof.

ARTICLE 18

ENFORCEMENT

18.1 All Owners, guests or lessees of an Owner, persons under Owner's control, and the Association shall strictly comply with the provisions of this Declaration, the Bylaws and the rules and regulations of the Association and decisions issued pursuant thereto. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; and/or (ii) the Management Committee to impose monetary penalties, temporary suspensions of an Owner's right to the use of a the Common Areas and/or Townhome Common Areas, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Management Committee shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Management Committee. The

Management Committee may delegate to the Manager, the power and authority to carry out disciplinary actions duly imposed.

18.2 The Association shall not have the power to cause the absolute forfeiture of an Owner's right, title or interest in the Project on account of the Owner's failure to comply with the provisions of this Declaration or the rules and regulations of the Association for the Project except pursuant to:

18.2.1 The judgment of a court; or

18.2.2 A foreclosure for the failure of an Owner to pay assessments duly levied by the Association.

ARTICLE 19 GENERAL PROVISIONS

The covenants, conditions, and restrictions contained in this Declaration may be enforced as follows:

19.1 Violation Constitutes Nuisance. The violation of the provisions of this Declaration is deemed to be a nuisance, and the Owner of the Property on which the violation occurs is responsible for the removal or abatement of the nuisance.

19.2 Remedies.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by any other Owner, or by the Architectural/Technical Committee in its own name. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment all of the reasonable costs of enforcement, including attorneys' fees and costs of litigation.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state, or local laws and ordinances pertaining to health, safety, and abatement of nuisances or other matters. The remedies available under this Declaration are to be construed as being in addition to all other remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The delay or failure by anyone to take enforcement action with respect to any violation of this Declaration shall not be construed as a waiver of the covenants contained in this Declaration with respect to such violation or with respect to any other violations.

19.3 Severability. Each of the covenants, conditions, restrictions and provisions contained in this Declaration shall be independent of the others, and in the event that any covenant, condition, restriction or provision of this Declaration is found to be invalid,

unenforceable or illegal by a court of competent jurisdiction, the remaining covenants, conditions, restrictions and provisions of this Declaration shall remain in full force and effect.

19.4 Limited Liability. Neither the Declarant, or the Architectural/Technical Committee or its individual members, nor any Owner shall have personal liability to any other Owner for actions or inactions taken pursuant to the terms of this Declaration, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority under this Declaration and without malice.

19.5 Term of Declaration, Renewal. This Declaration shall expire fifty years from the date it is first recorded with the Recorder of Salt Lake County, Utah, provided however that in the last year prior to expiration, the owners of eighty percent (80%) of the Lots may, by written notice which is recorded with the Recorder of Salt Lake County, Utah, agree to extend the term of this Declaration for a period of an additional twenty years, and at the end of each additional period of twenty years thereafter, the Owners of eighty percent (80%) of the Lots may, by written notice which is recorded with the Recorder of Salt Lake County, Utah, agree to extend the term of this Declaration for a period of twenty additional years.

19.6 Amendment, Mortgagee Not Bound. At any time while this Declaration is in effect, the Owners of eighty percent (80%) of the Lots subject to this Declaration may amend the provisions of this Declaration, provided that if the Declarant owns or controls an interest in any Lot within the Project at the time of the proposed amendment, the consent of the Declarant will be required. Any such consent shall be in the exclusive judgment of the Declarant. Any amendment must be in writing and must be properly recorded in the Office of the Recorder of Salt Lake County, Utah. No amendment will be binding upon the holder of any mortgage or trust deed on any Lot which mortgage or trust deed is of record at the time of the amendment, unless the mortgage or trust deed holder joins in the amendment. This Declaration may not be repealed by amendment.

19.7 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Project is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provisions of this Declaration against such Owner's Lot, whether or not there is any reference to this Declaration in the instrument by which such Owner acquires an interest in any Lot.

19.8 Reservation of Easements. Easements affecting the Lots within the Project are reserved as shown on the Plat for utility installation and maintenance, drainage and other purposes as designated on the Plat.

19.9 Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof of delivery, or by telecopy or facsimile transmission. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Management Committee for the purpose of service of such notice or to the Unit of such Owner if no such address has been given to the Management Committee. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is

received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid. Such address may be changed from time to time by notice in writing to the Management Committee addressed to:

Management Committee

12351 South Gateway Park Place - Suite D-100

Draper, UTAH 84020

(This is the Address of the Declarant. The Committee address will change when the Association is turned over to the HOA.)

19.10 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Section headings are inserted for convenience only and shall not be considered in the interpretation of the provisions. The singular shall include the plural, and the plural shall include the singular. Any reference to gender is intended to include masculine, feminine and neuter as well.

19.11 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Project to the public or for any public use, except as specifically shown on the Plat.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date first above written.

D.R. HORTON, INC.,
a Delaware corporation

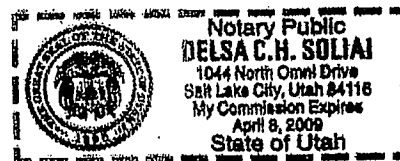
By:

Title: V.P. Land Acquisition

STATE OF UTAH)

: SS.

COUNTY OF Salt Lake)



The foregoing instrument was acknowledged before me this 1st day of March, 2007 by Micah W. Peters in his capacity as the V.P. Land Acquisition of D.R. Horton, Inc., a Delaware corporation.

NOTARY PUBLIC

Residing at: 1044 North Omni Drive
Salt Lake City, UT 84116

My Commission Expires:

April 8, 2009

EXHIBIT A

TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE ROSE CREEK CROSSING SUBDIVISION

LEGAL DESCRIPTION OF PROPERTY

All of Lots 1 through 166, inclusive, of that certain subdivision map entitled "Rose Creek Crossing Subdivision", recorded 10/13, 2006 as Entry No. 9875844 in Book 2006P beginning on Page 304 in the Official Records of Salt Lake County, Utah. 9875843
9875842
9875798
305, 301, 302

All of Lots 1 through 96, inclusive, of that certain subdivision map entitled "Rose Creek Crossing Townhomes PUD", recorded 10/19, 2006 as Entry No. 9881873 in Book 2006P beginning on Page 311 in the Official Records of Salt Lake County, Utah.

EXHIBIT B

DESCRIPTION OF COMMON AREAS

Clubhouse and Swimming Pool depicted on the Townhome Plat.

EXHIBIT C

DESCRIPTION OF TOWNHOME COMMON AREAS

All property on the Townhome Plat, excluding the Townhome Units, including Parcel D and Common Area B on the Townhome Plat.

EXHIBIT D
BYLAWS OF THE ASSOCIATION

(SEE ATTACHED)

**BYLAWS
OF
ROSE CREEK CROSSING OWNERS' ASSOCIATION, INC.**

THESE BYLAWS OF ROSE CREEK CROSSING OWNERS' ASSOCIATION, INC. (these "Bylaws") are adopted by Rose Creek Crossing Owners' Association, Inc. (the "Association") this March 1st, 2007.

The administration of the Association shall be governed by the Declaration, the Utah Revised Nonprofit Corporation Act, (the "Nonprofit Corporation Act") the Articles and these Bylaws. Terms that are capitalized in these Bylaws and which are not otherwise defined herein shall have the meaning set forth in the Declaration of Covenants, Conditions, and Restrictions of Rose Creek Crossing Subdivision recorded in the Office of the Recorder of the Salt Lake County, Utah.

1. **Application of Bylaws.** All present and future Owners, mortgagees, lessees and occupants of Lots and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to the Declaration, these Bylaws and all rules made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance of a Lot, or the occupancy of any Lot, shall constitute an agreement that the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with. Membership in the Association is appurtenant to each Lot and may not be separated or severed therefrom. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Lot shall automatically be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the appurtenant membership in the Association without the need of any separate transfer or assignment document.

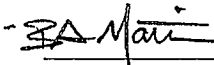
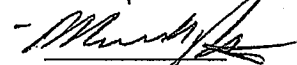
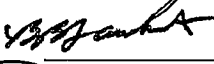
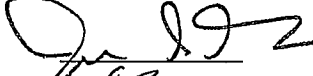

2. **Board of Directors/Management Committee/Service Area Committee.**

2.1 The management and maintenance of the Project and the duty to administer the affairs of the Association to fulfill the purposes of the Association shall be accomplished and conducted by the Board of Directors of the Association, who shall constitute the Management Committee, consisting of five (5) natural persons. At least two (2) of the committee members shall be Owners of Townhome Units. The first Management Committee shall consist of the members of the Board of Directors designated as such in the Articles, and they shall serve until the first meeting of the members of the Association, at which time an election of all the members of the Management Committee shall be conducted.

2.2 The Declaration establishes a Period of Declarant Control of the Association, during which period Declarant shall have the authority to appoint and remove the officers and members of the Management Committee. The period of Declarant control shall terminate on the earlier of: (a) five (5) years after the recordation in the Office of the Recorder of Salt Lake County, Utah of the most recently recorded Plat; or (b) one hundred twenty (120) days after the date 75% of the total number of Units in the Project are conveyed to Owners other than Declarant; or (c) the date Declarant delivers to the Association written notice of Declarant's election to relinquish control of the Association. Notwithstanding the foregoing, to assure the

representation of Owners other than Declarant on the Management Committee, at least twenty percent (20%) of the members of the Management Committee shall be elected solely by the vote of the Owners other than Declarant so long as a majority of the voting power of the Association resides in Declarant. A member who has been elected to office solely by the vote of Owners other than Declarant may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in Owners other than Declarant. At the next annual meeting of the members of the Association after the termination of the period of Declarant control, the Owners shall elect a Management Committee of five (5) members. The members and officers of the Management Committee shall take office upon election. Thereafter, at every annual meeting, the Association shall elect the members of the Management Committee to fill those positions becoming vacant at such meeting. The Management Committee may, but shall not be obligated to, inquire of the Owners to identify those having an interest in serving on the Management Committee. Nominations for positions on the Management Committee may be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by ten (10) or more Owners and signed by the nominee named therein indicating his or her willingness to serve as a member of the Management Committee, if elected.

2.3 Voting for the Management Committee shall be by written ballot. At any meeting of the Association, each Owner, either in person or by proxy or by written ballot, shall be entitled to one (1) vote for each Lot in the Project owned by such Owner, multiplied by the number of Management Committee seats to be filled. No Owner may cast more than one (1) vote in favor of a single candidate. Cumulative voting shall not be allowed. In an election of multiple Directors/members of the Management Committee, that number of candidates equaling the number of Directors to be elected, having the highest number of votes cast in favor of their election, are elected to the Board of Directors/Management Committee. When only one Director is being voted upon, the candidate having the highest number of votes cast in his or her favor is elected. The initial members of the Board of Directors/Management Committee shall be the following persons, and each shall hold the office indicated:

Boyd Martin - 	President/Member
Michael Peters - 	Vice President/ Member
Bruce Lambert - 	Vice President/ Member
Jon Turnley - 	Secretary/Treasurer/Member
John R. Ellingson, III - 	Member

2.4 Members of the Management Committee shall serve for terms of two (2) years beginning immediately upon their election by the Association; provided, however, that a majority of the members of the Management Committee elected at the first annual meeting following the termination of Declarant control shall serve for initial terms of one (1) year and the balance shall serve for initial terms of two (2) years. Thereafter, all members of the Management Committee elected shall serve for two-year terms. The members of the Management Committee shall serve until their respective successors are elected, or until their death, resignation or

removal. Any member of the Management Committee who fails to attend three consecutive Management Committee meetings or fails to attend at least 25% of the Management Committee meetings held during any fiscal year shall be deemed to have tendered his resignation, and upon acceptance by the Management Committee his position shall be vacant.

2.5 Any member of the Management Committee may resign at any time by giving written notice to the President of the Association or to the remaining Management Committee members. The sale of any such member's Lot or Lots resulting in that member no longer owning a Lot in the Project shall constitute a resignation from the Management Committee. The Owners, by a two-thirds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Management Committee with or without cause, other than a member appointed by Declarant during the Period of Declarant Control. However, a Management Committee member elected solely by the votes of the Owners may only be removed prior to the expiration of his or her term of office by a vote of two-thirds of the voting power residing in the Owners.

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

2.7 The members of the Management Committee shall receive no compensation for their services, unless expressly approved by the vote or written assent of a majority of the voting power residing in the Owners. Any member of the Management Committee may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all members of the Management Committee not including the member to be employed.

2.8 The Management Committee, for the benefit of the Project and the Association, shall manage the business, property and affairs of the Project and the Association and enforce the provisions of the Declaration, these Bylaws and the rules and regulations governing the Project. The Management Committee is authorized to adopt rules and regulations governing the use and operation of the Project, which shall become effective 30 days after adoption by the Management Committee. The Management Committee shall have the powers, duties and responsibilities with respect to the Project as contained in the Nonprofit Corporation Act, the Declaration, the Articles and these Bylaws.

2.9 The meetings of the Management Committee shall be held at least once each calendar quarter at such times and places within the Project, or some other reasonable and suitable location in Salt Lake County, Utah unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Management Committee members, as the Management Committee shall determine. A majority of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a

majority of those present shall be the act of the Management Committee. The Management Committee shall annually elect all of the officers of the Association. The election of officers shall be conducted at the first meeting of the Management Committee held subsequent to the annual meeting of the Association.

2.10 Written notice of the time and place of Management Committee meetings shall be posted at a prominent place or places within the Project not less than four (4) days prior to the meeting.

2.11 Special meetings of the Management Committee may be called by written notice signed by any two members of the Management Committee. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Project or some other reasonable location in Salt Lake County, Utah, unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the members of the Management Committee. Written notice of any special meeting shall be posted in a manner prescribed for notice of regular meetings of the Management Committee and shall be sent to all members of the Management Committee not less than 48 hours prior to the scheduled time of the meeting; provided, however, that notice of such meeting need not be given to any member signing a waiver of notice or a written consent to the holding of such meeting. If mailed, such notice shall be deemed to be delivered three (3) days after the date on which such notice is deposited in the U.S. mail, with first-class postage thereon prepaid. If an agenda is prepared for a special meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

2.12 Notices of all regular Management Committee meetings shall be given in writing to each member of the Management Committee not less than five (5) days prior to the meeting, provided that this requirement shall not apply to any member of the Management Committee who has signed a waiver of notice or a written consent to the holding of a meeting.

2.13 Regular and special meetings of the Management Committee shall be open to all members of the Association; provided, however, that the Association members who are not on the Management Committee may not participate in any deliberation or discussion, unless expressly so authorized by the vote of a majority of a quorum of the Management Committee. The Management Committee may, with the approval of a majority of a quorum of its members, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

2.14 Any action required or permitted by the Nonprofit Corporation Act to be taken at a meeting of the Management Committee may be taken without a meeting if each and every member of the Management Committee in writing either: (a) votes for the action; or (b)(i)(A) votes against the action; or (B) abstains from voting; and (ii) waives the right to demand that action not be taken without a meeting, in accordance with the provisions of the Nonprofit Corporation Act.

2.15 The Association's fiscal year shall be determined by the Management Committee.

2.16 When a member of the Management Committee is sued for liability for actions undertaken in his role as a member of the Management Committee, the Association shall indemnify him for his losses or claims, and undertake all costs of defense, until and unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof the Association is no longer liable for the cost of defense and may recover costs already expended from the member of the Management Committee who so acted. Members of the Management Committee are not personally liable to the victim of crimes occurring at the Project. Punitive damages may not be recovered against the Association.

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

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

2.19 The Owners of Townhome Units shall elect a Service Area Committee to represent and act on behalf of the Owners of Townhome Units with respect to the services and benefits that the Association provides the Townhome Service Area. During the Period of Declarant Control of the Association, Declarant shall have the authority to appoint and remove the members of the Service Area Committee. The Service Area Committee shall coordinate with the Management Committee regarding matters affecting the Townhome Service Area. The Service Area Committee shall initially include three (3) members, but may be expanded to either five (5) or seven (7) members as determined by vote of the Owners of Townhome Units. The Service Area Committee shall be governed by these Bylaws as it were the Management Committee, although the Service Area Committee shall not be required to have officers.

3. Meetings of the Association.

3.1 The first meeting of the Association members shall be held within (6) six months after the closing of the sale of the first Lot sold in the Project. Thereafter, there shall be an annual meeting of the Association at a reasonable place in the Project or at a meeting place as close thereto as reasonably possible, and at a reasonable time as may be designated by written notice by the Management Committee. Notice of the annual meeting shall be delivered to the Owners by first-class mail not less than ten (10) days prior to the date set for said meeting and shall specify the place, day and hour of the meeting and a brief statement of the matters on the agenda which the Management Committee intends to present or believes others will present for action by the Owners. However, if at any annual or special meeting of the Association a material amendment to the Declaration or an extraordinary action (as such terms are defined and

described in Section 19.2 of the Declaration) is to be considered, then notice of such meeting shall be delivered to the Owners by first-class mail not less than twenty-five (25) days prior to the date set for such meeting, which notice shall specify the place, day and hour of the meeting and a brief statement of the matters on the agenda which the Management Committee intends to present or believes others will present for action by the Owners. The statement shall include the name, address and a brief biographical sketch, if available, of each person who will stand for election to the Management Committee.

3.2 Special meetings of the Association members may be called by the Declarant, the President, a majority of the Management Committee, or Owners representing at least twenty percent (20%) or more of the Total Votes of the Association and may be held at a reasonable place in the Project or at a meeting place as close thereto as reasonably possible, to consider matters which, by the terms of the Declaration, require the approval of all or some of the Owners or for any other reasonable purpose. Special meetings shall be called by written notice signed by the Declarant, the President, a majority of the Management Committee or by Owners representing at least twenty percent (20%) or more of the Total Votes of the Association, which shall be hand delivered or sent prepaid by United States first-class mail, not less than ten (10) days (and with respect to a special meeting at which a material amendment to the Declaration or an extraordinary action is to be considered—as such terms are defined and described in Section 19.2 of the Declaration—not less than twenty-five (25) days) prior to the date fixed for said meeting, to each Owner at such Owner's address as shown in the records of the Association or to any other mailing address designated in writing by the Owner. Such notice shall specify the place, day and hour of the meeting and a brief statement of the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budgetary changes and any proposal to remove an officer or member of the Management Committee.

3.3 The presence in person or by proxy of Owners holding twenty percent (20%) or more of the Total Votes of the Association at any meeting of the Association held in response to notice to all Owners of record properly given shall constitute a quorum. In the absence of a quorum at a Association meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall also be twenty (20%) or more of the Total Votes of the Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings of the Association. At any special meeting of the Association, only those matters of business, the general nature of which was given in the notice of the special meeting, may be voted upon by the Owners. Action by the Owners on a matter other than the election of the members of the Board of Directors/Management Committee is approved if: (a) a quorum exists; (b) the votes cast by the Owners favoring the action exceed the votes cast by the Owners opposing the action; and (c) a greater number of affirmative votes is not required by the Nonprofit Corporation Act or by these Bylaws.

3.4 Any action that may be taken by the Owners at any annual or special meeting of the Association may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted in accordance with the requirements of Section 16-6a-707 of the Nonprofit Corporation Act.

3.5 Any action that may be taken by the Owners at any annual or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter in accordance with the requirements of Section 16-6a-709 of the Nonprofit Corporation Act. Approval by written ballot pursuant to this Section 3.5 shall be valid only when (a) the time by which all ballots must be received by the Association has passed so that a quorum can be determined; (b) the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Unless a larger quorum is required pursuant to these Bylaws, or unless otherwise provided in the Nonprofit Corporation Act, for purposes of taking action by written ballot, the number of votes cast by written ballot pursuant to this Section 3.5 constitute a quorum for action on the matter. A written ballot delivered to every Owner entitled to vote on the matter or matters therein, as described in this Section 3.5, may also be used in connection with any annual or special meeting of the Owners, thereby allowing Owners the choice of either voting in person, by proxy or by written ballot delivered by an Owner to the Association in lieu of attendance at such meeting. Any written ballot shall comply with the requirements of Section 16-6a-709 of the Nonprofit Corporation Act and shall be counted equally with the votes of Owners in attendance at any meeting for every purpose, including satisfaction of the quorum requirement.

3.6 For any Lots owned by more than one Owner, all of the Owners of such Lot may sign a certificate designating one of the co-Owners as the Owner authorized to cast the one (1) vote appurtenant to such Lot. In such event the Management Committee may rely on such certificate as being sufficient evidence of the authority of the Owner casting the vote appurtenant to such Lot. In the absence of such a certificate, if only one of several Owners of a Lot is present at a meeting of the Association, that Owner is entitled to cast the vote allocated to that Lot. If more than one of the Owners of a Lot is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of such Owners. Absent a certificate of authorization, there shall be deemed to be majority agreement if any one of the Owners casts the vote allocated to the Lot owned without protest made promptly to the person presiding over the meeting by any of the other Owners of such Lot. The right to vote by proxy or by ballot shall exist only where the instrument authorizing such proxy to act or the ballot shall have been executed by the Owner or by its attorney thereunto duly authorized in writing. The instrument authorizing the proxy to act or the ballot shall be delivered at the beginning of the meeting to the secretary of the Association, or such other officer or person who may be acting as the secretary at the meeting. The secretary of the meeting shall enter a record of all such proxies and ballots in the minutes of the meeting. An Owner may revoke a proxy given pursuant to this Section only by actual notice of revocation to the Association. Actual notice includes the Association's receipt of one or more proxies signed by the same Owner. In such event, the proxy with the latest date shall be accepted. A proxy is void if it is not dated or purports to be

revocable without notice. Proxies and ballots received by facsimile transmission are valid, if they meet all other requirements under this section. A written ballot may not be revoked.

3.7 Minutes of the annual and special meetings of the Association shall be distributed to each member within sixty (60) days after the meeting.

4. Officers.

4.1 The officers of the Association shall be appointed by the Management Committee, and all officers and employees of the Association shall serve at the will of the Management Committee. The officers shall be a President, Secretary and Treasurer. The offices of Secretary and Treasurer may be combined in the discretion of the Management Committee. The Management Committee may appoint Vice Presidents and such other assistant officers as the Management Committee may deem necessary. No officer shall be required to be an Owner. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Management Committee and may be removed and replaced by the Management Committee. The Management Committee shall require that officers (and other employees of the Association) be subject to fidelity bond coverage.

4.2 The President shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the power ordinarily allowable to the presiding officer of an association, including the appointment of committees. The President shall exercise general supervision over the Project and its affairs. He shall sign, and the Secretary shall witness on behalf of the Association, all conveyances, mortgages and contracts of material importance to its business. He shall do and perform all acts which the Management Committee may require.

4.3 The Vice President, if any, shall perform the functions of the President in his absence or inability to serve.

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

4.5 The Treasurer shall be responsible for the fiscal affairs of the Association but may delegate the daily handling of funds and the keeping of records to the Manager. If there are no Vice Presidents and the President is absent or unable to serve, then the Treasurer shall perform the functions of the President.

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

5. Common Expenses: Assessments.

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

5.2 No Owner shall be exempt from liability for Common Expenses by waiver of the use or enjoyment of any of the Project or by abandonment of his Lot.

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

5.4 All assessments shall be a separate, distinct and personal liability of the Owners at the time each assessment is made. The Management Committee shall have the rights and remedies contained in the Declaration to enforce the collection of assessments.

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

5.6 In addition to the statements issuable to purchasers, the Management Committee shall, upon ten (10) days' prior written request therefor, provide to any Owner, to any person who shall have entered into a binding agreement to purchase a Lot and to any Mortgagee, on request at reasonable intervals a current statement of unpaid assessments for Common Expenses with respect to a Lot. The Management Committee is authorized to require a reasonable fee for furnishing such statements.

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

6. Litigation.

6.1 If any action is brought by a member of the Management Committee on behalf of the Association, the expenses of suit, including reasonable attorneys' fees and costs, shall be a Common Expense. Except as otherwise provided, if any action is brought against the

Owners or against the Management Committee or the officers, employees or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the expenses of suit, including attorneys' fees and costs, shall be a Common Expense. If any action is brought against one or more, but less than all Owners, with the result that the ultimate liability would, if proved, be borne solely by such Owners, the expenses of suit, including attorneys' fees, shall not be charged to or borne by the other Owners, as a Common Expense or otherwise.

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

7. Abatement and Enjoinment of Violations by Owners.

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

7.1.1 To enter the Lot in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner or Owners, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass; and/or

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

7.2 These remedies are cumulative to other remedies provided in the Declaration and these Bylaws or in any other applicable laws.

8. Records and Accounting.

8.1 The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Treasurer.

8.2 A budget for each fiscal year consisting of at least the following information shall be adopted by the Management Committee and distributed to all members of the Association not less than 45 days and not more than 60 days prior to the beginning of the fiscal year to which the budget applies:

8.2.1 Estimated revenue and expenses on an accrual basis.

8.2.2 The amount of the total cash reserves of the Association currently available for replacement or major repair of the Areas of Common Responsibility of the Project and for contingencies.

8.2.3 An itemized estimate of the current replacement costs of, and the estimated remaining life of, and the methods of funding to defray the costs of future repair, replacement or additions to the Areas of Common Responsibility for which the Association is responsible.

8.2.4 A general statement setting forth the procedures used by the Management Committee in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Areas of Common Responsibility for which the Association is responsible.

8.3 Unless the Association, by a majority of the Total Votes of the Association at the meeting of the Association held after distribution of the proposed budget, rejects the budget, the budget shall be deemed ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Management Committee.

8.4 The Management Committee shall distribute to the Owners an annual report, consisting of the following, within one hundred twenty (120) days after the close of each fiscal year:

- (a) A balance sheet as of the end of the fiscal year.
- (b) An operating (income) statement for the fiscal year.
- (c) A statement of changes in financial position for the fiscal year.
- (d) Any other disclosures required by applicable state law.

8.5 The Management Committee (or the Manager, if so delegated by the Management Committee) 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.

8.6 A copy of the Declaration, the Articles, these Bylaws, the rules and regulations adopted by the Management Committee, the membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Association, of the Management Committee and of committees of the Management Committee and all other records of the Project maintained by the Association, Manager or managing company (other than privileged or confidential information) shall be made available for inspection and copying by any member of the Association or his duly appointed representative, a First Mortgagee or prospective purchaser at any reasonable time and for a purpose reasonably related to his respective interest at the office where the records are maintained. Upon receipt of an authenticated written request from an Owner, First Mortgagee or prospective purchaser (each, a "Requesting Party") along with the fee prescribed by the Management Committee to defray the costs of reproduction, the manager or other custodian of records of the Association shall prepare and transmit to the Requesting Party a copy of any and all records requested. The Association may, as a condition to permitting a Requesting Party to inspect the membership register or to its furnishing information from the register, require that the Requesting Party agree in writing not to use, or allow the use, of information from the membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Requesting Party's respective interest in the Association. Furthermore, upon written request from a holder, insurer or guarantor of any First Mortgage secured by a Lot, the Association shall be required to prepare and furnish within one hundred twenty (120) days an audited financial statement of the Association for the immediately preceding fiscal year. The Management Committee shall establish reasonable rules with respect to:

8.6.1 Notice to be given to the custodian of the records by the Requesting Party desiring to make the inspection or obtain copies;

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

8.6.3 Payment of the cost of reproducing copies of documents requested by a Requesting Party.

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

9. **Special Committees.** The Management Committee by resolution may designate one or more special committees, each committee to consist of two (2) or more of the members of the Management Committee, which to the extent provided in said resolution shall have and may

exercise the powers set forth in said resolution. Such special committee or committees shall have such name or names as may be determined from time to time by the Management Committee. All special committees shall keep regular minutes of their proceedings and report the same to the Management Committee when required. The members of such special committee or committees designated shall be appointed by the Management Committee or the President. The Management Committee or the President may appoint Owners to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

10. Rental or Lease of Lots by Owners.

10.1 Any Owner who rents or leases his Lot shall file with the Management Committee or Manager a copy of the rental or lease agreement. The provisions of Section 7 of these Bylaws shall apply with equal force to renters or lessees of Lots.

10.2 Any Owner who rents or leases or otherwise permits any other person to utilize his Lot shall be responsible for the conduct of his tenants or occupants, and upon written notice from the Management Committee or the Manager, said Owner shall be responsible for correcting violations of the Declaration, Bylaws or rules and regulations committed by such tenants or occupants.

10.3 If an Owner fails to correct violations by tenants within 72 hours of such notice, the Management Committee or Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the reasonable costs of such action, including but not limited to fees and costs paid to third parties, to be assessed to the Owner and payable within 30 days of assessment. Such costs shall be collected and enforced in the same manner as Common Expenses under the Declaration.

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

11. Amendment of Bylaws. Except as otherwise provided in the Declaration or these Bylaws, the Bylaws may be amended by the vote or written assent of Owners holding a majority of the Total Votes of the Association. Provided, however, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Upon such an affirmative vote, the Management Committee shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the Owners, and the amendment shall be effective upon recording a copy of the amendment in the Office of the Recorder of Salt Lake County, Utah. Notwithstanding anything to the contrary contained or implied herein, Declarant reserves the right, without the consent of any other Owners, to amend any provisions of these Bylaws to

comply with the then existing statutes, regulations or other requirements of the Utah Department of Commerce — Real Estate Division or any other federal, state or local regulatory authority affecting the Project.

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

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


14. **Effective Date.** These Bylaws shall take effect upon adoption by the Management Committee.

15. **Seal.** The Management Committee may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the words "Corporate Seal."

16. **Arbitration.** Any unresolved dispute, disagreement or controversy between Declarant and the Association shall at the request of either party be submitted to an arbitration board of at least three members with one chosen by the Association, the other by the Declarant and a third chosen by the other two arbitrators so chosen. The arbitrators shall act in accordance with the Commercial Arbitration Rules then in effect of the American Arbitration Association. The decision of the majority of such arbitrators shall be binding on the Association and the Declarant. Such decisions shall include the awarding of costs, including reasonable attorneys' fees, as the arbitrators shall determine. The decision of the arbitrators shall be judicially enforceable as a judgment.

17. **Payment of Assessment.** No Owner shall be permitted to convey, hypothecate, sell, or lease such Owner's Lot, unless and until such Owner shall have paid in full to the Management Committee all unpaid charges assessed by the Management Committee against such Owner's Lot and until such Owner shall have satisfied all unpaid liens against such Lot, except permitted mortgages and mortgages made by Declarant.

Adopted this 2/1/, 2007.


Jan Thornley, Secretary/Treasurer

RECEIVED

MAR 01 2007

Utah Div. Of Corp. & Comm. Code

ARTICLES OF INCORPORATION
OF

ROSE CREEK CROSSING OWNERS' ASSOCIATION, INC.
(A UTAH NON-PROFIT CORPORATION)

I, the undersigned, desiring to form a corporation pursuant to the Utah Revised Nonprofit Corporation Act (the "Nonprofit Corporation Act"), do hereby adopt the following Articles of Incorporation:

ARTICLE I

The purposes of this corporation, (the "Corporation"), which is organized as a nonprofit corporation, shall be to exercise all the powers and privileges and to perform all of the duties and obligations of ROSE CREEK CROSSING OWNERS ASSOCIATION, INC. as set forth in the Declaration of Covenants, Conditions, and Restrictions of Rose Creek Crossing Subdivision (the "Project"), as recorded in the Office of the Recorder of Salt Lake County, State of Utah, as the same may be amended from time to time as therein provided (the "Declaration"), and to acquire, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Corporation, subject to the limitations contained in the Declaration, to do everything necessary and proper for the accomplishment of the purposes enumerated in these Articles of Incorporation, or any amendment thereof, or necessary or incidental to the protection and benefit of the Corporation and, in general, to engage in any lawful act for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, whether or not such act is similar in nature to the purposes set forth in the Articles of Incorporation of the Corporation, or any amendment thereof.

ARTICLE II

The name of the Corporation is ROSE CREEK CROSSING OWNERS ASSOCIATION, INC.

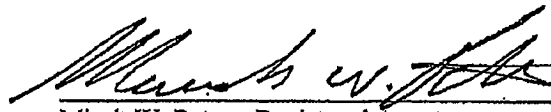
ARTICLE III

The street address of the Corporation's initial registered office is 12351 South Gateway Park Place, Suite D-100, Draper, UT 84020.

ARTICLE IV

The initial registered agent and business address of the registered agent is Micah W. Peters, 12351 South Gateway Park Place, Suite D-100, Draper, UT 84020. The undersigned hereby accepts and acknowledges appointment as the initial registered agent of the Corporation and confirms that he meets the necessary requirements,

Date: 03/01/2007
Receipt Number: 2054025
Amount Paid: \$22.00


Micah W. Peters, Registered Agent

ARTICLE V

The name and street address of the incorporator of the Corporation is Micah W. Peters, 12351 South Gateway Park Place, Suite D-100, Draper, UT 84020.

ARTICLE VI


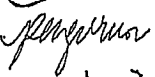
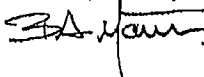
The Corporation has voting members. Each members is and must be an owner of a Lot in the Project. The members, or Owners, as they are defined in the Declaration, shall vote in accordance with the Declaration and the Bylaws. The persons or entities who are at the time of reference Owners shall, by virtue of acquiring title to a Lot, automatically be deemed to be members of the Corporation. Membership in the Corporation is appurtenant to each Lot and may not be separated or severed therefrom. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Lot shall automatically be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the appurtenant membership in the Corporation without the need of any separate transfer or assignment document.

ARTICLE VII

The Corporation is not organized for pecuniary profit. It shall not have any power to issue certificates of stock or declare dividends, and no part of its net earnings shall inure to the benefit of any member, Director or individual. The balance, if any, of all money received by the Corporation from its operations, after the payment in full of all debts and obligations of the Corporation of whatever kind or nature, shall be used and distributed exclusively for the purposes set forth in Article I hereof.

ARTICLE VIII

The number of Directors constituting the initial governing board, known as the Board of Directors, is five (5). The names and addresses of 12351 South Gateway Park Place, Suite D-100, Draper, UT 84020 the persons who are to serve as Directors until the first annual meeting of the members or until their successors are elected and shall qualify are as follows:

<u>Name</u>	<u>Address</u>
 ADAM CHRISTENSEN	12351 South Gateway Park Place, Suite D-100, Draper, UT 84020
 PENATHA NIELSON	12351 South Gateway Park Place, Suite D-100, Draper, UT 84020
 BOYD A. MARTIN	12351 South Gateway Park Place, Suite D-100, Draper, UT 84020

BRAD LAMBERT

12351 South Gateway Park Place, Suite D-100,
Draper, UT 84020

Jonathan S. Thornley

12351 South Gateway Park Place, Suite D-100,
Draper, UT 84020

Jonathan S. Thornley

The Board of Directors of the Corporation will constitute the Management Committee, as described in the Declaration. Any references to the Management Committee in the Project Documents, including the Corporation's Bylaws, shall mean the Board of Directors. The Board of Directors of the Corporation may designate such committee or committees as it determines in accordance with law to exercise such authority as the Board of Directors shall delegate in the resolution designating such committee or committees.

ARTICLE IX

Bylaws for the Corporation will be hereafter adopted. Such Bylaws may be amended or replaced, in whole or in part, in the manner provided therein, and the amendments to the Bylaws shall be binding upon all members.

ARTICLE X

To the fullest extent permitted by the Nonprofit Corporation Act or any other applicable law as now in effect or as may hereafter be amended, a Director of the Corporation shall not be personally liable to the Corporation or to its members for monetary damages for any action taken or any failure to take any action as a Director. No amendment to or repeal of this Article X shall apply to or have any effect on the liability or alleged liability of any Director of the Corporation for or with respect to any action or failure to take action by such Director occurring prior to such amendment or repeal.

ARTICLE XI

The Corporation shall indemnify and advance expenses to the Directors and Officers of the Corporation to the fullest extent permitted by applicable law. The Corporation may indemnify and advance expenses to any employee or agent of the Corporation who is not a Director or Officer of the Corporation to any extent consistent with public policy, as determined by the general or specific actions of the Board of Directors.

ARTICLE XII

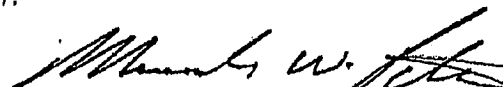
The Articles of Incorporation of the Corporation may be amended by the members of the Corporation in accordance with Section 16-6a-1003 of the Nonprofit Corporation Act, as such Section 16-6a-1003 may hereafter be amended.

03-01-07P04:06 RCVD

ARTICLE XIII

The dissolution of the Corporation may be authorized by the Directors and members of the Corporation in accordance with Section 16-6a-1402 of the Nonprofit Corporation Act, as such Section 16-6a-1402 may hereafter be amended.

IN WITNESS WHEREOF, the above-named incorporator has executed these Articles of Incorporation this 15th day of March, 2007.



Micah W. Peters, Incorporator

03-01-07P04:06 RCVD

When Recorded Return To:
D.R. Horton, Inc.
12351 Gateway Park Place
Suite D-100
Draper, Utah 84020
Attention: Micah Peters

10298776
12/13/2007 1:56:00 PM \$285.00
Book - 9547 Pg - 7589-7596
Gary W. Ott
Recorder, Salt Lake County, UT
SURETY TITLE
BY: eCASH, DEPUTY - EF 8 P.

**FIRST AMENDMENT
TO
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
ROSE CREEK CROSSING SUBDIVISION**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ROSE CREEK CROSSING SUBDIVISION (this "Amendment") is made and executed as of December 11, 2007, by D.R. HORTON, INC., a Delaware corporation ("Declarant").

A. D.R. Horton, Inc. is the "Declarant" under that certain Declaration of Covenants, Conditions, and Restrictions for Rose Creek Crossing Subdivision, recorded March 5, 2007 as Entry No. 10022953 in Book 9430, beginning at Page 7558 in the Office of the Recorder of Salt Lake County, Utah (the "Declaration"). The Declaration governs the subdivision project commonly known as "Rose Creek Crossing" located in Riverton City, Salt Lake County, Utah, as more particularly described on Exhibit A attached hereto and incorporated herein (the "Project").

B. Declarant desires now to amend the Declaration as provided herein, and as permitted by the Declaration.

NOW, THEREFORE, Declarant hereby declares and provides as follows:

1. Definitions. Unless the context clearly requires otherwise, all the terms which are defined in the Declaration shall carry the same meaning when used in this Amendment.

2. Amendments.

(a) Section 9.4(a) shall be deleted in its entirety and replaced with the following provision:

"Exterior materials on all Dwellings shall be limited to one or more of the following materials, alone or in a combination as may be approved by the Architectural/Technical Committee: brick, rock, cultured stone, stucco, hardy board, hardy plank or hardy shingle or similar manufactured materials of equal quality. Upon

the express written approval of the Architectural/Technical Committee, other exterior building materials may be used. Exceptions to the foregoing requirements may be allowed to accommodate an architectural duplication of a certain era or style, such as Victorian. No Dwellings shall be constructed with readily combustible exterior finishes, which prohibition shall preclude without limitation wood shingles, wood soffits, wood fascia and wood siding."

(b) Section 9.4(d) shall be deleted in its entirety and replaced with the following provision:

All roofs shall be made of fire resistant dimensional shingles, architectural, 3 tab or other roofing materials approved by the Architectural/Technical Committee.

(c) Section 10.3(a) shall be deleted in its entirety and replaced with the following provision:

"Plans submitted. A complete set of plans for the construction of any Improvement as described in this Section 9.3 must be signed by the applicant and submitted to the Architectural/Technical Committee for review; *provided,* however, to the extent any plans have been previously approved for use within the Project by the Architectural/Technical Committee, whether or not the respective Improvements have been constructed within the Project, no further submission to or approval of the Architectural/Technical Committee is required. It is recommended that preliminary plans be submitted before the expense of final construction drawings is incurred. The plans must be in sufficient detail to show the location on the Lot of the Improvements, including without limitation, the exterior walls of any Dwelling and all other structures to be built with it and all fences to be constructed on the Lot; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior, roofing and fencing materials and/or a sample, including color samples. In the case of an addition or modification to an existing Dwelling, the Architectural/Technical Committee may waive any of the foregoing requirements."

3. Effective Date. This Amendment shall be effective upon recording in the Office of the Recorder of Salt Lake County, Utah. Except as herein expressly provided, the Declaration shall remain in all other respects unmodified and in full force and effect.

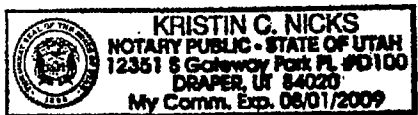
IN WITNESS WHEREOF, the Declarant has executed this Amendment as of the date first above written.

D.R. HORTON, INC., a Delaware corporation

By: [Signature]
Name: Mich Peters
Title: VIP Land Acquisition - DR Horton, Inc

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 11th day of December, 2007
by Mich Peters, in his capacity as the VIP Land Acquisition of D.R. Horton, Inc., a
Delaware corporation.



[Signature]
NOTARY PUBLIC
Residing at: SLC, UT

My Commission Expires:

8/1/2009

**EXHIBIT A
TO
FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
ROSE CREEK CROSSING SUBDIVISION**

Legal Description of the Project

All of Lots 1 through 166, inclusive, of that certain subdivision map entitled "Rose Creek Crossing Subdivision", recorded October 13, 2006 as Entry Nos. 9875798, 9875842, 9875843, 9875844 in Book 2006P beginning on Page 301 in the Official Records of Salt Lake County, Utah.

All of Lots 1 through 96, inclusive, of that certain subdivision map entitled "Rose Creek Crossing Townhomes PUD", recorded October 19, 2006 as Entry No. 9881873 in Book 2006P beginning on Page 311 in the Official Records of Salt Lake County, Utah.

L	100	33-05-236-003-0000	L	201	33-05-201-017-0000
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L	335	33-05-205-002-0000	L	431	33-05-252-008-0000
L	336	33-05-205-003-0000	L	432	33-05-252-009-0000
L	337	33-05-205-004-0000	L	433	33-05-253-008-0000
L	338	33-05-234-001-0000	L	434	33-05-253-007-0000
L	339	33-05-234-002-0000	L	435	33-05-253-006-0000
L	340	33-05-234-003-0000	L	436	33-05-253-005-0000
L	341	33-05-234-004-0000	L	437	33-05-253-004-0000
L	342	33-05-201-032-0000			
L	343	33-05-201-031-0000			
L	344	33-05-201-030-0000			

L	AREA	33-05-254-037-0000	L	50	33-05-254-030-0000
P	A	33-05-230-014-0000	L	51	33-05-254-031-0000
P	B	33-05-276-001-0000	L	52	33-05-254-032-0000
P	C	33-05-276-002-0000	L	45	33-05-254-025-0000
P	D	33-05-276-003-0000	L	46	33-05-254-026-0000
L	93	33-05-251-032-0000	L	47	33-05-254-027-0000
L	94	33-05-251-031-0000	L	48	33-05-254-028-0000
L	95	33-05-251-030-0000	L	41	33-05-254-021-0000
L	96	33-05-251-029-0000	L	42	33-05-254-022-0000
L	89	33-05-251-036-0000	L	43	33-05-254-023-0000
L	90	33-05-251-035-0000	L	44	33-05-254-024-0000
L	91	33-05-251-034-0000	L	37	33-05-254-004-0000
L	92	33-05-251-033-0000	L	38	33-05-254-003-0000
L	85	33-05-251-040-0000	L	39	33-05-254-002-0000
L	86	33-05-251-039-0000	L	40	33-05-254-001-0000
L	87	33-05-251-038-0000	L	33	33-05-254-008-0000
L	88	33-05-251-037-0000	L	34	33-05-254-007-0000
L	81	33-05-251-044-0000	L	35	33-05-254-006-0000
L	82	33-05-251-043-0000	L	36	33-05-254-005-0000
L	83	33-05-251-042-0000	L	29	33-05-254-012-0000
L	84	33-05-251-041-0000	L	30	33-05-254-011-0000
L	77	33-05-251-048-0000	L	31	33-05-254-010-0000
L	78	33-05-251-047-0000	L	32	33-05-254-009-0000
L	79	33-05-251-046-0000	L	25	33-05-254-013-0000
L	80	33-05-251-045-0000	L	26	33-05-254-014-0000
L	73	33-05-251-052-0000	L	27	33-05-254-015-0000
L	74	33-05-251-051-0000	L	28	33-05-254-016-0000
L	75	33-05-251-050-0000	L	57	33-05-254-020-0000
L	76	33-05-251-049-0000	L	58	33-05-254-019-0000
L	69	33-05-251-061-0000	L	59	33-05-254-018-0000
L	70	33-05-251-062-0000	L	60	33-05-254-017-0000
L	71	33-05-251-063-0000	L	21	33-05-253-029-0000
L	72	33-05-251-064-0000	L	22	33-05-253-030-0000
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L	66	33-05-251-058-0000	L	24	33-05-253-032-0000
L	67	33-05-251-059-0000	L	17	33-05-253-025-0000
L	68	33-05-251-060-0000	L	18	33-05-253-026-0000
L	61	33-05-251-053-0000	L	19	33-05-253-027-0000
L	62	33-05-251-054-0000			
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L	53	33-05-254-033-0000			
L	54	33-05-254-034-0000			
L	55	33-05-254-035-0000			
L	56	33-05-254-036-0000			
L	49	33-05-254-039-0000			

L	20	33-05-253-028-0000
L	13	33-05-253-021-0000
L	14	33-05-253-022-0000
L	15	33-05-253-023-0000
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L	10	33-05-253-018-0000
L	11	33-05-253-019-0000
L	12	33-05-253-020-0000
L	5	33-05-253-013-0000
L	6	33-05-253-014-0000
L	7	33-05-253-015-0000
L	8	33-05-253-016-0000
L	1	33-05-253-009-0000
L	2	33-05-253-010-0000
L	3	33-05-253-011-0000
L	4	33-05-253-012-0000