ENT 14583:2019 PG 1 of 40
Jeffery Smith
Utah County Recorder
2019 Feb 22 09:33 AM FEE 122.00 BY SM
RECORDED FOR Meridian Title Company
ELECTRONICALLY RECORDED

WHEN RECORDED, RETURN TO:
Perry Multifamily, Inc.
17 E. Winchester St., Suite 200
Murray, UT 84107

Dated: November 9, 2018

Space Above for Recorder's Use Only

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR LA RINGHIERA, A PLANNED UNIT DEVELOPMENT
(With Bylaws)

RECITALS

WHEREAS, PERRY MULTIFAMILY, INC., a Utah corporation (the "Declarant") is the sole owner of that certain real property situated in Utah County, State of Utah, which is more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference (the "Property");

WHEREAS, the Property is situated within the master planned community known as "Traverse Mountain" as subject to the Amended and Restated Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Traverse Mountain, which was recorded on June 18, 2007, as Entry No. 88194:2007 ("Master Declaration") in the official records of Utah County, Utah

WHEREAS, the Declarant desires to subject all of the Property to all of the covenants, conditions, restrictions, reservations of easements, liens and charges hereinafter provided for, each and all of which is and are for the benefit of and shall pass with the Property, and each and every parcel or Lot thereof, and shall apply to and bind successors in interest, and any Owner thereof,

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Property and any other real property which may be annexed hereto pursuant to the provisions of this Declaration, to create a corporation under the Utah Non-Profit Corporation and Co-Operative Association Act to which should be delegated and assigned the powers of owning, maintaining and administering the common areas, private roadways and certain other improvements in the Property and administering and enforcing these covenants, conditions and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Declarant has caused or shall cause such corporation, the members of which are or shall be the respective Owners of the Lots in the Property, and Owners of the Lots of any real property annexed pursuant to this Declaration, to be formed for the purpose of exercising the functions aforesaid; and

WHEREAS, the Declarant shall develop and convey all of the Property pursuant to a general plan for all of the Property and subject to those certain protective covenants, conditions, restrictions, reservation of easements, equitable servitudes, liens and charges, all running with the Property as hereinafter set forth; and

WHEREAS, the Declarant may execute, acknowledge, and record a Supplemental Declaration affecting only a "Phase" (as such term is hereinafter defined) so long as the Declarant owns all the real property to be affected by such Supplemental Declaration; and

WHEREAS, said Supplemental Declaration shall not conflict with the provisions of this Declaration, but may impose further conditions, covenants and restrictions for the operation, protection and maintenance of the Property; and

WHEREAS, the Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following covenants, conditions, restrictions, easements and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property, or any portion thereof; and

WHEREAS, notwithstanding any of the foregoing recitals, no provisions of this Declaration shall be construed as to prevent or limit the Declarant's right to complete development of the Property and construction of improvements thereon, nor the Declarant's rights to maintain model homes, construction, sales or leasing offices, or similar structures on any portion of the Property owned by the Declarant or the Association, nor Declarant's right to post signs incidental to such construction, sales or leasing.

ARTICLE I

Definitions

Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings hereinafter specified:

Section 1. **"Architectural Committee"** shall mean the committee created pursuant to Article VIII hereof.

Section 2. **"Articles"** shall mean the Articles of Incorporation of the Association which have been or hereafter shall be filed in the Division of Corporations of the Department of Commerce of the State of Utah, as such Articles may be amended from time to time.

Section 3. **"Common Assessment"** shall mean the charge against each Owner and his lot, representing a portion of the total costs to the Association for maintaining, improving, repairing, replacing, managing and operating the Property, which charge is to be paid uniformly and equally by each Owner to the Association, as provided herein.

Section 4. **"Special Assessments"** shall mean a charge against a particular Owner and his Lot, directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

Section 5. **"Reconstruction Assessment"** shall mean a charge against each Owner and his Lot, representing a portion of the cost to the Association for reconstruction of any portion or portions of the improvements on the Common Area pursuant to the provisions of this Declaration.

Section 6. **"Capital Improvement Assessment"** shall mean a charge against each Owner and his Lot, representing a portion of the costs to the Association for the installation or construction of any improvements which the Association may from time to time authorize on any portion of the Common Area or on any portion of the Lots or improvements thereon which the Association has the responsibility to maintain.

Section 7. **"Association"** shall mean the La Ringhiera Property Owners Association, Inc., a corporation formed under the Utah Non-Profit Corporation and Co-operative Association Act, its successors and assigns.

Section 8. **"Beneficiary"** shall mean a mortgagee under a mortgage or a beneficiary under a deed or trust, as the case may be, and the assignees of such mortgage or beneficiary.

Section 9. **"Board"** shall mean the Governing Board of the Association, the members of which shall be elected in accordance with the By-Laws of the Association. The terms "Member of the Governing Board" shall be synonymous with the term "Trustees" as used in the Utah Non-Profit Corporation and Co-operative Association Act.

Section 10. **"By-Laws"** shall mean the By-Laws of the Association, which have been or shall be adopted by the Board, as such By-laws may be amended from time to time.

Section 11. **"Common Area"** shall mean all the real property and improvements, including without limitation, any recreation facilities, landscaped areas, private roadways and walkways, visitor parking, and sewer, water and drainage and other utility systems which are owned by the Association for the common use and enjoyment of all the Owners. The Common Area to be so owned by the Association shall include the property described on Exhibit "A" less and excepting therefrom the total of sixty four (64) numbered Lots shown upon the recorded subdivision plats of the Property. Notwithstanding the foregoing, except for Limited Common Area, any real property included within the boundaries of a Lot but lying outside of the building envelope of Dwelling Unit constructed by the Declarant or its assign on a Lot shall be deemed to be Common Area and shall be landscaped and maintained by the Association pursuant to this Declaration and the Association shall have an exclusive easement over such real property in favor of the Association to permit it to perform any functions necessary to maintain such real property as contemplated hereby.

Section 12. **Common Expenses"** shall mean the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Area (including unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments), including those costs not paid by the Owner responsible for payment; costs of management and administration of the Association including, but not limited to, attorneys and other employees and consultants; the costs of all utilities, landscaping and other services benefiting the Common Area, and all recreational facilities thereon; the costs of fire, casualty and liability insurance covering the Property; and the cost of bonding of the Trustees of the Association; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Property, or portions thereof; and the cost of any other item or items designed by, or incurred by, the Association for any reason whatsoever in connection with the Property, for the benefit of all the Owners.

Section 13. **"Declarant"** shall refer to Perry Multifamily, Inc., its successors and assigns, so long as Declarant assigns such rights of Declarant hereunder to any such successor and assignee by an express written assignment.

Section 14. **"Declaration"** shall mean this instrument as it may be amended from time to time.

Section 15. **"Deed of Trust"** shall mean and refer to a mortgage or a deed of trust, as the case may be.

Section 16. **"Demising Fire Wall"** shall mean and refer to the one-hour fire-rated walls constructed as part of two or three attached Dwelling Units which are built parallel, and adjacent to, an adjoining property line of a Lot and which is approximately centered over said property line of a Lot.

Section 17. **"Dwelling Unit"** shall mean and refer to a structure that is designed and intended for use and occupancy as a single family residence and that is also attached to one or two other residences by a Demising Fire Wall, together with all improvements constructed on a Lot used in conjunction with such residence.

Section 18. **"Family"** shall mean (1) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (2) a group of not more than three (3) persons not so related, inclusive or their domestic servants, who maintain a common household in a residence on a Lot.

Section 19. **"Improvement"** shall mean all structures and appurtenances thereto of every type and kind, (and any alteration or addition thereto), including but not limited to buildings, out buildings, walkways, sidewalks, sprinkler pipes and systems, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, protective screens and awnings required by governmental entities, stairs, decks, landscaping, hedges, windbreaks, planting trees and shrubs, poles or signs.

Section 20. **"Maintenance Funds"** shall mean the accounts created for receipts and disbursements of the Association, pursuant to Article VI hereof.

Section 21. **"Master Association"** shall mean Traverse Mountain Master Association.

Section 22. **"Master Declarant"** shall mean the declarant identified in the Master Declaration defined in Section 23 hereof.

Section 23. **"Master Declaration"** shall mean the Amended and Restated Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Traverse Mountain, which was recorded on June 18, 2007, as Entry No. 88194:2007 in the official records of Utah County, Utah.

Section 24. **"Limited Common Area"** shall mean and refer to those Common Areas as referred to herein and designated on the plat as attached to and reserved for use of a certain Dwelling Unit to the exclusion of the other Dwelling Unit(s). Limited Common Areas include the driveways and walkways from the driveway to a front door and a rear yard concrete patio slab appurtenant to and associated exclusively with certain Dwelling Units. Limited Common Areas are a subcategory of and are included in Common Areas. To the extent that any area designated on the plat as Limited Common Area is not used as a driveway, walkways from the driveway to a front door and a rear yard concrete patio slab appurtenant to and associated exclusively with certain Dwelling Unit, such area shall be deemed to be Common Area.

Section 25. **"Lot"** shall mean and refer to any numbered residential Lot or parcel of land shown upon any recorded Subdivision Plat of the Property, with the exception of the Common Area. At the time of initial recordation of this instrument, the first phase of the Property shall contain forty-nine (49) numbered Lots.

Section 26. **"Manager"** shall mean the person, firm, corporation or its agents retained or employed by the Association hereunder and delegated certain duties, powers and functions by the Association.

Section 27. **"Member"** shall mean any person or entity holding a membership in the Association as provided herein.

Section 28. **"Mortgage"** shall mean any mortgage or Deed of Trust or other conveyance of a Lot to secure the performance of an obligation, which will be void and reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" which used herein shall be synonymous with the term "Mortgage".

Section 29. **"Mortgagor"** shall mean a person or entity who mortgages his or its property to another (i.e., the maker of a Mortgage), and shall include the trustor of a Deed of Trust. The term Mortgagor shall be synonymous with the term "Trustor".

Section 30. **"First Mortgagee"** shall mean any lender which holds a Mortgage or Trust Deed which constitutes a first and prior lien vis-à-vis any other Mortgage or Trust Deed on the same real property. The term first Mortgagee will also include any beneficiary named in any such first and prior Trust Deed.

Section 31. **"Mortgagee"** shall mean a person or entity to whom a Mortgage is made and shall include the Beneficiary of a Deed of Trust.

Section 32. **"Notice of Hearing"** shall mean written notice of a hearing before a quorum of the Board, at which tie Owner concerned shall have an opportunity to be heard in person or by counsel at the Owner's expense.

Section 33. **"Owner"** shall mean and refer to the person or persons or other legal entity or entities, including Declarant, holding a fee simple interest or record to any Lot which is a part of the Property, including buyers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article X only, unless the context otherwise requires, Owner shall also include the family, invitees, licensees and lessees of any Owner.

Section 34. **"Person"** shall mean a natural individual or any other entity with the legal right to hold title to real property.

Section 35. **"Record, Recorded, Filed and Recordation"** shall mean, with respect to any document, the recordation of such document in the Office of the Utah County Recorder, State of Utah.

Section 36. **"Phase"** shall mean a parcel of real property which has been divided or separated into Lots, shown on a recorded subdivision map

Section 37. **"Supplemental Declaration"** shall mean any declaration of covenants, conditions and restrictions which may be recorded by Declarant pursuant to Article XIV of this Declaration.

Section 38. **"Transfer Assessment"** shall mean a charge against all new Owners, and their Lots, to cover the cost to the Association of effectuating a transfer of membership upon the books of the Association and to perpetuate the reserve funds of the Association, in an amount as set forth in Section 2 of Article III of this Declaration.

Section 39. **"Time Sharing"** shall mean any form of shared contractual ownership of a Dwelling Unit whereby each Owner's right to the Dwelling Unit is limited to a certain period of time throughout any given year or series of years. Time Sharing shall include plans that employ contractual rights and those that employ estates in land, such as (a) vacation leases whereby the Owner or Declarant coveys recurring leasehold interests to time-share purchasers and retains a reversion in fee simple and (b) interval ownership whereby the Owner or Declarant conveys recurring leasehold interest to time-share purchasers and also conveys to them a co-ownership of a remainder in fee simple.

The foregoing definitions shall be applicable to this Declaration and also to any Notice of Addition of Property, Supplemental Declaration or Declaration of Amendment, unless otherwise expressly provided, recorded pursuant to the provisions of this Declaration.

ARTICLE II

Owner's Property Rights

Section 1. **Owner's Easements of Enjoyment to Common Areas.** Each Owner of a Lot shall have a right and easement of ingress and egress and of enjoyment in, to and over the Common Area which shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

(a) The right of Declarant to annex additional Common Area thereto pursuant to Article XIV.

(b) The right of the Association to reasonably limit the number of guests of Owners using the Common Area facilities and the frequency thereof.

(c) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area.

(d) The right of the Association to charge uniform and reasonable admission and other fees for the use of the Common Area facilities by non-Owners.

(e) The right of the Association in accordance with its Articles of Incorporation, by-laws and this Declaration, with the vote of or written assent of two-thirds (2/3) of it members (and the express approval of the Declarant during the period of Declarant Control), to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, and subject to the provisions of Article XIII of this Declaration, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any Mortgagee shall be subordinated to the rights of the Owners.

(f) Except for the right of ingress and egress to an Owner's Lot, the Association shall have the right to suspend the voting rights and right to use the Common Area facilities by any Owner for any period during which any assessment against his Lot remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association, provided that any suspension of such voting rights or the right to use of the Common Area and Common Area facilities, shall be made only by the Board, after Notice of Hearing, and an opportunity for a hearing before a quorum of the Board.

(g) Subject to the provisions of Article XIII of this Declaration, the right of the Association to dedicate, release, alienate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, release, alienation or transfer shall be effective, unless pursuant to an instrument signed by two-thirds (2/3) of the Class A Members of the Association and the Declarant during the period of Declarant Control.

(h) The rights of the Declarant (and its sales agents, customers, representatives any other authorized persons) to the nonexclusive use of the Common Area and the facilities thereof, without charge, for sales, display, access, ingress, egress and exhibit purposes, which right the Declarant hereby reserves; provided, however, that such use shall not be for a period of more than twenty five (25) years after the date of the recording of this Declaration. Upon the request of the Declarant and upon the vote of fifty-one percent (51%) of the Class A Members of the Association, this term may be extended for any additional period of time and this provision shall not be amended without the express written agreement of the Declarant.

(i) The right of the Association (by action of the Board) to reconstruct, replace or refinish any improvement or portion thereof of the Common Area, in accordance with the original design, finish or standard of construction of such Improvement, or of the general improvements within the Property, as the case may be; and not in accordance with such original design, finish or standard of construction only with the vote or written consent of seventy-five (75%) of the Class A Members of the Association.

(j) The right of the Association to replace destroyed trees, shrubs and ground cover upon any portion of the Property.

Section 2. **Assignment and Delegation of Use.** Any Owner may assign, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, guests, or contract purchasers who reside in his Dwelling Unit, subject to reasonable regulation of the Board. All such use by his family, his tenants, contract purchasers or guests shall be subject to this Declaration, including all supplements and amendments thereto, the By-Laws and the Rules and Regulations promulgated by the Board. Any damage caused by such users to the Common Area and facilities, including personal property owned by the Association shall create a debt to the Association by the assigning Owner and shall be assessed by the Association as provided herein.

Section 3. **Owners' Easements of Enjoyment to Limited Common Areas.** Each Lot Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas appurtenant to certain lots as identified on the official Plats filed for the Property. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to every Lot with which it is associated. A Lot Owner's exclusive right of use and occupancy of Limited Common Areas reserved for their Lot shall be subject to and in accordance with the Declaration and By-Laws.

Section 4. **Easements for Parking.** Temporary guest parking shall be permitted within the Common Area only within paved spaces and areas clearly suitable for parking purposes, if any. The Association, through its officers, committees and agents is hereby empowered to establish "parking" and "no parking" areas within the Common Area, as well as to enforce such parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those empowered.

Section 5. **RESERVED**

Section 6. **Easements for City and County Public Service Use, Etc.** In addition to the foregoing easements over and across the property reserved herein, the Declarant reserves and covenants for itself and all future Owners within the Property, easements for the city, county and federal public services, including, but not limited to, the right of the police to enter upon any part of the Common Area for the purpose of enforcing the law. Also the Declarant reserves and covenants for itself and all future Owners within the Property, easements for public utilities and easements for storm drain connections, water line connections, gas line connections, power

connections, communications facilities, sewer line connections all in favor of the Property and adjoining landowners. Furthermore, the City of Lehi shall have any easement necessary to access and maintain any storm detention basin or drainage systems located in the Common Areas, if any.

Section 7. **Waiver of Use.** No owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot or other property owned by him, from the liens and charges thereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or by abandonment of his Lot or any other property in the Property.

Section 8. **Taxes.** Each Owner shall execute such instrument and take such action as may reasonably be specified by the Association to obtain a separate real estate tax assessment of each Lot. If any taxes or assessments may, in the opinion of the Association, nevertheless be a lien on more than one Lot not under common ownership, or any part thereof, they may be paid by the Association and each Owner shall be obligated to pay or to reimburse the Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against his own Lot and interest, if any, in the Common Area.

ARTICLE III

Membership in Association

Section 1. **Membership.** Every Owner of a Lot shall be a Member of the Association. Membership in the Association shall not be assignable, except to the successor-in-interest of the Owner, and every Membership in the Association shall be appurtenant to and may not be separated from the fee simple title of such Lot. Ownership of such Lot shall be the sole qualification for Membership in the Association.

Section 2. **Transfer.** The Association Membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser or Mortgagee of such Lot. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Lot to a contract purchaser under an agreement to purchase such Membership, shall be entitled to assign to such contract purchaser his right of enjoyment of the Common Area and facilities as provided in Article II, Section 2, and such Members' voting proxy rights in the Association, but as between the Association and such Member, the Member may not delegate his Membership obligations. Such assignment and /or proxy shall be in writing and shall be delivered to the Board before such contract purchaser may use the Common Area and facilities or vote, as the case may be. The contract seller shall remain liable for all charges and assessments attributable in his Lot until fee simple title to the Lot sold is conveyed. In the event the Owner of any Lot shall fail or refuse to transfer the Membership registered in his name to the purchaser of such Lot upon transfer of fee simple title thereto, the Board shall have the right to record the transfer upon the books of the Association. Upon any transfer, pledge, or alienation of a Lot, the Board shall have the right to charge a Transfer Assessment against all new Owners, and their Lots, equal in amount to two (2) times the current monthly Common Assessment, to cover the cost to the Association of effectuating any such transfer of Membership upon the books of the Association and to perpetuate the reserve funds of the Association.

ARTICLE IV

Voting Rights

Section 1. **Classes of Voting Membership.** The Association shall have two (2) classes of voting Membership as follows:

Class A. Class A Members shall originally be all Owners with the exception of the Declarant for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for each Lot owned. The Declarant shall become a Class A Member with regard to Lots owned by the Declarant upon conversion of Declarant's Class B Memberships as provided below. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised in accordance with Article IV, Section 2 of this Declaration, and in no event shall more than one (1) vote be cast with respect to any Lot owned by Class A Members.

Class B. The Class B Member shall be the Declarant and it shall be entitled to a total of ten (10) votes for each Lot (whether improved or not) owned or controlled by the Declarant or its' affiliated companies. The Class B membership shall cease and be converted to a Class A membership on the happening of any of the following events, whichever occurs later:

(a) when the total votes outstanding in the Class A membership (inclusive of all votes attributable to any property annexed into the Property) equals the total votes outstanding in the Class B membership, or,

(b) twenty five (25) years from the date of recording this Declaration; or

(c) the date of voluntary cancellation of Class B Membership by the Declarant.

(d) The period of time during which any Class B Membership remains outstanding shall be defined hereinafter as the "period of Declarant Control"

Section 2. Vote Distribution. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for Membership. The Class B Member shall be entitled to ten (10) votes for each Lot in which it holds an interest required for that Membership. When more than one person holds such interest or interests in any Lot (a "co-owner"), all such co-owners shall be Members and may attend any meetings of the Association, but only one such co-owner shall be entitled to exercise the vote (or votes in the case of the Class B Member) to which the Lot is entitled. Such co-owners may from time to time designate in writing one of their number to vote. Fractional votes shall not be allowed, and the Class A Member's and Class B Member's vote (or votes in the case of the Class B Member) for each Lot shall be exercised, if at all, as a unit. When no voting co-owner is designated or if such designation has been revoked, the vote for such Lot shall be exercised as the majority of the co-owners of the Lot mutually agree. Unless the Board receives a written objection from a co-owner, it shall be presumed that the corresponding voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for any Lot where the majority of the co-owners present in person or by proxy and representing such Lot cannot agree to said vote or other action. The non-voting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or by the By-laws of the Association, shall be deemed to be binding on all Owners, their successors and assigns. Said voting rights shall be subject to the restrictions and limitations provided in this Declaration and in the Articles of Incorporation and By-laws of the Association.

ARTICLE V

Duties and Powers of Association

The Association, acting through the Board, shall have the power and duty to:

(a) Maintain, repair, provide water, sewer and other utilities to and otherwise manage the Common Area and all facilities and improvements, and replace those elements of the Common Area that must be replaced on a periodic basis, including but not limited to the improvements and landscaping thereon, in accordance with the provisions of Article VI of this Declaration. This duty and power shall be limited by Article IX, Section 1 as applies to the Limited Common Areas.

(b) Maintain all privately owned (non-public) sidewalks and concrete driveways within the Common Area, all privately owned parking areas within the Common Area, and all landscaping located within the Property and which are not maintained by any governmental entity, and all greenscape areas located on easements, including cleaning, snow removal, sign maintenance, landscaping maintenance and periodic concrete maintenance (the foregoing duties specifically do not include on obligation to maintain any public roadways or publicly dedicated facilities on the Property). This duty and power shall be limited by Article IX, Section 1 as applies to the Limited Common Areas.

(c) Grant easements, rights of way, or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

(d) Maintain such policy or policies of insurance as may be permitted or allowed in this Declaration and the By-laws.

(e) Employ or contract with a professional manager or management company to perform all or any part of the duties and responsibilities of the Association, and to delegate its powers to committees, officers and employees as permitted by law. Any such agreement shall be for a term not in excess of three (3) years, subject to cancellation by either party without cause or payment of a termination fee, upon ninety (90) days written notice. A non-professional manager may be designated solely by the Declarant during the period of Declarant Control and thereafter only upon the affirmative vote of seventy-five percent (75%) of the total outstanding votes of the Members.

(f) After fifteen (15) days written notice, without being liable to any Owner, enter upon any Lot, for the purpose of enforcing by peaceful means, the provisions of this declaration, or for the purpose of maintaining or repairing any such area as required by this Declaration.

(g) Maintain and repair all fences, electric gates and crash gates within the Common Area.

(h) Provide water for and maintain and repair all landscaping installed by Declarant and/or the Association within the Common Areas.

(i) Maintain and repair all sprinkling systems installed by Declarant and/or the Association within the Common Areas.

(j) Exercise any and all additional powers required to accomplish the duties and functions provided for in this Declaration.

(k) Except for the Lot 164, provide snow removal for driveways and sidewalks on all Lots up to the front entrance of any Dwelling Unit located on a Lot.

(l) Maintain and repair the drain systems on the Property (excluding rain gutters and downspouts on Dwelling Units) to a point prior to its connection and outfall into the public storm drain system. The drain system consists of certain surface drainage features, piping, inlets and other appurtenances thereto designed to convey storm water away from the Common Areas and Dwelling Units to the point that such water outfalls into the public system.

(m) Install, repair and maintain any culinary water system on the Property to a point prior to its connection into the public culinary water system.

(n) Maintain and repair all erosion-control measures such as retaining walls, etc.

(o) Except for the Dwelling Unit constructed on Lot 164, maintain and repair the exterior shingle surface of the roofs of all Dwelling Units (this obligation does not include any responsibility for features of the roof under the shingles, such as paper, flashing, moisture barriers, particle board or trusses).

(p) Abide by all of the terms and conditions of all contracts entered into by Declarant for the benefit of present and future Owners.

(q) Maintain, own and operate all sewer laterals from Dwelling Structures to the point that the sewer lateral connects with the public sewer main.

Notwithstanding all of the aforementioned obligations of the Association, to the extent that any of the foregoing obligations (or a part of the obligations) are satisfied by or become the obligation of any City or governmental entity or the Traverse Mountain Master Association of which this Association is a sub Association, the Associations' obligation to perform any of the foregoing (in whole or in part as the circumstance shall dictate) shall be waived during any such period of time that such obligation is undertaken by or becomes the obligation of the aforementioned third parties. The forgoing obligations of the Association under this section shall not be altered, amended, contracted or expanded any way without the express written consent of the Declarant until the date that is nine (9) years following the later of the date that Declarant completes construction on the (a), the final Dwelling Unit at the Property or (b), the final improvements to the Common Area at the Property.

ARTICLE VI

Covenant to Pay Maintenance Assessments and Reinvestment Fees

Section 1. Creation of Lien and Personal Obligation to Pay Assessments and Reinvestment Fees. Declarant, for each Lot owned by it upon which is constructed a Dwelling Unit occupied as a residence, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and hereby agrees to pay the Association (1) annual Common Assessments for Common Expenses, (2) Capital Improvement Assessments, (3) Special Assessments, (4) Reconstruction Assessments, (5) Transfer Assessments and (6) Reinvestment Fees, such assessments and fees to be established and collected as hereinafter provided. Such Assessments and fees, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon

the Lot against which such assessment or fee is made. Each such assessment or fee, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment or fee fell due. Subject to the provisions of this Declaration protecting first mortgagees, the personal obligation for delinquent assessments and fees shall pass to the successors in interest of such Owner. The Board shall establish at least two (2) separate accounts (the "Maintenance Funds") into which shall be deposited all monies paid to the Association. At least one of the accounts (the "Operating Fund") shall include funds for replacement, painting, repairs and operations which would reasonably be expected to occur on an annual or more frequent basis. At least one of the accounts (the "Reserve Fund") shall include such funds as the Board determines shall constitute an adequate and reasonable reserve for replacement and repairs which would reasonably be expected to occur less frequently than on an annual basis. The Board shall not co-mingle any amounts deposited into any of the separate accounts.

Section 2. **Purpose of the Common Assessments.** The Assessments levied by the Association shall be used to promote the maintenance, health, safety and welfare of the Owners and for the improvement and maintenance of the Common Area as provided herein. The Assessments shall also be for an adequate replacement of those elements of the Common Area that must be replaced on a periodic basis. However, disbursements from the Reserve Fund shall be made by the Board only for the specific purposes specified in this Article VI. Disbursements from the Operating Fund shall be made by the Board for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Reserve Fund are to be used. Nothing in this Declaration shall be construed in such a way as to permit the Association to use any assessments to abate any nuisance or annoyance emanating from outside the boundaries of the Property. Nothing contained herein shall limit, preclude or impair the establishment of additional Maintenance Funds by the Association, so long as the amounts deposited into such Funds are allocated for specific purposes authorized by this Declaration.

Section 3. **Damage to Common Area by Owners.** Any maintenance, repairs or replacements completed by the Association arising out of or caused by the willful or negligent act of the Owner, his family, guests, invitees or lessees shall be done at said Owner's expense, or a Special Assessment thereof shall be made against his Lot.

Section 4. **Basis of and Maximum of Annual Common Assessments.** Until January 1st of the year immediately following the conveyance by Declarant of the first Lot in the Property to any Owner, the maximum Common Assessment under Article VI shall be set by the Declarant but shall not exceed one hundred eighty Dollars ($180) per Lot per month.

(a) From and after January 1st of the year immediately following the conveyance by Declarant of the first Lot to an Owner, the maximum annual Common Assessment may be increased by the Board above the annual Common Assessment for the previous year, not more than the greater of: (1) fifteen percent (15%); or (2) the percentage by which the area Consumer Price Index for All Items, of the U.S. Bureau of Labor, has increased as of the date of the increase over the level of said index as of the date the Common Assessment was last established.

(b) From and after January 1st of the year immediately following the conveyance by Declarant of the first Lot to an Owner, the annual Common Assessment may be increased by the Members above the greater of fifteen percent (15%) the percentage determined with respect to the area Consumer Price Index referred to above, by the vote or written assent of fifty-one percent (51%) of each class of Members of the Association who are in attendance at a meeting at which there is a quorum present and which meeting was called for the purpose of dealing with such assessment.

(c) The Board may fix an annual Common Assessment at any amount not in excess of the maximum.

Section 5. **Capital Improvements and Reconstruction Assessments.** In addition to any Common Assessments, the Board may levy, in any assessment year, a Capital Improvement Assessment or Reconstruction Assessment applicable to the year only and payable by any Owner with a duty to pay Common Assessments as set forth in Section 4 above, for the purpose of defraying, in whole or in part, the cost of any improvement or other such addition upon the Property, including fixtures and personal property relating thereto; provided that the total of any such assessment which is in excess of ten thousand Dollars ($10,000.00) shall require the vote or written assent of fifty-one percent (51%) of each class of Members of the Association who are in attendance at a meeting at which there is a quorum present and which meeting was called for the purpose of dealing with such assessments.

Section 6. **Notice and Quorum for any Action Authorized Under Section 4 and 5.** Written notice of any meeting called for the purpose of taking any action by the Members authorized under Sections 4 and 5 above shall be sent to all Members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same voting requirement, and the required quorum at the subsequent meeting shall be twenty-five (25%) of the voting power of the Association. No such meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. **Equal Rate of Assessment.** Common Assessments, Capital Improvement Assessments and Reconstruction Assessments provided for in this Article VI must be fixed at an equal rate for all Lots (subject to exception for those Lots owned by Declarant as provided herein). Provided however, if the Association elects to insure individual Dwelling Units, the Association may make such equitable adjustments to the Common Assessments to reflect the size and value differentials between the different Dwelling Units. Provided further, that the Association may, subject to the provisions of Section 3 of this Article, levy Special Assessments against particular Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their guests or agents. All Common Assessments shall be collected on a regular monthly basis by the Board. Notwithstanding the foregoing, given the nature of Lot 164, unless otherwise agreed by the Owner of Lot 164 on a yearly basis, the Association shall vary the rate of assessment charged to the Owner of Lot 164 for Common Assessments, Capital Improvement Assessments and Reconstruction Assessments to no more than sixty five (65) percent of the rate of assessment imposed on all other Lots. The provisions of this Section shall not be amended without the express written consent of the Owner of Lot 164.

Section 8. **Date of Commencement of Common Assessments; Due Date.** All assessments provided for herein shall be paid in regular installments after the assessment is made. The annual Common Assessment shall commence as to particular Lots as provided for herein, on the day of the closing of the sale or conveyance of any particular Lot by the Declarant to any contract purchaser or Owner with a proper proration on any month assessment if the closing takes place on a day other than the first day of any given month. All annual Common Assessments shall be adjusted according the number of months remaining in any fiscal year, such fiscal year as shall be set forth in the By-Laws. At least thirty (30) days in advance of the beginning of each annual Common Assessment period the Board shall fix the amount of the Common Assessment for the year against each Lot. Written notice of any change in the annual Common Assessment amount shall be sent to each Owner at least thirty (30) days prior to the effective date of the change. All due dates relating to Assessments shall be established by the Board. The Association on demand and for a reasonable charge shall furnish a duly executed certificate detailing whether or not the assessments for a specific Lot have been paid in full. Such certificate as relating to the status of payment shall be binding against the Association on the date of issuance.

Annual balance sheets and operating statements shall be prepared by the Board setting forth all income and expenditures of the Association for the fiscal year, including information detailing all deposits and withdrawals from the Reserve and Operating Funds. These shall be distributed to each Member and to any First Mortgagee who has filed a written request for copies of the same with the Board. At least sixty (60) days prior to the beginning of each fiscal year, the Board shall prepare and distribute to the Members a written, itemized estimate of the expenses to be incurred by the Association during such year in performing its functions under this Declaration (including a reasonable provision for contingencies and deposits into the Reserve Fund, less any expected income and accounting for any surplus from the prior year's Maintenance Funds).

Each annual Common Assessment shall constitute an aggregate of separate assessments for each of the Maintenance Funds, reflecting an itemization of the amounts assessed and attributable to prospective deposits into the Reserve Fund, the Operating Fund and any other Maintenance Funds established by the Association. If the estimated sums prove inadequate for any reason, including nonpayment of any Owner's annual Common Assessment, the Board may, at any time, levy supplemental Common Assessments, subject to the provisions of Section 4 of this Article, for any of the Maintenance Funds which shall be assessed against the Owner of each Lot.

Each Annual Common Assessment may be paid by the Owner to the Association in one check or payment, or in separate checks, as payments attributable to deposits into specified Maintenance Funds. In the event that any installments of a Common Assessment payment is less than the amount assessed and the payment does not specify the Maintenance Fund or Funds into which it should be deposited, the receipt of the Association from the Owner shall be credited in order of priority first to the Operating Fund, until that portion of the Common Assessment has been satisfied, and second to the Reserve Fund.

At the end of any fiscal year of the Association, the Owners may determine that all excess funds remaining in the Operating Fund, over and above the amounts used for operation of the Association, may be returned to the Members proportionately, or may be retained by the Association and used to reduce the following year's Common Assessments or may be deposited in the Association's reserve fund. Notwithstanding anything contained in the Articles or By-Laws to the contrary, if prior to dissolution of the Association, the Association has not obtained tax exempt status from both the Federal and State Governments, then upon such dissolution of the Association, any amounts remaining in the Reserve Fund shall be distributed to or for the benefit of the Members in a proportion equal to their individual, respective contributions.

Section 9. **Exempt Property.** All property dedicated to and accepted by local public authority and all property contained in or defined as the Common Area shall be exempt from any liens resulting from all assessments contained herein.

Section 10. **Declarant Subsidy.** Declarant or its affiliates or assigns shall have the option, but not the obligation, in its sole discretion, of subsidizing the Association until Declarant's rights as a Class B Member terminate. Subsidization shall be defined as the payment of the reasonable cost needs of the Association for ordinary and necessary maintenance expenses of the Common Areas of uncompleted sections of the overall Property; excluding construction, reconstruction, repair or replacement of any Capital Improvement upon the Common Area, including fixtures and personal property related thereto either through subsidy or by a loan extended at commercially reasonable rates. This provision may not be amended without the written consent of the Declarant.

Section 11. **Reinvestment Fee Covenant**. A reinvestment fee shall be due upon the transfer of any Lot within the Property. The reinvestment fee is $2500.00 (the "Reinvestment Fee"). The name and address of the beneficiary of the Reinvestment Fee is the Association, 17 E. Winchester St. Ste. 200, Murray, UT 84107. If and when the contact information in this Section becomes outdated, contact with the Association may be made through its registered agent. The current registered agent of the Association can be found through the Utah

Department of Commerce, Division of Corporations. The entirety of all Reinvestment Fees received by the Association shall be deposited in the Reserve Funds of the Association for use in accordance with required or permissible uses thereof.

Section 12. **Declarant Exemption.** Declarant shall have no obligation to pay and shall be exempt from the requirement to pay any and all Common Assessments, Special Assessments, Reconstruction Assessments, Capital Improvement Assessments for any Lot or Dwelling Unit owned by the Declarant during the period of Declarant ownership and until such time as the Declarant first transfers title for any Lot or Dwelling Unit to any unrelated third party. The Declarant is also specifically exempt from the requirement to pay any Reinvestment Fee upon the transfer by Declarant of any Lot or Dwelling Unit to any third party. The provisions of this Section may not be amended without the express written approval of the Declarant.

ARTICLE VII

Effect of Non-Payment of Assessments, Remedies of the Association.

Section 1. **Non-Payment.** Any Assessments that are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the Association shall have the remedies provided for in Section 2.

Section 2. **Remedies.** For any delinquent payment as provided in Section 1, the Association shall be entitled to all or any combination of the following remedies against a Member whose assessment is delinquent:

(a) File a notice of lien on the Lot

(b) Bring an action at law against the Owner personally obligated to pay to pay, (1) the principal amount of the unpaid assessment; (2) interest from the date of delinquency at a rate of eighteen percent (18%) per annum, or such other rate as the Board of Trustees may establish from time to time; and (3) all court costs and attorney fees.

(c) Foreclose the lien against the Lot to satisfy judgment rendered for the full amount of the delinquent Assessment, including interest, costs and attorney's fees.

(d) Levy as an additional sum to such delinquent Assessment, all expenses for preparation of the notice of lien (whether or not prepared by an attorney), court costs, interest and a reasonable attorney's fee.

(e) Withhold and interrupt the service of utilities provided by the Association to any such Dwelling Unit on the Lot upon which the Assessment is delinquent.

Section 3. **Right to Bring an Action.** Each Owner, by acceptance of a deed to any Lot, expressly grants to the Association, its successors, assigns or agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 4. **Non-Use and Abandonment.** Except for the Declarant as provided in Article VI, Section 12, no Owner of a Lot may waive or escape personal liability for the assessments provided for herein, nor release the Lot owned by such Owner from the liens and charges hereof, by non-use of any Common Area or Limited Common Area or by the abandonment of such Owner's Lot and/or Dwelling Unit.

Section 5. **Subordination of the Lien to Mortgages.** The liens created by this Declaration imposed upon any Lot shall be subject and subordinate to and shall not affect the right of the holder of the indebtedness secured by any First Mortgagee or equivalent security interest in any Lot, made in good faith and for value, recorded prior to the date any such Assessment becomes due. Any First Mortgagee or equivalent security interest holder that comes into possession by virtue of foreclosure of a Mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale will take said Lot and the improvements appurtenant thereto free of any claims for unpaid assessment charges against said Lot which accrue prior to the time such holder comes into possession of the Lot, except for the claims for a share of such expenses or charges resulting from a reallocation of such Assessment or charges to all lots including the mortgaged Lot. However, no such sale or transfer shall relieve the Owner from personal liability for such Assessment, nor such Lot from liability for any installments or Assessments thereafter becoming due from the lien thereof.

ARTICLE VIII

Architectural Control

Section 1. **Members of Committee.** The Architectural Committee shall consist of three (3) members. The initial members of the Architectural Committee shall consist of representatives of the Declarant. Each of said persons shall hold office until the election of the first Board by the Membership of the Association. Following the period of Declarant Control, new members of the Architectural Committee shall be appointed by the Board and shall hold office until such time as they have resigned or have been removed or their successor has been appointed, as provided herein. Members of the Architectural Committee may be removed at any time with cause. The Board shall have the right to appoint and remove all members of the Architectural Committee.

Section 2. **Submission to Committee.** Subject to Article X, Section 5, of this Declaration, no accessory, attachment or addition to a Dwelling Unit, landscaping, patio enclosure, or other improvement of a Lot, specifically including the Limited Common Areas; shall be constructed, maintained, or accomplished, and no additions, alterations, repainting or refurbishing, addition or relocation of lighting of or to the exterior of any Dwelling Unit shall be performed, unless complete plans and specifications thereof have first been submitted to and approved in writing by the Architectural Committee. The Architectural Committee may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, or upon the agreement by the Owner submitting the same to grant appropriate easements to the Association for the purpose of maintenance, and may require submission of additional plans and specifications or other information and agreements prior to approving or disapproving material submitted. The Architectural Committee may also charge a uniform fee to be payable to the Association to accompany each submission by an Owner for approval. Such uniform fee shall be an amount set so as to reasonably cover the costs incurred by the Architectural Committee for conducting its review of submissions, including covering any reasonable compensation due the members of the Architectural Committee for their work as set forth below.

Section 3. **Standard of Review.** In deciding whether to approve or disapprove plans and specifications submitted to it, the Architectural Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures. The Board may further formulate general guidelines and procedures for the Architectural Committees' review process. If such guidelines are formulated, they shall be incorporated into a set of

rules and regulations adopted by the Board and the Architectural Committee, or the Board, as the case may be, shall act in accordance with such guidelines and procedures.

Section 4. **Meeting of the Architectural Committee.** The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of a variance pursuant to Section 8 of this Article VIII. In the absence of such designation, the vote of any two (2) Members of the Committee taken without a meeting, shall constitute an act of the Committee.

Section 5. **Approval Procedures.** Any plans and specifications initially presented to the Architectural Committee shall be either approved, approved pending appropriate revision or disapproved by it in writing within thirty (30) days after submission. In the event the Architectural Committee fails to take any action as permitted hereunder within such period, it shall be deemed to have approved the material submitted. Any submitted plans requiring revision shall be approved or disapproved within thirty (3) days following the submission of the revisions. In the event the Architectural Committee fails to take any action with respect to the revised plans submitted within such period, it shall be deemed to have approved the revised material as submitted.

Section 6. **Construction and Inspection.** Once construction of any Improvements, alterations or changes to landscaping as approved by the Architectural Committee have commenced, the same shall be diligently pursued to completion. Upon completion of any Improvement for which approved plans are required under this Article VIII, the Owner shall give notice of completion to the Architectural Committee. Within sixty days thereafter, the Architectural Committee shall inspect such Improvement. If the Improvements are found to be non-compliant according to the approved plans, the Architectural Committee shall require the Owner to remedy the same within thirty (30) days notice of non-compliance from the Architectural Committee. Failure to do so shall allow the Board to remedy the non-compliance at the cost of the Association and to seek reimbursement of such costs from the non-compliant Owner. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy a Special Assessment against such Owner for reimbursement.

Section 7. **Non-Waiver and Disclaimer of Liability.** Neither the Architectural Committee, nor any member thereof acting in good faith shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of the approval or rejection of, or the failure to approve or reject any, plans, drawings or specifications or for the development or manner of development of any of the property or for any engineering or other defect in any approved plans and specifications. The approval of the Architectural Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Committee to disapprove any similar plans and specifications.

Section 8. **Exception for Declarant.** The foregoing provisions of this Article VIII shall not apply to any improvement, construction, landscaping or alteration which is carried out by the Declarant, its affiliates, agents, successor or assigns on any Lot or on any part of the Common Areas and which occurs at any time during the twenty five (25) year period (unless extended as a result of the expansion of the project in accordance with this Agreement) following the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah. In no event will the Architectural Committee have any authority over any Dwelling Units under development and/or construction by the Declarant, its affiliates, agents, successors or assigns. Only proposed modifications to those Dwelling Units which have been completed and conveyed to the new Owner will be reviewed and acted upon by the Architectural Committee. Declarant shall further have the right to designate the location and design of any Common Area amenities or green areas, provided that the Declarant shall not be required to provide any such amenities by virtue of this Section. This Section shall not be amended without the express written consent of the Declarant.

Section 9. **Declarant's Obligation.** Declarant hereby covenants in favor of each owner that all dwelling units erected by it, or caused to be erected by it, in any one phase of the Project and all improvements of the Common Area accomplished by it in any one phase of the Project shall be architecturally compatible, as determined at the sole discretion of the Declarant, with respect to one another and, that on or before twenty five (25) years (unless extended as a result of the expansion of the Project in accordance with this Declaration) from the date on which this Declaration is filed for record in the office of the County Recorder of Utah County, Utah, there shall be substantially completed and usable as part of the Common Areas, all open spaces in the location shown on the plat. This Section shall not be amended without the express written consent of the Declarant.

ARTICLE IX

Maintenance and Repair Obligation

Section 1. **Maintenance Obligations of Owners.** Subject to the duty of the Association to provide for maintenance as provided in Section 2, of this Article IX, it shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration regarding Architectural Committee approval, to maintain, repair, replace and restore areas of the Property subject to his exclusive control, including any improvement thereon, in a neat, sanitary and attractive condition. Areas subject to the exclusive control of any Owner shall be deemed to include, but not be limited to, the structure of the Owner's Dwelling Unit, and all exterior and interior portions of the Owner's Dwelling Unit, including any cement patio and deck attached to the rear of a Dwelling Unit, but excluding the exterior shingle surface of the roof of such Dwelling Unit. In the event that any Owner shall permit any Improvement, which is the responsibility of an Owner to maintain, to fall into disrepair or fail to so maintain such Improvement so as to create a dangerous, unsafe, unsightly or unattractive condition, or to otherwise violate this Declaration, the Architectural Committee shall have the right, but not the duty, upon fifteen (15) days prior notice to the Owner of such Lot, to correct such condition and to enter upon such Owner's Lot to make such repairs or to perform such maintenance and the costs thereof shall be charged to the Owner. Said costs shall constitute a Special Assessment and shall create a lien enforceable in the same manner as other assessments as set forth in this Declaration. The Owner shall pay promptly all amounts due for such work, and the costs and expenses of collection may be added, at the option of the Board, to the amounts payable be each Owner as Common Assessments.

Section 2. **Maintenance Obligations of Association.** In addition to the provisions of Section 1 of this Article IX, the Association shall maintain in good order and repair all of the Common Area and any Improvement thereon, and any perimeter fencing around the Property. In addition to the maintenance and repairs set forth above, the Association shall provide all necessary landscaping and gardening and properly maintain and periodically replace when necessary the trees, plants, grass and other vegetation which is on the Common Area. The Association shall further maintain, reconstruct, replace and refinish any privately owned (non-publicly dedicated) paved or concrete surface in the Common Area, except as limited by the provisions of Section 1 of this Article IX. All of the foregoing obligations of the Association shall be discharged when and in such a manner as the Board shall determine in its judgment to be appropriate. The obligations of the Association with respect to the maintenance obligations hereunder shall not be altered, amended, contracted or expanded any way without the express written consent of the Declarant until the date that is nine (9) years following the later of the date that Declarant completes construction on the (a), the final Dwelling Unit at the Property or (b), the final improvements to the Common Area at the Property.

Section 3. **Damage and Destruction Affecting Dwelling Unit, Duty to Rebuild.** If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Lot or Dwelling Unit to rebuild, repair or reconstruct said Dwelling Unit in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

Section 4. **Time Limitation.** The Owner or Owners of any damaged Dwelling Unit, shall be obligated to proceed with all due diligence hereunder, and the responsible party shall commence reconstruction within four (4) months after the damage occurs and complete reconstruction within none (9) months after damage occurs, unless prevented by causes beyond their reasonable control.

Section 5. **Damage to Common Area Facilities, Etc.** No Owner shall take any action which interferes with or damages Common Area Facilities, including but not limited to retaining walls and other erosion control facilities located on the Common Area or any other portion of the Property.

ARTICLE X

Use Restrictions

All real property within the Property shall be held, used and enjoyed pursuant to the following limitations and restrictions, subject to the exemption of the Declarant as provided in Section 5 of this Article X.

Section 1. **Single Family Residences, Business or Commercial Activity.** Each Lot shall be used as a residence for a single family. No part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes, other than a home office permitted under applicable zoning ordinances, without the vote of seventy-five percent (75%) of the votes eligible to be cast by Members of the Association and the approval of the Architectural Committee. Provided further, however, the Association shall never be permitted to allow more than twenty-five percent (25%) of the Lots to be used as a non-owner occupied residence, nor shall any Dwelling Unit be permitted to be used in a timesharing or vacation rental type of an arrangement. Notwithstanding any provisions herein to the contrary, nothing herein shall be construed as prohibiting the Declarant, its successors and assigns, from using any portion of the Property for a model home site, and display and sales office during the construction and sales period and for a period of three (3) years thereafter in accordance with Article II Section 1 (h), of this Declaration.

Section 2. **Nuisances.** No noxious or offensive activity (including but not limited to the major repair of motor vehicles) shall be carried on, in or upon any Lot or the Common Area, nor shall anything be done thereon which may be or become an unreasonable annoyance or nuisance to any other Owner. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine in accordance with the By-Laws if any noise, odor or activity producing such noises, odor or interference constitutes a nuisance. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than a security device used solely for security purposes), noisy or smoky vehicles, large power equipment or large power tools, satellite reception devices, radio or television antennas, evaporative coolers, permanent flag poles, or items which may unreasonably interfere with television or radio reception of any Owner in the Property, shall be located, used or placed on any portion of the Property, or exposed to the view of other Owners without the prior written approval of the Architectural Committee.

Section 3. **Signs.** No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Property or any Lot, without the prior written consent of the Architectural Committee, except signs used by Declarant, their successors and assigns, to advertise the Property during the construction and sale period. All signs or billboards and the regulations promulgated for the regulation thereof shall conform to the requirements of applicable zoning law.

Section 4. **Common Area Facilities.** Nothing shall be altered or constructed on or removed from the Common Area except upon the written consent of the Association. No public storm detention facility constructed on the Property, if any, shall be altered without the express written consent of Lehi City.

Section 5. **Declarant's Exemption.** This Section 5 shall not be amended without the express written consent of the Declarant. The Declarant or its successor or assigns may undertake the work of constructing Dwelling Units and developing all of the Lots included within the Property and any annexation thereto. The completion of that work and sale, rental and other disposal of Dwelling Units is essential to the establishment and welfare of the Property as a residential community. As used in the Section and its subparagraphs, the words "its successors and assigns" specifically do not include purchasers of Lots improved with completed Dwelling Units. In order that said work may be completed and the Property be established as a fully occupied residential community as rapidly as desired and as is possible, no Owner nor the Association shall do anything to interfere with, and nothing in this Declaration shall be understood or construed to:

(a) Prevent the Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any Lot owned by the Declarant, whatever it determines to be necessary or advisable in connection with the completion of said work, including without limitation the alteration of its construction plans and designs as the Declarant deems advisable in the course of development; or

(b) Prevent the Declarant, its successors or assigns, or its or their representatives, from erecting, constructing, or maintaining on any Lot, or portion thereof, owned or controlled by the Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be necessary or desirable for the conduct of its or their business of completing said work and establishing the Property as a residential community and disposing of the same in Lots by sale, lease or otherwise; or

(c) Prevent the Declarant, its successor or assigns, or its contractors or subcontractors, from conducting on any Lot, or any portion thereof, owned or controlled by the Declarant, or its successors or assigns, its business of developing, subdividing, grading and constructing Dwelling Units and other improvements in the Property as a residential community and of disposing of Dwelling Units thereon by sale, lease or otherwise; or

(d) Prevent the Declarant, its successors or assigns, or its contractors or subcontractors, from maintaining such sign or signs on any Lot owned by or controlled by it as may be necessary in connection with the sale, lease or other marketing of Lots and Dwelling Units; or

(e) Prevent the Declarant, at any time prior to the acquisition of title to a Lot by a purchaser from the Declarant, to establish on that Lot additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Property. The Declarant shall repair at its own cost or expense any damage caused by the Declarant to any portion of the improved Common Area as well as such damages caused to Lots or property still under Declarant's control.

(f) Prevent the Declarant from having unrestricted access to the Property until all Dwelling Units have been constructed and sold. The Declarant shall have the right to control all access gates until all Dwelling Units have been construed and sold.

Section 6. **Pets and Other Animals.** No exterior bar, coop, shed, sty or building of any type shall be constructed, kept, maintained or permitted for the purpose of housing dogs, cats, pigs, cows, sheep,

goats, horses, poultry, or other livestock at any place within the limits of the Property. Each Lot Owner may keep and maintain three (3) common household pets, other than fish in an aquarium to which such limit shall not count or apply, unless otherwise permitted by the affirmative vote of seventy-five percent (75%) of the Members.

Section 7. **Parking.** No long-term parking (over 96 hours) of any vehicle, or recreation vehicle (including Boats, RV's, ATV's, etc.) shall be permitted on the driveway of any Dwelling Unit, except in a Dwelling Unit garage. No long-term parking (over 48 hours) of any vehicle or recreational vehicle (including Boats, RV's, ATV's, etc.) shall be permitted upon any of the Common Areas. The Board is specifically empowered to enforce this provision by having vehicles in violation towed and stored at Owner's expense. All such fees and expenses associated with the enforcement of this provision shall become an assessment against the Owner's Lot against whom the same is enforced. Owners shall be assessed the costs of removal and storage for a violation of this provision by any lessees, guest or invitee of such Owner.

Section 8. **Rubbish.** No rubbish shall be stored or allowed to accumulate anywhere on the Property, except in sanitary containers and at such locations as the Board shall determine from time to time.

Section 9. **Insurance Rates.** Nothing shall be done or kept on the Property which will increase the rate of insurance on any property insured by the Association without the approval of the Board, nor shall anything be done or kept on the Property which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law.

Section 10. **Front Window Treatment.** No blinds, draperies, or other window coverings or treatments shall be permitted with respect to Dwelling Unit windows which face any road, whether public or private, except those which are conservative in style and neutral in color or otherwise approved by the Architectural Committee.

Section 11. **Demising Fire Walls.** The following obligations, rules and restrictions shall apply to all demising fire walls which are constructed as a part of a Dwelling Unit to separate such Dwelling Unit from an adjacent unit:

(a) No Owner, his family, guests or invitees shall through willful or negligent action, breach or in any way compromise the demising fire wall of the Owners' Dwelling Unit, and / or the demising fire wall of the adjoining Dwelling Unit in such a way as to void the fire rating of the demising fire wall or walls. The demising fire wall(s) shall be deemed breached if any act or combination of actions would result in the failure of the fire wall to meet the standards of a one-hour fire rated wall assembly as defined by the pertinent code and as interpreted by local building officials of the municipality or municipalities having jurisdiction. In the event of any such breach or breaches of the demising fire wall(s), the party causing such breach shall immediately act to repair, and/or replace all or a portion of the demising fire wall(s) in such a manner as to restore their one-hour fire rating.

(b) In the case of a common concrete foundation wall between any two Dwelling Units if any, and upon which the demising fire walls are constructed, the cost of reasonable repair and maintenance of this demising fire wall shall be shared equally by the Owners who's Dwelling Unit's make use of the wall.

(c) If a demising fire wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of the same, the Owner(s) of the Dwelling Unit(s) to which the destroyed or damaged demising fire wall is or was attached shall be obligated to restore the demising fire wall to compliance with the

requirements for one-hour fire rated wall assembly. Such restoration shall be accomplished as soon as is reasonably possible and without delay.

(d) If any portion of a demising fire wall or other part of a building or structure now or hereafter constructed upon the Property encroaches upon any part of the Common Area, Limited Common Area, or upon the Lot or Lots designated for use by another Owner, an easement for the encroachment and for the maintenance of the same is granted and reserved and shall exist and be binding upon the Declarant and upon all present and future Owners of any part of the Property for the benefit of the present and future Owners of such encroaching building or structure for the purpose of occupying and maintaining the same; in the event a structure consisting of more than one Dwelling Unit becomes partially or totally damaged or destroyed and is in need of repair or replacement, mutual reciprocal easements are granted and reserved upon the Common Area, Limited Common Area and in and upon each Dwelling Unit and Lot for the benefit of the Association and the adjacent Owner or Owners to the extend reasonably necessary or advisable to make repairs and replacements; and minor encroachments resulting from any such repairs or replacements or both, and the maintenance thereof are hereby granted and reserved for the benefit of the present and future owners thereof. The easements for encroachment herein granted and reserved shall run with the land.

ARTICLE XI

Damage or Destruction to Common Area

Damage to or destruction of all or any portion of the Common Area shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

(a) In the event of damage or destruction to the Common Area, the Association shall cause such Common Area to be repaired and any Improvement thereon to be reconstructed substantially as it previously existed.

(b) If the insurance proceeds are insufficient to effect total restoration, then the Association shall cause such repair and reconstruction to be substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment equally against each Lot Owner in accordance with the provisions of Article VI, Section 5 of this Declaration.

(c) Each Owner shall be liable to the Association for any damage to the Common Area not fully covered by insurance which may be sustained by reason of the negligent or willful misconduct of said Owner or of his family and guests, including minors and adults. Notwithstanding the foregoing, the Association reserves the right to charge a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. The cost of correcting such damage shall also be a Special Assessment against the Lot owned by the Owner.

ARTICLE XII

Insurance

Section 1. **Common Area.** The Association shall keep any Improvement and all other insurable property on the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof and including extended coverage for not less than 100% of the replacement costs of insurable property, and shall obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association or by members of the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association, for the benefit of the Owners. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association shall be expenses payable by including such expenses in the Common Assessments made by the Association.

Section 2. **Insurance Obligations of Owners.** Each Owner shall insure his entire Dwelling Unit, including the structural portions of the Dwelling Unit, against loss or damage by fire or by any other casualty, under the standard form of extended endorsement and broad form now in use in the State of Utah or under such other insurance as may be required by a Mortgagee of a Dwelling Unit. All such insurance shall be for the full replacement value of the Dwelling Unit with automatic inflation coverage. All such policies shall contain a provision that the same shall not be canceled or terminated except upon at least thirty (30) days written notice to the Association.

Section 3. **Replacement or Repair of Property.** In the event of damage to or destruction of any part of the Common Area, or any Improvement thereon or any other portion of the Property insured by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article XI of this Declaration. If such insurance proceeds are insufficient to cover the costs of such repair or replacement of the Improvements damaged or destroyed, the Association may make a Reconstruction Assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessment made against such Owners, in accordance with the provisions of Article VI, Section 5, of this Declaration. In the event of total destruction of all of the Improvements on the Property, the proceeds of the insurance carried by the Association shall be divided equally among the Owners, provided that the balance then due on any valid encumbrance of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Lot is so encumbered.

Section 4. **Waiver of Subrogation.** As to each policy of insurance maintained by the Association, which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, the Manager, the Declarant, and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 5. **Liability Insurance.** The Association shall obtain comprehensive public liability insurance in the minimum amount of $1,000,000 per occurrence for personal injury and/or property damage arising from the activities of the Association or with respect to the Common Area including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. Such insurance shall contain a "Severability of Interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners. Such insurance must include other coverage in kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use.

Section 6. **Miscellaneous.**

(a) **Minimum Financial Rating of Carrier.** Each hazard-insurance policy must be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class VI or better. Hazard insurance policies are also acceptable from an insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policy holder's rating of at least A. Each carrier must be specifically licensed or authorized by law to transact business within the State of Utah.

(b) **No Assessments.** Policies are unacceptable where: (i) under the terms of the carrier's charter, by-laws or policy, contributions or assessments may be made against the Association or any Owner or any First Mortgagee or its successors and assigns; or (ii) by the terms of the carriers' charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Association or any Owner of any First Mortgagee, or its successors and assigns, from collecting insurance proceeds.

(c) **Other Requirements.** All policies of hazard insurance must contain or have attached the standard Mortgagee clause commonly accepted by private institutional Mortgage investors in the area in which the Property is located. The Mortgagee clause must provide that the insurance carrier shall notify the First Mortgagee named in such policies at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

(d) **Other Insurance and General.** The Association may also obtain, through the Board, Worker's Compensation Insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, the Board, members of the Architectural Committee, and the Manager from liability in connection with the Common Area, the premiums for which shall be expenses payable by the Common Assessments made against the Owners. Such insurance policies shall have severability of interest clauses or endorsements which shall preclude the insurer from denying the claim of an Owner because of the negligent act of the Association or other Owners. All policies shall be reviewed at least annually by the Board and limits increased at its discretion.

ARTICLE XIII

Mortgage Protection Clause

Notwithstanding any and all provision hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHMLC), the Government National Mortgage Association (GNMA), and the Federal National Mortgage Association (FNMA) to participate in the financing of the sale of Lots and Dwelling Units within the Property, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

Section 1. **Written Notification of Default.** Each First Mortgagee of a Mortgage encumbering any Lot, at his written request, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under this Declaration, the Articles, or the By-laws, which default is not cured within sixty (60) days after the Association learns of such default.

Section 2. **Right of First Refusal.** Each First Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided for in such Mortgage, or by foreclosure of such Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal". Any

right of first refusal contained in the constituent documents of the Property, or hereinafter added shall not impair the rights of a First Mortgagee to (i) foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage, or (ii) accept a deed or an assignment in lieu of foreclosure in the event of default of a Mortgagor, or (iii) interfere with the subsequent sale or lease of a Lot so acquired by the First Mortgagee.

Section 3. **Non-Liability for Prior Unpaid Dues or Charges.** Any First Mortgagee, or a purchaser who purchases a Lot from any First Mortgagee who obtains title to a Lot pursuant to a deed (or assignment) in lieu of foreclosure, or pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage, will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to such Lot by the First Mortgagee.

Section 4. **First Mortgagee Approval.** Unless at least one hundred percent (100%) of the First Mortgagees (based upon one (1) vote for each Mortgage owned) of the Lots have given their prior written approval, the Association shall not be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly, by the Association for the benefit of the Lots (the granting of an easement of public utilities or for other public purposes consistent with the intended use of such Common Area by the Association shall not be deemed a transfer within the meaning of this clause);

(b) Change the method of determining the obligation, assessments, dues or other charges which may be levied against an Owner;

(c) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural control of the Lots or Dwelling Units, the maintenance of the Lots or Dwelling Units, or the maintenance of the Common Areas;

(d) Fail to maintain fire and extended coverage on any insurable Improvement or property on the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost); and

(e) Use hazard insurance proceeds for losses to any Improvement or property on the Common Area for other than repair, replacement or reconstruction of such Improvement or property.

Section 5. **Taxes and Charges in Default.** First Mortgagees may, jointly and severally, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such portion of the Common Area, and First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

Section 6. **First Mortgagee Priority.** No provision of the Declaration, Articles or By-laws shall give an Owner, or any other party, priority over any rights of any First Mortgagee pursuant to its Mortgage in the case of a distribution to such Owners of insurance proceeds or condemnation awards for losses to or a taking of any of the Common Areas.

Section 7. **Examination of Books and Records.** First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

Section 8. **First Mortgagees Written Notice of Amendments and Damage.** Upon written request, all First Mortgagees shall be given thirty (30) days written notice prior to the effective date of any proposed material amendment to the Declaration, the Articles or By-laws, and prior to the effective date of any termination of an agreement for professional management of the Property following a decision by the Owners to assume self-management of the Property; and (ii) immediate notice following any damage to the Common Area whenever the cost of reconstruction exceeds thirty thousand ($30,000.00) and as soon as the Board learns of any threatened condemnation proceedings or proposed acquisition of any portion of the Property.

Section 9. **Reserve Fund for Common Area.** Association dues or charges shall include an adequate reserve fund for maintenance, repairs, replacement of those elements of the Common Area that must be replaced on a periodic basis and are payable in regular installments rather than by Special Assessments.

Section 10. **First Mortgagee Written Notice of Default by Owner.** A First Mortgagee, upon request, is entitled to written notification from the Association of any default by an Owner with respect to any obligation under the constituent documents of the Property which is not cured within sixty (60) days.

Section 11. **Agreement for Professional Management.** Any agreement for professional management of the Association, or any other contract providing for services of the Declarant, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause, and without payment of a termination fee, on ninety (90) days written notice.

Section 12. **Satisfaction of Guidelines.** In addition to the foregoing, the Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, the FHA, the FHLMC, FNMA or the GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of the First Mortgages encumbering Lots and/ or Dwelling Units. Each Owner hereby agrees that it will benefit the Association and the Members of the Association, as a class of potential Mortgage borrowers and potential sellers of their Dwelling Units if such agencies approve the Property as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time.

Section 13. **Non-Owner Occupied Dwelling Units.** No Owner may sell any Dwelling Unit constructed upon a Lot to a third party on a non-owner occupied basis without the prior written approval of the Board, which approval shall not be unreasonably withheld (provided that such approval shall not be granted if granting such approval would result in more than twenty-five percent of the Dwelling Units being classified as non-owner occupied).

Section 14. **Amendment to Article.** Neither this Article XIII nor Section 6 of Article VII of this Declaration shall be amended without the approval of one hundred percent (100%) of the First Mortgagees.

ARTICLE XIV

Annexation of Additional Properties

Section 1. **Reservation of Option to Expand.** Declarant hereby explicitly reserves an option until the twentieth (20) anniversary of the recording of this Declaration to expand the Property by adding additional land to the Property (the "Additional Land") to be covered by this Declaration from time to time, without the consent of an Owner or Mortgagee. Similarly the Declarant during the same period of time may contract the Property by removing land from the Property to be covered by this Declaration. The option to expand or contract the Property may be terminated prior to such anniversary only upon the filing by the Declarant of an amendment to this Declaration. Declarant expressly reserves for itself, its successors and assigns, to add or contract any or all portions of the Additional Land or portions of the Property at any time, at different times, in any order, without

limitation; provided however that the Additional Land added, if any, shall be contiguous with the Property or located within five hundred (500) feet from any boundary of the Property.

Section 2. **Assurances.** Declarant makes no assurances as the location of buildings or other improvements upon the Additional Land. At such time as the Property is expanded or contracted, the maximum number of Dwelling Units on the Additional Land shall be no more than three hundred (300). Declarant makes no assurances as to whether any building to be constructed on the Additional Land will be compatible with the quality, materials, or style of the buildings contained within the initial Plat of the Property. No assurances are made by the Declarant whether any Dwelling Units will be substantially identical or similar to those within the prior Plat or Plats. Declarant expressly reserves the right to create and designate Limited Common Areas and Common Areas on the Additional Land. Declarant makes no assurances as to the type, size, or maximum number of such Common Areas or Limited Common Areas. In the event the Declarant decides not to add any Additional Land, Declarant shall nevertheless have the right to own, operate and develop the same without restriction. The maximum dwelling units per acre that may be created on any portion of the Additional Land added to the Property shall be thirty (30) units per acre. No Dwelling Unit constructed on the Additional Land shall be used for anything other than residential purposes.

Section 3. **No Obligation to Expand.** Notwithstanding anything to the contrary herein, this Declaration is not intended, and shall not be construed so as, to impose upon the Declarant in any way with regard to: (i) the submission of any portion of the Additional Land, (ii) the creation, construction, or addition to the Property of any Plats; (iii) the carrying out in any particular way or within any particular time, any development which may be undertaken; or (iv) the taking of any particular action with respect to any Additional Land, the Property, or any Plat. Declarant may create on any additional land not made subject to this Declaration, any development which would be entirely independent and unrelated to the development created by this Declaration.

Section 4. **Annexation by Declarant.** The annexation of Additional Land into the Property covered by this Declaration shall be effective upon the recordation in the office of the County Recorder of Utah County, Utah, of a Supplementary Declaration which (a) describes the Additional Land being annexed, (b) declares that the Additional Land is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property subject to this Declaration, and (c) sets forth such additional limitations, restrictions, covenants and conditions that Declarant desires to apply to the Additional Land. When such annexation becomes effective, the Additional Land shall become part of the Property and shall be subject to the terms of the covenants, conditions and restrictions, which terms, covenants, conditions and restrictions run with the land, of this Declaration and any supplements or amendments thereto. Such annexation may be accomplished in one or more annexations or plats without limitation as to the size of the Additional Land.

Section 5. **Limitations on Annexation.** Declarant's right to annex the Additional Land to the Property shall be subject to the following limitations:

(a) Declarant's right to annex the Additional Land shall expire twenty (20) years from the date of the recordation of this Declaration.

(b) Owners of Dwelling Unit's constructed on Additional Land shall be Members of the Association and shall have the same rights to the use and enjoyment of the Property and facilities of the Association as any other Member. The Common Areas in the Additional Land shall be deeded by the Declarant to the Association, free and clear of all encumbrances and liens prior to the conveyance of the first Lot contained in the Additional Land and the Association must accept the deed to such Common Areas.

(c) Declarant shall not effectuate any annexation of land which would cause the total number of Dwelling Units existing or planned for the Property to exceed three hundred (300) total Dwelling Units.

(d) Declarant reserves unto itself and its assigns the right to create or not to create Common Areas and facilities within any Additional Land.

Section 6. **Supplemental Declaration.** The annexation of the Additional Land pursuant to this Chapter shall be made by filing and recording a Supplementary Declaration of Covenants, Conditions and Restrictions or similar instrument together with an Official Plat with respect to such Additional Land which shall extend the plan of this Declaration to such Additional Land. Such Supplementary Declaration may contain any complementary additions or modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Land and as are not inconsistent with the plan of this Declaration. The recordation of such Supplementary Declaration and Plat shall constitute and effectuate the annexation of said real property described herein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter all of the owners of Lots in said Additional Land shall automatically be Members of the Association.

Section 7. **Declarant's Right to Amend.** Until all portions of the Additional Land are included in the Property, or until the right to annex Additional Land to the Property expires, whichever occurs first, Declarant shall have, and is hereby vested with the right to unilaterally amend the Declaration or the Plat, or both as may be necessary, reasonable or desirable: (a) to expand or contract the property or to adjust the boundaries of the Lots, including adding or deleting Common Area so as to accommodate design changes or changes in the type of Dwelling Units to be constructed or to reconfigure the Lot configuration on the Plat; (b) to more accurately express the intent of any provisions of the Declaration in the light of then existing circumstances or information, workability of the arrangement which is contemplated by the Declaration; or (c) to facilitate the practical, technical, administrative or functional integration of any Additional Land into the Property.

Section 8. **Expansion of Definitions.** In the event the Property is expanded through the annexation of Additional Land, the Definitions used in this Declaration automatically shall be expanded to encompass and refer to the Property as so expanded by the Additional Land.

ARTICLE XV

General Provisions

Section 1. **Enforcement.** This Declaration, the Articles, and the By-laws may be enforced by the Association as follows:

(a) Breach of any covenants contained in this Declaration, the Articles or the By-laws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by an Owner, by the Association, or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in an amount as the court may deem reasonable in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

(b) The result of every act or omission whereby any of the covenants contained in the Declaration, the Articles or By-laws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance

either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.

(c) The remedies herein provided for breach of the covenants contained in this Declaration, the Articles or the By-laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the covenants contained in this Declaration, the Articles or in the By-laws shall not constitute a waiver of the right to enforce the same thereafter.

(e) A breach of the covenants, conditions or restrictions contained in this Declaration, the Articles or in the By-laws shall not affect or impair the lien or charge of any bona fide first Mortgage made in good faith and for value on any Lot or Dwelling Unit, provided, however, that any subsequent Owner of such Lot or Dwelling Unit shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a trustee's sale, or otherwise.

Section 2. **Severability.** In the case that any provision of this Declaration shall be invalidated by a court of competent jurisdiction all other provisions not so invalidated shall remain in full force and effect.

Section 3. **Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance thereof. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and vice versa; and the masculine shall include the feminine and vice versa.

Section 4. **Amendments.** This Declaration may be amended only by the affirmative vote or written consent of the Owners holding not less than fifty-one (51%) of the total number of outstanding votes of the Members, except with respect to matters dealt with herein that require a higher percentage for approval thereof. Notwithstanding the foregoing, during the period of Declarant Control and thereafter until Declarant has sold or transferred its last Lot at the Property to a third party, Declarant shall have the unilateral right to amend this Declaration without any affirmative vote and all amendments to this Declaration otherwise must be approved in writing by the Declarant.

Section 5. **No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or part of the Property to the public, or for any public use.

Section 6. **Constructive Notice and Acceptance.** Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Property does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Property, or any portion thereof.

Section 7. **Reservation of Easements.** Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners, Lehi City, Public Utility providers and Utah County for the control, maintenance and repair of the utilities and storm drains of adjoining Lot Owners. The Declarant hereby expressly reserves for the benefit of all of the real property in the Property, the Association and Owners, reciprocal easements of access, ingress and egress over all Lots, and over the Common Areas, for the use and enjoyment of the Lots in accordance

with this Declaration, including without limitation, for installation and repair of utility services, for drainage over, across and upon adjacent Lots for water resulting from the normal use of adjoining Lots, and for maintenance and repair of any Dwelling Unit or repair and maintenance of landscaping located on any Lot. Such easements may be used by the Declarant, its successors, purchasers and all Owners, their guests, tenants, lessees and invitees, residing on or temporarily visiting the Property and the Association, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot and the Common Area. No Owner of a Lot shall interfere with established drainage patterns over his Lot from adjoining or other Lots. Each Owner of a Lot shall make adequate provision for drainage with the approval of Lehi City or Utah County in the event he changes the established drainage over his Lot. For purposes of this Declaration, "Established Drainage" on any Lot is defined as the drainage with systems conveyed to a purchaser from the Declarant. The Declarant further expressly reserves for the benefit of the Association, its agents and employees, easements of access, ingress, and egress, over the Lots and the Common Area for the purpose of maintaining, repairing and installing sewer pipelines and laterals, cable television facilities, and telephone lines, in accordance with the provisions of this Declaration and as otherwise provided by law. The Declarant as well as Owners of Lots, and all others who shall come in contact with the Property, shall use reasonable restraints with regard to the Property when exercising any rights granted under this paragraph, and due regard shall be given to the aesthetic value, beautification, upkeep and maintenance of all of the Property, and the use and enjoyment by an Owner of his Lot.

Section 8 **Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been stamped as deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

Section 9. **No Representations or Warranties.** No representations or warranties of any kind, express or implied, have been given or made by the Declarant or its agents or employees in connection with the Property or any portion of the Property, or any improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, costs of maintenance, taxes or regulation thereof as a planned unit development, except as specifically and expressly set forth in this Declaration and except as may be hereafter filed by the Declarant from time to time.

IN WITNESS WHEROF, this Declaration of Covenants, Conditions and Restrictions and Reservation of Easement for La Ringhiera, a planned unit development, has been executed as of the day and year first written above.

DECLARANT:

PERRY MULTIFAMILY, INC, a
Utah corporation

By: _____
Name: William O. Perry IV
Title: President

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

On this 9 day of November, 2018, personally appeared before me William O. Perry IV, being duly sworn and the said individual did say that he is the President of Perry Multifamily, Inc., a Utah corporation, and that the within and foregoing Declaration was signed on behalf of the said limited liability company as the Declarant.

Sandy Allred
NOTARY PUBLIC
Residing at: Salt Lake County

My Commission Expires:
12/29/2020

SANDY ALLRED
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 692603
COMM. EXP. 12-29-2020

Sandy Allred
State of Utah
Commission #692603
Comm. Exp. 12-29-2020

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The Land described in the foregoing document is located in UTAH COUNTY, UTAH and is described more particularly as follows:

Lots 101 to 135 of the LA RINGHIERA PLAT A Subdivision, according to the Official Plat thereof on file in the Office of the Utah County Recorder, entry #76417:2018.

TOGETHER WITH,

The Common Area and Limited Common Area which are appurtenant to said Lots and are shown on LA RINGHIERA PLAT A, according to the Official Plat thereof on file in the Office of the Utah County Recorder and further defined in Article I, Section 11 and Article I Section 24 of this Declaration. The Common Area and Limited Common Area contain approximately 5.33 acres.

EXHIBIT B

BYLAWS OF THE ASSOCIATION

[BEGINNING OF BYLAWS]

BYLAWS
OF
LA RINGHIERA PROPERTY OWNERS ASSOCIATION, INC.

A Utah Nonprofit Corporation

Pursuant to the provisions of the Utah Nonprofit Corporation and Cooperative Association Act, the Board of Trustees of La Ringhiera Property Owners Association, Inc., a Utah nonprofit corporation, hereby adopts the following Bylaws for such nonprofit corporation.

ARTICLE I
NAME AND PRINCIPAL OFFICE

1.01 **Name.** The name of the nonprofit corporation is La Ringhiera Property Owners Association, Inc., hereinafter referred to as the "Association".

1.02 **Offices.** The Principal Office of the Association shall be 17 E. Winchester St., Suite 200, Murray, UT 84107 until such time as the Board of Trustees changes such address.

ARTICLE II
DEFINITIONS

2.01 **Definitions.** Except as otherwise provided herein or as may be required by the context, all terms defined in Article I of the Declaration of Protective Covenants for La Ringhiera, and any amendments thereto, hereinafter referred to as the "Declaration", shall have such defined meanings when used in these Bylaws.

ARTICLE III
MEMBERS

3.01 **Annual Meetings.** The annual meeting of Members shall be held each year, the specific date, time, and place to be fixed by the Board of Trustees, beginning with the year following the year in which the Articles of Incorporation are filed, for the purpose of electing Trustees and transacting such other business as may come before the meeting. If the election of Trustees shall not be held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members. Unless otherwise prohibited by Law, the Board of Trustees shall be permitted to dispense altogether with or otherwise limit the frequency of holding an annual meeting of the Members during any period of time where the Association is controlled by the Declarant.

3.02 **Special Meetings.** Special meetings of the Members may be called by the Board of Trustees, the President, the Declarant, or upon the written request of Members holding not less than fifty percent (50%) of the voting power of the Members of Association, such written request to state the purpose or purposes of the meeting and to be delivered to the Board of Trustees or the President.

3.03 **Place of Meetings.** The Board of Trustees may designate any place in Salt Lake County or Utah County, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board. A waiver of notice signed by all of the Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the principal office of the Association.

3.04 **Notice of Meetings.** The Board of Trustees shall cause written or printed notice of the time, place, and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than sixty (60) nor less than thirty (30) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the Member at his registered address, with first-class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a Member's Lot address shall be deemed to be his registered address for purposes of notice hereunder.

3.05 **Members of Record.** Upon purchasing a Lot in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Lot has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than sixty (60) nor less than thirty (30) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the owners of record of Lots in the Project shall be deemed to be the Members of record entitled to notice of and to vote at the meeting of the Members.

3.06 **Quorum.** At any meeting of the Members duly called and noticed, the Members and proxy holders present shall constitute a quorum for the transaction of business unless such other requirement for the constitution of a quorum is set forth in the Declaration.

3.07 **Proxies.** At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. If a membership is jointly held, the instrument authorizing a proxy to act must have been executed in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

3.08 **Votes.** With respect to each matter submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Lot of such Member, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law. The election of Trustees shall be by ballot. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint Membership or as is otherwise set forth in the Declaration.

3.09 **Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and method of ascertaining Members present shall be deemed waived if no objection thereto is made before or at the meeting.

3.10 **Informal Action by Members.** Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

ARTICLE IV
BOARD OF TRUSTEES

4.01 **General Powers.** The property, affairs, and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association, whether derived from law or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these Bylaws, or by the Declaration vested solely in the Members.

4.02 **Number, Tenure and Qualifications.** The number of Trustees of the Association shall be three (3). The initial Board of Trustees specified in the Articles of Incorporation, or their successors appointed by Declarant, shall serve until Declarant turns over to the Members, as provided in the Declaration, the responsibility for electing Trustees. At the first annual meeting of the Members held thereafter, the Members shall elect three (3) Trustees to serve for the following respective terms: One (1) Trustee to serve for a term of Three (3) years; one (1) Trustee to serve for a term of Two (2) years; and one (1) Trustee to serve for a term of One (1) year. At each annual meeting thereafter, the Members shall elect for a term of Three (3) years one Trustee to fill the vacancy created by the expiring term of a Trustee. Trustees may, but need not be, Members of the Association. Each Trustee shall hold office until his successor shall have been elected or appointed and qualified.

4.03 **Regular Meetings.** The regular annual meeting of the Board of Trustees shall occur annually and the Board of Trustees may provide by the resolutions adopted thereat the time and place for holding of the regular annual meeting without notice other than such resolution.

4.04 **Special Meetings.** Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within or without the State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, or by Telegram. If mailed, such notice shall be deemed to be delivered when deposited in the U. S. mail so addressed, with first-class postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to have been delivered when the telegram is delivered to the telegraph company. Any Trustee may waive notice of a meeting.

4.05 **Quorum and Manner of Acting.** A majority of the then authorized number of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

4.06 **Compensation.** No Trustee shall receive compensation for any services that he may render to the Association as a Trustee; provided, however, that a Trustee may be reimbursed for expenses incurred in performance of his duties as a Trustee to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a Trustee.

4.07 **Resignation and Removal.** A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee, except a Trustee appointed by Declarant, may be removed at any time, for or without cause, by the affirmative vote of seventy-five percent (75%) of the voting power of the Members of the Association at a special meeting of the Members duly called for such purpose. A Trustee appointed by Declarant may not be removed without Declarant's written consent unless otherwise required by law.

4.08 **Vacancies and Newly Created Trusteeships.** If vacancies shall occur in the Board of Trustees by reason of the death, resignation or disqualification of a Trustee (other than a Trustee appointed by Declarant), or if the authorized number of Trustees shall be increased, the Trustees then in office shall continue to act, and such vacancies or newly created Trusteeships shall be filled by a vote of the Trustees then in office, though less than a quorum, in any way approved by such Trustees at the meeting. Any vacancy in the Board of Trustees occurring by reason of removal of a Trustee by the Members may be filled by election at the meeting at which such Trustee is removed. If vacancies shall occur in the Board of Trustees by reason of death, resignation or removal of a Trustee appointed by Declarant, such vacancies shall be filled by appointments to be made by Declarant. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be. Until such time as Declarant transfers to a third party its last Lot in the Project, Declarant shall be permitted to, but not obligated to, fill any vacancy that occurs in the Board of Trustees.

4.09 **Informal Action by Trustees.** Any action that is required or permitted to be taken at a meeting of the Board of Trustees, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees.

ARTICLE V
OFFICERS

5.01 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be appointed by the Board of Trustees.

5.02 **Election, Tenure and Qualifications.** The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees. In the event of failure to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board of Trustees and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, Secretary and Treasurer shall be and remain Trustees of the Association during the entire term of their respective offices. No other officers need be a Trustee.

5.03 **Subordinate Officers.** The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time determine. The Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Members or Trustees of the Association.

5.04 **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

5.05 **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

5.06 **The President.** The President shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board of Trustees may require of him. The president shall be invited to attend meetings of each committee, but his attendance at committee meetings shall be optional and within his discretion.

5.07 **The Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

5.08 **The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board of Trustees may require him to keep. The Secretary shall also act in the place and stead of the President in the event of the President's and the Vice President's absence or inability or refusal to act. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board of Trustees may require of him.

5.09 **The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

5.10 **Compensation.** No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI
COMMITTEES

6.01 **Designation of Committees.** The Board of Trustees may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The Declaration may also designate specific committees to carry out the work of the Association. The membership of each such committee designated hereunder shall include at least one (1) Trustee or shall otherwise be comprised of membership of the Association as set forth in the Declaration. Notwithstanding, a committee with only an advisory role to the Board of Trustees need not have any Trustee as a member in order to function, expect that it can take no action to bind the Association. No committee member shall receive compensation for services that he may render to the Association as a committee member unless provided for in the Declaration; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Board of Trustees and (except as otherwise provided in

these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

6.02 **Proceedings of Committees.** Each committee designated hereunder by the Board of Trustees may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine or as is set forth in the Declaration. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees.

6.03 **Quorum and Manner of Action.** At each meeting of any committee designated hereunder by the Board of Trustees, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee unless otherwise set forth in the Declaration. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such unless otherwise set forth in the Declaration or these Bylaws.

6.04 **Resignation and Removal.** Any member of any committee designated hereunder by the Board of Trustees may resign at any time by delivering a written resignation to the President, the Board of Trustees, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.05 **Vacancies.** If any vacancy shall occur in any committee designated by the Board of Trustees hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

ARTICLE VII
INDEMNIFICATION

7.01 **Indemnification: Third Party Actions.** The Association shall indemnify, defend and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

7.02 **Indemnification: Association Actions.** The Association shall indemnify, defend and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other

enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

7.03 **Determinations.** To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 7.01 or 7.02 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 7.01 or 7.02 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 7.01 or 7.02 hereof. Such determination shall be made either (i) by the Board of Trustees by a majority vote of disinterested Trustees or (ii) by independent legal counsel in a written opinion, or (iii) by the Members by the affirmative vote of at least fifty percent (50%) of the voting power of the Members of the Association at any meeting duly called for such purpose.

7.04 **Advances.** Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article or otherwise.

7.05 **Scope of Indemnification.** The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or Trustees, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Trustees, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law. The obligations of the Association pursuant to this Article VII shall not be abrogated or rescinded as to covering any person entitled to coverage by an amendment to these Bylaws approved and adopted after such time as that person commences serving as a Trustee or officer of the Association without that person's or that person's heirs or personal representatives' written consent. Furthermore, any amendment of this Section 7.05 shall be ineffective as against any persons entitled to the protections of Article VII because of service prior to the date of amendment.

7.06 **Insurance.** The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee, officer, employee, or agent or was or is serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit).

7.07 **Payments and Premiums.** All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute expense of the Association and shall be paid with funds from the Assessments referred to in the Declaration.

ARTICLE VIII

FISCAL YEAR AND SEAL

8.01 **Fiscal Year.** The fiscal year of the Association shall begin on the first day of January each year and end on the 31st day of December next following, except that the first fiscal year shall be a partial year and shall begin on the date of incorporation.

8.02 **Seal.** The Board of Trustees 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".

ARTICLE IX
RULES AND REGULATIONS

9.01 **Rules and Regulations.** The Board of Trustees may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees, and with copies of all amendments and revisions thereof.

9.02 **Restrictions on Litigation.** The Association shall not be permitted to engage in litigation against any party where such litigation is funded in whole or in part using funds of the Association, unless such litigation is approved by a vote of eighty percent (80%) of the Members of the Association entitled to vote.

ARTICLE X
AMENDMENTS

10.01 **Amendments.** Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration, or by these Bylaws, these Bylaws may be amended, altered, or repealed and new Bylaws may be made and adopted by the Members upon the affirmative vote of at least fifty-one percent (51%) of the voting power of the Members of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed, or new bylaw, (ii) the number of votes cast in favor of such action, and (iii) the total voting power of the Members of the Association, shall have been executed and verified by the current President of the Association. Notwithstanding the foregoing, these Bylaws may not be amended until such time as the Declarant transfers to a third party purchaser its last Lot in the Property governed by the Declaration and prior to such time, these Bylaws may be amended by Declarant without any vote.

[END OF BYLAWS]