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**MASTER DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR
SILVER CREEK VILLAGE**

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**MASTER DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR SILVER CREEK VILLAGE**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS is executed this 19th day of April, 2017, by VILLAGE DEVELOPMENT GROUP INC., a Utah corporation.

RECITALS

A. Declarant, Declarant's predecessor, and CW Developer Owner are the owners of that certain real property located in Summit County, Utah described in Exhibit A hereto (collectively, the "SPA Lands"). On September 28, 2011, Summit County approved a Specially Planned Area Zone District for the SPA Lands, pursuant to the SPA provisions of the 1998 Snyderville Basin Development Code and the 1997 General Plan (the "SPA").

B. The land use classifications, residential and commercial densities, and development locations, among other matters, permitted under the SPA are set forth in that certain Development Agreement for the Silver Creek Village Specially Planned Area by and between Summit County, a political subdivision of the State of Utah, by and through its County Council, and Declarant dated August 4, 2015 and recorded with the Summit County Recorder's Office on August 6, 2015 as Entry No. 01025271 (the "Development Agreement").

C. The SPA Lands include certain planning areas for development of residential, commercial, mixed, and civic uses, and also include certain open spaces, future common areas and areas to be dedicated to the public.

D. No portion of the SPA Lands shall be burdened by the provisions hereof unless such land has been made a portion of the Covered Property, as defined below and described herein, or unless specifically set forth in a recorded Declaration of Annexation establishing uses and other terms applicable thereto. Lands brought under the purview hereof may, however, be removed from the purview by recordation of a Declaration of Withdrawal, as provided herein.

E. Until so annexed, if ever, the remainder of the SPA Lands shall constitute the solely Annexable Property, as defined herein.

F. The Covered Property shall generally be known as "Silver Creek Village," and Declarant desires that Silver Creek Village be developed as a master-planned community, with a variety of planned residential subdivisions, open-space, parks, trail systems, civic areas, mixed use areas, neighborhood commercial areas and other areas and facilities.

G. Declarant desires and intends that the Covered Property shall be held, sold and conveyed subject to the provisions hereof, which are for the purpose of protecting the attractiveness and character of the Covered Property and which shall run with all of the Covered Property. This Declaration shall be binding on all parties having any right, title or interest in the Covered Property, or any part thereof, and shall inure to the benefit of the aforementioned parties and their successors and assigns.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

As used in this Declaration, the following terms shall have following meanings:

1.1 **Additional Covenants.** Shall mean the covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements in addition to those provided for in this Declaration, which are provided for in any District Declaration, Tract Declaration, or other instrument approved by Declarant and/or by the Board, including those which may be adopted pursuant to Section 16.1 hereof.

1.2 **Affordable Housing.** Shall have the meaning set forth in Code or as otherwise described in Section 5 of the Development Agreement.

1.3 **Agency or Agencies.** Shall mean any of the Federal Housing Administration (FHA), Veterans Administration (VA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), and any other governmental agency or financial institution insuring or guaranteeing residential loans, or purchasing such loans on the secondary market.

1.4 **Annexable Property.** Shall mean any or all real property other than the Covered Property within that certain real property located in Summit County, Utah described in Exhibit A hereto.

1.5 **Annual Assessment Period.** Shall mean each period for which Assessments are to be levied against a Lot, Unit or Parcel pursuant to this Declaration, as more particularly described in Section 8.3 of this document.

1.6 **Annual Assessments.** Shall mean the annual assessments levied by the Board pursuant to Section 8.2 of this Declaration.

1.7 **Apartment.** Shall mean a Dwelling Unit that is adjoined to at least one other Dwelling Unit or a Commercial Unit in a stacked or other approved configuration, which may also be called a loft or flat. At times an Apartment is referred to as a "Multi-Family Unit" in the Development Agreement.

1.8 **Apartment Land Use.** Shall mean the Land Use Classification of Apartments.

1.9 **Apartment Parcel.** Shall mean a Parcel designated in a Tract Declaration or in the Land Use Plan as being intended for Apartment development.

1.10 Architectural Review Committee or ARC Shall mean the committee(s) formed pursuant to Article IV of this Declaration.

1.11 Articles Shall mean the Articles of Incorporation of the Association, as amended or restated from time to time.

1.12 Assessments Shall mean all Annual Assessments, District Assessments, Maintenance Assessments and Special Assessments, and shall include any charges or fines hereunder which are stated to be secured by the Assessment Lien.

1.13 Assessment Lien Shall mean the charge and continuing servitude and lien against a Lot, Unit, or Parcel for payment of Assessments, late charges for delinquent or late payment of Assessments, and reasonable attorneys' fees as further described in Section 8.1 of this Declaration.

1.14 Assisted Living Use Shall mean any Parcel owned or leased by one Person or group of Persons for purposes of operating a building to provide assisted living services to residents as approved in a Tract Declaration. For purposes of this Declaration and determining Membership in the Association, such use shall be treated as a Commercial Use, and not a Residential Use.

1.15 Association Shall mean "Silver Creek Village Owners Master Association", a Utah nonprofit corporation, its successors and assigns.

1.16 Association Rules Shall mean the rules and regulations adopted by the Association pursuant to Section 6.3 of this Declaration.

1.17 Board Shall mean the Board of Directors of the Association.

1.18 Bylaws Shall mean the Bylaws of the Association, as amended or restated from time to time. The Bylaws contain the operational procedures of the Association and are attached hereto as Exhibit C.

1.19 Class A Member Shall mean all Owners entitled to be Members, except Declarant until the conversion of Declarant's Class B Membership to Class A Membership as provided in Section 7.4.2.

1.20 Class B Member Shall mean Declarant, any successor of Declarant, and any Declarant Affiliate.

1.21 Class A Membership Shall mean the rights and duties of Owners, including Declarant so long as Declarant is a Class A Member, with respect to the Association.

1.22 Class B Membership Shall mean the rights and duties of Owners, including Declarant so long as Declarant is a Class B Member, with respect to the Association.

1.23 Commercial and/or Commercial Area(s) and/or Commercial Use Shall mean any Parcel or portion thereof owned or leased by one Person or a group of Persons, which is used for one or more commercial purposes, as may be limited by a Tract Declaration, including, but not limited to the following: Village Commercial (defined as commercial uses on a scale to provide services primarily for the Residents of Silver Creek Village), offices, shops,

stores, cafes, restaurants, and health and fitness clubs, and other areas used for non-Residential purposes. Commercial Areas shall not include any Common Areas owned by the Association or other Common Areas owned by a District Association or Common Areas owned in common by Residential Condominium Unit Owners. Declarant specifically acknowledges and intends that certain Lots or Parcels within Silver Creek Village may contain structures that will have a mixture of Residential Areas and Commercial Areas within the same structure. In that event, the provisions of this Declaration pertaining to Residential Areas shall apply to and govern the Residential Areas within such structure, and the provisions of this Declaration pertaining to Commercial Areas shall apply to and govern the Commercial Areas within such structure, as may be limited by or specified in a Tract Declaration.

1.24 Common Area. Shall mean (a) all real property and the improvements or amenities thereon, all easements and licenses, and all personal property and facilities, which shall from time to time be owned, controlled or operated by the Association within the Covered Property or Annexable Property (including, but not limited to, areas used for landscaping, including landscaped public rights of way, medians and median landscaping, private roadways, certain front yards of lots, flood control, drainage improvements and detention basins, ponds, lakes and other water features, neighborhood trails, bicycle or jogging paths, active and passive recreational areas, Open Space, parks, walkways, equestrian trails, if any, and pedestrian and vehicular ingress and egress), or with respect to which the Association has undertaken (or is required to undertake) administrative, maintenance or other similar responsibilities; (b) all areas identified as Open Space on the Land Use Plan, which may or may not be dedicated to the public or to a Municipal Authority, but only until such Open Space is dedicated to a Municipal Authority; (c) all land within Silver Creek Village which the Declarant, by this Declaration or other Recorded instrument, makes available for use by Members of the Association including enhanced parkways and median strips and areas between roadways and Lots, even if owned by a Municipal Authority; (d) all land within Silver Creek Village which the Declarant indicates on a Plat, District Declaration or Tract Declaration is to be used for landscaping, drainage, and/or flood control for the benefit of Silver Creek Village and/or the general public and is to be dedicated to the public or a Municipal Authority upon the expiration of a fixed period of time, but only until such land is so dedicated; (e) all land or right-of-way easements within Silver Creek Village which are dedicated to the public or to a Municipal Authority, but which such Municipal Authority or other governmental agency requires the Association to maintain; and (f) Improvements located outside of Silver Creek Village that the Association has the duty, obligation or right to improve, maintain, replace or repair. Without limitation, Declarant may establish certain open spaces and other lands adjacent to or within the Covered Property. Notwithstanding anything to the contrary contained in this Declaration, Common Area may include areas owned, controlled or operated by the Association within the Annexable Property, such as landscaped rights of way, easements, monument signs, lighting or other features, which may never be annexed into the Covered Property, and such areas shall be treated the same as portions of the Common Area within the Covered Property. The Common Areas shall include the real property, areas, and improvements located thereon, as required by the Development Agreement or otherwise, which are depicted and designated in Exhibit D attached hereto, and such Exhibit D shall constitute the Common Areas unless and until such Exhibit D is amended as provided herein.

1.25 Common Expenses. Shall mean the expenses incurred or to be incurred by the Association, as estimated by the Board, for the benefit of the Members and Owners within the Covered Property, generally, including reasonable reserves, and which are, in the sole and absolute discretion of the Board, determined to be properly chargeable by Assessments to all Owners and Members, or allocated solely to certain Lots, Units, Parcels or Districts.

1.26 Conditional Land Use. Shall mean the Land Use Classification of Condominiums.

1.27 Condominium Parcel. Shall mean a Parcel designated in a Tract Declaration as having a Residential Condominium Land Use Classification.

1.28 Condominium Unit. Shall mean a Dwelling Unit constituting a "unit" in a "condominium", together with any appurtenant interest in all "common areas and facilities", as such terms are defined in Chapter 8, Title 57, Utah Code Annotated, as amended.

1.29 County. Shall mean Summit County, a political subdivision of the State of Utah.

1.30 Covered Property. Shall initially mean those portions of the SPA Lands described in Exhibit B hereto (being the lands included within the Silver Creek Village Phase I Road and Park Dedication Plat), and shall later include such other portions of the SPA Lands which may be annexed hereunder by a Declaration of Annexation, subject to the further provisions hereof, including those dealing with withdrawal of land.

1.31 CW Developer Owner. Shall mean CW LARSEN VILLAGE, LLC, a Utah limited liability company.

1.32 CW Larsen District. Shall mean that portion of the Annexable Property owned by CW Developer Owner.

1.33 Declarant. Shall mean VILLAGE DEVELOPMENT GROUP INC., a Utah corporation, and any Declarant Affiliate or assignee of the rights and duties granted or reserved to Declarant herein, which assignment may be in whole or in part, in accordance with Section 16.9.

1.34 Declarant Affiliate. Shall mean any Person owning any portion of the Covered Property or Annexable Property and directly or indirectly controlling, controlled by or under common control with Declarant. A Declarant Affiliate shall include without limitation any general or limited partnership, limited liability company, corporation or trust in which Declarant is a general partner, managing member, controlling shareholder, or beneficiary.

1.35 Declarant Control Period. Shall mean the earlier of:

(a) The period of time expiring when ninety-five percent (95%) of the total number of Units which are permitted to be built both within the Covered Property and within the Annexable Property and ninety-five percent (95%) of the total buildable ground floor area of Commercial buildings which is permitted to be built within the Covered Property, as such percentages are determined by Declarant in its sole discretion based upon the Master Development Plan, as amended from time to time, have had certificates of occupancy (or the equivalent approval) issued and have been conveyed to Persons other than Declarant, a Declarant Affiliate, or Developer Owners, or

(b) such date as Declarant relinquishes its rights which may be exercised during the Declarant Control Period, at Declarant's sole option and discretion.

The Declarant Control Period, if once expired, shall revive if subsequent annexations or other events should occur which indicate that the percentage in Section 1.32(a) above no longer exists.

In no event shall the Declarant Control Period endure more than five (5) years after neither Declarant nor any Declarant Affiliate owns any land within either the Covered Property or Annexable Property.

1.36 Declaration of Annexation. Shall mean any declaration, including a Tract Declaration, executed by Declarant and declaring that any portion of the Annexable Property is made subject to this Declaration and annexed under the purview hereof and made a portion of the Covered Property.

1.37 Declaration. Shall mean this Master Declaration of Covenants, Conditions, Restrictions and Easements, as amended, restated, or supplemented from time to time.

1.38 Delinquent Amount. Shall mean any Assessment, late charge, or installment thereof, or any other sum due hereunder and not paid when due.

1.39 Design Review Committee or DRC. Shall mean the committee(s) formed pursuant to Article IV of this Declaration.

1.40 Design Guidelines. Shall mean the rules and regulations adopted, amended and supplemented by Declarant during the Declarant Control Period, or the Board thereafter, after recommendation by the ARC, pursuant to Section 4.2 of this Declaration.

1.41 Developer Owner. Shall mean a Person in the business of developing, leasing and/or selling real property, who has acquired the right to build four or more Lots or Units or one or more Parcels within the Covered Property in connection with, and in the course of, such business, for the purpose of developing, leasing or selling Lots or Units or Parcels. A Developer Owner shall include a land trust, land banker, option or a similar entity or nominee developing, owning or selling land for ultimate construction of Dwelling Units, Commercial Units, or buildings.

1.42 Development Agreement. Shall mean that certain recorded "Development Agreement" by and between the County and Declarant, as the same may from time to time be amended, together with all exhibits thereto, which Development Agreement is recorded as Entry No. 01025271 in the official records of Summit County, Utah, as may be amended. Nothing in the Development Agreement shall be deemed a representation or warranty by Declarant as to any Owner or Member hereunder that any improvement or development requirement set forth in the Development Agreement shall be constructed or completed. No Owner or Member hereunder shall be deemed a third party beneficiary under the Development Agreement.

1.43 Development Standards. Shall mean the Development Standards for Silver Creek Village as initially approved by the County pursuant to the Development Agreement, and as further refined by the Design Guidelines.

1.44 District. Shall mean a group of Lots, Units, or Parcels designated as a District (whether or not governed by a District Association) by Declarant, or by the Board after the period of Declarant Control has terminated, which have common interests or characteristics such as shared common facilities or Limited Common Area not enjoyed by all other Members,

and/or which may be receiving special services or benefits and which may be charged District Assessments as provided herein.

1.45 District Assessment. Shall mean Assessments levied against the Lots, Units, or Parcels in a particular District to pay the budgeted expenses, including reserves, insurance, administration and other costs associated with Limited Common Area of a District, or associated with other costs and expenses attributable and allocable to a District, as described in Section 8.9, including District Expenses.

1.46 District Association. Shall mean a nonprofit corporation, its successors and assigns, if any, established for the purpose of administering and enforcing the provisions of any District Declaration or Tract Declaration establishing a District. A District is sometimes referred to as a sub-association and may only be established by (i) Declarant during the Declarant Control Period or the Board thereafter, or (ii) the Developer Owner executing this Declaration below, but only as to land owned by such Developer Owner.

1.47 District Declaration. Shall mean any declaration of covenants, conditions and restrictions or like instrument recorded after the recording of this Declaration and pertaining to any District within the Covered Property, which shall in all cases, be consistent with and subordinate to this Declaration and any applicable Tract Declaration and only Recorded in connection with the establishment of a District Association.

1.48 District Expenses. Shall mean the expenses incurred or estimated to be incurred by the Association with respect to a particular District, including expenses for the maintenance of Limited Common Area, special facilities or services benefiting primarily the Owners within such District, reasonable reserves for repair and replacement of improvements and facilities, and other costs and expenses including costs of administration.

1.49 Dwelling Unit. Shall mean any building, or part thereof, designed for use and occupancy as the residence or sleeping place of one (1) or more Persons or families and includes a kitchen, but does not include a nursing home, assisted living facility or an area of such building with separate exterior access and toilet facilities, but no kitchen.

1.50 Eligible Mortgage Holder. Shall mean a First Mortgagee who has in writing requested notice of material amendments to this Declaration pursuant to Section 14.3 hereof.

1.51 Event of Foreclosure. Shall mean the foreclosure, judicially or non-judicially, the acceptance of a deed in lieu of foreclosure, or the transfer of title by trustee's deed at a trustee's sale in regard to a mortgage, deed of trust or other encumbrance inferior in priority to an Assessment Lien.

1.52 Exempt Property. Shall mean the following parts of Silver Creek Village:

1.52.1 All land and improvements owned by or dedicated to and accepted by a Municipal Authority, or any political subdivision thereof, for as long as such entity or political subdivision is the owner thereof or for so long as said dedication remains effective;

1.52.2 All land or property owned by the Association, for as long as the Association is the owner thereof;

1.52.3 All land or Improvements (or portions thereof) utilized for Church Use;

1.52.4 All land or Improvements (or portions thereof) utilized for School Use;

1.52.5 All land designated as a Civic land under the Development Agreement;

1.52.6 Each other property, including each Lot, Unit or Parcel, while owned by Declarant, Declarant Affiliate or a Developer Owner, until the earliest to occur of (i) the acquisition of its record title by a Member holding Class A Membership, or (ii) the 15th anniversary of the date on which the real property comprising such Exempt Property is subjected to this Declaration through the annexation as contemplated herein, including Section 4.1.1.. Declarant, Declarant Affiliate or Developer Owner may expressly waive its right to an exemption from Annual Assessments and Special Assessments as to some or all Exempt Properties of which it is then the Owner, by a District Declaration or a Tract Declaration (if Declarant) or a Recorded notice of waiver (if Developer Owner) identifying such Exempt Properties and signed by it. In such event, such exemption shall terminate as to each such identified Exempt Property when such Tract Declaration or notice is Recorded. Any such waiver shall run with the title to each such Exempt Property and bind its subsequent Owners, including Declarant, any Declarant Affiliate and any Developer Owner.

1.53 First Mortgage. Shall mean any mortgage or deed of trust on any Lot or Parcel, or portion thereof, with the first priority over any other mortgage or deed of trust encumbering such Lot or Parcel, or portion thereof.

1.54 First Mortgagee. Shall mean the holder of any First Mortgage.

1.55 Governing Documents. Shall mean this Declaration, the Articles of Incorporation and Bylaws of the Association, the Design Guidelines and the Association Rules, as same may from time to time be amended.

1.56 Improvement. Shall mean any structure or improvement, including any Dwelling Unit or modification thereof, any Commercial Unit or modification thereof, any patio, outbuilding, pool, wall, path, driveway, excavation, landscaping, fixture, antennae, satellite system, fence, coping, awning, sunshade, flagpole, or other structure or improvement or appurtenance, and including decorative or aesthetic changes, such as color changes or changes to materials.

1.57 Interior Square Footage. Shall mean the gross square footage (without deduction for interior stairwells, storage areas, mechanical rooms, interior hallways, etc.) of area within a building on a Parcel; inclusive of upper floors and mezzanine areas, and inclusive of basements and parking space within parking garages.

1.58 Land Use Classification. Shall mean a classification of a portion of the Covered Property, as set forth herein, in the Development Agreement, or in a Tract Declaration, restricting development to the applicable classification(s).

1.59 Land Use Plan. Shall mean the map, site plan and other documents showing and/or identifying the various Land Use Classifications and density allocations applicable to various Parcels as approved by the County and the Declarant in the Development Agreement, a copy of which shall be on file at all times in the office of the Association. Subject to the approval by the applicable Municipal Authority, Declarant reserves the right to modify the Land Use Plan from time to time, and such modifications may include, among others, the addition or deletion of Land Use Classifications.

1.60 Limited Common Area. Shall mean all areas designated by Declarant in a Tract Declaration, District Declaration or on a recorded subdivision Plat as an area to be used in common by the Owners or Occupants of some, but not all, of the Owners of Lots or Units within the Covered Property, which areas shall be owned by the Association and maintained, repaired and managed at the expense of the Owners or Occupants of such Lots or Units by imposition of District Assessments, or which shall be owned by a District Association established and levying assessments against such Lots or Units for ownership, maintenance, repair and management of such areas.

1.61 Lot. Shall mean any portion of the Covered Property designated as a subdivided unit of land on any subdivision plat recorded and approved by Declarant, including any subsequent adjustment of boundary lines thereto, and limited by this Declaration, by a District Declaration, or a Tract Declaration to a designated Land Use Classification of Single Family Residential Use or Townhouse Residential Use.

1.62 Maintenance Assessments. Shall mean the Assessments, if any, levied by the Board pursuant to Section 8.8 of this Declaration.

1.63 Master Development Plan. Shall mean the master plan maintained in the offices of the Association and offices of Declarant depicting the plan for future development of portions of the Covered Property, and shall include the Development Agreement or any portion thereof, which may from time to time be amended at the sole and absolute discretion of Declarant or with the approval by the County as may be required.

1.64 Member. Shall mean any Owner or Person entitled to Membership as described in the Bylaws and this Declaration, including Declarant for so long as Declarant is a Class A or Class B Member and whether or not Declarant owns any Lot, Unit, or Parcel. A Municipal Authority owning land within Silver Creek Village, an Owner of a church Parcel, or an Owner of a civic Parcel shall not be a Member of the Association.

1.65 Membership. Shall mean Class A Membership and Class B Membership.

1.66 Mixed Land Use. Shall mean a use of a portion of the Covered Property restricted by a Tract Declaration permitting both Residential and Non-Residential Use, or a mix of both.

1.67 Municipal Authority. Shall mean the applicable governmental entity or municipality which has jurisdiction over or establishes a service area over some part of Silver Creek Village, including, without limitation, the County.

1.68 Net Acre. Shall mean an area of 43,560 square feet of land, with the acreage of any Parcel being rounded to nearest full acre in size.

1.69 Non-Developer Owner. Shall mean any Owner who is not a Developer Owner. This term does not include the Declarant or Declarant Affiliate.

1.70 Non-Residential Parcel. Shall mean a Parcel designated in a Tract Declaration for use for Commercial or other use, other than Residential Land Use.

1.71 Occupant. Shall mean any Person, other than an Owner, occupying a Unit, Lot, or any portion thereof or building or structure thereon, as a Resident, Tenant, and licensee or otherwise, other than on a merely transient basis.

1.72 Open Space. Shall mean such uses as are contemplated by the Development Agreement, as identified in the Land Use Plan, or the Master Development Plan, with respect to such areas, including social, recreational, civic or other such uses made of facilities available for use by Owners and Members, or any use made of facilities on Common Area designated as Open Space, if any.

1.73 Owner. Shall mean the record holder of legal title to the fee simple interest in any Lot, Unit, or Parcel, but excluding others who hold such title merely as security, such as any trustee under a deed of trust. An Owner shall include any Person who holds record title to a Lot, Unit, or Parcel in joint ownership or as an undivided fee interest.

1.74 Parcel. Shall mean a portion of the Covered Property, other than Common Area to be owned in fee title by the Association, and including any portion, pad, or subparcel thereof, if such portion, pad, or subparcel shall have been created by a parcel split or subdivision approved or permitted in accordance with this Declaration, limited by a District Declaration or Tract Declaration or the Master Land Use Plan to one of the following Land Use Classifications: residential Apartment use, residential Condominium use (but only until the condominium plat or map therefor is Recorded), or Commercial Use. The term Parcel shall also include those portions of the Property which a District Declaration or Tract Declaration or the Master Land Use Plan designates for Single Family Residential Use or Townhouse residential use but which have not yet been subdivided into Lots and/or Units and related amenities and rights-of-way, but any such areas shall cease to be a Parcel upon the recordation of a Plat or other instrument covering the area and creating Lots and/or Units and related amenities. A Parcel shall not include a Lot or a Unit but, in the case of staged developments, shall include areas not yet included in a Plat, condominium property regime or other Recorded instrument creating Lots and/or Units and related amenities. A Parcel with a Land Use Classification of residential Apartment use shall cease to be a Parcel if the Apartment use is converted to a residential Condominium use. Declarant shall have the right, subject to the terms of the Development Agreement, to identify and create and/or reconfigure the boundaries of any Parcel of which Declarant is the Owner.

1.75 Person. Shall mean a corporation, partnership, limited liability company, joint venture, individual, trust or any other legal entity.

1.76 Plat. Shall mean any subdivision plat or condominium plat affecting Silver Creek Village as Recorded in the Office of the County Recorder of the County, and any amendment or resubdivision thereof, and in the event of successive plats of portions of the Covered Property, the term shall include all such plats unless the context clearly indicates otherwise.

1.77 Record or Recorded. Shall mean placing an instrument of public record in the Office of the County Recorder of Summit County, Utah, and "Recorded" shall mean having been so placed of public record.

1.78 Resident. Shall mean:

1.78.1 each Owner who resides on the Covered Property and the members of the immediate family of each Owner who reside on the Covered Property;

1.78.2 each Tenant who resides on the Covered Property and the members of the immediate family of each Tenant who reside on the Covered property;

1.78.3 such Persons as the Board, in its absolute discretion, may authorize, including without limitation, guests of an Owner or Tenant.

1.79 Residential and/or Residential Area and/or Residential Land Use. Shall mean a use of a portion of the Covered Property restricted by a Tract Declaration to Single Family Residential Use, Apartment land use, residential Condominium use, Townhouse Residential Use and all common recreational areas and facilities associated with any of the foregoing and other non-Commercial Areas. The use of one or more Units in a residential Condominium development for nightly rental purposes (i.e. "condo-hotel") shall not change the Residential nature of such development into a Commercial Use. Declarant specifically acknowledges and intends that certain Lots, Units, or Parcels within Silver Creek Village may contain structures that will have a mixture of Residential Areas and Commercial Areas within the same structure. In that event, the provisions of this Declaration pertaining to Residential Areas shall apply to and govern the Residential Areas within such structure, and the provisions of this Declaration pertaining to Commercial Areas shall apply to and govern the Commercial Areas within such structure.

1.80 Reviewing Authority. Shall mean the ARC or the DRC, respectively, as designated pursuant to ARTICLE IV.

1.81 School Use. Shall mean any public or private school use approved by Declarant, as limited by a Tract Declaration.

1.82 Silver Creek Village. Shall mean, refer to, and consist of the Covered Property and the development to be completed thereon, commonly known as Silver Creek Village, together with the Annexable Property and/or any other real property hereafter annexed to Silver Creek Village pursuant to the provisions of this Declaration. Silver Creek Village is not a cooperative.

1.83 Single Family. Shall mean a group of Persons related by blood, marriage or legal adoption, or a group of not more than four unrelated Persons maintaining a common household in a Dwelling Unit. "Single Family" use shall not include any form of detention house, reform school, rooming or boarding house, sanatorium, or any form of group home whether or not providing services to occupants, except that this prohibition shall not apply to group homes or similar living or care arrangements which by state or federal law may not be prohibited by enforcement of private restrictive covenants.

1.84 Single Family Parcel. Shall mean a Parcel designated in a Tract Declaration as having a Single Family Residential Use.

1.85 Single Family Residential Use. Shall mean Lots in a subdivision intended for Single Family occupancy in Dwelling Units, together with related areas intended for the use and enjoyment of the owners and Residents of such Lots.

1.86 Special Assessments. Shall mean the assessments, if any, levied by the Board pursuant to Section 8.11 of this Declaration.

1.87 Intentionally Deleted.

1.88 Tenant. Shall mean a Person occupying any part of the Covered Property under any type of rental agreement.

1.89 Townhouse. Shall mean a Residential Unit that is adjoined to at least one other Residential Use in a side-by-side configuration. At times an Apartment is referred to as a "Multi-Family Unit" in the Development Agreement.

1.90 Townhouse Residential Use. Shall mean Parcel or Lots intended for Single Family occupancy in Dwelling Units, together with related areas intended for the use and enjoyment of the owners and Residents of such Parcels or Lots.

1.91 Tract Declaration. Shall mean any declaration of covenants, conditions and restrictions or like declaration (including development declaration) recorded after the recording of this Declaration and pertaining to any portion of the Covered Property or, in the case of the CW Larsen District, the Annexable Property, which shall in all cases, be consistent with and subordinate to this Declaration. Tract Declarations may establish the Land Use Classification of Property and, unless the context otherwise indicates, the term Tract Declaration may include District Declarations, Additional Covenants (including any condominium declaration), and any Declaration of Annexation establishing additional covenants. Tract Declarations may only be established by Declarant during the Declarant Control Period.

1.92 Unit. Shall mean a Condominium, Apartment, a Dwelling Unit within a Single Family Residential Use subdivision, or a Dwelling Unit within a Townhouse residential development.

1.93 Village Green. Shall mean social, recreational, civic or other such uses made of facilities available for use by Owners and Members, or any use made of facilities on Common Area designated as a Village Green by Declarant. Nothing herein shall be deemed a representation that any portion of the Covered Property shall be developed as a Village Green.

1.94 Village Mixed Use. Shall mean such uses, if any, as are contemplated by the Master Development Plan with respect to such areas so designated therein.

1.95 Visible From Neighboring Property. Shall mean, with respect to any given object, that such object is or would be reasonably visible to a Person six feet tall, standing at ground level on neighboring property (either Lots or Common Area) six feet back from the property line of the neighboring property, provided, however, that the Architectural Review Committee shall have the right to determine the meaning of the term "Visible From Neighboring Property" as applied on a case by case basis, and the determination of the Architectural Review Committee shall be binding in that regard, subject to any appeal rights to the Board.

1.96 Voting Group. Shall mean one or more Voting Members who vote on a common slate for election of Board members, or if the context indicates, a group of Members whose Lots or Parcels are represented by Voting Members.

1.97 Voting Member. Shall mean each Class A Member, and shall include each Owner of a Lot or Unit within a District; provided, however, that Declarant or the Board, as provided herein, may in writing elect in connection with any District Declaration or Tract Declaration to establish representative voting and declare that a single Person shall be the Voting Member, with such Voting Member to have the number of votes equal to the sum total of the votes of all Owners governed by the District Declaration, except as may be provided therein.

ARTICLE II

PROPERTY AND PERSONS BOUND BY THIS DECLARATION

2.1 General Declaration. Declarant desires to facilitate development of the Covered Property in accordance with the Master Development Plan, as may be amended from time to time in the sole and absolute discretion of Declarant. Though the Master Development Plan has in good faith been created and adopted by Declarant, and the predecessor of the Developer Owner executing this Declaration below, as the initial plan for the Covered Property, such plans may change, and nothing herein or in any other instrument shall be deemed a representation or warranty that land shall be developed as shown in the Master Development Plan or that such plan may not materially be revised or changed at Declarant's discretion and in accordance with such applicable rules, regulations and zoning restrictions as may from time to time exist.

In accordance with the foregoing, as portions of the Covered Property are developed, Declarant, without obligation, may record one or more Tract Declarations or District Declarations creating Parcels, designating Land Use Classifications, designating Common Area and Limited Common Area, and may establish such additional covenants, conditions and restrictions as may be appropriate for the respective portions of the Covered Property. Nothing in this Declaration, in any Tract Declaration or in any District Declaration shall be construed to prevent or limit Declarant's right to modify any part of the Master Development Plan with respect to property, or from dedicating or conveying portions of the Covered Property for uses other than as a Lot, Unit, a Parcel, or Common Area.

2.2 Right to Make Changes. Nothing in the Development Agreement shall in any way be deemed a representation as to the manner in which the property shall be developed. The Development Agreement may at any time be changed, the land shown therein may be resubdivided, and the planning areas shown therein, and the boundaries thereof, may be altered and changed at any time at Declarant's discretion. In no manner whatsoever shall designation of Open Space in the Development Agreement be deemed a representation that such areas shall, in fact, be Open Space. Such designations shall have meaning only if provided in a Tract Declaration or Additional Covenants pertaining thereto, and even such Tract Declarations or Additional Covenants may later be changed or amended.

2.3 Owners and Occupants Bound. Upon the recording of this Declaration, this Declaration shall be binding upon all Owners and Occupants of the Covered Property and their successors and assigns, whether or not stated in any document or deed transferring any interest in any Parcel, Lot, or Unit to or from such Owners or Occupants.

Each Owner, and all Members of the Association, shall at all times be deemed to be fully aware and cognizant of the terms and provisions of the Declaration and all other pertinent instruments applicable to the Covered Property, including without limitation the location and nature of planned public and private improvements, park areas, drainageways, and other facilities, all as such may from time to time change or be altered.

2.4 Affordable Housing. The Development Agreement provides that Declarant will be required to construct, or cause to be constructed, certain Affordable Housing or workforce housing within Silver Creek Village.

ARTICLE III

EASEMENTS AND RIGHTS OF ENJOYMENT IN THE COMMON AREA

3.1 Blanket Drainage Easements. Declarant and Developer Owner executing below, do hereby reserve and establish over and across each Parcel a perpetual easement for the establishment and maintenance by the Association of such drainage patterns, drainageways, drainage facilities, canals and laterals as may be necessary in Declarant's sole judgment to permit the Covered Property and Annexable Property to be improved, developed and protected in a manner best determined by Declarant. Such easements may be defined and limited by Declarant in subsequent Plats, Tract Declarations or written agreements executed after the date hereof. The protections of this Section may not be amended without Declarant's written approval.

3.2 Easements and Rights of Enjoyment. Each Owner shall have a nonexclusive easement for use and enjoyment in and to the Common Area, which nonexclusive easement shall be appurtenant to and shall pass with the title to each Owner's Lot, Unit, or Parcel, subject to the Association Rules and other restrictions of the Association. All Occupants shall have a nonexclusive, nontransferable temporary license to use and enjoy the Common Area so long as they remain Occupants. The foregoing grants and rights are subject to the following limitations, in addition to all other limitations and reserved powers set forth in this Declaration:

3.2.1 Right to Modify and Change. The rights, duties and obligations of the Association, and the reserved right of Declarant, and of the Association, to modify the use of Common Area, or to convey same free of claims or rights of the Owners or Members;

3.2.2 Intentionally deleted.

3.2.3 Suspension of Rights. The right of the Association, after such notice and hearing as may be required by law (including Utah Community Association Act), to suspend the voting rights and the rights to use and enjoyment of the recreational or Open Space components of the Common Area of any Owner or Occupant, as the case may be, for any period during which an Assessment remains delinquent, or for a period not to exceed 60 days for any single infraction of this Declaration, a recorded Tract Declaration, District Declaration, the Association Rules, or the Design Guidelines (provided such suspension shall not be limited if the infraction remains uncured);

3.2.4 Limitation of Guests. The right of the Association to limit the number of guests of an Owner or Occupant who may use the Common Area; and

3.2.5 Regulation. The right of the Association to regulate use of the Common Area in accordance with this Declaration.

3.2.6 Mortgages and Conveyances; Power of Association. The right to mortgage or convey portions of Common Area with the affirmative vote or written consent, with or without a meeting, of Declarant and Voting Members representing at least two-thirds (2/3) of the total votes allocable to Lots, Units, and Parcels.

3.2.7 Broad Reserved Powers of Declarant. Notwithstanding the foregoing, the Association may at any time convey, and Declarant may cause the Association to convey,

minor, insignificant, or immaterial portions of Common Area (such as those caused by encroachment areas, boundary line discrepancies, survey errors and other such matters), and portions of Common Area determined by Declarant to be more burdensome or costly to own than the accompanying benefit to the Association would warrant, and such conveyance may be made without the consent or vote of any other Person or Member, should Declarant or the Board determine that such conveyance or transfer is in the best interests of the Association or Covered Property. Furthermore, Declarant may at any time resubdivide Common Area into Lots, Units, Parcels or other Common Area or dedicated land, and may cause the Board or Association to execute such instruments as may be necessary to cause such resubdivision or dedication, and no consent or approval shall be required of any other Members nor shall a meeting of Members be required.

Any sale, disposition or resubdivision of the Common Area shall serve to extinguish any interests therein of Owners pursuant to the provisions hereof.

In addition, Declarant and the Association shall in all cases have the right to convey and dedicate the lands and interests such as public roads, streets, drainageways, culverts, parks, sewer facilities and other Common Area, and such action shall not require the approval of any Owners or Members of the Association.

3.3 Delegation of Use. Any Owner or Occupant, in accordance with the Association Rules and this Declaration, may delegate his or her rights of use and enjoyment in the Common Area to the members of his or her family or his or her Occupants, employees, customers or guests subject to the limitations set forth herein and in the Association Rules, and in the event of such delegation, including any lease of a Lot or Unit, the Owner shall be deemed to have relinquished his or her right of use and enjoyment for the period of such lease or delegation. Without limitation, the Rules may limit the number of guests, prescribe restrictions on certain types of gatherings or events, and impose fees for certain gatherings or events.

3.4 Waiver of Use. No Owner shall be exempt from Personal liability for Assessments, nor shall any Owner have any right to release a Lot, Unit, or Parcel from the liens or charges arising under this Declaration, any District Declaration or Tract Declaration by waiver of the right of use and enjoyment of Common Area or for any other reason, and no Owner shall in any fashion or by any means have a right of set-off of claims against any sum owed to the Association; provided, however, that other provisions may exclude some properties of Owners from paying assessments while such properties constitute Exempt Property.

3.5 Acceptance of Certain Common Area and Other Areas. In the course of development and sale of land within the Covered Property, or within portions of the Annexable Property, fee title to land which in the future is to become Common Area may be held by, or transferred to, Persons acquiring fee title to portions of the Covered Property. Notwithstanding that fee title to such land may be held by Persons other than the Association (or Declarant), such land may, upon acceptance by the Association, become Common Area. If such areas become Common Area of the Association, whether by Tract Declaration, plat or otherwise, all Owners and Occupants shall have the easements, licenses and rights to the use and enjoyment of such Common Area as with respect to the other Common Area generally, unless such lands are Limited Common Areas. Such rights shall be subject in all cases to the provisions of this Declaration and the Association Rules. In the event such areas are to become Common Area, the Association shall accept same only if such land is free of monetary liens or encumbrances.

Notwithstanding the foregoing, Declarant shall have the absolute right to require that the Association accept title to future Common Area and open spaces shown upon any Plat or other instrument pertaining to the Covered Property, whether the Plat or other instrument was Recorded prior to or after annexation of the land under the purview hereof as a portion of the Covered Property, and such right of Declarant shall, without limitation, extend to all areas of the Annexable Property that Declarant determines are appropriate for Common Area designation or otherwise appropriate for Association control and maintenance.

Future Common Area to be accepted may include, but shall not be limited to, recreational features, one or more swimming pools, open spaces, trails, and other areas or facilities, but no representation or warranty is made as to any such facilities or which shall be offered or included in the Covered Property. It is acknowledged that should a future feature, such as a recreational amenity, be included within the Common Area, the Association shall have the right to increase Assessments by the maximum permitted by law to assure adequate funds, and shall further have the right to impose a Special Assessment during such initial fiscal years as may be necessary or appropriate, subject to limitations as may exist at law.

3.6 Exclusive Use and Benefit Easements. On certain Common Area, particularly where perimeter or similar walls are to be built (including yard walls, landscape walls, subdivision boundary walls and the like), such walls may be constructed within the Common Area at varying distances from the adjacent Lot line in order to avoid monotony of design. Portions of the Common Area may be located on the Lot or Parcel side of any such dividing wall (each, an "Easement Area"). Each Easement Area will adjoin and be contiguous to a Lot or Parcel (each, a "Dominant Lot or Parcel"). The Association may, in its sole discretion, at any time and from time to time, grant to the Owner of a Dominant Lot or Parcel and record a perpetual exclusive use and benefit easement over the Easement Area abutting that Dominant Lot or Parcel for the use, benefit and enjoyment of that Owner (each, an "Easement"). Such Easement shall run with the land and be appurtenant to the abutting Dominant Lot or Parcel and may not be sold, transferred or otherwise conveyed apart therefrom.

The Easements shall be limited to the extent that no structure or improvement of any nature may be placed, maintained or permitted to remain in any Easement Area without the express written approval of the Reviewing Authority, as provided herein. The Association shall have no possession or control of the Easement Areas, except that the Association shall have the right of ingress and egress for the sole purpose of any maintenance and repair obligations the Association may have with respect to such dividing wall.

3.7 Easements Benefiting Individual Owners. Each Easement Area shall be possessed, controlled, maintained and insured by the Owner of the abutting Dominant Lot and not by the Association. Any separate insurance maintained by the Association is excess and non-contributory. Each Owner of a Dominant Lot or Parcel shall indemnify, protect, defend and hold harmless the Association for, from and against any and all losses, costs, claims, actions, damages, expenses and liabilities of any kind whatsoever arising from or in connection with the Easement Area abutting that Owner's Dominant Lot or Parcel.

3.8 Easements Benefiting the Association. In addition to the Easement Areas set forth above, to permit a varying or undulating design of perimeter or yard walls visible from certain of the main spine roads within Silver Creek Village, there shall exist, and there is hereby granted and reserved, a valid, perpetual easement in favor of the Association for the maintenance and repair of landscaping and other improvements which may be installed or built on the street or Common Area side of any such wall built or to be built partly into the area of any

adjacent Lot or Parcel, as determined by the Architectural Review Committee at the time of original construction of improvements. The Association shall be solely responsible for maintaining any such Lot or Parcel area upon which such easement exists. The limit and extent of any such easement shall be determined by the Architectural Review Committee upon approval of designs and plans submitted by Owners or Developer Owners, as the case may be.

ARTICLE IV

ARCHITECTURAL AND LANDSCAPING RESTRICTIONS AND CONTROL

4.1 Control of All Architectural and Landscaping Matters.

4.1.1 Establishment, Composition, and Role of the DRC. There is hereby established a Design Review Committee, which shall be responsible for the review of site and building plans for development within Silver Creek Village for compliance with the requirements of the Design Guidelines, the Development Standards, the Development Agreement, and the Code, and to make recommendations to the County on such development permit applications. The Design Review Committee shall be composed of three (3) Persons. So long as the Class B Membership exists, for all matters to be considered and approved by the DRC, the DRC shall be comprised of two (2) Persons selected by Declarant as the Class B Member and one (1) Person selected by the County's Community Development Director ("**County Member**"), each with varied local design, development, and real estate experience.

Notwithstanding anything to the contrary in this Declaration, the DRC shall be established prior to the submission of the first development application within Silver Creek Village to the County. The DRC shall review all development permit applications which require submission to the County and the County's approval, for compliance with the Development Standards, those site and architectural components addressed in the Development Agreement, conformance to the established and approved Design Guidelines, and those elements within the Snyderville Basin Development Code, adopted December 2004, as amended and updated ("**Code**"), that apply to the submittal review. The DRC is not bound by an approval or recommendation given by the ARC. Prior to the submission to the County of any development permit for the proposed development of a Parcel, Declarant, Declarant Affiliate, or a Developer Owner shall submit its plans to the DRC to obtain the DRC's written recommendation in accordance with the Development Agreement and the Code. Declarant, Declarant Affiliate, or a Developer Owner is required to obtain this recommendation prior to submitting any applications to the County. This recommendation shall be submitted to the County's Community Development Department as part of a development permit application package.

Once the Design Review Committee is no longer required by the Development Agreement, the Design Review Committee shall be abolished and all rights, powers, and obligations of the Design Review Committee shall be automatically transferred to the Architectural Review Committee.

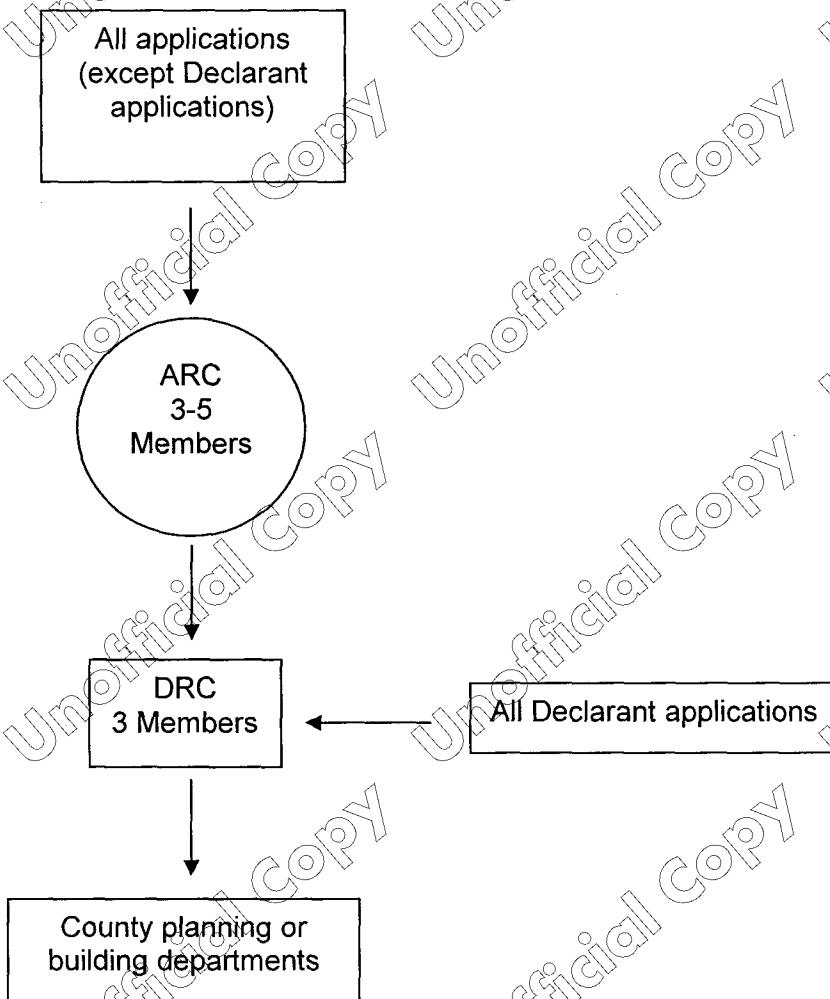
4.1.2 Establishment, Composition, and Role of the ARC. There is hereby established an Architectural Review Committee, which shall be responsible for the establishment and administration of the Design Guidelines and the administration of the Development Standards. The ARC shall review and approve all matters requiring a Reviewing Authority's approval under this Declaration or the Design Guidelines, including, without limitation matters which require approval of the DRC pursuant to the Development Agreement; in all

cases, the application for approval of matters requiring a Reviewing Authority's approval under this Declaration, the Design Guidelines, or the Development Agreement shall first be to the ARC.

The Architectural Review Committee shall be composed of not less than three (3) and no more than five (5) Persons. A member of the DRC may also serve on the ARC. So long as the Class B Membership exists, for all matters to be considered and approved by the ARC, all members of the ARC shall be selected by the Declarant as the Class B Member, except that one (1) member of the ARC shall be selected by CW Developer Owner. Except as otherwise expressly provided for herein, all members of the ARC, and all Persons acting on behalf of the Reviewing Authority shall be appointed and removed solely by Declarant so long as Declarant is a Member of the Association, unless such right is in writing waived by Declarant. Thereafter, the right of appointment shall rest with the Board. A member of the ARC shall not be required to satisfy any particular qualification for membership and may be a member of the Board, an officer of the Association, or an officer, agent or employee of Declarant.

It shall be the duty of the Reviewing Authority to consider and act upon all proposals or plans submitted to it pursuant to the provisions hereof, to adopt the Design Guidelines, with the approval of Declarant or the Board, as applicable, to perform any other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration. The ARC shall have the right from time to time to assign certain of its powers, authority and duties hereunder to one or more District Associations

4.1.3 All Development to be Pre-Approved. As more specifically depicted in the flow chart below, no development, construction, grading, improvement, landscaping or other work or alteration of any of the Covered Property shall be commenced unless and until the DRC or the ARC, as applicable, has given its prior written approval of same, which approval may be granted or denied in the sole and absolute discretion of the DRC or the ARC.



4.1.4 Reviewing Authority. The DRC and/or the ARC shall be deemed a “Reviewing Authority” for purposes of this Article IV, and the Reviewing Authority, as applicable, shall in all cases be deemed to be acting for and on behalf of the Association and shall be deemed an agent and committee of the Association. The Association shall have full rights of enforcement of the provisions hereof, and may take legal and other action against any Owner, Person or entity, or their agents, contractors, and subcontractors, who may be in violation of the provisions hereof or of the Design Guidelines, or who may have acted without approval of the Reviewing Authority.

4.1.5 Design Guidelines and Development Standards. The Reviewing Authority shall be guided in its functions by the Design Guidelines and by the Development Standards.

4.2 Design Guidelines.

4.2.1 Content of Design Guidelines; Approvals; Amendments. The initial Design Guidelines have been adopted and approved by the Declarant. An Owner may obtain a copy of the adopted Design Guidelines from a member of the ARC.

Subject to the written approval of the contents thereof by Declarant during the Declarant Control Period, and thereafter subject to the written approval of the Board, the ARC may adopt, amend, and supplement the Design Guidelines. Such Design Guidelines shall not be materially inconsistent with the Development Standards.

The right of Declarant to approve the Design Guidelines is paramount to the right of the Board or any Reviewing Authority other than Declarant, and no amendment to the Design Guidelines may be made without Declarant's consent during the Declarant Control Period.

The Design Guidelines may be different for various portions of the Covered Property. The Design Guidelines shall interpret, implement and supplement the Development Standards, and shall set forth procedures for review and the standards for development within all or various portions of the Covered Property.

4.2.2 Force and Effect The Design Guidelines shall have the same force and effect as the Association Rules

4.3 Reserved.

4.4 Obligation to Obtain Approval.

4.4.1 Mandatory Submittal of Plans and Specifications. Without the prior written approval by the Reviewing Authority of plans and specifications prepared and submitted to the Reviewing Authority in accordance with the provisions of this Declaration and the Design Guidelines:

(a) No improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any property or improvements thereon from their natural or improved state; and

(b) No building, fence, exterior wall, pool, roadway, driveway or other structure, improvement or grading shall at any time be commenced, erected, maintained, altered, changed or made on any Lot, Unit, or Parcel.

4.4.2 Landscaping. No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon the Covered Property except in compliance with plans and specifications therefor which have been submitted to and approved by the Reviewing Authority in accordance with the Design Guidelines, and except for replacements of plants previously approved and which remain acceptable in accordance with the then current Design Guidelines.

4.4.3 Changes or Deviations. No material changes or deviations in or from the plans and specifications for any work to be done on the Covered Property, once approved by the Reviewing Authority, shall be permitted without approval of the change or deviation by the Reviewing Authority.

4.4.4 Oral Statements. In no event shall the Reviewing Authority be bound by any oral statements, no single member thereof having the right to bind the committee.

4.5 Waiver and Variance. The Reviewing Authority may grant variances and waivers from the requirements of the Design Guidelines if it believes it is in the best interests of the Covered Property to do so, or if hardship justifies the variance. Decisions granting variances or waivers shall be in writing. The approval by the Reviewing Authority of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Subject to the Development Agreement, no application or approval shall be required for any Improvement to be made within the Covered Property by Declarant or its authorized agents, affiliates or representatives.

4.6 Liability. The Reviewing Authority (nor any member thereof) shall not be liable to the Association, any Owner, or any other party for any damage, loss, or prejudice suffered or claimed on account of:

- (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective;
- (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- (c) the development of any Lot, Unit, or Parcel; or
- (d) the execution and filing of any estoppel certificate or statement, whether or not the facts therein are correct, provided, however, that with respect to the liability of a member of the DRC, such member has acted in good faith on the basis of such information as may be possessed by him.

Without in any way limiting the generality of any of the foregoing provisions of this Section, the Reviewing Authority, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner (other than the Owner applying for consent or approval, whose views the Reviewing Authority shall be required to hear) with respect to any plans, drawings, specifications, or any other proposal submitted for review.

4.7 Appeal to Board. Any Owner who initially made application to the Reviewing Authority, and who is aggrieved by a decision of the Reviewing Authority, may appeal the decision to the Board in accordance with procedures to be established in the Design Guidelines. In the event the decision of the Reviewing Authority is overruled by the Board on any issue or question, the prior decision of the Reviewing Authority shall be deemed modified to the extent specified by the Board.

4.8 Fees.

4.8.1 Power to Assess Fees. The Reviewing Authority, whether Declarant, the Board or whomsoever may be vested with authority to review plans, applications and submittals in accordance herewith, may establish a reasonable processing fee to defer the costs

of the Reviewing Authority in considering any requests for approvals submitted to the Reviewing Authority, including, without limitation, to hire staff or outside consultants, or for appeals to the Board, which fee shall be paid at the time the request for approval or review is properly submitted.

4.8.2 Refundable and Non-Refundable Fees and Deposits. In addition, the Reviewing Authority may implement: a) refundable and non-refundable fees and deposits for revegetation and restoration of any site, with a portion of a fee being non-refundable should an Owner default in its obligations to restore or revegetate a site when required hereunder or by the Reviewing Authority, or should the Association or Reviewing Authority incur cost as a result thereof; b) refundable and non-refundable fees to assure that all damage or degradation to Common Area, streets and roads caused or to be caused by construction traffic is promptly repaired or otherwise addressed by the Owner responsible therefor, or to enable the Association to accomplish such work, itself, or to establish a fund for future restoration of such areas; and c) such deposits as may be appropriate to assure completion of components of any work that may interrupt or interfere with the use of Common Area or operations of the Association.

4.9 Inspection. Declarant and any member or authorized consultant of the Reviewing Authority, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot, Unit, or Parcel, after reasonable notice to the Owner of such Lot, Unit, or Parcel, in order to inspect the improvements constructed or being constructed on such Lot, Unit, or Parcel to ascertain that such improvements have been, or are being, built in compliance with the Design Guidelines, this Declaration, and any applicable Tract Declaration or District Declaration.

4.10 Development Standards. Notwithstanding anything to the contrary in this Article IV, all development, construction, grading, improvement, landscaping or other work or alteration of any land, structure or Improvement shall be in compliance with the Development Standards and no such work shall commence unless and until the DRC has given its prior written approval of same. Plans, specifications and submittals are required to the fullest extent, and in the manner set forth herein for all other submittals. Amendments by Declarant or by the Board may consist of non-material amendments to the Development Standards, or may consist of material amendments to the Development Standards if such amendments have been approved by the County. No request shall be made to the County to amend the Development Standards, or to permit a material deviation therefrom unless Declarant has in writing consented to such request. Declarant or the DRC may, in its sole and absolute discretion, grant variances from the restrictions set forth in the Development Standards in accordance with the requirements set forth in the Development Standards.

4.11 Annexable Property. The Annexable Property is not a part of the Covered Property unless annexed by Declarant and with Declarant's written consent. Because such Annexable Property, however, remains subject to the Development Standards, the Development Agreement, and the SPA, Declarant reserves the right, in its sole discretion, to accomplish review and approval of all submittals, including submittals of all plans and specifications for improvements, either itself or through the Reviewing Authority, in the same fashion as for the Covered Property. This Declaration shall serve as notice of such right of Declarant, and the right to charge commensurate submittal and review fees, but the undertaking of such review and approval processes shall in no way serve to extend the purview of this Declaration to the Annexable Property, and unless annexed under the purview hereof none of the Annexable Property shall be subject to enforcement action by the Association with respect

to any matter other than compliance with approved plans and specifications to the extent applicable, and even then only with Declarant's written approval.

The provisions of this Section 4.11 may not be amended without the written approval of Declarant.

ARTICLE V

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

5.1 Land Use Classifications. As portions of the Covered Property are readied for development, Land Use Classifications may be fixed by Declarant in a Tract Declaration which may be recorded at such time as the applicable portion of the Covered Property is conveyed by deed or, if retained by Declarant, at such time as Declarant begins development thereof. If any provision of a Tract Declaration is inconsistent with any provision of this Declaration, the provisions of this Declaration shall control.

Except with respect to Covered Property owned by Declarant, no Tract Declaration, or further covenants, conditions, restrictions, or easements, or any amendments or modifications thereto, shall be recorded against any Lot, Unit, or Parcel without the written approval of Declarant or, if Declarant has waived and relinquished such right, of the Board, and without such approval, such Tract Declaration or further covenants, conditions, restrictions, and easements, or any amendments or modifications thereto, shall at Declarant's option be deemed null and void. All Tract Declarations or other recorded covenants, conditions, or restrictions, or any amendments or modifications thereto, shall be consistent with and subordinate to this Declaration and shall contain such provisions as Declarant shall reasonably require. After expiration of the Class B Membership, the right to approve of any Tract Declaration shall rest with the Board, except that so long as Declarant owns any portion of the Covered Property or Annexable Property it may approve any Tract Declaration relating to land annexed hereunder. A Tract Declaration shall not be amended except as specifically permitted by this Declaration or by such Tract Declaration. Approval of Tract Declarations shall not unreasonably be withheld, and denial may not be made for purposes of attempting to disapprove an otherwise allowable use of the land which Declarant approves or has approved.

5.1.1 Listing of Land Uses; Not Exclusive. The Land Use Classifications contemplated as of the date of this Declaration are:

- (a) "Single Family Residential Use";
- (b) "Residential Apartment Use";
- (c) "Residential Condominium Use";
- (d) "Townhouse Residential Use";
- (e) "Village Mixed Use" or "Mixed Land Use";
- (f) "Commercial Use";
- (g) "Assisted Living Use";

- (h) "Common Area";
- (i) "Open Space";
- (j) "School Use"; and
- (k) "Church Use".

5.1.2 Determination of Use in Tract Declaration. The characteristics of land within a Land Use Classification, and the specific permitted and prohibited uses of the real property within a particular Land Use Classification may be set forth in the respective Tract Declaration. Such uses may at any time be amended to permit other uses, provided the provisions of the Tract Declaration dealing with amendment have been met; provided, however, that any Land Use Classification may be changed if both Declarant and the Owner of the land or any portion thereof burdened by a Tract Declaration consent to such change.

Notwithstanding the foregoing listing, but subject to the Development Agreement, Declarant shall not be obligated to establish within the Covered Property each of the uses listed above, nor shall such listing prohibit the establishment by Declarant of other Land Use Classifications.

5.1.3 Additional Restrictions by Tract Declaration. A Lot, Unit, or Parcel shall, prior to being used or improved in any manner or fashion whatsoever, be defined and limited to a specific development type or Land Use Classification by a Tract Declaration approved by Declarant in accordance with the provisions hereof. Declarant may require imposition of special conditions in a Tract Declaration in any case where deemed appropriate in the sole and absolute discretion of Declarant, and may require adequate provision for assessments and maintenance of the property and improvements and such other provisions as are deemed proper. Should for any reason a Parcel be subdivided and developed or partially developed prior to Declarant's recordation of a Tract Declaration establishing the Land Use Classification therefor, then Declarant may later record the appropriate Tract Declaration with the consent of the Owner of the property in question, and until such time the Land Use Classification shall be deemed to be Single Family Residential Use.

No Condominium Parcel or subdivision containing common area may be developed, nor shall a Tract Declaration therefor be approved, unless an incorporated owners association is established for the maintenance and repair of common elements or common area thereof, except in cases where the Association may elect to accept ownership of same.

5.2 Covenants, Conditions, Restrictions, and Easements Applicable to All Land Use Classifications. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots, Units, and Parcels in the Covered Property included within all Land Use Classifications, and to the Owners and Occupants thereof:

5.2.1 Prohibited Uses. The following uses are prohibited:

- (a) any use which is offensive by reason of odor, fumes, dust, smoke, noise, glare, heat, sound, vibration, radiation or pollution, or which constitutes a clear public nuisance, or which is hazardous by reason of risk of fire or explosion, or which is otherwise materially injurious to the perceived value of any Lot, Unit, or Parcel; provided that for Parcels used for Commercial Uses, Declarant shall

have broad discretion in determining the propriety and acceptability of any such use; and,

(b) any use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception or special use ordinance or regulation) of the State of Utah, the County or any other governmental entity having jurisdiction over the Covered Property.

5.2.2 Plat Notes. In addition to the restrictions contained herein, the Covered Property shall be subject to all applicable restrictions and limitations set forth on recorded plats and set forth in the Master Development Plan, and such limitations as may be provided in the Development Agreement approved by the County, as same may from time to time be amended.

5.2.3 Duty of Maintenance. Each Owner shall, at such Owner's sole cost and expense, keep such Owner's Lot, Unit, or Parcel, including buildings, Improvements, grounds, private drives, and easement areas in a well-maintained, clean, neat and attractive condition at all times and shall comply in all respects with all governmental health, fire and safety statutes, ordinances, regulations and requirements. Each Owner shall be responsible for the maintenance and repair of all utility lines, including sewer, located within such Owner's Lot, Unit, or Parcel, and such maintenance obligation shall include maintenance and repair beyond the Lot, Unit, or Parcel boundary to the point of service line connection or junction in the adjacent street, Common Area or easement area.

No Improvement on any Lot, Unit, or Parcel shall be permitted to fall into disrepair and each such building and improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished to maintain a first class appearance of the Improvement. In the event any building or Improvement is damaged or destroyed, then, subject to approval in accordance with Article 4, such building or Improvement shall be immediately repaired, rebuilt or demolished by the Owner. If any Owner fails to make the necessary repairs, after receiving notice from the Board of the requirement to perform such repairs within the time limits established by the Board, the Board and its agents and representatives are empowered to enter on the Lot, Unit, or Parcel and to make the necessary repairs. The cost of these corrective measures shall be charged to the Owner and collected in the same manner as Assessments. Any such entry shall be after reasonable notice of the time and date of entry, and after such hearings and notice as the law may require.

5.2.4 Building Exteriors. All colors of materials on the building exteriors and all exterior wall surfaces of any building shall be in accordance with plans and designs approved in accordance with Article 4.

5.2.5 On Site Grading and Drainage. No water shall be drained or discharged from any Lot, Unit, or Parcel, or building thereon, except in accordance with approvals of the Reviewing Authority and applicable County ordinances, as well as the Master Development Plan.

5.2.6 Utility Lines and Connections. Unless Declarant expressly approves otherwise, all utility wires, lines, pipes, conduits, facilities, connections and installations (including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer) shall be installed and maintained underground or concealed in, under, or on structures approved in writing in advance by the Reviewing Authority. All transformers shall be placed on or below the surface of the Lot, Unit, or Parcel. Temporary above-ground power or telephone

structures and water lines incident to construction activities shall be permitted but only with the prior written approval of the Reviewing Authority.

Notwithstanding the above, the following permitted uses may be installed and maintained above ground:

- (a) Existing utility installations, for so long as Declarant shall approve;
- (b) Any future relocation of existing utility installations, for so long as Declarant shall approve;
- (c) Any fiber optic or related facility or improvement approved by Declarant, and
- (d) Other facilities which the Reviewing Authority determines are appropriate for above-ground placement and which comply with law.

No other utility or service equipment or lines may be installed or relocated on any Lot, Unit, Parcel the Common Area or the Limited Common Area except as approved by the Reviewing Authority

5.2.7 Overhead Encroachments. No tree, shrub or planting of any kind shall be allowed to overhang or encroach upon any public right-of-way, bicycle path or any other pedestrian way from ground level to a height of eight (8) feet, without the prior written approval of the Reviewing Authority. The Reviewing Authority shall have the right to cause the Association to trim any offending tree, shrub or planting.

5.2.8 Permissible Encroachments. Each Owner hereby acknowledges and agrees that Dwelling Units, or privately-owned patio walls, improvements and fixtures, once built and completed, and which were initially constructed on the Covered Property in the course of original construction by a Developer Owner may from time to time encroach in minor degree upon the Common Area or other Lots, Units, or Parcels in the Covered Property. Such encroachments caused incidentally and which are minor in scope and degree, such as those caused by good faith survey error, and where removal of improvements would cause gross economic waste, shall be deemed acceptable. Each Owner consents thereto and agrees that title to the land lying within such incidental encroachments shall be burdened with a perpetual easement in favor of the Owner of the Lot, Unit, or Parcel upon which the majority of the encroaching structure is built.

5.2.9 Restriction on Further Subdivision, Property Restrictions and Rezoning.

- (a) So long as Declarant is a Member of the Association, all subdivision plats, Tract Declarations, District Declarations and Additional Covenants must be submitted to and approved by Declarant before being recorded or approved by the County, as applicable. Except for property owned by Declarant, after a subdivision plat has been approved, no Lot, Unit, or Parcel, or any portion of a Lot, Unit, or Parcel, shall be further subdivided and no portion less than all of the Lot, Unit, or Parcel shall be conveyed or transferred by any Owner without the prior written approval of Declarant. The combining of a Lot, Unit, or Common Area with an adjacent Lot, Unit, or Common Area, where no

additional Lot or Unit is created, and which is approved by the Reviewing Authority shall not be deemed a resubdivision in accordance with the foregoing requirements, but there is no obligation on the part of the Reviewing Authority to approve a combination of any Lot or Unit within the Covered Property.

(b) No proposed application for rezoning, variance or use permit for any portion of the Covered Property shall be made, filed, submitted to, or recorded with the County or any other governmental authority or agency unless it has first been approved by Declarant so long as Declarant is a Member of the Association.

(c) Neither subsection (a) nor (b) shall apply to portions of the Covered Property owned by Declarant or to subdivision plats, Tract Declarations, District Declarations or Additional Covenants submitted or proposed by Declarant and pertaining to portions of the Covered Property owned by Declarant. Further, Declarant reserves the absolute right, without any other consent or approval, to resubdivide and change the use of any portion of the Covered Property, including any Common Area, Lots, Units, or Parcels, and may cause the Board or the Association to execute such instruments as may be necessary to accomplish same.

(d) Declarant may at any time in writing relinquish all or a portion of its approval rights under this Section. After Declarant no longer is a Member of the Association, or after Declarant may have relinquished its rights under this Section, the Board shall succeed to the right to approve of subdivision plats, District Declarations, Tract Declarations or Additional Covenants, unless Declarant has assigned such right to one or more Developer Owners, in which case the Board shall succeed to such rights only after such Developer Owners no longer own any portion of the Covered Property or Annexable Property.

5.2.10 Maintenance of Landscaping and Driveways. Unless otherwise provided in a Tract Declaration, each Owner shall be responsible for the proper maintenance of all landscaping in the following locations:

(a) on the Owner's Lot or Parcel (including set back areas), except that in the event the maintenance of any portions of such Owner's Lot or Parcel is the responsibility of the Association, a utility, or a governmental or similar authority, then only for so long as such entities are not undertaking such responsibility;

(b) portions of the Common Area adjacent to an Owner's Lot or Parcel and which are on the Lot's or Parcel's side of any wall erected on the Common Area; and,

(c) public right-of-way area; between sidewalks and the street curb on the Owner's Lot or Parcel, or other public or easement areas adjacent to the Owner's Lot or Parcel, except that in the event the maintenance of such areas is the responsibility of the Association, a utility, or a governmental or similar authority, then only for so long as such entities are not undertaking such responsibility.

As used herein, maintenance shall include but not be limited to keeping the areas neatly trimmed, cultivated and free of trash, weeds and unsightly materials. All lawn areas shall be timely mowed needed to keep an even, well-groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds.

All trees, shrubs, plants and ground covers shall be timely and properly trimmed (including, without limitation, the removal of dead wood therefrom) according to their plant culture and landscape design and shall be watered and fertilized at such times and in such quantities as required to keep them alive and attractive. Any dead tree, shrub, plant or ground cover shall be removed and replaced immediately.

All bed and xeriscaped areas shall be kept free of weeds and periodically bedding and covering materials shall be added to such areas. No area shall be over watered so as to create a risk of damage to nearby structures or Improvements. Landscaping may be required to be placed on a Lot or Parcel within certain time frames established by the Reviewing Authority. Each Owner shall maintain (including, without limitation, snow and ice removal as necessary) in good condition and repair all paved and concrete areas, including driveways, roadways and parking areas, located on the Owner's Lot or Parcel.

Any Owner who fails to properly maintain the landscaping upon the Lot or Parcel, shall be given a reasonable period to conduct such maintenance. In the event Owner fails to provide such landscaping maintenance to his/her Lot or Parcel, after receiving notice from the Board to do so, and after such hearing and notice as may be required by law, the Association is empowered to enter upon the Lot or Parcel, conduct the necessary landscaping maintenance, and charge the cost to the Owner. Such charges shall be collected in the same manner as Maintenance Assessments.

In addition to the foregoing, each Owner acknowledges that the Design Guidelines may require that each Owner, or Owners of portions of the Covered Property, install landscaping on such Owner's Lots or Parcel, within a specified period of time after acquiring title thereto, if landscaping was not installed by the builder or Developer Owner at the time of such acquisition. Such obligation may include trees, plants or other landscaping Improvements (together with an irrigation system sufficient to adequately water the trees, plants or other landscaping Improvements). All landscaping and irrigation facilities must have the written approval of the Reviewing Authority before installation.

5.2.11 Nuisances, Dust Control and Construction Activities. No rubbish or debris of any kind shall be permitted to accumulate upon or adjacent to any Lot, Unit, or Parcel so as to create a nuisance or render any such property or activity thereon unsanitary, unsightly or offensive. Each Lot, Unit, and Parcel shall be landscaped and maintained in a manner which will minimize the possibility of dust being transmitted into the air and over adjacent properties. Although normal construction activities shall not be considered a nuisance or otherwise prohibited, Lots, Units, and Parcels must be kept in a neat and tidy condition during construction periods. No noxious or offensive activity shall be carried on or permitted on any Lot, Unit, or Parcel, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Lot, Unit, or Parcel, or which shall interfere with the quiet enjoyment of each of the Owners and Occupants. The Association may, but is not required, to take action to abate what any Owner may consider a nuisance.

Nothing herein shall purport to require that Declarant or any other Owner take action to abate any existing condition on land graded or developed prior to the date of recordation hereof, nor to abate any condition naturally existing upon the land.

5.2.12 Temporary Occupancy and Temporary Buildings; Outside Storage.

No trailer, tent, shack, garage, barn or temporary structure of any kind shall be used as a residence, whether temporary or permanent, except that during the construction process, a temporary building or structure may be erected, installed or maintained on a Lot or Parcel with the prior written approval of the Reviewing Authority, including the approval of the structure's location and appearance. Such temporary structures shall be removed immediately after completion of such construction, and that portion of the Lot or Parcel from which the same are removed shall be promptly placed in such condition as is otherwise required by this Declaration. Except during construction, no materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be stored on any area outside of a building unless approved in advance in accordance with Article 4. Any permitted outside storage shall be screened by a solid visual barrier so as not to be Visible From Neighboring Property, provided, however, that during construction of improvements on any Lot or Parcel, necessary construction materials and supplies may be stored on the Lot or Parcel without the need for a solid visual barrier providing such materials and supplies are kept in neat order considering the construction activities. The Reviewing Authority is authorized to designate the areas and manner in which supplies of building materials and construction equipment shall be stored and the routes construction vehicles may use. All such designations shall be reasonable.

5.2.13 Health and Welfare. In the event uses of, activities on, or facilities upon or within a Parcel, Unit, or Lot are deemed by the Board to be a nuisance or to adversely affect the health or welfare of Owners or Occupants, the Board or the Reviewing Authority may make rules restricting or regulating their presence.

5.2.14 Incidental Uses. Subject to the provisions of any applicable Tract Declaration, the Board may approve, regulate and restrict incidental uses of property within a Land Use Classification. By way of example and not of limitation, the Board may adopt Rules governing tennis and/or swimming clubs and facilities, and other recreational facilities.

5.2.15 Mineral Exploration; Prohibition of Wells. No Lot, Unit, or Parcel shall be used in any manner to explore for, quarry, mine, remove or transport any water, oil or other hydrocarbons, minerals, gravel, gas, earth or any earth substance of any kind, by well, derrick or otherwise, except in each case as Declarant shall specifically approve.

5.2.16 Diseases and Insects. No Owner or Occupant shall permit anything or condition to exist upon any Lot, Unit, or Parcel which shall induce, breed or harbor infectious plant or animal diseases or noxious insects.

5.2.17 Parcel Coverage. The percentage of each Lot or Parcel which may be covered by buildings (as well as the location of such buildings and other improvements on each Lot or Parcel) shall be subject to the review and approval of the Reviewing Authority, as part of the Reviewing Authority's review of plans for proposed improvements on such Lot or Parcel pursuant to this Declaration, but shall in no event violate County or local ordinances and regulations in effect from time to time. This Section shall not permit restrictions which impede the use and enjoyment of a Lot, Unit, or Parcel in accordance with the provisions of the Master Development Plan, nor shall it apply to Declarant's Lots, Units, or Parcels nor to Lots, Units, or

Parcels owned by a Developer Owner whose plans and specifications have been approved by the Reviewing Authority.

5.2.18 Party Walls. Except as hereinafter provided, the rights and duties of Owners of contiguous Lots or Parcels which have shared walls or fences ("Party Walls") shall be as follows:

(a) Each Owner shall have the right to use the Party Wall, provided that such use does not interfere with the other Owner's use and enjoyment thereof.

(b) If a Party Wall is damaged or destroyed through the willful or negligent act of an Owner or the Owner's Occupants, agents, guests or family, the Owner or Occupant as the case may be, shall be obligated to rebuild and repair the Party Wall at the Owner's sole expense. Any dispute over an Owner's liability shall be resolved as provided below.

(c) In the event any Party Wall is damaged or destroyed other than by the willful or negligent act of an adjoining Owner or the Owner's Occupants, agents, guests or family, or deteriorates from ordinary wear and tear, it shall be the joint obligation of all Owners whose Lots or Parcels adjoin the damaged or destroyed portion of such Party Wall to immediately rebuild and repair such Party Wall, such expense to be ratably divided among such Owners on the basis of the amount of frontage of their respective Lots or Parcels on the damaged or destroyed Party Wall.

(d) In the event of a dispute between Owners with respect to a Party Wall or the sharing of the cost thereof, such Owners shall submit the dispute to the Reviewing Authority, whose decision shall be binding unless appealed to the Board, in which event the Board's decision shall be binding and final.

(e) Notwithstanding the foregoing and, unless otherwise expressly agreed in writing by the Association, in the case of walls or fences: (a) between Common Area and Lots or Parcels; or, (b) situated on Common Area within or adjacent to a Lot or Parcel, the Owners and Occupants of such Lots or Parcels shall be responsible, at their expense, for all maintenance, repair, painting and replacement thereof.

(f) This Section does not and is not intended to control or relate to Party Walls between Residential Condominium Developments or Condominium Units, or between non-residential condominium units, if any, which shall be governed, to the extent applicable, by Utah Code Annotated, Title 57, Chapter 8, and by any condominium declaration recorded pursuant thereto.

5.3 Covenants, Conditions, Restrictions and Easements Applicable to Single Family Residential Use, Residential Apartment Use, Residential Condominium Use, and Townhouse Residential Use. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots, Units, and Parcels included within the Land Use Classifications of Single Family Residential, Residential Apartment Development, Residential Condominium Development or Townhouse Residential, and to the Owners and Occupants thereof:

5.3.1 Single Family Residential Use. No structure whatsoever, other than one private, Single Family residence per Lot, together with such private garage, dwelling space, guest facilities, recreational and storage facilities which may be approved in advance by the Reviewing Authority in accordance with this Declaration, shall be erected, placed or permitted on any Lot designated in a Tract Declaration as having Single Family Residential Use Land Use Classification, and no use of any such Lot may be made other than Single Family Residential Use.

5.3.2 Residential Apartment Use, Townhouse Residential Use and Residential Condominium Use. No structure whatsoever, other than one or more buildings each containing one or more private Dwelling Units, together with parking garages or structures, storage facilities, recreational facilities, including but not limited to tennis courts and swimming pools, and property management sales or rental offices incidental or appurtenant thereto, shall be erected, placed or permitted on any portion of the Covered Property designated in a Tract Declaration as having Land Use Classifications of Residential Apartment Development, Townhouse Residential Use or Residential Condominium Development. No use of any Apartment, Townhouse, Condominium, Lot, Unit, or Dwelling Unit may be made other than by a Single Family.

5.3.3 No Commercial Use. No gainful occupation, profession, trade, or other nonresidential use shall be conducted on or in any Lot, Unit, or Parcel designated for Residential Use except as set forth in this subparagraph. Declarant and a Developer Owner may maintain sales offices, construction offices and sales models on the Covered Property and an Owner or Occupant may carry on a "Home Occupation" as provided below or a "Home Based Business" as provided in the Development Agreement. A "Home Occupation" as permitted hereby means work within the Dwelling Unit (such as the performance of accounting work, creation of art work, etc.) provided that:

- (a) the existence or operation of the business activity is not apparent from the outside of the Dwelling Unit and no sound or smell from the outside of the Dwelling Unit indicating the conduct of business is detectable;
- (b) the business activity conforms to all zoning requirements for the Lot or Unit; and
- (c) the business activity does not involve traffic by Persons who do not reside therein, nor regular arrival of employees of the Owner; and
- (d) the business activity is lawful and consistent with the residential character of the neighborhood and does not constitute a nuisance or hazard or offensive use within the Covered Property as determined in the discretion of the Board.

If the Board determines that the Home Occupation violates the provisions hereof, then the Board shall have the authority to require that the Home Occupation in question cease immediately. In no event shall any form of detention house, reform school, rooming or boarding house, sanatorium, or any form of group home whether or not providing services to occupants, be permitted within the Covered Property, except that this prohibition shall not apply to group homes or similar living or care arrangements which by state or federal law may not be prohibited by enforcement of private restrictive covenants.

Notwithstanding the foregoing, nothing herein shall limit the placement of antennae, microwave reception or communication equipment, fiber optic facilities, or other such equipment which Declarant may approve.

5.3.4 Front Yard Landscaping. The Association may elect to maintain front yard landscaping, or a Tract Declaration approved by Declarant may require such maintenance. Such landscaping shall generally be limited to:

(a) landscaping located in front yards outside the courtyards, limited to such landscaping initially installed by a Developer Owner; and

(b) if the Board elects, lighting fixtures, if any, and/or light bulbs appurtenant to front courtyard walls.

The maintenance obligation for front yards shall not include repair of any damage which is not regular maintenance. Repair, and any expense therefor, of any damage to landscaping shall be the responsibility of each Owner.

The Association shall have the right, but not the obligation, to maintain other front yard features if necessary to create a uniform and pleasing appearance of the Covered Property, and such right shall include the painting or maintenance of the front face of any garage door (excluding the mechanical or operating components thereof). The Association shall have an easement onto each Lot for purposes of the foregoing matters of maintenance and repair.

Water for such vegetation, and any damage from irrigation systems serving the same, and electricity required therefor or for any lighting, shall be the sole responsibility of the Owner whose Lot or Parcel is affected or benefited thereby as determined in the sole discretion of the Board, unless the Board determines to make such expense a Common Expense. An easement on, in and over such portions of each Lot or Parcel, and rights to connect to water and electric sources, and to place any fixtures and equipment, for such purposes is hereby granted and conveyed to the Association by this Declaration. No Owner shall disconnect or otherwise preclude or interfere with electric connections or the delivery of water to their Lot or Parcel or to any adjacent Lot, Parcel or Common Area.

Each of such Lot or Parcel Owners, for themselves and for and on behalf of their family members and tenants, licensees and invitees, do hereby waive and release the Association, the Developer Owner and Declarant from any and all claims, demands and liabilities which are, or may be, asserted relating in any way to such landscaping, improvements or equipment, or the maintenance, repair or replacement thereof, or the use of water or electricity in connection therewith, including, without limitation, any claims for Personal injury or property damage, or for expense for water or electric charges.

Where the Association has undertaken front yard landscaping or related maintenance activity within a District, District Assessments may be levied against the Lots or Parcels benefited.

5.3.5 Leasing. The entire (but not less than all) of a Dwelling Unit may be leased to a Single Family tenant from time to time by the Owner for a minimum term of one (1) year, subject to the provisions of this Declaration, any applicable Tract Declaration and the Association Rules. Each Owner shall provide to the Association a copy of any written lease agreement for any Lot or Unit upon request of Association, and Tenants shall be required in each form of lease to abide by all provisions of this Declaration. Should a Tenant fail to so abide, the Association shall have the right to cause the Owner to declare a default under the lease and to take appropriate action, including eviction of the Tenant.

5.3.6 Animals. No animal, livestock, poultry or fowl of any kind other than a reasonable number of generally recognized house pets, shall be maintained on or in any Lot, Unit, or Parcel and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any permitted pet shall be Visible From Neighboring Property. The Board shall have the right by Rule or otherwise to determine what shall constitute a generally recognized house pet, and what a reasonable number of such pets shall, in any instance, constitute.

Notwithstanding the foregoing, no permitted pets may be kept on or in any Lot, Unit, or Parcel which result in an annoyance to other Owners or Occupants in the vicinity. All permitted pets shall be leashed when not on a Lot or in a Unit owned by the pet's owner or on which the pet's owner is a Tenant, guest or invitee. The Board has the right, after notice and the opportunity for a hearing, to require the removal of any pet which the Board, in its sole discretion, has determined is a nuisance. Persons walking pets shall carry a "pooper scooper" (a hand held shovel or other instrument designed for removing animal excrement from the ground) with them at all times and shall remove the pet's excrement from the Covered Property.

5.3.7 Clothes Drying Facilities. No outside clotheslines or other facilities for drying or airing clothes shall be placed on any Lot, Unit, or Parcel without the prior written consent of the Reviewing Authority unless they are not Visible from Neighboring Property.

5.3.8 Window Treatments. No visible window covering or reflective covering may be placed, or permitted to remain, on or adjacent to the exterior of any window of any building, structure or other improvement without the prior written approval of the Reviewing Authority.

5.3.9 Garbage. No garbage or trash shall be allowed, stored or placed on a Lot or Parcel or in a Unit except in sanitary, covered containers. In no event shall such containers be Visible From Neighboring Property, except for a reasonable time immediately prior to and after collection. All trash and garbage shall be regularly removed from each Lot, Unit, and Parcel and shall not be allowed to accumulate thereon. The Board may also determine to require that the Association or individual Owners shall employ one or more of a limited number of waste management or pick-up companies to retrieve waste and refuse from the Covered Property or portions thereof. The Board may establish regulations as to the times and duration that waste containers may be visible from Neighboring Property for pick-up, and may determine and regulate the type and appearance of waste containers.

5.3.10 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, stored or maintained upon any Lot, Unit, or Parcel, except:

(a) during the period of construction, such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a building, appurtenant structures or improvements thereon; or

(b) that which Declarant, the Association, a Developer Owner, or a District Association may require for the development, operation and maintenance of the Covered Property or other portions of the Covered Property.

5.3.11 Antennas and Dishes; Solar Devices. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot, in any Unit, or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 47 CFR Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time.

The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder, and to establish reasonable, non-discriminatory restrictions relating to location and safety of antenna structures.

To the extent that reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules of the Association may only be installed in a side or rear yard location, not Visible From Neighboring Property, or integrated with the Residence and surrounding landscaping to prevent or limit such visibility. Antennae shall be installed in compliance with all applicable laws and regulations.

Notwithstanding the foregoing, nothing herein shall limit the placement of antennas, microwave reception or communication equipment, fiber optic facilities, or other such equipment which Declarant may approve.

No solar heating or cooling equipment or other visible solar device may be installed or erected without approval of the Reviewing Authority, which shall give due regard to state law restricting the limitation of such devices. To the extent permitted by law, any such equipment installed on a Dwelling Unit or on a Lot shall be designed to integrate into the architecture of the Improvements upon the Lot, or into the Dwelling Unit, and shall not detract from the aesthetics of the Improvements.

5.3.12 Signs. No signs of whatever nature may be erected or placed within the Covered Property, except such signs as are permitted by the Design Guidelines, and further except for those signs approved by the Board or by Declarant. Declarant may approve signs without any other consent or approval, and may approve signs of Developer Owners. Except as stated, no sign shall be placed on any Lot, Unit, or Parcel other than:

- (a) signs required by legal proceedings;
- (b) a maximum of 2 identification signs for Dwelling Units, each with a maximum face area of 72 square inches or less;
- (c) such other signs as the Design Guidelines shall permit, including signs necessary for marketing and sales by Developer Owners; and

(d) such signs approved by Declarant.

The foregoing restrictions shall be subject to such limitations and privileges as are established at law, including for the placement of political signs and signs pertaining to candidates for political office or to other such protected matters.

After providing notice to any Owner that a sign is in violation of the Governing Documents, the Association has the right to remove such signs from the Common Areas, the Lot, Unit, or Parcel, or any other place in the Covered Property and to dispose of such signs. The Association has an easement over any Lot or Unit for that express purpose and in exercising its easement rights is not guilty of trespassing.

In addition to the foregoing, Declarant hereby reserves to itself and its agents and assignees a temporary easement over, upon and across all Common Area for purposes of installing and maintaining signs for the purpose of, among other things, identifying Persons building upon or developing portions of the Covered Property. The easement reserved hereby shall expire and terminate upon completion of construction and sales activities upon the Covered Property and Annexable Property, but in no event later than twenty (20) years after the date this Declaration is recorded.

5.3.13 Vehicles and Parking. Silver Creek Village's Roadway and Parking Standards, including, without limitation, the designated on-street parking plan during winter months, are set forth on Exhibit G to the Development Agreement. Such Roadway and Parking Standards contained in the Development Agreement shall control over any contrary provision contained in this Declaration. As used in this Section: (a) "Motor Vehicle" means a car, van, sport utility vehicle, bus, truck, recreational vehicle, motor home, motorcycle, all-terrain vehicle, utility vehicle, pickup truck or other motor vehicle; and (b) "Streets" means the streets shown on any Plat of the Covered Property.

No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Common Area. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment may be parked, kept or stored on any Lot so as to be Visible From Neighboring Property, except with the written approval and limiting stipulations of the Reviewing Authority which shall include provision for mandatory screening and placement of any such equipment or vehicle, but in no event may any such equipment or vehicle be placed in any front yard, driveway, or driveway-apron area. No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar equipment or vehicle may be parked, kept or stored on the Streets, except that the Board may adopt rules and regulations governing the subject matter and further restricting such parking or establishing limited exceptions thereto, such as for loading and unloading, emergencies, and the like.

Except as permitted by this Section, no Motor Vehicle may be parked, kept or stored on any Lot or the Common Area. No Motor Vehicles designed or used for carrying merchandise, supplies or equipment for commercial purposes may be parked on the Common Area or on a Lot, except for the temporary parking of the Motor Vehicles of contractors, subcontractors, suppliers or vendors of the Association or the Owners, Tenants or Residents.

It is also the intent of this Section to require that Motor Vehicles owned or leased by an Owner, Tenant or Resident of the Lot be parked only in the garage, carport, driveway or approved driveway expansion areas situated on the Lot, as constructed by Developer Owners in the course of original construction approved by the Reviewing Authority. Accordingly, Motor Vehicles owned or leased by an Owner, Tenant or Resident of a Lot must be parked in the garage or carport situated on the Lot to the extent space is available in the garage or carport for the parking of such Motor Vehicles. If space is not available in the garage or carport, then Motor Vehicles owned or leased by an Owner, Tenant or Resident of a Lot may be parked on the driveway constructed as part of the initial construction of Improvements on the Lot. Parking of Motor Vehicles owned or leased by an Owner, Tenant or Resident of a Lot may only be parked on an approved driveway expansion area if space for the parking of such Motor Vehicles is not available either in the garage or carport or in the driveway constructed as part of the initial construction or Improvements on the Lot. The parking of a Motor Vehicle owned or leased by an Owner, Tenant or Resident of a Lot on a driveway expansion area is also subject to such rules and regulations as may be adopted by the Board.

No Motor Vehicle of any kind may be stored on a Lot except in a garage, and no Motor Vehicle of any kind may be stored on the Common Area. For purposes of illustration but not of limitation, a Motor Vehicle shall be deemed stored if it is covered by a car cover, tarp or other material. Motor Vehicles owned by guests of an Owner, Tenant or other Resident may be parked in the driveway on a Lot or, in the case of visits, parties, or special events, on the Streets or in designated parking spaces on the Common Area.

Recreational vehicles, motor homes and similar vehicles owned or leased by an Owner, Tenant or Resident may be parked in the driveway on a Lot for the purpose of loading or unloading, subject to such limitations as may be established by the Board.

No Motor Vehicle shall be constructed, reconstructed or repaired on any Lot in such a manner as to be Visible From Neighboring Property, and no inoperable Motor Vehicle may be stored or parked on any Lot in such a manner as to be Visible From Neighboring Property, nor stored or parked on the Streets or any other part of the Common Area. Except for emergency repairs, no Motor Vehicle shall be constructed, reconstructed or repaired on the Streets or any other part of the Common Area.

The Board shall have the right and power to adopt rules and regulations governing and further restricting the parking of Motor Vehicles on Lots or the Streets and implementing the provisions of this Section and establishing certain exceptions that may in certain cases be warranted. In the event of any conflict or inconsistency between the provisions of this Section and the rules and regulations adopted by the Board, the provisions of this Section shall control.

5.3.14 Use of Garages. Vehicles shall be kept in garages where adequate space exists, or in other designated parking areas or as otherwise required in a District Declaration or Tract Declaration. No garage doors shall be permitted to remain open except for a temporary purpose (such as during ingress or egress, or when the garage is physically occupied by an Owner or Occupant therein) and no less than two stalls in all garages shall be kept free of obstruction and available for parking of vehicles.

The Association may adopt additional parking restrictions including the establishment of fines and assessments for their violation, enforceable as all other Assessments

and in the same manner as other provisions of this Declaration. The Association may also delegate its authority to enforce such parking restrictions to the appropriate District Association.

5.3.15 Commercial Vehicles. No vehicle shall be parked on the Covered Property if the exterior of the vehicle contains or exhibits any signage relating to a commercial enterprise or commercial activity that is visible from the exterior of such vehicle (and the vehicle is not kept in an approved enclosed garage), except such signage that is limited to the exterior driver or passenger door of such vehicle shall be permitted if the vehicle is used by the Owner as regular transportation in commuting to work.

No vehicle shall be permitted to park on a Lot, even if such vehicle otherwise qualifies under the preceding paragraph, or under any other provision hereof, if such vehicle is used for a commercial enterprise or activity and such vehicle has ladders, work beds, lights and/or other commercial items attached to or hanging from such vehicle so as to be visible from the exterior of such vehicle (and the vehicle is not kept in an approved enclosed garage).

The foregoing restriction shall not apply to vehicles parked within an enclosed structure approved by the Reviewing Authority, nor to commercial vehicles of contractors, Developer Owners and others working on the Covered Property, nor to vehicles of vendors, business invitees and others in the process of temporarily serving the Covered Property.

5.3.16 Model Homes. Nothing contained herein or in any applicable District Declaration or Tract Declaration shall prohibit the construction and maintenance of model homes, sales offices, property management offices and parking incidental thereto by Persons engaged in the construction, servicing, marketing, rental or management of Dwelling Units within the Covered Property, provided, however, that the models are open only during reasonable hours and otherwise are in compliance with the provisions of this Declaration and ordinances of the City. Except as otherwise approved in writing by the Board:

(a) all model homes and sales offices shall cease to be used as such at any time the owner (or lessee thereof as the case may be) is not actively engaged in the construction or sale of Dwelling Units within the Covered Property (provided that the foregoing portion of this sentence shall not apply to property management offices or other offices or stations permitted under zoning which serve the Covered Property, including utility offices and offices related to communications facilities and services); and

(b) no model home, sales office, or property management office shall be used for the sale or rental of residences not located within the Covered Property.

5.4 Covenants, Conditions and Restrictions Applicable to Non-Residential Use and Mixed Use. Should any portion of the Covered Property be permitted by Declarant to be used for a Non-Residential Use or Mixed Use, Declarant may record Additional Covenants as a part of a Tract Declaration therefor, and may establish in such Tract Declaration special provisions for voting rights, assessment obligations, and other pertinent restrictions under the purview of the Association.

5.5 Variations. Declarant may, at its sole discretion, grant variations from the restrictions set forth in Article 5 hereof or in any Tract Declaration if Declarant determines:

(a) Either that (a) a particular restriction would create a substantial hardship or burden on an Owner or Occupant and that such hardship is not attributable to the Owner's or Occupant's acts; (b) a change of circumstances has rendered the particular restriction obsolete; or (c) other circumstances warrant a variance in Declarant's sole and absolute discretion; and

(b) The activity permitted under the requested variance will not have a substantially adverse effect on other Owners and Occupants.

Declarant may assign to the Reviewing Authority its right to grant and approve variances. Such assignment may be subject to terms, conditions, and limitations. Any request made to Declarant or to the Reviewing Authority, shall be made in writing and be accompanied by supporting documentation. Declarant or the Reviewing Authority, if other than Declarant, shall approve or disapprove of requests, in writing, and promptly, as the particular circumstances may warrant. All decisions of Declarant or the Reviewing Authority shall be final and non-appealable. No variance granted by the Reviewing Authority, if other than Declarant, may be given that reverses or alters a decision made by Declarant unless Declarant shall consent thereto.

ARTICLE VI

ORGANIZATION OF ASSOCIATION

6.1 General Purpose and Charge. The Association is a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents. Neither the Articles nor the Bylaws shall be amended or interpreted so as to be inconsistent with this Declaration.

6.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws, which Bylaws are attached as Exhibit C. During the Declarant Control Period, the Board shall consist of at least three (3) directors who shall be appointed by Declarant as the Class B Member. After the Declarant Control Period has expired, or at such earlier time as Declarant relinquishes its rights to appoint the Board, the Board shall be elected by the Class A Members as more fully set forth in the Bylaws of the Association. Reference is made to the Bylaws for the manner in which the Class A Members shall elect, and Class B Member(s) shall appoint, directors of the Association.

The Board may appoint various committees at its sole and absolute discretion, including an advisory committee of Class A Members who may provide non-binding advice to the Board and assist with gradual transition from control by the Class B Members to the Class A Members. The Board may appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to the managing agent contemplated in Section 6.3.

6.3 Managing Agent. All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to a professional management company as managing agent under a management agreement; provided, however, that no such delegation shall relieve the Association of its obligation to perform any such delegated duty. Any agreement for professional management shall not exceed a term of one year, which term may

be renewed by agreement of the parties for successive one-year periods. Any such agreement shall provide for termination by either party with or without cause and without payment of a termination fee upon ninety (90) days' written notice, provided, however, that the Association may terminate the agreement for cause upon thirty (30) days' written notice.

6.4 Association Rules. By a majority vote of the Board, the Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may restrict and govern the use of the Common Area, provided, however, that the Association Rules shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles, or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of the Covered Property, the Common Area and the Limited Common Area. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth herein, and may be enforced in the same manner as the provisions of this Declaration. A copy of the Association Rules as adopted, or amended, shall be available for inspection at the office of the Association. During the period while the Class B Membership continues to exist, the Class B Member may disapprove of actions of the Board to adopt, amend or repeal the Association Rules.

6.5 Personal Liability. No Reviewing Authority, Board member, officer, committee member, employee or representative of the Association, or the Association itself, nor Declarant, shall be Personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, costs, fees (including reasonable attorneys' fees), or prejudice suffered or claimed on account of any of their acts, omissions, errors or negligence, provided, however, that the limitations set forth in this Section shall not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

6.6 District Associations. In the event any homeowners or similar District Association is formed by a Developer Owner (other than Declarant or a Declarant Affiliate) of a group of Lots, Units, or Parcels, such District Association's governing documents shall not be effective unless they have been approved in advance by Declarant during the Declarant Control Period or, thereafter, by the Board, and they specify that such governing documents, such group of Lots, Units, or Parcels, the District Association, and the District Association's members are subject and subordinate to this Declaration and the Articles, Bylaws, and Association Rules. Neither Declarant nor the Board shall disapprove any such Governing Documents unless, in the Board's sole discretion, either:

- (a) they are inconsistent or in conflict with this Declaration, the Articles, the Bylaws, the Association Rules, the Design Guidelines, any applicable Tract Declaration, or are legally or practicably ineffective to accomplish their intended purposes; or
- (b) they fail to contain the recitation required by the provisions above.

District Associations shall have the right to own, operate and maintain Limited Common Area and shall not be required to dedicate the same as Common Area hereunder.

Notwithstanding any other provision of this Declaration, no District Association may be created without the written approval of Declarant during the Declarant Control Period.

6.7 Mergers or Consolidations. The Association shall have the right, power and authority to participate in mergers or consolidations with any other nonprofit corporation whose objectives, methods, and taxable status and format of operation are similar to those of the Association.

6.8 Contracts with Others. Adjacent to or in the vicinity of the Covered Property are properties that have been or, in the future, may be developed as independent commercial and/or residential areas. Declarant or the Association may enter into a covenant to share costs with all or any of the owners of such adjacent or nearby commercial and/or residential areas which allocates access, use of Common Area, maintenance responsibilities, expenses, and other matters between the Association and such property owners. Unless annexed in accordance with the provisions hereof, the owners of adjacent or nearby properties shall not be entitled to vote on Association matters, shall not be Members of the Association, and shall not be subject to Assessments or other conditions or restrictions set forth in this Declaration.

ARTICLE VII

MEMBERSHIPS AND VOTING

7.1 Votes of Owners. Every Owner of a Lot, Unit, or Parcel (but not an Owner who owns solely Exempt Property), and Declarant so long as it is a Class B or Class A Member, shall automatically be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Class A Member shall have the following applicable number of votes in regard to votes of the Members of the Association:

7.1.1 Single Family Lot. Each Lot within a subdivision for Single Family Residential Use shall be entitled to one (1) vote for each Lot owned;

7.1.2 Condominium Unit. Each Condominium identified in a condominium plat or map Recorded shall be entitled to one-half (1/2) of a vote for each Condominium owned;

7.1.3 Townhouse Unit. Each Townhouse identified in a plat to be owned separately, and not operated as an Apartment, shall be entitled to one-half (1/2) of a vote for each Townhouse owned;

7.1.4 Residential Single Family Parcel. In the case of a Single Family Parcel which has not been divided into Lots by a subdivision plat or other recorded instrument, six (6) votes for each Net Acre owned within such Parcel.

7.1.5 Residential Condominium Parcel. In the case of a Condominium Parcel for which a condominium plat or map has not been recorded, six (6) votes for each Net Acre owned within such Parcel.

7.1.6 Residential Townhouse Parcel. In the case of a Townhouse Parcel for which a subdivision plat has not been recorded, six (6) votes for each Net Acre owned within such Parcel.

7.1.7 Apartment Parcel. In the case of an Apartment Parcel upon which construction has not yet been completed, six (6) votes for each Net Acre owned within such Parcel; provided, however, that upon completion of construction upon an Apartment Parcel, or

Townhouse Parcel if the Townhouses will be operated as an Apartment, the Class A Owner thereof shall have one-quarter (1/4) of a vote for each Apartment Unit built upon the Parcel.

7.1.8 Commercial Uses. The Owner of Parcels on which Commercial Uses (including an Assisted Living Use) are authorized by a Tract Declaration or Master Development Plan shall be entitled to six (6) votes for each Net Acre owned with such Parcel owned; provided, however, that once a Commercial or Assisted Living building is located on such Parcel, an Owner thereof shall have one (1) vote for each 1,000 square feet of interior square footage within such a building, rounded down to the nearest 1,000 square feet.

7.2 Membership is Appurtenant to Ownership. Each Owner's Class A Membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot, Unit, or Parcel to which the Membership is attributable, except that Declarant shall be a Member of the Association for so long as Declarant possesses either a Class B or Class A Membership, unless Declarant shall earlier relinquish its Membership. There shall be only the Memberships for each Lot and Parcel as are described herein. Joint ownership or ownership of undivided interests in any property as to which a Membership is established pursuant hereto shall not increase the number of Memberships or votes attributable to the Lot, Unit, or Parcel. Rather, the votes must be cast together in one unit.

7.3 Declarant. Declarant shall be a member of the Association for so long as it holds a Class A Membership or a Class B Membership.

7.4 Membership Classes. The Association shall have two classes of Members: Class A Members and Class B Members.

7.4.1 Number of Votes. Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section 7.1.

7.4.2 Termination of Class B Membership. The Class B Membership shall terminate and be converted to a Class A Membership, on the basis of the number of Lots, Units, and/or Parcels owned by the Declarant, upon the happening of the first of the following events: (a) two (2) years after termination of the Declarant Control Period (as such period may revive); or (b) when, in its discretion, Declarant so determines to terminate and convert to Class A Membership all or any portion of the Class B Membership.

Declarant shall have the right to assign its rights and privileges as Declarant and as the Class B Member in whole or in part. Such assignment must be in a writing which is Recorded may include all special voting and other provisions set forth herein.

Upon termination of the Class B Membership, Declarant and any Declarant Affiliate shall be a Class A Member entitled to vote for all Lots, Units, and Parcels which it owns. Should the Class B Membership not have expired, Declarant shall retain its Class B Membership, even if Declarant owns no Lot or Parcel.

The Class B Membership, if once expired, shall revive if subsequent annexations or other events should occur which cause the Declarant Control Period to revive pursuant to Section 1.32 above.

7.5 Right to Vote. Class A Members' votes shall only be cast by Voting Members, except as stated otherwise in the Governing Documents. The Voting Member shall cast the votes attributable to a District as required by the applicable District Declaration. No change in the ownership of a Lot or Parcel shall be effective for voting purposes until the Board receives written notice of such change together with satisfactory evidence thereof, for example, the recorded deed showing the name of the Owner of such Lot, Unit, or Parcel. The vote for each Member must be cast as a single unit and solely by the Voting Member as and when applicable. Fractional votes shall not be allowed, except as provided in Section 7.1 relating to Apartments, Townhomes, Condominiums and Commercial Areas.

In the event that a Lot, Unit, or Parcel is owned by more than one Person and such Owners are unable to agree as to how their vote or votes shall be cast (such as when voting for the representative of a District), they shall not be entitled to vote on the matter in question. If any Owner casts a vote or votes representing a certain Lot, Unit, or Parcel, the Owner will thereafter be conclusively presumed to be acting with the authority and consent of all other Owners of such Lot, Unit, or Parcel unless objection thereto is made to the Board, in writing, at or prior to the time the vote or votes are cast. In the event more than one (1) Person casts or attempts to cast a vote for a particular Lot, Unit, or Parcel all such votes shall be deemed void.

7.6 Members' Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws, the Association Rules, and the Design Guidelines.

7.7 Control by Declarant, and Rights of the Class B Member. Declarant, as the Class B Member, has the right to control the Association and may appoint the members of the DRC and ARC, as more particularly set forth in Article IV. Such control shall exist by virtue of the right, at all times during the Declarant Control Period, to appoint the Directors of the Association, as well as their replacements in the event of death, removal, resignation or otherwise. Additionally, continuing even after expiration of the Declarant Control Period in connection with the situation contemplated by Section 14.2, the Class B Member may amend this Declaration, the Articles and Bylaws amendments proposed to be made by the Class A Members. The Class B Member and Declarant shall have such additional and other rights and powers as are set forth herein or in other Governing Documents, including the right to disapprove of actions of the Board.

In cases where by law a vote or approval of Members of an association is required before certain action may be taken, and where such action may not be taken without such vote or approval, then in addition to all of its rights of appointment or direct action granted hereunder, the Class B Member shall be deemed to have three (3) times the number of votes for each Lot, Unit, or Parcel owned that a Class A Member would have for such Lot, Unit or Parcel.

7.8 Voting Groups. Declarant may at any time during the period of the Class B Membership designate one or more Districts or Parcels within the Covered Property as a Voting Group. Should the Declarant elect to designate one or more Districts or Parcels as a Voting Group, the Board and Members shall take any and all action that is required to amend the Bylaws to contemplate the voting procedures for such group. The purpose of such designation shall be to enable each such Voting Group designated to elect at least one member of the Board at the option or election of the Members of such Districts and as set forth in the Bylaws. During such time as Declarant has the right to appoint any Director, Declarant may reserve the

right of appointment with respect to any particular District. It is acknowledged by all Owners, Members and Occupants that Declarant may determine to establish no separate Voting Groups, and such determination may be made at Declarant's sole and absolute discretion.

After such time as the Declarant Control Period has expired, the number of Voting Groups shall be not greater than the number of directors that the Class A Members are entitled to elect pursuant to the Bylaws. As more specifically set forth in the Bylaws, if there are fewer Voting Groups than directors to be elected, then the remaining directors shall, unless appointed by Declarant, be elected at large.

Declarant may at any time during the period of the Class B Membership change, amend or revoke the establishment of a Voting Group. After such time as any Voting Group has been established, the remainder of the Membership within the Covered Property not within a Voting Group shall be deemed a single Voting Group. This provision shall in no way limit or restrict Declarant's right to appoint the majority of the Board.

The votes of Class A Members within Voting Groups shall, unless determined otherwise by Declarant as provided herein, be cast solely by the Voting Members representing Districts within such groups if so required by a Tract Declaration approved by Declarant.

7.9 Transfer of Membership. The rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Class A Member's Lot, Unit, or Parcel, and then only to the transferee thereof. Such transfer may be affected by deed, intestate succession, testamentary disposition, foreclosure, or other legal process authorized under Utah law. Any attempt to make a non-approved form of transfer shall be void. Any transfer of ownership in a Lot, Unit, or Parcel shall operate to transfer the Membership appurtenant to ownership to the new Owner. The Association may charge a reasonable fee, as established by the Board, for the change in membership on the records of the Association.

7.10 Compliance with Law. All notices or other express requirements shall comply with Utah Code Annotated, Title 16, Chapter 6a (Utah Revised Nonprofit Corporation Act), but only to the extent applicable, and only to the extent permitted provisions of the Governing Documents do not otherwise control.

ARTICLE VIII

ASSESSMENTS AND CREATION OF LIEN

8.1 Creation of Assessment Lien; Personal Obligation of Lot Owner. Each Owner by acceptance of a deed therefor (whether or not it should be so expressed in any such deed or other instrument) is deemed to covenant and agree to pay to the Association the Assessments when due. The amount and time for payment of the Assessments shall be determined by the Board pursuant to this Declaration and the Articles and Bylaws. In determining the amount of the Assessments, the Board may give such consideration as it determines appropriate to any surplus funds or other revenue balances held by the Association from prior years and the Board shall be entitled to establish such reasonable reserves for the Association as it deems appropriate.

Assessments, together with interest thereon and late charges and reasonable attorneys' fees, if any, incurred by the Association in connection with the enforcement and

collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing servitude and lien upon the Lot, Unit, or Parcel against which such Assessments are made and, in addition, shall be the Personal obligation of the Owner of such Lot, Unit, or Parcel at the time when such Assessments become due and payable. This provision shall be subject to such limitations as are imposed by law, including Utah Code Annotated Title 57, Chapter 8a (the Utah Community Association Act), and such limitations and exemptions as are set forth in Section ___ hereof.

8.2 Annual Assessments. The Association by and through the Board shall determine and levy the Annual Assessments for the purposes set forth hereinbelow. The Annual Assessments levied by the Association shall be used to accomplish the duties and purposes of the Association within the Covered Property, to pay the costs of administration of the Association and the maintenance of the Common Area, to establish reasonable reserves, and to otherwise further the interests of the Association as the Board deems appropriate. The Annual Assessments shall take into account the Common Expenses of the Association benefiting all Lots, Units, and Parcels, and distinguish such expenses from District Expenses.

Subject to the limitations hereof, the Board may, during an Assessment Period, revise the amount of the Annual Assessment in order to meet expenses which exceed the amounts previously budgeted by the Association and collect such increased Annual Assessment in accordance with the provisions hereof.

8.3 Annual Assessment Period. Except as otherwise provided herein below, the Assessment Period shall be the calendar year. The Board may, in its sole discretion, from time to time, change the Assessment Period. The initial Assessment Period shall commence upon the Recording of the first District Declaration or Tract Declaration and terminate on December 31 of the same year. The Annual Assessments shall be prorated for the initial Assessment Period. Without limitation, Assessments shall commence upon initial conveyance to any Person, other than Declarant or to a Declarant Affiliate, whether such initial conveyance is to a Developer Owner or to a Non-Developer Owner.

If any installment permitted for the payment of Assessments is not paid when due, the Board may accelerate the entire Annual Assessment or other Assessment. Late fees and interest may be added to the Delinquent Amount of any Assessment, as provided herein, and become a part thereof, and may continue to accrue interest thereon, all to the extent permitted by law. Delinquent payments shall, to the extent permitted by law, apply first to the principal amount of any delinquent Assessments, then to accrued interest, and then to late fees and other sums due. The Owner shall also be liable for attorneys fees and legal costs, including litigation related expenses and expert witness fees, if any. Attorneys fees and costs incurred shall to the extent permitted by law, be deemed a part of the delinquent Assessment, and shall be secured by the lien therefor.

8.4 Association's Rights in Spending Funds from Year to Year. The Association shall not be obligated to spend in any year all monies received by it in such year, and the Board may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year. The Association shall be under no obligation to refund any surplus balance, and may transfer surpluses to the reserve account or other account at the Board's discretion.

8.5 Rate of Assessment. The amount of the Annual Assessments, Maintenance Assessments, District Assessments, and Special Assessments shall be established by the Board, in its sole discretion.

8.5.1 Base Assessment. In establishing its budget and creating its plan for Assessments each year, the Board shall first establish an Annual Assessment per Lot or Unit payable for each Lot or Unit (the "**Base Assessment**").

8.5.2 Payment of Assessment Based on Voting Rights. Each Owner shall pay the Base Assessment in proportion to its voting rights as a Class A Member. For example, an Owner of a developed Apartment would pay one-quarter (1/4) of the Base Assessment for each Apartment owned, an Owner of a Lot shall pay the Base Assessment, an Owner of an undeveloped Parcel shall pay six (6) Base Assessments for each Net Acre owned, an owner of a Parcel with Commercial Use shall pay the Base Assessment for each 1,000 square footage of interior square footage, and so forth. Notwithstanding the foregoing, the Base Assessment for Affordable Housing Units which are not occupied by the Owner thereof (i.e., Affordable Housing Units which are held by an Owner for rental to third parties) shall be limited to the lesser of (a) the Base Assessment for such Unit if it was not designated as Affordable Housing, and (b) \$50.00 per month. The amount set forth in (b) in the preceding sentence (referred to in this subsection as the "**Cap Amount**") shall be subject to adjustment on the first day of each calendar year (each an "**Adjustment Date**"). The Cap Amount shall be adjusted effective on each Adjustment Date by an amount equal to the percentage increase, if any, in the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average (1982-84 = 100) (the "**CPI**") between (i) the month which is 12 months prior to the Adjustment Date, and (ii) the month in which the respective Adjustment Date occurs. Notwithstanding the foregoing, in no event shall the Cap Amount as adjusted be less than the Cap Amount for the date immediately preceding an Adjustment Date.

8.6 Obligation of Developer Owner

8.6.1 Twenty Five Percent Reduced Rates for Developer Owners. Subject to the provisions of Section 8.17 hereof, the Developer Owner of a Lot or Parcel, including a Non-Residential Parcel, is entitled to pay only 25% of the otherwise applicable Annual or Special Assessment for each Lot, Unit, or Parcel owned, until the earlier of:

(a) the initial conveyance of a Dwelling Unit on the Lot or Parcel to the first Non-Developer Owner thereof, or, in the case of an Apartment Parcel, the date of completion of construction of Apartments thereon, or the date of completion of construction of a Condominium building thereon in the case of a Condominium Parcel, or the date of completion of construction of a Non-Residential, Commercial, or Mixed Land Use building thereon in the case of a Non-Residential Parcel, Commercial Parcel, or Mixed Land Use Parcel; or

(b) the date which is at least twelve (12) months after the date of the initial conveyance of the Lot, Unit, or Parcel from Declarant to the first Developer Owner thereof.

8.6.2 Forty Percent Reduced Rates for Developer Owners. Subject to the provisions of Section 8.17 hereof, after such time as a Developer Owner no longer qualifies for the 25% rate set forth in Section 8.6 above, the Developer Owner of a Lot or Parcel, including a

Non-Residential Parcel, is entitled to pay only 40% of the Annual Assessments and Special Assessments for each Lot, Unit, or Parcel owned until the earlier of:

(a) the initial conveyance of a Dwelling Unit on the Lot or Parcel to the first Non-Developer Owner thereof, or, in the case of an Apartment Parcel, the date of completion of construction of Apartments thereon, or the date of completion of construction of a Condominium building thereon in the case of an Condominium Parcel, or the date of completion of construction a Non-Residential, Commercial, or Mixed Land Use building thereon in the case of a Non-Residential Parcel, Commercial Parcel, or Mixed Land Use Parcel; or

(b) twelve (12) months after the Developer Owner ceased to qualify for the reduced 25% rate above.

8.6.3 Completion of Construction. As used in this Section 8.6, "completion of construction", in the case of a Parcel designated for Apartment Land Use, Condominium Land Use, Non-Residential Use, Commercial Use, or Mixed Land Use, shall be the date of completion of construction of improvements as determined by the date of issuance of a certificate of occupancy for such improvements, or as determined by the Board in its sole discretion.

8.6.4 Discretion During Reduction Period. Because actual revenues may depend upon sales and other factors, the Board shall have the discretion to consider the percentages in this Section 8.6 to be maximums, with the actual amounts payable to be determined each year by the Board based on the Association's operating budget for the next fiscal year.

8.6.5 Partial Development of Parcels. In the case of a site plan approved by the Reviewing Authority for a Parcel on which it is contemplated that more than one building will be constructed, the Parcel will, for the purposes of this Article only, be deemed subdivided into the number of sub-parcels equal to the number of approved buildings set forth on the approved site plan.

8.6.6 Duty to Notify. If a Developer Owner ceases to qualify for the applicable reduced rate set forth above during any Assessment Period, such Developer Owner shall immediately notify the Board, in writing, of its change in status. If an Owner of a Lot, Unit, or Parcel having the right to pay the reduced rate fails to notify the Board of the date the payment amount is to be increased, that Owner will still be liable for the full amount of the Assessment as of the date it was required to pay that full or greater amount of the Assessment and such Owner's failure to notify the Board will not relieve the Owner of liability for the full amount of the Assessment.

8.6.7 Evidence of Qualification. The Board, at any time, has the right to request that any Developer Owner being assessed at a reduced rate furnish the Association with evidence that such Developer Owner continues to be entitled to the applicable reduced rate under this Section. If such Developer Owner fails to produce the requested evidence within 30 days of the date of the Board's request, or if the evidence which is furnished is unsatisfactory in the Board's reasonable discretion, to demonstrate that Developer Owner's continued entitlement to the reduced rate of Assessment, the Board may terminate the reduced rate as of the date reasonably deemed appropriate by the Board.

8.7 Obligation of Non-Developer Owner. A Non-Developer Owner (not including Declarant) is not entitled to the reduced assessment rates set forth in the above Sections and a Developer Owner is only entitled to such reduced rates if it is a Developer Owner of the specific Lot, Unit, or Parcel being assessed.

8.8 Maintenance Assessments. The Association may assess Maintenance Assessments against a Lot, Unit, or Parcel in the event the need for maintenance or repair of areas maintained by the Association is caused through:

8.8.1 the willful or negligent act or omission of any Owner (or of any other Person for whom such Owner is legally responsible under applicable state law); or

8.8.2 the maintenance of a Lot, Unit, or Parcel by an Owner, or failure to maintain, so as to present a nuisance, or to substantially detract from or negatively affect the appearance or quality of any neighboring Lot, Unit, or Parcel or other area; or

8.8.3 the maintenance of a Lot, Unit, or Parcel by an Owner, or failure to maintain, so as to violate this Declaration or any applicable Tract Declaration; or

8.8.4 any use of, or activity on, any Lot or Parcel that causes maintenance or repair costs incurred or to be incurred by the Association with respect to Common Area to be substantially greater than those costs which would typically be incurred in relation to such Common Area, whether such use or activity is of a continuing nature or an isolated event.

In any such case, the Board may, depending upon the circumstances, give notice to the Owner of such Lot or Parcel that unless specified corrective action is taken within a specified time period, the Association, at such Owner's cost, may take whatever action is appropriate to compel compliance including, without limitation, appropriate legal action.

If at the expiration of the specified time period the requisite corrective action has not been taken by the Owner at the Owner's sole cost, the Board is authorized and empowered, subject to such notice and hearing as may be required by law, at its sole discretion, to cause corrective action to be taken or to commence appropriate legal action and the cost thereof, including court costs and attorneys' fees, shall be charged to the Owner as a Maintenance Assessment.

The Maintenance Assessment shall be added to and become a part of the Assessments to which the offending Owner and the Owner's Lot, Unit, or Parcel is subject, shall be secured by the Assessment Lien, and shall be due fifteen (15) days after written demand or notice by the Board.

In no case may any form of Maintenance Assessment be levied or charged with respect to Lots, Units, or Parcels owned by Declarant.

This Section shall be subject to such equitable and other limitations as may be imposed by law, including by the Utah Community Association Act.

8.9 District Assessments. Where the Association has undertaken, by virtue of its obligations hereunder, or pursuant to a Tract Declaration or District Declaration approved by Declarant or by the Board as provided herein, or pursuant to any special contract executed by the Association, the responsibility to maintain, repair, replace, repave, resurface or operate

private streets or private roadways or any open space, recreational or other common facilities or any guard gates, or any Limited Common Area, the Board, if in its discretion determines that such private streets or private roadways (or appurtenant equipment and facilities) or open space, recreational or other common facilities or guard gates, exclusively or disproportionately benefit the Owners of certain groups of Lots, Units, or Parcels, may assess all (or such appropriate portion as the Board shall determine in its discretion) of the cost of such maintenance, repair, replacement, repaving, resurfacing, operation, and, if applicable, ownership, solely against the Lots, Units, or Parcels within such subdivision or area within the Covered Property (and the respective Owners thereof) as a District Assessment.

A District Assessment may also include the cost of any special or extra services provided by the Association to a District pursuant to an approved request under Section 7.7 hereof.

A District Assessment shall be assessed uniformly against each of the Lots, Units, or Parcels within such area and shall be secured by the lien for Assessments as described herein. Such additional District Assessment may also include amounts to establish and fund reserves as the Board may deem reasonable and appropriate. In any case where a District Association exists, the Board may require that the District Association collect and transmit District Assessments to the Association.

One of the purposes of this Section is to establish a mechanism whereby various facilities intended and designed solely or primarily for use by the Owners of Lots, Units, and Parcels within a particular area or subdivision may be owned and maintained by the Association at the sole and primary expense of such Owners, rather than to require formation of a District Association to undertake such ownership and maintenance.

A District Assessment pursuant to this Section shall be secured by the Assessment Lien on each Owner's Lot, Unit, or Parcel affected, and shall be due and payable by such Owners to the Association fifteen (15) days after such dates or times as are determined by the Board.

8.10 Fines and Penalties. If any Owner, his or her family, or any licensee, invitee, tenant or lessee violates the provisions hereof, or any provision of any of the Design Guidelines or other rules of the Association, the Board after providing the Owner with notice of the violation and an opportunity for a hearing as required by law, may levy a fine upon the Owner, may suspend the violator's right to use the Common Area and may charge such Owner all costs incurred by the Association in connection with enforcement or other action taken by the Association, including attorney's fees and costs incurred. Such violation shall also be grounds for the Association, in its discretion, to suspend the said rights of the Owner and its family members, guests and invitees.

The Board may establish a procedure for conducting hearings and imposing penalties. Any fines imposed against the Owner which are not paid within fifteen (15) days of notice of the due date, may be charged to the Owner of the Lot, Unit, or Parcel in question, may be collected in the same manner as delinquent Assessments, and shall be deemed a part of the Assessments for which such Owner is liable, with a lien on the Lot, Unit, or Parcel to secure same, all as provided by law for the collection of Assessments, penalties and other charges.

In no event shall any fine be imposed for a default or violation of the Governing Documents, other than a failure to pay Assessments, without first affording the Owner notice and an opportunity for hearing.

This Section shall be subject to such limitations as exist at law, including by the Utah Community Association Act.

8.11 Special Assessment. In addition to the Annual Assessments, the Board may levy a special Assessment a) for the purpose of constructing improvements to Common Area; b) correcting an inadequacy in the Association's accounts; c) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement owned by the Association; or d) defraying other extraordinary expenses or paying other expenses the Board may deem appropriate, including increased expenses encountered by the Association in connection with new or expanded Common Area amenities or features, including such amenities or features within annexed land. The Board may also levy a Special Assessment against the Lots or Units within any District if such Special Assessment is for District Expenses. The Board shall specify the effective date of any Special Assessment and may provide that the Special Assessment is payable in installments. Special Assessments shall be approved by the Class B Member and either the written consent of, or vote at any annual or special meeting of, Voting Members (or Members, if determined by Declarant, representing a majority of all votes allocable to Lots, Units, and Parcels. In the case of District Expenses, a Special Assessment may be approved by the vote or written consent of Owners representing a majority of the total votes allocated to Lots or Units which will be subject to such Special Assessment. The Board may in any case, however, impose and assess a Special Assessment as to all Lots, Units, or Parcels, or Lots or Units within a District, without any vote or consent of Members whatsoever if the purpose is to pay the increased costs and expenses of the Association in connection with annexed land or new Common Areas, amenities or features, or increased expenses due to insurance premiums, taxes or governmental charges, or increased utilities charges, and the Class B Member shall have the right to cause the Board to make and levy such Special Assessments.

8.12 Billing and Collection Procedures. The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments, which procedures may include delegating to the applicable District Association the authority and obligation of billing and collecting some or all of the Assessments. The failure of the Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability for an Assessment. It shall be the responsibility of the Owner to inform the Association in writing of a change of address. The Association shall be under no duty to refund any payments received by the Association even if the ownership of a Lot, Unit, or Parcel changes during an Assessment Period. Any successor Owner shall be given credit for any non-refunded prepayments made by a prior Owner.

In case the Owner of a Lot or Parcel having a right to pay a reduced payment amount as provided herein fails to notify the Board at such time as the payment amount should be increased, such Owner shall nonetheless be liable for the increased amount of the Assessment and such Owner's failure to notify the Board shall not relieve such Owner of the liability for such increased Assessment.

8.13 Collection Costs and Interest on Delinquent Amounts. Any Delinquent Amount shall have added thereto a late charge of the greater of fifteen dollars (\$15.00) or ten percent (10%) of the Delinquent Amount if such Delinquent Amount is not paid within fifteen (15) days after the due date. Any Delinquent Amount shall bear interest from its due date until paid at a

rate equal to the greater of twelve percent (12%) per annum, the then prevailing interest rate on loans insured by FHA or VA, or such rate as is determined from time to time by the Board. The Owner shall be liable for all costs, including but not limited to attorneys, fees and collection agency fees, which may be incurred by the Association in collecting any Delinquent Amount, and such amounts, to the extent permitted by law, shall be deemed a part of the Assessment Lien. This Section shall be subject to such equitable and other limitations as may be imposed by law including by the Utah Community Association Act.

8.14 Working Capital Fund. To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment and services, each purchaser of a Lot, Unit, or Parcel upon which the construction of improvements is complete, as evidenced by a certificate of occupancy or similar instrument which allows the Lot or Unit to be used as a residence or non-residential establishment, shall pay to the Association immediately upon becoming the Owner of a Lot, Unit, or Parcel a sum equal to twenty-five percent (25%) of the then-current Annual Assessment applicable to such Lot, Unit, or Parcel (the "**Working Capital Fund Contribution**").

A Working Capital Fund Contribution shall continue to be payable upon each subsequent sale of a Lot, Unit, or Parcel. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under this Declaration and the Articles and Bylaws. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as advance payment of any Assessments levied by the Association pursuant to this Declaration.

8.15 Exempt Property. Exempt Property shall be exempt from Assessments, Working Capital Fund Contributions, and the Assessment Lien, and the Owner thereof, if other than Declarant, shall have no membership or voting rights in the Association on account thereof.

8.16 Declarant's Exemption. Anything in this Declaration to the contrary notwithstanding, neither Declarant nor any Declarant Affiliate shall be liable for, nor shall they be required to pay, Assessments of any nature for Lots, Units, or Parcels owned by Declarant or any Declarant Affiliate.

8.17 Obligation of Declarant and Developer Owners to Pay Deficiencies

8.17.1 Declarant and Declarant Affiliates. Each Declarant and each Declarant Affiliate shall pay for any given Assessment Period in which Declarant or a Declarant Affiliate owns one or more Lots, Units, or Parcels which are Exempt Property due to such Person's ownership thereof, and would not constitute Exempt Property under any other part of such definition. Declarant or Declarant Affiliates shall pay the actual shortfall or deficiency, if any, in necessary ordinary operating revenue to pay current ordinary expenses for the operation and maintenance of the Association and Common Area (i.e., only for actual budget deficits), but only up to the full Annual Assessment for each such Lot, Unit, or Parcel actually owned by Declarant or Declarant Affiliate in the Covered Property, pro-rated for the relevant portion of the Assessment Period in question. A shortfall or deficiency shall exist if current ordinary and budgeted expenses of the Association are greater than the revenues of the Association from all sources for the Assessment Period in question; provided, however, that neither Declarant nor a Declarant Affiliate shall be liable for any shortfall or deficiency created by any decrease in the amounts of the Annual Assessments from those charged during any prior year. Notwithstanding the foregoing, Declarant and Declarant Affiliate shall have no obligation to fund to or for the

account of the Association any amounts under this Section 8.17.1 after such time as the Class B Memberships are converted to Class A Memberships.

Should Declarant assign its rights to the exemption from Assessments as provided herein, whether such assignment be in whole or in part, then the assignee shall, in the case of any deficiency as described above (and meeting the conditions set forth above), be liable for its ratable share of same, up to the full amount of the Annual Assessment for each Lot, Unit, or Parcel owned by them, and not more.

Declarant and any Declarant Affiliate or Developer Owner may at any time at their sole discretion elect to cease paying the shortfall or deficiency, if any, and to pay instead up to the full Annual Assessment for each Lot, Unit, or Parcel owned by them.

In no event shall Declarant or any Declarant Affiliate be required to contribute to any deficiency or shortfall after termination of the Declarant Control Period, and in no event shall property of Declarant be deemed encumbered by any Assessment Lien.

8.17.2 Developer Owners. Should a deficiency continue to exist after Declarant and each Declarant Affiliate has paid up to the full Annual Assessment for each such Lot, Unit, or Parcel they own within the Covered Property, whether or not the expense therefor is advanced by Declarant or a Declarant Affiliate, then each Developer Owner who has paid or contributed to the Association less than the full Annual Assessment for each Lot, Unit, or Parcel owned shall pay its share of the remaining deficiency, if any, but only up to the full Annual Assessment for each such Lot, Unit, or Parcel actually owned by them in the Covered Property.

The ratable share of such deficiency shall be based upon the number of full Annual Assessments that would be payable for each Lot, Unit, or Parcel owned, disregarding any reduced assessments otherwise applicable to any Developer Owners.

For example, should a single Developer Owner own four hundred (400) Lots, and should all Developer Owners, together, own five hundred (500) Lots and two (2) Single Family Residential Use Parcels each fifty (50) Net Acres in size for which Parcels an Owner would otherwise pay three hundred (300) Annual Assessments, and should such Lots and Parcels be held during the entire Assessment Period, then the Developer Owner owning four hundred (400) Lots would pay one-half of the remaining deficiency (i.e., $400/800=1/2$; where the denominator is determined by adding 500 Annual Assessments for all Developer Owner Lots plus 300 Annual Assessments for Developer Owner Parcels, and where the numerator is the number of Annual Assessments assumed for the Developer Owner in question).

The Board in its reasonable discretion shall adjust the calculations above to account for Lots, Unit, or Parcels owned for less than a full Assessment Period, with the number of assumed Annual Assessments pro-rated accordingly.

8.18 Declarant Funding Options. Declarant shall be entitled to meet its funding obligations under Section 8.17 by making, or (if such Person so agrees in writing) causing any Declarant Affiliate, Developer Owner, or other Person to make on its behalf, one or more cash payments or in-kind contributions of goods or services, or any combination thereof, and the Association shall have the right to enter into written or oral contracts with Declarant, a Declarant Affiliate, or a Developer Owner for the contribution of such goods or services for such purpose. Except for the limitations set forth in Article VII, nothing in this Section 8.20 or elsewhere in this Declaration shall be deemed to impose on the Association (or Declarant) any duty whatsoever

to refrain from increasing (or from causing the Association to increase) the Annual Assessments from fiscal year to fiscal year, or from levying Special Assessments, all to the extent otherwise permitted by this Declaration.

8.19 Development Agreement. The SPA Lands, including the Covered Property, are burdened and governed by the Development Agreement. All Owners must comply with the applicable provisions of such Development Agreement. The Common Expenses of the Association shall include all cost and expense of complying with the Development Agreement, and the provisions hereof shall be notice to all Owners of Lots, Units, and Parcels of the Association's obligations hereby confirmed to assume and be responsible for the maintenance, repair, and replacement of certain Open Spaces to be acquired by the Association at the discretion and direction of Declarant, and the maintenance, repair and replacement of certain landscaping within public right of way, and to comply with all other applicable provisions of the said Development Agreement. Among other things, the Association shall accept drainageways and basins, including detention and retention basins, and shall be responsible to maintain and repair such drainage facilities and improvements except to the extent the County may be responsible therefor pursuant to the terms of the Development Agreement or SPA, but the Association shall have no right to object to any determination by the County as to which improvements shall be maintained by the Association.

Without limitation, each Owner is deemed to acknowledge that easements for drainage, utilities, fiber optic and other communications networks and other facilities may be reserved over and across Common Area and the Association shall be required to maintain and protect the easement areas, and that whatever responsibility the Association may have had with respect thereto, including with respect to landscaped rights of way, shall cease to be the responsibility of Declarant and shall become the responsibility of the Association immediately upon recordation hereof.

The provisions of this Section may not be amended without the written consent of Declarant.

8.20 Reinvestment Fees. Upon the occurrence of a Transfer, as defined below, the Transferee under such Transfer shall pay to the Association for the benefit of the Association a reinvestment fee (the "Reinvestment Fee") equal to the Fair Market Value, as defined below, of the Unit subject to a Transfer, multiplied by the Reinvestment Fee assessment rate of 0.0075% (three-quarters of one percent). Each Member shall be obligated to pay and shall pay to the Association the Reinvestment Fee levied with respect to such owner's site and each Member shall comply with any determinations made by the Board with respect to such fees. Proceeds of the Reinvestment Fees shall be segregated in a fund to be known as the "Sinking Fund," as described in subparagraph 8.20.4 below.

8.20.1 Definitions. As used in this Section 8.20, the following terms shall have following meanings:

"Transfer" means, whether in one transaction or in a series of related transactions, any conveyance, assignment, lease, or other transfer of beneficial ownership of any Unit, including but not limited to (1) the conveyance of fee simple title to any Unit, (2) the transfer of more than 50 percent (50%) of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns one or more Unit, and (3) the transfer of more than 50 percent (50%) of the interest in net profits or net losses of any partnership, joint venture,

limited liability company, or other entity which, directly or indirectly, owns one or more Unit, but "Transfer" shall not mean or include the Transfers excluded under subparagraph 8.20.2 below.

"Transferee" means all parties to whom any interest passes by a Transfer, and each party included in the term "Transferee" shall have joint and several liability for all obligations of the Transferee under this section.

"Fair Market Value" of a Unit subjected to Transfer means, in the case of a Transfer that is in all respects a bona fide sale, the consideration, as such term is defined below, given for the Transfer. In case of a Transfer that is a lease or is otherwise not in all respects a bona fide sale, Fair Market Value of the Unit subjected to Transfer shall be determined by the Association. A Transferee may make written objection to the Association's determination within 15 days after the Association has given notice of such determination, in which event the Association shall obtain an appraisal, at the Transferee's sole expense, from a MAI real estate appraiser of good reputation, who is qualified to perform appraisals in Utah, who is familiar with Summit County and Park City area real estate values, and who shall be selected by the Association. The appraisal so obtained shall be binding on both the Association and the Transferee. Notwithstanding above provisions to the contrary, where a Transferee does not object within 15 days after the time required by this section for objecting, the Transferee shall be deemed to have waived all right of objection concerning Fair Market Value, and the Association's determination of such value shall be binding.

"Consideration" means the total of money paid and the Fair Market Value of any property delivered, or contracted to be paid or delivered, in return for the Transfer of any Unit, and includes the amount of any note, contract indebtedness, or rental payment reserved in connection with such Transfer, whether or not secured by any lien, deed of trust, or other encumbrance, given to secure the transfer price, or any part thereof, or remaining unpaid on the property at the time of Transfer, whether or not assumed by the Transferee. The term "consideration" does not include the amount of any outstanding lien or encumbrance for taxes, special benefits or improvements, in favor of the United States, the State of Utah, or a municipal or quasi-municipal governmental corporation or district.

8.20.2 Exclusions. The Reinvestment Fee shall not apply to any of the following, except to the extent that they are used for the purpose of avoiding the Reinvestment Fee:

- (a) Any Transfer prior to and including the Transfer to the first purchaser of a Unit upon which the construction of improvements is complete, as evidenced by a certificate of occupancy or similar instrument which allows the Unit to be used as a residence or for its intended purposes.
- (b) Any involuntary Transfer.
- (c) Any Transfer that results from a court order.
- (d) A bona fide Transfer to a Transferee that is a family member of the transferor within three degrees of consanguinity who, before the Transfer, provides adequate proof of consanguinity.
- (e) A Transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution.

- (f) Any Transfer of burdened property by a financial institution.
- (g) Any Transfer to secure a debt or other obligation or to release property that is security for a debt or other obligation, including transfers in connection with foreclosure or a deed of trust or mortgage or transfers in connection with a deed given in lieu of foreclosure.
- (h) Any Transfer to the Association.
- (i) Any Transfer to the United States, or any agency or instrumentality thereof, the State of Utah, any county, city, municipality, district, or other political subdivision of the State of Utah.
- (j) Any Transfer arising solely from the termination of a joint tenancy or the partition of property held under common ownership or in connection with a divorce, except to the extent that additional consideration is paid in connection therewith.
- (k) Any lease of any Unit (or assignment or transfer of any interest in any such lease) for a period of less than 25 years (including renewal options).
- (l) The Transfer of a Unit to an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, provided that the Association specifically approves such exemption in each particular case.
- (m) Any Transfer to an affiliate party, where "affiliate party" means an entity that controls, is controlled by, or is under common control with another person or entity, including control through voting interests, management agreements, or other arrangements resulting in effective control over the management of the affairs of such entity.
- (n) Any Transfer of Affordable Housing.

8.20.3 All Reinvestment Fees to be levied shall be levied at the time of a Transfer and shall be payable within thirty (30) days after being levied, and each Reinvestment Fee not paid within thirty (30) days of the levy date (the "Levy Date"), which is the date of mailing of notice of the Reinvestment Fee, shall accrue interest until fully paid at rate equal to the greater of twelve percent (12%) per annum, the then prevailing interest rate on loans insured by FHA or VA, or such rate as is determined from time to time by the Board; such interest shall be payable on demand computed monthly, and if unpaid, compounded monthly, not in advance, at the rate so calculated as of thirty (30) days after the Levy Date, and all accruing interest shall become a part of the assessment due and owing to the Association.

8.20.4 There shall be a fund known as a "Sinking Fund" into which all proceeds from the Reinvestment Fees shall be deposited. The Association shall use the Sinking Fund for the benefit of the Covered Property and the Annexable Property, and all improvements related to the Common Areas, including, without limitation, payment for (a) common planning, facilities, and infrastructure; (b) community programming; (c) resort facilities; (d) open space; (e) recreation amenities; (f) Common Expenses; and (g) reimbursement of Declarant as provided in subparagraph 8.20.5 below. The priorities of the Sinking Fund shall be in the following order: (i)

reimbursement of Declarant in accordance with subparagraph 8.20.5; (ii) amenities required by the Development Agreement to be provided by the Association on a timely basis; and (iii) all other capital projects required by the Development Agreement. "Capital projects" include without limitation any of the following: to acquire, own, lease, operate, build, manage, maintain, rent, sell, develop, encumber, hold, and otherwise deal in and with any Common Area; buildings and other structures; employee housing; daycare facilities; teen centers; roads, walkways, streets, and pedestrian paths; parks, playgrounds, open spaces, gardens, fountains, common areas and public areas; an amphitheater, a forum, or other public entertainment or gathering areas; utility lines and systems; outdoor lighting systems; waterways; landscaping, including without limitation plants, trees, shrubs, and grass; pedestrian, hiking, equestrian, and biking trails; equestrian facilities; ice rinks; swimming pools, saunas, steam baths, and spas; tennis courts and other game courts, game areas, and recreational amenities; and such uses as may be appropriate for use in connection with the operation and maintenance of Silver Creek Village, in the reasonable discretion of the Association; and all costs imposed upon the Association by, associated with, or incurred as a result of the Development Agreement or other federal, state, or local governmental laws, rules, or regulations, including without limitation costs of benchmarking, studies, consultants fees and costs, and performance costs.

8.20.5 A priority of the Association will be to reimburse Declarant for the development costs it, or CW Developer Owner, has incurred and will incur for all improvements related to the Common Areas of Silver Creek Village and for costs imposed by, associated with, or incurred as a result of the development of the Common Areas pursuant to the Development Agreement and otherwise. The Common Areas to be developed by Declarant, or CW Developer Owner, pursuant to the Development Agreement, the costs of which are to be reimbursed hereunder, are more specifically set forth in Exhibit E attached hereto. The amount to be reimbursed Declarant ("**Reimbursement Amount**") will be an amount set forth in a promissory note, or an amendment thereto, executed and acknowledged by the Association. The Association will execute a promissory note, or amendment thereto, to Declarant for the debt within 30 days after completion of the applicable Common Areas and conveyance of such Common Areas to the Association by the Declarant; the promissory note will provide for fixed interest at 8% and an initial amortization period of twenty (20) years. Any excess funds in the Association at each year end that are not required to fund any Association obligations shall be paid to Declarant toward the Reimbursement Amount.

ARTICLE IX

ENFORCEMENT OF THE ASSESSMENT LIEN

9.1 **Association Remedies to Enforce Assessments.** If any Owner fails to pay any Assessment when due, the Association may (and each Owner hereby authorizes the Association to) enforce the payment thereof and the Assessment Lien by taking any and all action available at law or in equity, including:

9.1.1 Bringing an action against the Owner to recover judgment against the Owner who is Personally liable for the Assessments; and,

9.1.2 Foreclosing the Assessment Lien against the appropriate Lot, Unit, or Parcel in accordance with then prevailing Utah law. Though not required, the Association may record notice of its lien, and all costs of preparation of such notice, recording and releasing same, including attorney's fees and costs, shall be paid by the delinquent Owner, with all expense thereof being a part of the lien of the Assessment. Declarant hereby conveys and

warrants pursuant to Utah Code Annotated Sections 57-1-20 and 57-8a-302 to First American Title Company, with power of sale, the Lots, Units, and Parcels and all Improvements to the Lots, Units, and Parcels for the purpose of securing payment of Assessments under the terms of this Declaration.

9.2 Subordination of Assessment Lien. The Assessment Lien shall have priority from the date of recording of this Declaration, and shall be superior to all charges, liens or encumbrances which hereafter are or may be imposed on any Lot, Unit, or Parcel, except as provided by law. Without limitation, the Assessment Lien is junior to:

9.2.1 the lien of any First Mortgage encumbering a Lot, Unit, or Parcel; and

9.2.2 the lien for taxes or other governmental assessments which are deemed superior hereto by applicable law.

Sale or transfer of any Lot, Unit, or Parcel shall not affect the Assessment Lien; provided, however, the sale or transfer of any Lot, Unit, or Parcel pursuant to any First Mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the Assessment Lien as to payments which became due prior to such sale or transfer. No other sale or transfer shall relieve a Lot, Unit, or Parcel, or the Owner thereof, for liability from any Assessment theretofore becoming due nor from the Assessment Lien arising in regard thereto. No Event of Foreclosure shall relieve the Owner whose interest was foreclosed from liability for Assessments payable through the date of such Event of Foreclosure.

In addition, no Event of Foreclosure shall impair the Assessment Lien, except that a First Mortgagee obtaining an interest in a Lot or Unit through an Event of Foreclosure shall take title subject only to such Assessments as shall accrue subsequent to the date the Person acquires its interest.

ARTICLE X

MAINTENANCE

10.1 Common Area and Public Rights-of-Way

10.1.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall maintain and otherwise manage Common Area, including landscaping in public rights of way shown on the Master Development Plan, depicted in the SPA, or which are the subject of the Development Agreement. Common Area to be maintained by the Association may be identified on Recorded subdivision plats approved by Declarant, in the Master Development Plan, in the SPA, in the Development Agreement, or in a Tract Declaration, District Declaration or in deeds from Declarant, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect thereto. A Tract Declaration or District Declaration, or a separate instrument approved by Declarant may limit the Association's responsibilities with respect to certain Common Area.

The Association shall further have the right, to the fullest extent permitted by law, to regulate and restrict use of trail systems established within Common Area or within the Covered Property, and may adopt Rules pertaining to such matters. Such Rules may, without limitation, contain provisions necessary to protect nearby or surrounding landowners from trespass or nuisance, and no right of use associated with any trail within the Covered Property

shall carry with it any right of occupancy or use, except for direct ingress and egress, and then only in accordance with the terms of a separate instrument establishing such right of ingress and egress.

The Association shall provide those services and operate and maintains those amenities, which shall be Common Area and such services, operation, and maintenance shall be Common Expenses, required of the Association under the Development Agreement, including, without limitation, Section 5 of the Development Agreement (neighborhood gardens, community petrified wood park, pocket parks, neighborhood village green, neighborhood park, neighborhood trails, shared bicycle program), and Section 2.12.1 of the Development Agreement (snow removal and storage for designated Common Areas outside of public rights-of-way and supplemental snow removal services in County-owned rights-of-way within those parking areas identified in "Roadway 1" and "Roadway 2" as defined in Exhibit G2 of the Development Agreement). The Association shall provide such services and operate and maintain such amenities under this paragraph unless a Tract Declaration or District Declaration, or a separate instrument approved by Declarant, obligates a District Association to perform all or a portion of the Association's responsibilities under this paragraph.

10.1.2 Rights of Way. The Association may also in its discretion elect to maintain landscaping and similar improvements within public rights of way located within the Covered Property, other than those already the subject of Tract Declarations, the SPA, the Development Agreement or a District Declaration, to the extent the Association wishes to augment or enhance the degree of repair and maintenance provided by any governmental entity with respect to such public rights of way.

10.2 Standard of Care. The Association shall use a reasonable standard of care in providing for the repair, management and maintenance of the Common Area so that the Covered Property will reflect a high degree of pride of ownership. The Board shall be the sole judge as to the appropriate level of maintenance of all Common Area.

ARTICLE XI

RIGHTS AND POWERS OF ASSOCIATION

11.1 Rights, Powers and Duties of the Association. In addition to the rights and powers of the Association set forth in the Governing Documents, the Association shall have such rights and powers and duties as may be reasonably necessary in order to effect all the objectives and purposes of the Association as set forth herein. A copy of the Governing Documents shall be available for inspection at the office of the Association during reasonable business hours. To the extent development or operations within Silver Creek Village may be governed by the regulations of the SPA or the Development Agreement, the Association shall in performing its duties and functions comply with the specific terms thereof that pertain to the Association.

11.2 Provisions of the Planned Community Development Regulations. Notwithstanding anything contained in this Declaration to the contrary, development of the Covered Property is intended to conform to the requirements of the SPA for Silver Creek Village, as such SPA may be amended or changed from time to time, and the Development Agreement, as such Development Agreement may be amended or changed from time to time. All Owners, by acceptance of a deed to any portion of the Covered Property, are deemed to be fully advised as to the content of the SPA and the Development Agreement. Should this

Declaration be more restrictive than the SPA or the Development Agreement, this Declaration shall control.

11.3 Rules and Regulations. In addition to the right to adopt, amend and repeal rules and regulations (the "**Rules**") on the matters expressly mentioned elsewhere in this Declaration, the Association, acting through the Board, shall have the right to adopt, amend and repeal rules and regulations, as a part of the Rules, with respect to all other aspects of the Association's rights, activities and duties, provided such rules and regulations are not inconsistent with the provisions of the Governing Documents. Upon adoption, the Association's Rules shall be enforceable in the same manner as this Declaration and shall have the same force and effect as if they were set forth in and were a part of this Declaration.

11.4 Association's Rights of Enforcement. The Association shall have the right, but not the obligation, to enforce the provisions of this Declaration and all Additional Covenants that shall have been executed pursuant to or subject to the provisions of this Declaration.

11.5 Enforcement Methods and Means. The Association, after affording such notice and opportunity for a hearing, or to be heard, as may be required by law (including by the Utah Non-Profit Corporation Act and the Utah Community Association Act), may enforce the provisions hereof at law or in equity, including, but not limited to:

11.5.1 Imposing reasonable monetary penalties, which penalties shall be the obligation and liability of the offending Owner to pay, with each Owner being further liable for the acts of his or her guests, invitees and Tenants or residents.

11.5.2 Suspending an Owner's right to vote after notice and opportunity to be heard, as required hereby.

11.5.3 Suspending any services provided by the Association to an Owner or the Owner's property if the Owner is more than 15 days delinquent in paying any Assessment or other charge owed to the Association.

11.5.4 Exercising self-help or taking action to abate any violation of the provisions hereof.

11.5.5 Requiring an Owner at the Owner's expense to remove any offending condition, structure or improvement on the Owner's property, and further requiring the said Owner to restore his or her property to the condition in which it previously existed, without such action being a trespass.

11.5.6 Without liability to the Association or to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Declaration from continuing to perform and further activities on the Covered Property.

11.5.7 Towing vehicles which are parked in violation of the provisions hereof.

11.5.8 Filing suit at law or in equity to enjoin a violation of the provisions hereof, or to recover fines or Assessments or such other relief as may be appropriate.

The Board may weigh financial and other factors, such as possible defenses, legal merit and other factors, in determining whether to pursue legal action, and the Board's discretion in such matters shall be final. The rights and remedies of the Association are cumulative, and the Association may pursue any or all remedies without waiver, and any failure by the Association to take legal action shall not limit or waive the right of any Owner to pursue proper action, nor the right of the Association to pursue action at a future time should it so desire.

11.6 Contracts with Others; Bulk Service Agreements. Subject to the restrictions and limitations contained herein, the Articles, the Bylaws, and the laws of the State of Utah, the Association may enter into contracts with others, including Declarant and Declarant Affiliates, and such contracts shall not be invalidated by the fact that one or more directors or officers of the Association are employed by or otherwise affiliated with Declarant or Declarant Affiliates, provided, however, that the fact of such interest shall be previously disclosed or made known to the other members of the Board acting upon such contract or transaction and, provided further, that the transaction or contract is fair and reasonable. Notwithstanding the foregoing, any contract entered into by the Association shall be for a term not exceeding the maximum term permitted by law.

The Association may, without limitation, provide services and facilities for the Members of the Association and their guests, Tenants, and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense or may be funded as otherwise determined by the Board in accordance with this Declaration. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, internet and other communications services, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any, will be provided by the Association. If all Lots and Units within the Covered Property are to be served by a particular bulk service agreement, the Board shall have the option either to (a) include the Association's costs under such bulk service agreement in the budget for each applicable fiscal year and thereby include such costs in the Assessments for each such applicable year, or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such bulk service agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board but no more often than monthly). If not all Lots and Units within the Covered Property will be served by a particular bulk service agreement, the Board shall include the Association's costs under such bulk service agreement in a District Assessment assessed solely against the Lots, Units, or Parcels served for each applicable fiscal year.

11.7 Limited Common Area.

11.7.1 Purpose. Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular District or Districts. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs and other portions of the Common Area within a particular District or Districts. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area

shall be a District Expense allocated among the Owners in the District(s) to which the Limited Common Areas are assigned.

Designation. Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision Plat relating to such Common Area, provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Lots, Units, and/or Districts, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 13.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Voting Members representing a majority of the votes held by Class A Members in the Association, including a majority of the votes held by Class A Members the District(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 13.1, any such assignment or reassignment shall also require Declarant's written consent.

11.7.2 Use by Others. Upon approval of a majority of Owners of Lots or Units within the District to which any Limited Common Area is assigned, the Association may permit Owners of Lots or Units in other Districts to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the District Expenses attributable to such Limited Common Area.

ARTICLE XII

EMINENT DOMAIN AND INSURANCE INVOLVING THE COMMON AREA

12.1 Eminent Domain. In the event of a threatened taking of all or any portion of the Common Area, the Owners hereby appoint the Board and such Persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act, in its sole discretion, with respect to any awards made or to be made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action.

Any awards received on account of the taking shall be paid to the Association. In the event of a total taking, the Board may, in its sole discretion, retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners, (taking into account a reduction in the distribution to those Owners paying reduced amounts for Assessments pursuant thereto), and all holders of liens and encumbrances, as their interest may appear of record.

The term "taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation.

12.2 Authority to Purchase Insurance. The Association shall as a Common Expense purchase and maintain such property damage and liability insurance upon the Common Area and such other insurance as the Board, in its absolute discretion, may determine. The Association shall be the named insured in all policies providing such insurance. Neither the Association nor the Board, nor any member of the Board or officer or agent of the

Association, shall be liable to any Person for failure of the Association to secure and maintain any such insurance coverage where such insurance coverage is not available in the State of Utah at a reasonable cost and on other reasonable terms and conditions.

Notwithstanding the foregoing, the Association shall obtain and maintain at all times, at the Association's expense, directors' and officers' liability insurance covering all officers and directors of the Association as well as all regular and alternate members of the ARC and DRC, Declarant, and, to the extent such insurance is reasonably available, any property manager under contract with the Association, all in amounts and on terms adequate to permit the Association to indemnify such Persons pursuant to the provisions hereof and pursuant to the provisions of the Articles and Bylaws. Neither the Association nor any Board member nor Declarant shall be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

12.3 Individual Responsibility. It shall be the responsibility of each Owner or Occupant to provide insurance for real or personal property or interests owned or held by such Owners within the Covered Property, including, but not limited to, homeowners insurance, hazard, fire and casualty insurance, liability insurance, and property damage insurance covering all additions and improvements to Lots, Units, or Parcels, furnishings and personal property therein, and Personal liability.

Each Owner and Occupant shall also provide such other insurance which is not carried by the Association as such Person desires. No Person shall maintain any insurance which would limit or reduce in any manner the insurance proceeds payable under the insurance maintained by the Association in the event of damage to the improvements or fixtures on the Common Area. Neither the Association nor any Board member nor Declarant shall be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

12.4 Insurance Claims. The Association is hereby irrevocably appointed and authorized by the Owners to adjust all claims arising under insurance policies purchased by the Association covering Common Area and improvements thereon, property or interests of the Association, liability of the Association, and other such insurance.

Each Owner shall execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing.

The Board has full and complete power to act for the Association in this regard and may, at its discretion, appoint an authorized representative or committee, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association.

Any Owner who causes any damage or destruction of any areas for which the Association maintains insurance, is responsible for the payment of any deductible portion of the insurance, which will become a Maintenance Assessment against the Owner and the Lot, Unit, or Parcel

ARTICLE XIII

ANNEXATION, DECLARATION OF ANNEXATION AND DE-ANNEXATION

13.1 Annexation of Annexable Property. Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty-five (25) years after the date this Declaration is recorded, annex to the Covered Property any Annexable Property and any land adjacent or near to the Covered Property. To effect such annexation, a Declaration of Annexation covering the Annexable Property (or the applicable portion or portions thereof) shall be executed and Recorded by Declarant.

The recordation of such Declaration of Annexation shall constitute and effectuate the annexation of the Annexable Property (or the applicable portion or portions thereof) described therein as of the date of recordation or such later date, if any, as may be set forth in such Declaration of Annexation, making such Annexable Property (or the applicable portion or portions thereof) and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association as of the date of recordation or such later date, if any, as may be set forth in such Declaration of Annexation. In addition to the foregoing, and notwithstanding any decision not to annex the Additional Property or any portion thereof, Declarant may grant easements for ingress, egress, utilities, and other purposes for the benefit of such Annexable Property, all on terms deemed by Declarant to be reasonable, and easements shall be deemed reserved over and across all streets and roads in favor of any land not annexed.

13.2 Declarations of Annexation. The annexations authorized under Section 13.1 shall be made by recording a Declaration of Annexation, which instrument may contain additional covenants, conditions, restrictions, easements or other terms. The portions of Annexable Property annexed in accordance with Section 13.1 hereof shall thereupon become fully a part of the Covered Property subject to all provisions of this Declaration (including, but not limited to, provisions hereof regarding Assessments, except with respect to Parcels as provided herein).

A Declaration of Annexation may contain such complementary additions to and modifications of this Declaration as may be necessary to reflect the different character, if any, of the Annexable Property (or the applicable portion or portions thereof). In no event, however, shall any such Declaration of Annexation revoke or conflict with this Declaration or any Tract Declaration except to the extent specifically permitted hereby.

13.3 Annexation by Owners. The Association may, from time to time, annex to the Covered Property additional Annexable Property provided that such annexation has been approved by the Voting Members representing at least seventy-five percent (75%) of the total votes then entitled to be cast by Class A Members, with or without a meeting, subject to the right of the Class B Member to disapprove the action.

To effect such annexation, a Declaration of Annexation covering the Annexable Property shall be executed by the President or Vice-President of the Association and attested to by the Secretary of the Association, and executed by the owner of the Annexable Property. The recordation of such Declaration of Annexation shall constitute and effectuate the annexation of the Annexable Property described therein, making such Annexable Property and the Owners and Occupants thereof subject to this Declaration and the jurisdiction of the Association.

Any annexation during the period of the Class B Membership shall have the written approval of the Class B Member. Absent such approval, any such annexation shall be deemed void.

13.4 De-Annexation of Covered Property. Declarant may, in its sole discretion, at any time and from time to time up to the date which is twenty-five (25) years after the date this Declaration is recorded, de-annex or withdraw from the Covered Property any portion or portions thereof (subject to the written consent of the owner of the portion or portions to be de-annexed or withdrawn, if other than Declarant).

To effect such de-annexation or withdrawal, Declarant shall execute and Record a Declaration of De-Annexation setting forth the legal description of the portion or portions of the Covered Property to be de-annexed or withdrawn, and such Declaration shall be executed by Declarant and the Owner of the land to be withdrawn. The land to be withdrawn may include any portion of the Covered Property, including Lots, Units, Parcels and Common Area. Recording such Declaration of De-Annexation shall constitute and effectuate the de-annexation and withdrawal of the applicable portion or portions of the Covered Property described therein, and such property and the Owners and Occupants thereof shall no longer be subject to this Declaration or the jurisdiction of the Association. Notwithstanding the preceding sentence, except as otherwise provided in the applicable Declaration of De-Annexation, de-annexation or withdrawal of any portion or portions of the Covered Property will not be effective until the owner of the property to be de-annexed or withdrawn has paid all unpaid Assessments applicable to such property (unless exempt), prorated to the date of de-annexation or withdrawal.

It is specifically understood that this right of de-annexation or withdrawal may be exercised in Declarant's sole and absolute discretion, and that once de-annexed or withdrawn, none of the provisions hereof shall apply to or encumber the land. Further, the Class B Member may cause the Association to grant and convey such easements as may be necessary to benefit such land de-annexed or withdrawn, including easements for ingress, egress, and utilities, all on terms, if any, deemed by them to be proper.

13.5 Protection of Declarant. The provisions of this Article may not be amended without the written approval of Declarant.

ARTICLE XIV

TERM; AMENDMENTS; TERMINATION

14.1 Term; Method of Termination. This Declaration shall be effective once Recorded and, as amended from time to time, shall continue in full force and effect unless and until there is an affirmative vote to terminate this Declaration by the then Owners casting ninety percent (90%) of the total votes entitled to be cast by the entire Membership, or at such maximum percentage allowed by law. Upon the recording of a Certificate of Termination executed by the President and Secretary of the Association confirming such vote, this Declaration shall have no further force and effect and the Association thereupon shall be dissolved in accordance with the terms of its Articles and Bylaws and the laws of the State of Utah. No such termination shall be effective unless approved in writing by Declarant so long as Declarant owns any portion of the Covered Property or Annexable Property. In addition, should any Development Agreement then in effect with the County prohibit or otherwise limit termination of this Declaration, then any termination shall meet the requirements set forth in such Development Agreement and shall require the written approval of the County.

14.2 Amendments

14.2.1 By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Declarant Control Period, Declarant may amend this Declaration for any purpose whatsoever, and without the consent or approval of any Owners or Members, or any other Person, regardless of whether any such amendment is uniform in nature.

In addition to the foregoing, even after termination of the Declarant Control Period, and for so long as Declarant owns any portion of the Covered Property or Annexable Property, Declarant may of its own volition, and without the consent or approval of any Owners or Members, or any other Person, amend this Declaration for the following purposes: (a) to bring any provision hereof into compliance with applicable law; (b) to satisfy the requirements of any Agencies pertaining to lending criteria, or established as conditions for the acceptability or approval of mortgages, mortgage insurance, loan guarantees or other factors; or (c) to correct any error or ambiguity or to further the intent or purposes hereof by expanding upon the existing provisions hereof.

Any amendment during such time as Declarant is a Class B Member or a Class A Member of the Association shall require the written approval of Declarant. Further, so long as Declarant owns any land from within the Covered Property or the Annexable Property, Declarant may, without any other consent or approval, amend this Declaration to clarify the application of the provisions hereof to any land which may be annexed, or for any other reasonable purpose in connection with any land which may be annexed.

14.2.2 By the Association. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members which in the aggregate represent at least two-thirds (2/3) of the vote of all Class A Members that are allocable to Lots, Units, and Parcels, and Declarant's consent, as well, so long Declarant owns any portion of the Covered Property or Annexable Property.

14.2.3 Amendment of Tract Declarations. A Tract Declaration may be amended as provided in such Tract Declaration, but only with the consent of Declarant so long as Declarant owns a single Lot, Unit, or Parcel in the Covered Property, or so long as Declarant owns any portion of the Annexable Property. Thereafter, a Tract Declaration may be amended as provided therein, and with the approval of the Board.

14.2.4 Termination of Association. Any actions to terminate this Declaration for reasons other than substantial destruction or condemnation of the Covered Property shall require, in addition to the approval of Declarant so long as Declarant owns any portion of the Covered Property or Annexable Property, and in addition to such approval as is required by law, the approval of Eligible Mortgage Holders whose First Mortgages encumber Lots or Units whose Owners represent at least sixty-seven percent (67%) of the total votes of the Class A Members allocable to Single Family Residential Use, Townhouse Residential Use, Condominium Use, or Apartment Use properties which are encumbered by First Mortgages held by such Eligible Mortgage Holders.

14.2.5 Condemnation or Insurance Proceeds. No Owner, or any other party, shall have priority over any rights of any First Mortgagee pursuant to its mortgage or deed of

trust in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

14.2.6 Payment of Charges by First Mortgagees. First Mortgagees may jointly or singly pay taxes or other charges that are in default and that may or have become charges against any Common Area, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for Common Area in the case of lapse of a policy. First Mortgagees making such payments are due immediate reimbursement from the Association.

14.2.7 Right of Inspection of Records. Any Owner, First Mortgagee, or Eligible Mortgage Holder shall be entitled to: (a) inspect current copies of the Governing Documents, and the books, records, and financial statements of the Association during normal business hours; and (b) receive, upon written request therefor, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party.

14.2.8 Amendments Affecting the CW Larsen District. Notwithstanding anything to the contrary contained herein, any amendment to this Declaration which has a material and adverse effect on the CW Larsen District, or an amendment to the Tract Declaration affecting the CW Larsen District, shall require the consent of CW Developer Owner or its successor; provided, however, the foregoing consent right of CW Developer Owner or its successor shall terminate and be of no further force or effect upon the issuance of a certificate of occupancy or similar instrument for the last Unit within the CW Larsen District.

14.3 Request by Eligible Mortgage Holder. Upon written request made to the Association by a First Mortgagee, which written request shall identify the name and address of such First Mortgagee and the Lot, Unit, or Parcel number or the address of the Dwelling Unit, any such First Mortgagee shall be entitled to timely written notice of material amendments to this Declaration or any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified herein.

ARTICLE XV

DECLARANT'S RIGHTS

15.1 Transfer of Declarant's Rights. Any or all of the special rights and obligations of the Declarant may be assigned and transferred to other Persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective, unless it is in a written instrument signed by the Declarant and duly Recorded in the Office of the Recorder of Summit County, Utah. Without limiting the generality of the foregoing, Declarant may by such Recorded instrument establish that Declarant and such Person or Persons be co-Declarants under this Declaration, in which event such Persons shall be deemed collectively the Declarant for all purposes under this Declaration, and any ownership of portions of the Property by any such Persons shall be considered owned by Declarant. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any Annexable Property in any manner whatsoever. So long as Declarant continues to have rights under this Article XV, no Person or entity shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of Silver Creek Village without Declarant's review and written consent thereto, and any attempted Recording without compliance herewith shall result

in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect, unless subsequently approved by a Recorded consent signed by the Declarant.

15.2 Sales Material. So long as Declarant continues to have rights under this Article XV, all sales, promotional, and advertising materials, and all forms for deeds, contracts for sale, and other closing documents for the subdivision and sale of property in Silver Creek Village by any Developer Owner shall be subject to the prior approval of Declarant, which approval shall not be unreasonably withheld. Declarant shall deliver notice to any Developer Owner of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific changes requested. If Declarant fails to so notify any Developer Owner within such thirty (30) day period, Declarant shall be deemed to have waived any objections to such materials and documents and to have approved the foregoing. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or deemed to be obtained.

15.3 Modifications. Declarant reserves for itself and its assigns the right to vary the timing, mix, type, use, style, and numbers of Lots, Units and Parcels, and other such details' of construction or modifications in adding phases to this Declaration. If additional Land Use Classifications, such as, by way of explanation and not limitation, additional Commercial, are subsequently permitted by zoning, Declarant shall have the right to add such Land Use Classifications to this Declaration. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its development plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the Property owned by the Declarant or changing the nature or extent of the uses to which such Covered Property may be devoted.

15.4 Amendment. This Article XV may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article XV shall terminate upon the earlier of (a) twenty five (25) years from the date of this Declaration, or (b) the Recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE XVI

MISCELLANEOUS

16.1 Additional Covenants. In furtherance of the orderly sale and development of the Covered Property, and of the protection and enhancement of the value of the Covered Property, Declarant shall have the right, power and authority (but not the obligation), where in Declarant's discretion the circumstances so warrant, to execute prior to, with or after the sale of any portion of the Covered Property by any purchaser, a supplement to this Declaration adding additional covenants or restrictions, qualifying or limiting the application of this Declaration to such land, or entirely excepting such land from the coverage hereof any from all of the restrictions, limitations or other provisions included herein.

Such additional covenants or restrictions may be referred to herein as the "Additional Covenants." No such Additional Covenants shall exempt any such land or the respective owners thereof from the obligations to pay Assessments hereunder or from the Assessment Lien in regard thereto or deprive such land or its Owner of membership and voting

rights otherwise established by this Declaration, except that Declarant at all time shall have the right record a Declaration of De-Annexation with respect to any land.

Such Additional Covenants shall be recorded and shall be binding upon Declarant, the Association, the Reviewing Authority and each Owner and Occupant. Declarant shall deliver a true and complete copy of any such Additional Covenants to the Association within a reasonable time after recordation thereof. After conveyance of a Lot, Unit, or Parcel to an Owner thereof, de-annexation of such land or the imposition of Additional Covenants thereon shall require the consent of such Owner. No Additional Covenants shall be recorded against the CW Larsen District without the consent of CW Developer Owner or CW Developer Owner's successor; provided, however, the foregoing consent right of CW Developer Owner or its successor shall terminate and be of no further force or effect upon the issuance of a certificate of occupancy or similar instrument for the last Unit within the CW Larsen District.

16.2 Enforcement Rights. Each Owner (including Declarant, so long as Declarant is an Owner) shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

16.3 Interpretation of the Covenants. Except for judicial construction and as hereinafter provided, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration, including without limitation, the land use restrictions in Article V hereof and in any Tract Declaration or District Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration. If a conflict exists among the Governing Documents, the hierarchy for resolving a conflict as follows (with the first listed superior to a later identified document): Declaration, Articles, Bylaws, Development Standards, Design Guidelines and Association Rules.

16.4 View Impairment. Neither Declarant, nor the Association nor any Developer Owner guarantees or represents that any view or passage of light and air over and across any portion of the Covered Property, including any Lot or Unit, from adjacent Lots, Units, or Common Area will be preserved without impairment. Neither Declarant, nor the Association nor any Developer Owner shall have the obligation to prune or thin trees or other landscaping except as required by the Reviewing Authority or Design Guidelines. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Any view which exists at any point in time for a Lot or Unit may be impaired or obstructed by further construction, including, without limitation, by construction of improvements (including without limitation, landscaping) by Declarant, any Developer Owner or by any third Person (including, without limitation, other Owners and Occupants) and by the natural growth of landscaping. No third party, including, without limitation, any broker or salesperson, has any right to bind Declarant, the Association or any Developer Owner with respect to the preservation of any view from any Lot or Unit or any view of a Lot or Unit from any other property.

16.5 Assumption of Risk. Neither the Association, the members of the Board, the officers of the Association, the management company of the Association, nor Declarant nor any Developer Owner, shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Occupant of any Lot or Unit or any Tenant, guest or invitee of any Owner or Occupant or for any property of any such Persons. Each Owner and Occupant of a Lot or Unit and each Tenant, guest, and invitee of any Owner or Occupant shall

assume all risks associated with the use and enjoyment of the Covered Property, including all Common Area.

Neither the Association, the members of the Board, the officers of the Association, the Association's management company nor Declarant nor any Developer Owner shall be liable or responsible for any Personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Covered Property. Each Owner and Occupant of a Lot or Unit and each Tenant, guest, and invitee of any Owner or Occupant shall assume all risk of Personal injury, illness, or other loss or damage arising from the presence or malfunction of utility lines or utility sub-stations and further acknowledges that neither the Association, the members of the Board, the officers of the Association, the Association's management company nor Declarant nor any Developer Owner have made any representations or warranties, nor has any Owner or Occupant, or any Tenant, guest, or invitee of any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

No provision hereof, or of the Articles or Bylaws of the Association, or of the Design Guidelines, shall be interpreted as creating a duty of the Association, the members of the Board, the officers of the Association, the management company of the Association or Declarant or any Developer Owner to protect or further the health, safety, or welfare of any Person, even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot or Unit) and each other Person having an interest in or lien upon, or making any use of, any portion of the Covered Property (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, the Board, the Association's management company, and Declarant and all Developer Owners, their directors, officers, committee and board members, employees, agents, contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

16.6 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

16.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

16.8 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Silver Creek Village can or will be carried out, or that any real property now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect.

No provision or content of the Master Development Plan shall be deemed a representation that any facility, land or feature shall be included either in the Covered Property or the Common Area.

While Declarant has no reason to believe that any of the restrictive covenants contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot, Unit, or Parcel in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot, Unit or Parcel agrees to hold Declarant harmless therefrom.

16.9 Successors and Assigns. Any reference in this Declaration to Declarant shall include any successors or assignees of all or a specified portion of Declarant's rights and powers hereunder. Any such assignment shall be evidenced by a Recorded instrument executed by Declarant and its successor or assignee whereby such rights and powers (or any specified portion thereof) are specifically assigned.

16.10 Litigation. Because litigation can be slow, expensive, uncertain, and negatively impact the property values within a community, the Association shall only enter into litigation by approval of Owners holding eight percent (80%) of the voting rights of the Association except for litigation to collect Assessments, to enforce the Governing Documents (including fines or curative measures), or to defend itself. Notwithstanding anything to the contrary in this Declaration, and to the fullest extent permitted by the law, because Declarant has not and will not construct any of the Dwelling Units, Commercial Units, or buildings, so long as Declarant has not constructed any of the Dwelling Units, Commercial Units, or buildings within Silver Creek Village, the Association and any Owner shall not and agrees not to commence or maintain any litigation, arbitration, or other action against the Declarant or any of its officers, directors, members, employees, or agents for any reason, including, but not limited to, alleged construction defects, any related damages, or any damages arising therefrom. The Association and all Owners shall indemnify and defend the Declarant and any of its officers, directors, members, employees, or agents from any claims barred or released by this provision. Because Declarant has not and will not construct any of the Dwelling Units, Commercial Units, or buildings, so long as Declarant has not constructed any of the Dwelling Units, Commercial Units, or buildings within Silver Creek Village, (i) the Association shall indemnify and defend the Declarant and its officers, directors, members, employees, and agents against any litigation (which shall permit the Declarant to select counsel and require the Owner to advance all costs and fees related to any such claim), arbitration, or the assertion of any claim arising out of any alleged construction defect in, or related to, Silver Creek Village or any damages arising therefrom, and (ii) in the case of any claim or litigation asserted and related to any construction defect arising in any Dwelling Unit, Commercial Unit, or building, the Owner agrees to defend the Declarant and its officers, directors, members, employees, and agents (which shall permit the Declarant to select counsel and require the Owner to advance all costs and fees related to any such claim) from any such claim, and to indemnify Declarant from any liability arising therefrom.

[Signatures and Acknowledgements Follow]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed on the date set forth on page one of this Declaration.

DECLARANT:

VILLAGE DEVELOPMENT GROUP INC.,
a Utah corporation

By: *Matthew Lowe*
Name: Matthew Lowe
Title: President

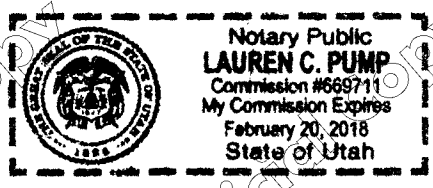
STATE OF UTAH)
)ss.
COUNTY OF SALT LAKE)

The foregoing Master Declaration of Covenants, Conditions, Restrictions, and Easements for Silver Creek Village was acknowledged before me this 19th day of April, 2017, by Matthew J. Lowe, the President of Village Development Group Inc., a Utah corporation.

Notary Public

My commission expires: 2/20/2018

Lauren C. Pump
Lauren C. Pump



CONSENT TO DECLARATION

For good and sufficient consideration, Liberty Capital Lending, LLC, a Utah limited liability company, the owner of a portion of the land defined herein as Annexable Property, consents to this Declaration, as of the date first above listed.

LIBERTY CAPITAL LENDING, LLC,
a Utah limited liability company

By: [Signature]
Its: Manager
Name: Matthew J. Lowe

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

The foregoing Master Declaration of Covenants, Conditions, Restrictions, and Easements for Silver Creek Village was acknowledged before me this 19th day of April, 2017, by Matthew J. Lowe, the Manager of LIBERTY CAPITAL LENDING, LLC, a Utah limited liability company.

Notary Public

My commission expires: 2/20/2018

[Signature]
Lauren C. Pump



EXHIBIT "A"

Legal Description of "Silver Creek Village"

(Annexable Property)

(See Attached)

A tract of land located in the West Half (W2) and the Southwest Quarter of the Southeast Quarter (SW4SE4) of Section 15, the Southeast Quarter (SE4) of Section 16, the Northeast Quarter of the Northeast Quarter (NE4NE4) of Section 21 and the Northwest Quarter of the Northwest Quarter (NW4NW4) of Section 22, all in Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah described as follows:

BEGINNING at a stone marking the corner common to Sections 15, 16, 21 and 22 in Township 1 South, Range 4 East, Salt Lake Base and Meridian, and running thence North 00°24'00" East 1195.99 feet (1193.81 feet by deed) to a point 1162.00 feet southerly measured perpendicularly to the southerly right of way line of Utah Department of Transportation Highway Project No.'s 76-D and 76(14), said point also being the southeast corner of that certain tract of land recorded in Book 113 at Page 461 as Entry No. 146301 of deeds in the Summit County Recorder records; thence North 83°50'00" West 943.52 feet along the south line of said tract to a point on the easterly right of way line of the North Pace Frontage Road described in Book 1311 at Page 196 as Entry No. 561234 of said records; thence northerly along a non-tangent 787.40 foot radius curve to the right 533.24 feet through a central angle of 38°48'07", said arc having a chord bearing North 09°26'52" East 523.11 feet to a point on the southerly right of way line of Interstate Highway I-80, Project No. I-80-4(31) recorded in Book 1M at Page 48 as Entry No. 100938; thence following said I-80 right of way line the following five (5) courses: (1) northeasterly along a non-tangent 991.74 foot radius curve to the right 465.59 feet through a central angle of 26°53'56", said arc having a chord bearing North 45°09'40" East 461.33 feet, (2) North 59°20'08" East 790.30 feet, (3) thence North 58°36'38" East 345.57 feet, (4) North 31°23'22" West 25.00 feet, and (5) North 58°42'38" East 1135.86 feet to the southerly boundary of Silver Gate Drive; thence along the southerly boundaries of said Silver Gate Drive the following three (3) courses: (1) South 30°55'32" East 32.42 feet (South 30°31'33" East by prior survey Entry No. 262095 of the Summit County records); (2) southeasterly along a 235.00 foot radius curve to the left 150.78 feet through a central angle of 36°45'46", said arc having a chord bearing South 49°18'25" East 148.21 feet; and (3) South 67°41'18" East 792.02 feet (South 68°16'19" East by prior survey) to the westerly boundary of the Park City Fire Service District property recorded in Book 2353 at Page 818 as Entry No. 1045653; thence along said westerly boundary and the westerly and southerly boundaries of the Snyderville Basin Water Reclamation District property recorded in Book 860 at Page 373 as Entry No. 422249 the following two courses: (1) South 00°24'00" West 2061.88 feet, and (2) South 89°43'02" East 724.58 feet (748.50 feet by deed) to the east boundary of that certain parcel described in Book 264 at Page 367 as Entry No. 207308 of said records; thence along said east boundary South 1345.66 feet to the northeast corner of Lot 9, Silver Creek Commerce Center, Plat C; thence along the northerly boundary of said Plat C and Silver Creek Commerce Center, Plat A, the following three (3) courses: South 58°25'15" West 600.50 feet, (2) South 77°33'34" West 304.97 feet, and (3) South 76°22'47" West 325.40 feet to the easterly boundary of said Silver Creek Center Condominiums; thence along the easterly and northerly boundaries of said Silver Creek Center Condominiums and the Silver Creek Business Park Amended the following two (2) courses: (1) North 00°11'30" West 139.14 feet, and (2) North 89°43'02" West 1160.28 feet to the northwest corner of Lot 7, Silver Creek Business Park Amended; thence along the easterly boundary of the North Pace Frontage Road the following four (4) courses: (1) northwesterly along a non-tangent 1462.39 foot radius curve to the left 732.07 feet through a central angle of 28°40'55", said arc having a chord bearing North 45°39'32" West 724.45 feet, (2) North 60°00'00" West 336.18 feet, (3) northwesterly along a 1402.39 foot radius curve to the right 150.91 feet through a central angle of 06°09'56", said arc having a chord bearing North 56°55'02" West 150.84 feet, and (4) North 28°43'02" West 68.48 feet to the south line of said Section 16; thence along said south line South 89°39'03" East 267.29 feet to the point of BEGINNING.

LESS AND EXCEPTING a tract of land located in the West Half (W2) of Section 15, the Southeast Quarter (SE4) of Section 16, the Northeast Quarter of the Northeast Quarter (NE4NE4) of Section 21 and the Northwest Quarter of the Northwest Quarter (NW4NW4) of Section 22, all in Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah described as follows:

BEGINNING at a stone marking the corner common to Sections 15, 16, 21 and 22 in Township 1 South, Range 4 East, Salt Lake Base and Meridian, and running thence North 00°24'00" East 1195.99 feet (1193.81 feet by deed) to a point 1162.00 feet southerly measured perpendicularly to the southerly right of way line of Utah Department of Transportation Highway Project No.'s 76-D and 76(14), said point also being the southeast corner of that certain tract of land described in Book 113 at Page 461 of deeds in the Summit County Recorder records; thence North 83°50'00" West 943.52 feet along the south line of said tract to a point on the easterly right of way line of a frontage road described in Book 1311 at Page 196 of said records; thence northerly 533.24 feet along a non-tangent 787.40 foot radius curve to the right through a central angle of 38°48'07", said arc having a chord bearing North 09°26'52" East 523.11 feet to a point on the southerly right of way line of Interstate Highway I-80, Project No. I-80-4(31); thence following said I-80 right of way line the following five (5) courses: (1) northeasterly 465.60 feet along the arc of said curve through a central angle of 26°53'56", said arc having a chord bearing North 45°09'40" East 461.33 feet, (2) North 59°20'08" East 790.30 feet, (3) thence North 58°36'38" East 345.57 feet, (4) North 31°23'22" West 25.00 feet, and (5) North 58°42'38" East 1135.86 feet to the southerly boundary of Silver Gate Drive recorded in a Boundary Adjustment Agreement recorded in Book 2368 at Page 1213 as Entry No. 1051989; thence along the southerly boundaries of said Silver Gate Drive the following three (3) courses: (1) South 30°55'32" East 32.42 feet (South 30°31'33" East by prior survey Entry No. 262095 of the Summit County records), (2) southeasterly along a 235.00 foot radius curve to the left 150.78 feet through a central angle of 36°45'46", said arc having a chord bearing South 49°18'25" East 148.21 feet, and (3) South 67°41'18" East 792.02 feet (South 68°16'19" East by prior survey) to the westerly boundary of the Park City Fire Service District property recorded in Book 2353 at Page 818 as Entry No. 1045653; thence along said westerly boundary and the westerly boundary of the Snyderville Basin Water Reclamation District property recorded in Book 860 at Page 373 as Entry No. 422249 South 00°24'00" West 604.31 feet (South 00°02'46" West by deed); thence South 87°03'48" West 257.91 feet; thence northwesterly 951.94 feet along a non-tangent 465.00 foot radius curve to the left through a central angle of 117°17'42", said arc having a chord bearing North 62°30'30" West 794.20 feet; thence South 58°50'39" West 69.63 feet; thence southwesterly 65.33 feet along a 250.00 foot radius curve to the right through a central angle of 14°58'24", said arc having a chord bearing South 66°19'51" West 65.15 feet; thence South 73°49'03" West 78.34 feet; thence southwesterly 225.28 feet along a 350.00 foot radius curve to the left through a central angle of 36°52'44", said arc having a chord bearing South 55°22'41" West 221.41 feet; thence South 53°03'42" East 125.00 feet; thence southwesterly 65.73 feet along a non-tangent 225.00 foot radius curve to the left through a central angle of 16°44'21", said arc having a chord bearing South 28°34'07" West 65.50 feet; thence southwesterly 21.11 feet along a reverse 15.00 foot radius curve to the right through a central angle of 80°38'33", said arc having a chord bearing South 60°31'13" West 19.41 feet; thence southwesterly 381.71 feet along a reverse 255.00 foot radius curve to the left through a central angle of 85°45'56", said arc having a chord bearing South 57°57'31" West 347.06 feet; thence South 15°04'34" West 567.67 feet; thence southwesterly 181.14 feet along a 670.50 foot radius curve to the right through a central angle of 15°28'45", said arc having a chord bearing South 22°48'56" West 180.59 feet; thence South 30°33'18" West 281.92 feet; thence southerly 283.17 feet along a 529.50 foot radius curve to the left through a central angle of 30°38'28", said arc having a chord bearing South 15°14'04" West 279.81 feet; thence South 00°05'09" East 210.71 feet; thence southeasterly 507.60 feet along a 630.00 foot radius curve to the left through a central angle of 46°09'51", said arc having a chord bearing South 23°10'05" East 493.98 feet; thence southerly 272.99 feet along a non-tangent 239.00 foot radius curve to the left through a central angle of 65°26'43", said arc having a chord bearing South 07°36'49" East 258.39 feet; thence South 35°53'39" East 2.50 feet; thence South 54°06'21" West 40.12

feet; thence southwesterly 64.27 feet along a 235.50 foot radius curve to the right through a central angle of 15°38'08", said arc having a chord bearing South 61°55'25" West 64.07 feet; thence southwesterly along a reverse 172.75 foot radius curve to the left 115.25 feet through a central angle of 38°13'24", said arc having a chord bearing South 50°37'47" West 113.12 feet; thence southwesterly 18.54 feet along a reverse 85.50 foot radius curve to the right through a central angle of 12°25'18", said arc having a chord bearing South 37°43'44" West 18.50 feet; thence southwesterly 112.62 feet along a reverse 532.50 foot radius curve to the left through a central angle of 12°07'02", said arc having a chord bearing South 37°52'52" West 112.41 feet; thence South 31°49'21" West 67.77 feet to a point on the northeasterly right of way of North Pace Frontage Road described in Warranty Deed No 360534 in Book 667 at Page 380, Summit County Records; thence along said northeasterly right of way the following four (4) courses: 1) northwesterly 14.01 feet along a non-tangent 1462.39 foot radius curve to the left through a central angle of 00°32'57", said arc having a chord bearing North 59°43'32" West 14.01 feet, 2) thence North 60°00'00" West 336.18 feet, 3) thence northwesterly 150.91 feet (149.06 feet by deed) along a 1402.39 foot radius curve to the right through a central angle of 06°09'56" (06°14'12" by deed), said arc having a chord bearing North 56°55'02" West 150.84 feet (North 56°52'54" West 148.99 feet by deed) to the easterly boundary of said Frontage Road described in Book 1309 at Page 728, and 4) thence North 28°43'02" West 68.48 feet (69.54 feet by deed) to the north line of said Section 21; thence along said north line South 89°39'03" East 267.29 feet (266.20 feet by deed) to the point of BEGINNING.

EXHIBIT "B"
Initial Covered Property

All of Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 17, 18 of Silver Creek Village Center Subdivision Plat, recorded on April 4, 2017 as Entry No. 1066785, in the official records of the Summit County Recorder's Office.

EXHIBIT "C"

Bylaws

(See Attached)

**BYLAWS
OF
SILVER CREEK VILLAGE OWNERS MASTER ASSOCIATION**

ARTICLE I. ARTICLES OF INCORPORATION

Section 1.01 References to Articles. Any reference herein made to the articles of incorporation of Silver Creek Village Owners Master Association (the "Association") will be deemed to refer to its articles of incorporation and all amendments thereto (the "Articles") as at any given time on file with the Utah Department of Commerce, Division of Corporations and Commercial Code (the "Division"), together with any and all certificates filed by the Association with the Division (or any successor to its functions) pursuant to the Utah Revised Nonprofit Corporation Act (the "Act").

Section 1.02 Seniority. Any discrepancies or conflicts between the provisions of the Act, the Declaration, the Articles and these Bylaws, and the Association rules shall, unless otherwise provided, be resolved by giving priority to the statutes and Governing Documents as set forth in the Declaration.

ARTICLE II. DECLARATION

All capitalized terms as used in these Bylaws shall have the same meanings as set forth in that certain Master Declaration of Covenants, Conditions, Restrictions, and Easements for Silver Creek Village recorded in the official records of the County Recorder of Summit County, Utah (as amended, restated or supplemented from time to time, the "Declaration").

ARTICLE III. ASSOCIATION OFFICES

Section 3.01 Location of Principal Office. The principal office of the Association in the State of Utah shall be 6028 South Ridgeline Drive, Suite 203, Ogden, Utah 84405, unless otherwise designated in the Articles or in a written statement or document duly executed and filed with the Division. The Association may have such other offices, either within or without the State of Utah, as the board of directors of the Association (the "Board of Directors") may designate, or as the business of the Association may require, from time to time.

Section 3.02 Change of Offices or Registered Agent. The Board of Directors may change the Association's known place of business or its registered agent from time to time by filing a statement with the Division pursuant to the Act.

ARTICLE IV. MEMBERSHIP

Section 4.01 Classes of Membership; Voting Rights. The Association shall have the classes of membership as set forth in the Declaration. The Members shall have the applicable voting rights set forth in the Declaration.

Section 4.02 Annual Meetings. Except as set forth in the Declaration, each annual meeting of the Members shall be held in the State of Utah on the first Wednesday of March of each year at the principal office of the Association, or on such other day during the first calendar quarter of each year and/or at such other place as may be fixed by the Board of Directors and set out in the notice of the meeting; provided,

however, that if such date falls on a legal holiday, the meeting shall be held on the next succeeding business day. At each annual meeting the Members of the Association shall elect members to the Board of Directors as set forth herein. Notwithstanding the requirement for an annual meeting of the Members, the Board of Directors may be elected by mail ballot.

Section 4.03 Special Meetings. Except as set forth in the Declaration, special meetings of the Members may be held at such places and at such times as may be fixed by the Board of Directors whenever called in writing by the President, a majority of the Board of Directors or by the Members holding twenty percent (20%) or more of the total votes entitled to be cast by all Members.

Section 4.04 Notices. Each Member shall be notified by the secretary by written notice not less than ten (10) days and no more than sixty (60) days before the date of the annual meeting, stating the place, day and hour of the meeting. Special meetings may be called in like manner after ten (10) days' notice, but any such notice also shall designate the purpose of the meeting and the items on the agenda (including the general nature of any proposed amendment to the Declaration, the Articles, or these Bylaws, and any proposal to remove a trustee or officer). Notices may be hand-delivered or sent prepaid by United States mail. In all such cases the date of hand-delivery or the date of mailing of the notices shall be considered the date such notices were given. Notices need only be given to Members appearing as such on the books of the Association at the time of the delivery or mailing of the notices.

Section 4.05 Waiver. A Member may waive any notice required by these Bylaws, the Declaration, the Articles or the Act, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred, provided that such waiver is (a) in writing, (b) signed by such Member entitled to the notice and (c) delivered to the Association for inclusion in the minutes or filing with the Association's records. Additionally, a Member's attendance at a meeting (i) waives objection to lack of notice or defective notice of the meeting, unless such Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice, and (ii) waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless such Member objects to considering the matter when it is presented.

Section 4.06 Quorum. At any regular or special meeting of the Members, the Members holding more than twenty-five percent (25%) of the total votes, represented in person or by proxy, entitled to be cast by all Members shall constitute a quorum for the transaction of business. A quorum shall be necessary to elect persons to the Board of Directors and transact any other business. In the absence of a quorum, a majority of the Members present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days and no more than thirty (30) days from the time the original meeting was called. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

Section 4.07 Qualification. Membership in the Association shall be limited to every Member. The foregoing does not include persons or entities that hold an interest merely as security for the performance of an obligation.

Section 4.08 Membership Records. The Association shall maintain (and keep up to date) the records showing the following: (a) the name of each person who is a Member; (b) the address of such person; and (c) the real property which is owned by such person. In the event of any transfer of a fee or undivided fee interest in any real property, either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Summit County, Utah. The Association may for all purposes act and rely on the information concerning Members and real property ownership which is thus

acquired by it, or at its option, the Association may act and rely on current ownership information respecting any real property which is obtained from the office of the County Recorder of Summit County, Utah. The address of a Member shall be deemed to be the address of the real property owned by such person unless the Association is otherwise advised. The Association may charge a reasonable fee, as established by the Board of Directors, for the change in membership on the records of the Association.

Section 4.09 Proxies. Any Member entitled to vote may vote by proxy at any meeting of the Members (and at any adjournment thereof) which is specified in such proxy, provided that such Member's proxy is executed in writing by such Member or such Member's duly authorized attorney in fact. A proxy is valid for eleven (11) months unless a different period is expressly provided for in such proxy. The burden of proving the validity of any undated, irrevocable or otherwise contested proxy at a meeting of the Members will rest with the person seeking to exercise the same. A telegram, teletype, facsimile or other electronic transmission shall be deemed executed and in writing.

Section 4.10 Organization and Conduct of Meetings. Each meeting of the Members will be called to order and thereafter chaired by the chairman of the Board of Directors if there is one; or, if not, or if the chairman of the Board of Directors is absent or so requests, then by the president; or if both the chairman of the Board of Directors and the president are unavailable, then by such other officer of the Association or such Member as may be appointed by the Board of Directors. The Association's secretary will act as secretary of each meeting of the Member and in such person's absence the chairman of the meeting may appoint any person (whether a Member or not) to act as secretary for the meeting. After calling a meeting to order, the chairman thereof may require the registration of all Members intending to vote in person and the filing of all proxies with the person acting as secretary at such meeting. After the announced time for such filing of proxies has ended, no further proxies or changes, substitutions or revocations of proxies will be accepted. If persons are to be elected to the Board of Directors, a tabulation of the proxies so filed will, if any person entitled to vote in such election so requests, be announced at the meeting (or adjournment thereof) prior to the closing of election polls. The record date for determining the Members entitled to notice of, or vote at, a Members' meeting, shall be determined as set forth in Section 706 of the Act.

ARTICLE V. BOARD OF DIRECTORS

Section 5.01 Management.

(a) The control and management of the Association, affairs and business of the Association shall be vested in a Board of Directors of not less than three (3) and no more than five (5) persons, as more specifically set forth below. Except for any members of the Board of Directors designated by Declarant, each member of the Board of Directors shall be a Member or spouse of a Member (or if a Member is an entity, a member of the Board of Directors may be an officer, equity owner, trustee, director, manager or beneficiary of such Member).

(b) Until the Declarant Control Period has expired, the Board of Directors shall consist of three (3) members, all of whom the Declarant shall appoint, remove and replace at such times as the Declarant deems fit to do so.

(c) Within a reasonable time following the expiration of the Declarant Control Period or at such earlier time as Declarant relinquishes its rights to appoint the Board of Directors, the Board of Directors shall call a special meeting at which the Class A Members shall elect not less than three (3) and no more than five (5) members of the Board of Directors, or the Board of Directors shall conduct the election by mail ballot. The majority of the members of the Board of Directors first elected following the expiration of the Declarant Control Period shall be elected to serve a term of two (2) years, and the

remainder of the members of the Board of Directors shall be elected to serve a term of one (1) year. Upon the expiration of the initial term of office of each such member of the Board of Directors elected subsequent to the expiration of the Declarant Control Period, a successor shall be elected to serve a term of two (2) years. Thereafter, all members of the Board of Directors shall be elected to serve two (2) year terms. The Board of Directors will have the power to increase or decrease its size within the aforesaid limits and to fill any vacancies which may occur in its membership, whether resulting from an increase in the size of the Board of Directors or otherwise, and such appointed members of the Board of Directors shall hold office until the next annual meeting of the Members.

Section 5.02 Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration, the Articles or these Bylaws directed to be exercised and done by the Members. The powers of the Board of Directors shall include but not be limited to the following:

- (a) to levy and collect Assessments from the Owners;
- (b) to provide the necessary management and accounting and other services required in connection with operation and maintenance of the Common Areas;
- (c) to designate, hire and dismiss personnel necessary to carry out the Association's rights and responsibilities and where appropriate, to provide for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;
- (d) to deposit all funds received on behalf of the Association in a bank account which it shall approve, and use such funds to operate the Association; provided, any reserve funds may be deposited, in the Board of Directors' judgment, in depositories other than bank;
- (e) to open bank accounts on behalf of the Association and designate the signatories required;
- (f) to enforce by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association, each as brought in accordance with the Declaration, Section 16.10;
- (g) to obtain and carry property and insurance and bonds, as provided in the Declaration, pay the cost thereof and file and adjust claims, as appropriate;
- (h) to pay the cost of all services rendered to the Association;
- (i) to keep the books with detailed accounts of the Association's receipts and expenditures;
- (j) to permit utility suppliers to use portions of the Common Areas reasonably necessary to the ongoing development or operation of the SPA Lands;
- (k) to indemnify a member of the Board of Directors, officer or committee member, or former member of the Board of Directors, officer or committee member of the Association to the extent such indemnity is required by the Act, the Articles or the Declaration;
- (l) to enforce liens against Lots, Parcels and Units in the event of default by a Member in payment of money under the Declaration, and to enforce any other provisions thereof;

(m) to enforce such Association rules pertaining to use and occupancy of the Lots, Parcels and Units and Common Areas as may be adopted by the Association and which are consistent with these Bylaws, the Articles and the Declaration; and

(n) to perform all other duties, obligations or acts required or contemplated by the Declaration.

Section 5.03 Quorum. A quorum for the transaction of business at any meeting of the Board of Directors shall consist of a majority of the members of the Board of Directors then in office.

Section 5.04 Annual and Regular Meetings. An annual meeting of the Board of Directors shall be held at the same place of, and on the same date as or within twenty (20) days after the adjournment of the annual meeting of the Members. Additional regular meetings of the Board of Directors may be held without notice at regular intervals at such places and at such times as the Board of Directors may from time to time by resolution provide.

Section 5.05 Special Meetings. Special meetings of the Board of Directors shall be held at such times and places as may be designated by the Board of Directors whenever such meetings are called orally or in writing by the president or a majority of the Board of Directors. Notices of special meetings shall be given by the secretary to each member of the Board of Directors, orally or in writing, at least three (3) days before the time fixed for the meeting. Such notices shall advise each member of the Board of Directors of the time, place and general purpose of the meeting, and shall be delivered personally, or shall be given by electronic means, or, if sent by mail, such three (3) days' notice shall be deemed to have been given if the notice is postmarked at least five (5) days before the date of the meeting. By unanimous consent of the members of the Board of Directors, special meetings of the Board of Directors may be held at any time without call or notice, or waiver of call and notice.

Section 5.06 Waiver of Notice. A Member may waive notice required by these Bylaws, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred. To be effective, such waiver must be (a) in writing (including by electronic transmission), (b) signed by the Member entitled to the notice and (c) delivered to the Association for inclusion in the minutes or filing with the Association's records; provided, however that the failure to comply with clause (c) will not cause the waiver to be ineffective.. Additionally, a Member's attendance at a meeting waives objection to (i) lack of notice or defective notice of the meeting, unless such Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and (ii) consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless such Member objects to considering the matter when it is presented.

Section 5.07 Participation by Electronic Means. Any or all of the Members may participate in an annual, regular, or special meeting of the Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

Section 5.08 Unanimous Consent. Any action which could be taken by the Board of Directors at a duly convened annual or special meeting of the Board of Directors may be taken without a meeting if all of the members of the Board of Directors consent thereto in writing. Such consent shall have the same effect as a unanimous vote of the members of the Board of Directors.

Section 5.09 Removal of Members of the Board of Directors. All members of the Board of Directors shall be subject to removal pursuant to, and in accordance with, Section 808 of the Act or the Declaration.

Section 5.10 Vacancies. In the event of the death, resignation, or discharge of a member of the Board of Directors for any reason, such vacancy shall be filled by vote of the majority of the members of the Board of Directors present at a properly called meeting of the Board of Directors, and the members of the Board of Directors elected to fill such a vacancy shall complete the term of office of the members of the Board of Directors so replaced.

Section 5.11 Expenses. No member of the Board of Directors shall receive compensation for any service he may render to the Association as a member of the Board of Directors. However, any member of the Board of Directors may be reimbursed from the Association's fund for such person's actual expenses incurred in the performance of such person's duties.

ARTICLE VI. OFFICERS

Section 6.01 Designation of Officers. The Board of Directors shall elect the officers of the Association at the annual meeting of the Board of Directors; provided, however, that elections of additional officers may be held at any other meeting of the Board of Directors specifically called for such purpose. The officers of the Association shall consist of a president, one or more vice presidents, secretary and treasurer. The Board of Directors may also appoint one or more assistant secretaries and assistant treasurers, which officers shall have authority to perform such duties as may be prescribed by the Board of Directors or the president. The elected or appointed officers of the Association must be Members.

Section 6.02 Specific Officers.

(a) **President.** The president will be the chief executive officer of the Association. The president will supervise the business and affairs of the Association, shall have the general superintendence of the affairs of the Association, shall preside at all meetings of the Association, including serving as chairman at any Board of Directors' meetings, and shall supervise the performance by all of the Association's other officers of their respective duties, subject to the control of the Board of Directors. Except as may otherwise be specifically provided in a resolution of the Board of Directors, the president will be the proper officer to sign on behalf of the Association for any agreement or other instrument of any significant importance to the Association.

(b) **Vice President.** In the absence of the president, a vice president may exercise any and all powers and perform all duties pertaining to the office of the president, or conferred or imposed upon the president by the Board of Directors.

(c) **Secretary.** The secretary will keep the minutes of meetings of the Board of Directors, the minutes of the meetings of any committee of the Board of Directors, all unanimous written consents of the Board of Directors and any committee of the Board of Directors, and will see that all notices are duly given in accordance with the provisions of these Bylaws or as required by the Act. The secretary will be custodian of the corporate seal, if any, and corporate records and, in general, will perform all duties incident to the office. Except as may otherwise be specifically provided in a resolution of the Board of Directors, the secretary and each assistant secretary will be a proper officer to impress the Association's seal, if any, on any instrument signed by the president, a vice president, or any other duly-authorized person, and to attest to the same.

(d) **Treasurer.** The treasurer will keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and will cause all money and other valuable effects to be deposited in the name and to the credit of the Association in such depositories, subject to withdrawal in such manner, as may be designated by the Board of Directors. The treasurer will render to the chairman, the president and the members of the Board of Directors at proper times an account of all his or her transactions as treasurer and of the financial condition of the Association. The treasurer shall be responsible for preparing and filing such financial reports, financial statements, and returns as may be required by the Act.

Section 6.03 Other Employees. The Board of Directors may engage the services of such other employees and professionals, including but not limited to an executive secretary and/or manager, attorneys, accountants and contractors, as may from time to time be deemed necessary or advisable to accomplish the objects, purposes and duties of the Association.

Section 6.04 Removal of Officers; Vacancies. All officers, agents and employees shall be subject to removal at any time by the affirmative vote of the majority of the members of the Board of Directors then in office. Any vacancy caused by removal, resignation, death or for any other reason whatsoever may be filled by the Board of Directors as the Board of Directors may deem appropriate.

Section 6.05 Expenses. No officer shall receive compensation for any service he may render to the Association as an officer. However, any officer may be reimbursed from the Association's fund for such person's actual expenses incurred in the performance of such person's duties.

ARTICLE VII. INDEMNIFICATION

The Association shall, to the full extent consistent with the Act, indemnify the members of the Board of Directors, officers, employees and agents of the Association with respect to liabilities and expenses arising out of any action, suit or proceedings in which they become involved by reason of their affiliation with the Association. Nothing contained herein shall prevent the Association from obtaining appropriate liability insurance for any of the foregoing.

ARTICLE VIII. SEAL

The Board of Directors may provide for a seal of the Association that will have inscribed thereon the name of the Association, the state and year of its incorporation, and the words "Corporate Seal."

ARTICLE IX. INSURANCE

The Association may purchase and maintain liability insurance (a) on behalf of a person who (i) is or was a director, officer, employee, fiduciary, or agent of the Association or (ii) while serving as a director, officer, employee, fiduciary, or agent of the Association at the request of the Association, is or was serving as a director, officer, partner, trustee, employee, fiduciary, or agent of (A) another foreign or domestic nonprofit corporation, (B) other person or (C) an employee benefit plan; and (b) against liability asserted against or incurred by the person in that capacity or arising from the person's status as a director, officer, employee, fiduciary, or agent, whether or not the Association would have power to indemnify the person against the same liability under Sections 902, 903 or 907 of the Act.

ARTICLE X. AMENDMENTS TO BYLAWS

(a) Prior to the expiration of the Declarant Control Period, the Board of Directors, at any regular or special meeting or by written consent, shall have the power to make, amend and repeal these

Bylaws by vote of a majority of the Board of Directors, provided that written notice of intention to make, amend or repeal these Bylaws in whole or in part shall have been given in the notice of the meeting.

(b) From and after the expiration of the Declarant Control Period, at a regular or special meeting or by written consent, the Class A Members shall have the power to make, amend, and repeal the Bylaws by vote of a majority of the Class A Members, provided that written notice of intention to make, amend, or repeal the Bylaws in whole or in part shall have been given in the notice of the meeting.

ARTICLE XI. FISCAL MANAGEMENT

Section 11.01 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

Section 11.02 Books of Account. Books of account of the Association shall be kept under the direction of the treasurer on a consistent basis in accordance with good accounting practices.

Section 11.03 Contracts. Unless otherwise provided herein or by the Board of Directors, all contracts shall be executed on behalf of the Association by either the president or vice president and may be countersigned by either the secretary or the assistant secretary.

CERTIFICATE OF ADOPTION

I hereby certify that I am the duly elected _____ of Silver Creek Village Owners Master Association, a Utah nonprofit corporation (the "Association"), and have been designated by the Board of Directors of the Association to act in that capacity. I also certify that the foregoing Bylaws have been adopted as the Bylaws of the Association by its Board of Directors by written consent in lieu of meeting, and that these Bylaws, as of the date of this Certificate, have not been repealed, altered, amended, restated, or superseded, and remain in full force and effect.

DATED as of the ____ day of _____, 20__.

EXHIBIT "D"
Common Areas
(See Attached)

Silver Creek Village

Items to be included in the maintenance of the Master Home Owners Association at Silver Creek Village.

- East Entry Monument
- West Entry Monument
- Neighborhood Park
- Village Green Park
- 3 Neighborhood Gardens
- Petrified Wood Park
- 4 Pocket Parks
- Neighborhood Trail
- Community Trail
- Pond/Wetland Features
- Open Space
- (Inc. Parcels 2.1, 20.1, 20.4, 21.1, and 24.3)
- Community Bike Share

*Maintenance includes all lighting, trees, shrubbery, landscaping, and sidewalks associated with or adjacent to Silver Creek Drive and Old Forest Drive within Silver Creek Village.

HOA Amenities

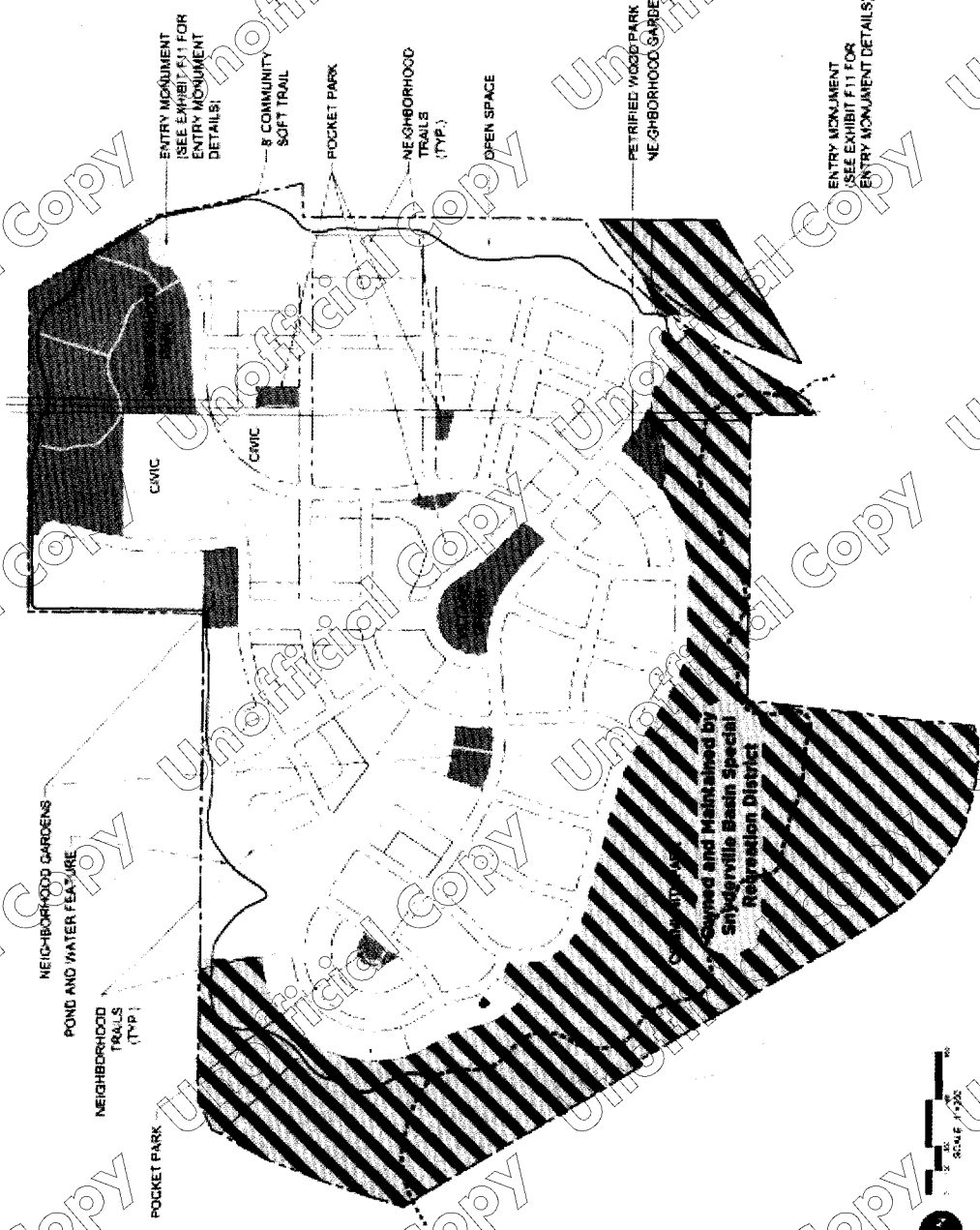


EXHIBIT "E"

Common Areas to Be Developed By Declarant Pursuant To the Development Agreement

1. All improvements required by the Development Agreement within or on the following parcels (as numbered and described in the Development Agreement): 2.5, 4.3, 6.5, 8.2, 11.1, 11.2, 17.1, 18.4, 16.4, 20.3, 21.2, 21.3, 22.2, 23.5, 24.3, 25.3, 26.4, 27.4, and 32.3.
2. The community (perimeter) trail, and the tunnels and other improvements associated therewith, to be installed and improved within the following parcels (as numbered and described in the Development Agreement): 2.5, 21.2, 21.3, 22.1, 22.2, 23.5, and 11.3.
3. The neighborhood (internal) trails and sidewalks, and the improvements associated therewith, linking the Common Areas and to be installed and improved pursuant to the Development Agreement.
4. All lighting, trees, shrubbery, landscaping, and sidewalks associated with or adjacent to Silver Creek Drive and Old Forest Drive within Silver Creek Village.
5. All entry features, landscaping, and monuments associated with the east and west entries to Silver Creek Village, at Silver Creek Drive and Old Forest Drive, respectively.