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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
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**AMENDED AND RESTATED MASTER DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
SARATOGA SPRINGS SUBDIVISION
(Bylaws Attached Hereto as Exhibit B)**

ARTICLE I - RECITALS

NOTE: Capitalized terms found throughout this instrument shall have the meaning given at the first point in this instrument where such term is utilized or in Article III hereof, "Definitions."

WHEREAS, the undersigned (hereafter "Grantor") is the owner of certain land in Utah County, Utah, and has also heretofore transferred certain land to the "Subdeveloper" who is also joining in the execution hereof, all of such land (including both land still owned and land heretofore transferred to subdeveloper) more particularly described as follows (hereafter "Property" or "Subdivision"):

Saratoga Springs Development, comprising approximately 640 acres on the northwest shore of Utah Lake, including the Saratoga Springs Resort and more particularly described in **Exhibit A** attached hereto, and any annexation, expansion or supplement thereto.

WHEREAS, the Grantor and Subdeveloper desire to subject the Property to the covenants, conditions, restrictions, easements, reservations, limitations and equitable servitudes herein set forth to (i) insure the enhancement and preservation of property values, (ii) provide for the proper design, development, improvement and use of the Property by the Grantor and Subdeveloper and all other persons or entities who may subsequently acquire an interest in the Property consistent with a general master plan approach and (iii) create a residential development of high quality;

WHEREAS, as additional land owned and platted by the Grantor adjacent to or in the vicinity of the Property is platted and developed for uses similar to that of the Property, upon election by the Grantor, such shall become subject to the terms of this Restated and Amended Master Declaration by annexing the same as provided herein;

WHEREAS, the Property will be developed in several phases or development units each of which may be a separately platted subdivision which may have unique characteristics, needs and requirements (including varied building types, land use types and ownership alternatives), the Grantor may, from time-to-time, promulgate further conditions, covenants, restrictions and easements as "Supplemental Declarations" relating to such separately platted or designated tracts, parcels or subdivisions within the Subdivision;

WHEREAS, the "Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision No.1" was recorded as Entry No. 12514:1997, in Book 4195, in the Utah County Recorder's Office (the "Master Declaration");

WHEREAS, the Master Declaration was amended by the "First Amendment to Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision No. 1" recorded as Entry No. 43500:1998 in the Utah County Recorder's Office (the "First Amendment"), which amendment annexed additional property into the subdivision;

WHEREAS, the Master Declaration was further amended by the "Second Amendment to Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision No. 1" recorded as Entry No. 77286:1998 in the Utah County Recorder's Office (the "Second Amendment"), which amendment annexed additional property into the subdivision;

WHEREAS, the Master Declaration was further amended by the "Third Amendment to Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision No. 1 for Annexation of Property with Supplementary Restrictions," recorded as Entry No. 31198:2000 in the Utah County Recorder's Office (the "Third Amendment"), which amendment annexed additional property into the subdivision and further bound such property with additional "supplemental" restrictions. The supplemental restrictions for Plat 11 lots are incorporated into a separate supplemental declaration, without any changes being made to the provisions thereof;

WHEREAS, the restrictions of the Master Declaration concerning Plats 7 & 8 were supplemented by the "Supplementary Restrictions Plats 7 & 8 at Saratoga Springs," recorded as Entry No. 86086:1998 in the Utah County Recorder's Office are not incorporated into this Amended and Restate Declaration and shall remain in full force and effect as presently written;

WHEREAS, the restrictions of the Master Declaration concerning Plats 13 & 23 were supplemented by the "Supplementary Restrictions of the Golf Community at Saratoga Springs Plats 13 and 23," recorded as Entry No. 101821:2000 in the Utah County Recorder's Office are not incorporated into this Amended and Restated Declaration and shall remain in full force and effect as presently written;

WHEREAS, the restrictions of the Master Declaration concerning Plat 12 were supplemented by the "Supplementary Restrictions the Golf Community at Saratoga Springs Plat 12," recorded as Entry No. 101821:2000 in the Utah County Recorder's Office are not incorporated into this Amended and Restated Declaration and shall remain in full force and effect as presently written;

WHEREAS, the restrictions of the Master Declaration concerning Plat 15 were supplemented by the "Supplementary Restrictions the Golf Community at Saratoga Springs Plat 15," recorded as Entry No. 14080:2001 in the Utah County Recorder's Office are not incorporated into this Amended and Restated Declaration and shall remain in full force and effect as presently written;

WHEREAS, the restrictions of the Master Declaration concerning Plats 12-29 supplemented by the "Supplementary Restrictions the Golf Community at Saratoga Springs," which restrictions do not appear to have been recorded, are not incorporated into this Amended and Restated Declaration and shall remain in full force and effect as presently

written;

WHEREAS, the restrictions of the Master Declaration concerning the Lake Lots supplemented by the "Supplementary Restrictions of the Lake Lots at Saratoga Springs," which restrictions do not appear to have been recorded, are not incorporated into this Amended and Restated Declaration and shall remain in full force and effect as presently written;

WHEREAS, the restrictions of the Master Declaration concerning the Waterside Estates supplemented by the "Supplementary Restrictions of the Waterside Estates at Saratoga Springs," which do not appear to have been recorded, are not incorporated into this Amended and Restated Declaration and shall remain in full force and effect as presently written;

WHEREAS, the Association in accordance with Article 14.02(b) of the Master Declaration adopts this "Amended and Restated Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision No. 1" (the "Amended and Restated Master Declaration");

WHEREAS, this Amended and Restated Master Declaration shall incorporate and supersede all prior declarations and amendments to declarations of all existing phases of Saratoga Springs Subdivision No. 1, and shall bind all future annexed property; notwithstanding anything to the contrary, the Supplementary Restrictions, as listed above, shall not be incorporated into or superseded by this Amended and Restated Master Declaration;

WHEREAS, in order to achieve the objectives and desires of the Grantor and Owners, this Amended and Restated Master Declaration is deemed necessary and appropriate to better vest the Association with the powers necessary to carry out the purposes for which it was created;

ARTICLE II - DECLARATION

The Grantor and Subdeveloper hereby declare that the Property and each lot, tract or parcel thereof (hereafter called "Lot," unless specified to the contrary), is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following covenants, conditions, restrictions, easement, reservations, limitations and equitable servitudes (hereafter collectively called "covenants and restrictions"), all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property or any Lot therein, and to enhance the value, desirability and attractiveness thereof. The covenants and restrictions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property or any Lot therein; shall inure to the benefit of every Lot in the Subdivision and any interest therein; and shall inure to the benefit of and be binding upon the Grantor, the Subdeveloper and each Owner, and each successor in interest of each, and may be enforced by the Grantor and by any Owner, or by the Owner's Association, as hereafter provided.

Notwithstanding the foregoing, no provision of this Amended and Restated Master Declaration shall be construed or enforced to prevent or limit the Grantor's right to complete development of the Property in accordance with the plan therefore as the same exists or may be modified from time to time by the Grantor nor prevent normal construction activities during the construction of Improvements upon any Lot in the Subdivision. No development

or construction activities shall be deemed to constitute a nuisance or violation of this Amended and Restated Master Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion.

In the event any dispute concerning the foregoing shall arise, a temporary waiver of the applicable provision(s) of this Amended and Restated Master Declaration may be granted by the Architectural Control Committee provided that such waiver shall be for a reasonable period of time. Any such waiver need not be recorded and shall not constitute an amendment of this Amended and Restated Master Declaration.

In the event of any conflicts between the provisions of this Amended and Restated Master Declaration and the requirements of the applicable ordinances of Utah County, Utah or any municipality which may annex any portion of said project (as to that portion or portions), the more restrictive shall control.

ARTICLE III - DEFINITIONS

As used in this Amended and Restated Master Declaration, unless the context otherwise specifies or requires, the following words and phrases shall be defined as follows:

ACC: The Architectural Control Committee for the Subdivision.

ACC Rules/ACC Standards: The written rules and standards developed and adopted, initially by the Grantor and, subsequently by the ACC pursuant to the powers granted under Article XI hereof, as amended from time to time. Such ACC Rules/ACC Standards shall be developed and contain rules and standards which will promote both high quality architectural, design, engineering and building standards while, incorporating a reasonable degree of variety and flexibility while maintaining an overall design and conceptual consistency congruent with a master planned community concept.

Amended and Restated Master Declaration: This instrument as amended from time to time and may also include the term "Master Declaration."

Annexation: The process by which additional tracts or parcels of land, including platted lots improved with single family dwellings, not initially a part of the Property are made subject to this Master Declaration.

Assessment: A payment required of Association members, including Regular, Special or Limited Assessments as provided in this Master Declaration.

Association: Saratoga Springs Owners Association, Inc., a Utah non-profit corporation.

Board: The duly elected and qualified Board of Directors of the Association.

Building: A structure constructed on a Lot on a temporary or permanent basis and unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith.

By-Laws: The By-Laws of the Association, including any amendments thereto duly adopted.

Commercial Area: Any portion of the property zoned or used for the buying or selling of

goods or services or use of property such as a convenience store, refreshment center or food service, golf course and associated club-house and other related uses as designated by the Grantor.

Common Area: All real property within the Subdivision in which the Association owns an interest or controls and which is held or controlled for the betterment of the Subdivision.

Development: The project to be undertaken by the Grantor resulting in the improvement of the Subdivision or any additional property annexed hereunder, including landscaping, amenities, construction of roadways, utility services and other improvements.

Fines: Means a punitive monetary amount levied against an Owner and Lot for violations of this Amended and Restated Master Declaration, the Bylaws, the Rules and Regulations of the Association and applicable Architectural Guidelines. Said Fines shall be collectable as assessments pursuant to Articles VIII and IX of this Amended and Restated Master Declaration.

Grantor: The undersigned owner, and his successors and assigns, of the land comprising the Subdivision.

Improvements: All structures and appurtenances thereto of all kinds and types, including but not limited to, Buildings, roads, driveways, parking lots, sidewalks, walkways, walls, fences, screens, landscaping, poles, signs and lighting. Improvements shall not include those items which are located totally on the interior of a Building and cannot be readily observed when outside thereof.

Initial Construction: The first construction of permanent Improvements on a Lot following the sale of that Lot by the Grantor to an Owner, and intended for residential occupancy.

Limited Assessment: An Assessment levied by the Association upon one or more Lots, but not upon all Lots within the Subdivision, for the purpose of securing payment by the Owner(s) thereof of amounts expended by the Association to correct a condition prohibited or to cure an Owner's breach hereunder.

Lot: A portion of the Property which is a legally described tract or parcel of land within the Subdivision or which is designated as a Lot on any recorded subdivision plat relating to the Property.

Master Plan: Shall mean the master development plan for the Property (as amended and expanded from time to time to include additional property annexed to the Subdivision and to accommodate reasonable variations from the original master concepts for subdivisions within the Subdivision and to meet the requirements of governmental authorities having jurisdiction over the development of the Property), which development plan has been created by the Grantor, reviewed by and conceptually accepted by appropriate governmental authorities and includes projected varied residential uses, including single-family detached residence subdivisions, multi-family housing, condominium, townhouse and other residential uses combined with certain recreational, open-space and incidental but restricted commercial uses. Modification of the Master Plan and redesignation of types of residential, commercial or recreational use and specific redesign of common areas within the Subdivision shall be within the discretion of the Grantor subject to the requirement that any such modifications shall not result in a material inconsistency in property use or material departure from the overall master plan and conceptualization of the overall community encompassed by the Subdivision.

Member: Any person(s) who is an Owner of a Lot within the Subdivision.

Mortgage: Any mortgage or deed of trust or other hypothecation of land located in the Subdivision to secure the performance of an obligation. Unless otherwise specifically provided, the reference to a "Mortgage" in this Master Declaration shall be limited to a "First Mortgage," including a First Deed of Trust," on a Lot in the Subdivision.

Mortgagee: The holder of a Mortgage or the beneficiary under a Deed of Trust, including an assignee(s) thereof, which Mortgage or Deed of Trust encumbers a Lot in the Subdivision owned by an Owner. Unless otherwise specifically provided, the reference to a "Mortgagee" in this Master Declaration shall be limited to a holder of a First Mortgage, including a beneficiary under a First Deed of Trust on a Lot.

Occupant: Any person, association, corporation or other entity who or which is an Owner, or has leased, rented, been licensed, or is otherwise legally entitled to occupy and use any Building or Improvement on a Lot whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.

Owner: A person or persons or other legal entity or entities, including the Grantor, holding fee simple title to a Lot in the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including any Mortgagee (of any priority) or other security holder provided said Mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such Mortgagee or other security holder by purchase at foreclosure sale or otherwise.

Plat: A final subdivision plat covering any real property in the Subdivision, as recorded in the office of the County Recorder, Utah County, Utah, as the same may be amended by duly recorded amendments thereto.

Regular Assessment: An assessment levied by the Association to provide funds to pay the ordinary estimated expenses of the Association.

Special Assessment: An assessment levied by the Association other than a Regular or Limited Assessment.

Sub-Association: A Utah non-profit corporation or unincorporated Association organized by the Grantor or by any Owner(s) pursuant to a Supplemental Declaration approved and consented to by the Grantor for any specific tract or parcel or subdivision within the Subdivision. Unless specifically provided to the contrary, or the context requires otherwise, a reference to "Association" shall include "Sub-Association."

Sub-Association Board: The duly elected and qualified Board of Directors of a Sub-Association. Unless specifically provided to the contrary, or the context requires otherwise, reference to "Board" shall include "Sub-Association Board."

Supplemental Declaration: The additional or different conditions, covenants, conditions, restrictions and easements relating to a particular tract or parcel of real property within the Subdivision promulgated by the Grantor and recorded in the official records of Utah County, Utah. Unless specifically provided to the contrary, or unless the context otherwise requires, a reference to "Master Declaration" shall include "Supplemental Declaration."

Subdivision: The whole of the Property and any additional land annexed thereto as provided herein, including any such additional land as may be platted and annexed hereunder under a

different name (also sometimes referred to herein as "Property").

The Saratoga Springs Owners Association, Inc.: The Utah non-profit corporation organized by the Grantor and comprised of Members and existing for the purpose of providing self-government for the Property.

ARTICLE IV - PURPOSE

The Property is hereby made subject to the covenants and restrictions contained in this Master Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and their respective successors in interest, to insure proper design, development, improvement, use and maintenance of the Property for the purpose of:

- (a) Insuring Owners and Occupants of Buildings of quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and Improvements.
- (b) The prevention of the erection in the Subdivision of Improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction.
- (c) Encouraging and insuring the erection of quality and attractive Improvements appropriately located within the Property to assure visual quality and harmonious appearance and function.
- (d) Securing and maintaining proper set-backs from streets and open areas in the Subdivision and adequate free spaces between Improvements
- (e) The integration of development of the different Lots by setting common general standards consistent with the ACC Rules/ACC Standards existing from time to time.
- (f) Insuring attractive landscaping and the conservation of existing natural features with minimum adverse impact on the ecosystem.
- (g) Taking advantage of and utilizing, for purposes of promoting all of the foregoing and further enhancing the value and quality of each Owner's and each Occupant's interest in the Subdivision or in any Lot or Lots therein, a master planned residential community concept accommodating a diversity of residential property uses and designs within a common and harmonious community plan with recreational and incidental restricted commercial uses supportive of the overall planned community concepts envisioned by the Grantor.

As used hereafter, "Project Objectives" shall mean the foregoing specified purposes.

ARTICLE V - PERMITTED USES AND PERFORMANCE STANDARDS

SECTION 5.01. Use. Unless otherwise specified in a Supplemental Declaration covering a particular Lot(s) or parcel(s). Lots shall be used only for residential purposes and such uses as are customarily incidental thereto and Common Area.

SECTION 5.02. Buildings. The Master Plan contemplates that, with certain exceptions which are now or may hereafter designated in the Master Plan or pursuant to a Supplemental Declaration for attached housing, condominium, townhouse, twin home or apartment complex uses, no Lot shall be improved except with one (1) dwelling unit. Each detached dwelling unit shall have an attached or fully enclosed garage adequate for a minimum of two (2) and a maximum of four (4) standard size automobiles. No carports or front-yard (meaning anywhere closer to the front property line of the lot than the front-most portion of the Building) parking pads shall be allowed.

Unless otherwise specified in a Supplemental declaration recorded after the date of this Amended and Restated Master Declaration, square footage of such detached dwelling units (excluding basements) shall be, on Section A, a minimum of 1,100 square feet. Section B, a minimum of 1,200 square feet, and Section C, a minimum of 1,800 square feet.

SECTION 5.03. Approval of Use and Plans. The overall architectural style and detailing of each Improvement (including each Building) and the associated landscaping and site use is subject to ACC review and approval. Extraordinarily stylized or unique building shapes, or styles, such as geodesic domes, A-Frames, or cubic block homes are prohibited. The determination of whether or not a proposed Building is within this prohibited category of unique building styles shall rest with the ACC and such determinations shall be made in the sole and absolute discretion of the ACC, provided that in making such determination, the ACC may consult with Owners of Lots in the immediate surrounding area of the Lot where the subject Building is proposed.

No Initial Construction, including any site preparation or excavation of the Lot or other preparatory construction of Improvements for such Initial Construction shall be undertaken, built, constructed, erected or placed on a Lot unless and until the plans, specifications and site plan therefore have been reviewed in advance and approved by the ACC in accordance with the provisions of Article X, below. After Initial Construction, no other work of construction, excavation, or any material alteration to Improvements on a Lot shall be undertaken without obtaining the same advance approvals as are required with respect to Initial Construction. Two sets of site, building, all four elevations, fencing, landscaping, plans are to be submitted to the ACC for approval.

SECTION 5.04. Prohibited Buildings/Uses. No trailer or other vehicle, tent, shack, garage, accessory building or out-building shall be used as a temporary or permanent residence. No noxious or offensive activities shall be conducted on any Lot nor shall anything be done or any use made thereon or thereof which may be or become an unreasonable annoyance or nuisance to the Occupant(s) of the other Lots within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise. No split-entry Buildings or Buildings having more than 35 feet from the ridge of roof, as measured from grade, shall be allowed.

SECTION 5.05. Set-Backs. The Grantor may vary minimum building setbacks (any such contemplated variance to be set at time of sale) for the various types of residences and structures, including the imposition of minimums which are more restrictive than the applicable governmental requirement but also provided that such variations shall not be violative of requirements imposed by any governmental entity. Rear and side yard fencing shall be set back a minimum often feet (10') from any street right-of-way.

SECTION 5.06. Antennae. No exterior radio antennae, television antennae or other antennae, including a satellite dish, shall be erected or maintained on a Lot without the prior

approval in writing by the ACC. Said approval to be in compliance with current Federal Communication Commission (FCC) standards.

SECTION 5.07. Easements. There is hereby reserved for the use and benefit of the Grantor and granted for the use and benefit of each Lot, and for the use and benefit of each Owner and Occupant, and for the use and benefit of the Association, and their successors and assigns, for the purposes incident to such use development and maintenance of the Property, the following easements:

- (a) For the installation and maintenance of public utility facilities of all kinds, including radio and television and transmission cables, the easements so designated on the recorded subdivision plat(s) for the Subdivision.
- (b) For the purpose of permitting the Grantor or the Association, their contractors and agents, to enter onto those portions of Lots contiguous to any Common Area to maintain, replace and restore landscaping and other Improvements within the Common Area
- (c) Reciprocal appurtenant easements of encroachment, not to exceed one foot (1'), as between each Lot and such portion(s) of the Common Area adjacent thereto, or between adjacent Lots, due to the unintentional placement or settling or shifting of the Improvements constructed thereon, which easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments, settling or shifting; provided, however, that in no event shall a valid easement for encroachment occur due to the willful act or acts of an Owner.
- (d) Any additional easements, if any, as shown and designated on the recorded subdivision plat for the Subdivision.

The easement areas (excluding any equipment or appurtenances owned by the Grantor, the Association or a utility company located thereon) herein reserved shall be maintained by the Owner of the Lot upon which they are situated.

No Improvements shall be placed or permitted to remain on such easement areas located within any Lot which shall interfere with the intended use or purpose of such easement(s), and no other activity shall be undertaken on any Lot which may interfere with the use and access intended to be provided by such easement or the installation or maintenance of the utilities or other facilities, if any, located thereon or therein.

SECTION 5.08. Lighting. All exterior lighting and interior lights reflecting outside shall not be placed in any manner which shall cause glare or excessive light spillage on a neighboring Lot(s).

SECTION 5.09. Animals. No animals, livestock, birds, insects or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two (2) domesticated dogs and/or cats, or other small household pets which do not unreasonably bother or constitute a nuisance to others may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Dogs and other similar pets shall be on a leash when not confined to an Owner's Lot. Owners shall be responsible to clean up after their animals both on private Lots and Common Areas.

SECTION 5.10. Septic Tanks/Cesspools. No septic tanks and/or cesspools shall be allowed within the Subdivision.

SECTION 5.11. Grading and Drainage. A site plan indicating the proposed grading and drainage of a Lot must be approved by the ACC before any construction is initiated. Lot grading shall be kept to a minimum and Buildings are to be located for preservation of the approved grade(s) and any grade(s), berms or swales should be an integral part of the grading design.

SECTION 5.12. Commercial Use Prohibited. Except as provided in 5.19, no Lot shall be used for commercial or business activity, provided, however, that the Grantor or persons authorized by the Grantor may use a Lot(s) for development and sales activities relating to the Subdivision, model homes or real estate sales. As used herein, "commercial or business activity" shall not include- the rental by an Owner of a Lot and the Improvements thereon for residential purposes or the incidental use of a Lot and the Improvements thereon by an occupant for purposes incidental to a commercial or business activity shall not be a use in violation of this Section, provided that (i) such Lot is not used for storage of commercial or business items, (ii) employees, customers, clients, patrons and similar persons related to such commercial or business activity are not present on the Lot on a regular basis, (iii) no exterior signage (except for one non-illuminated, non-dayglo, non-fluorescent or non-reflective, sign of maximum one square foot in a window; may be permitted by the Architectural Control Committee), (iv) this section specifically prohibits use of a Lot for commercial repair or sale of any vehicle, equipment, boat or other fuel operated equipment.

SECTION 5.13. Maintenance. The following provisions shall govern the maintenance of Lots and all Improvements thereon:

- (a) Each Owner of a Lot shall maintain all Improvements located thereon in good and sufficient repair and shall keep the Improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows unbroken and glazed, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition.
- (b) All damage to any Improvements shall be repaired as promptly as is reasonably possible.
- (c) A Building which is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals.
- (d) Subdivided Lots shall not be exempt from the provisions of this Master Declaration. These provisions shall not apply to subdivided land owned by Builders or by the Grantor, that is used for agriculture, open space, or in a pre-development status.
- (e) All structures, facilities, equipment, objects and other conditions determined by the ACC, in its sole discretion, to be offensive, shall be enclosed within an approved structure or appropriately screened from public view. All trash, debris, garbage and refuse shall be kept at all times in a covered container. All such permissible containers shall be kept on a Lot within an enclosed structure or screened from public view.
- (f) No articles, goods, machinery, materials or similar items shall be stored,

kept or maintained on a Lot in the required set-back area along a public or private right-of-way or otherwise kept in the open or exposed to public view.

- (g) Any event or condition on a Lot which, in the sole discretion of the ACC, creates an unsightly or blighting influence, shall be, in a manner satisfactory to the ACC, corrected, removed or screened from public view, as the case may be, by the Owner of the Lot, notwithstanding the fact that such event or condition may not be specifically described and/or prohibited in this Master Declaration.
- (h) In the event that any Owner shall permit any Improvement, including any landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board and/or its assignees, upon fifteen (15) days prior written notice to the Owner of such Lot, shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing the same, and such Owner shall promptly reimburse the Association for the cost thereof.

The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor, or the amounts may, at the option of the Board, be levied as a Limited Assessment against said Lot and shall be enforceable in the same manner as other assessments set forth in Article VIII of this Master Declaration.

SECTION 5.14. Mining and Drilling. No Lot shall be used for the purpose of mining, quarrying, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth; provided that the Grantor or the Association retains the right to drill for and extract water and Grantor or the Association may conduct excavation as required for any improvements.

SECTION 5.15. Boats, Campers and Other Vehicle. Trailers, mobile homes, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times in an enclosed structure or in a paved sideyard area next to the garage but behind the fence and at no time shall any of said vehicles or equipment be parked or stored on a public or private right-of-way within the Subdivision. The parking or storage of commercial equipment, including, but not limited to, truck trailers or cabs, construction or excavation equipment, etc., is prohibited. The primary purpose of the garage required on each Lot is for the parking and storage of automobiles and other vehicles (hereafter "automobiles"). No other use of a garage or conversion of a garage, which prohibits or limits the use of a garage for the parking or storage of the number of automobiles for which it is designed, shall be permitted. Parking on the lawn or unpaved portion of the Lot or in a public right-of-way within the Subdivision, other than for temporary purposes (as determined by the ACC), is prohibited. No inoperative vehicle shall be parked or stored at any time on a Lot unless wholly within an enclosed structure. A minimum of two (2) off-street parking spaces for automobiles shall be provided

on each Lot in addition to the garage spaces, provided that no parking in the front yard setback area of the Lot shall be allowed only in space directly in front of the garage. The Board in its discretion may enforce the parking restrictions by towing vehicles in violation thereof. The costs incurred by the Association to tow a vehicle shall be charged to the Owner and collected as an assessment pursuant to Articles VIII and IX herein.

SECTION 5.16. Garage Doors. Garage doors shall be closed except when open for a temporary purpose.

SECTION 5.17. Exterior Materials and Colors. All exterior materials and colors shall be selected and used as approved by the ACC. All exterior finishes and/or colors shall be earthtone, provided that subtle blue and gray tones may also be permitted, as approved by the ACC. Roofs shall be tile, architectural shingles (grays, black and browns), or wood shingles as approved by the ACC. Roof shingles of primary colors shall be prohibited. No gravel roofs shall be permitted.

SECTION 5.18. External Energy Devices. No energy producing devices including, but not limited to, generators of any kind shall be constructed or maintained on any Lot without the prior written approval of the ACC, except for heat pumps or similar appliances shown on the plans approved by the ACC. Solar panel use and location shall not be permitted unless the ACC has provided written approval of size, placement, and nature of the installation.

SECTION 5.19. Commercial Area. Where commercial zoning is approved or uses allowed by the ACC in accordance with the Master Plan, specific regulation and requirements will control each said site and the provisions of this Declaration will be applicable to the extent necessary to assure compatibility of commercial development with surrounding uses.

SECTION 5.20. Mailboxes. No free-standing mailbox shall be constructed or installed on any Lot without the prior written approval of the mailbox plans by the ACC.

SECTION 5.21. Signs. No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for rent or for sale by displaying a single, neat, reasonably sized vacancy sign or "For Sale" sign thereon and home occupation signage as per 5.12 (iii). Signs advertising the name of the builder and the name of the institution providing financing therefor may be displayed on a Lot during construction of the Improvements. Lighted, moving or flashing signs for any purposes are prohibited. Directional signs may be used to give directions to traffic or pedestrians or give special instructions. Any directional or identification sign in the Subdivision shall be permitted, provided the same is approved by the ACC prior to installation. The ACC may promulgate sign guidelines that would regulate project and builder signage.

SECTION 5.23. Subdividing. No Lot which has been platted and approved as a final building or residential lot (whether for single-family buildings or otherwise) may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of the ACC; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or require the approval of the ACC therefor. In addition, the conveyance of an insignificant portion(s) of a Lot to the Owner of the Lot which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose, shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.

SECTION 5.24. Fences. No fence, wall, hedge, high planting, obstruction or other visual or privacy barrier (hereafter collectively "fence") of any kind shall be constructed on a Lot unless the plans and specifications therefor, including the location, design material and color thereof have been approved in writing by the ACC prior to the construction or installation. OWNERS SHOULD NOT ORDER FENCE MATERIALS PRIOR TO ACC APPROVAL. It is the intent of the Grantor to create an open, spacious and landscaped appearance throughout the Subdivision, and all decisions with respect to fences shall be governed accordingly. All fences constructed on a Lot shall be in compliance with the applicable ordinances of Utah County, Utah.

All fences constructed on a Lot shall be subject to the following restrictions:

- (a) Fences shall not project beyond the front yard setback or the principal Building (whichever distance is greater) on the Lot. No fence higher than six feet (6') shall be allowed without the prior approval of the ACC.
- (b) Wrought iron fencing along boundary lines in the side and rear yards is strongly encouraged. Side yard or rear yard fences on corner lots shall be set back from the right-of-way a minimum of 10 feet with a landscaping area within the 10 feet approved by the ACC. It is strongly encouraged that privacy between Lots be established by hedges, trees, shrubbery or other landscaping provided that the same complies with the intent of this Master Declaration and is approved by the ACC. Heavy foliage and fences are not allowed to interfere with the vision triangle of traffic.
- (c) All fences shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located and all damaged fencing shall be repaired or replaced to original design, materials and color within a reasonable time after said damage occurs.
- (d) No fence shall interfere with the use and enjoyment of any easement reserved in this Master Declaration or shown on the recorded subdivision plat of the Property.
- (e) Owners of lake-bordered Lots shall erect only such Lot border fencing as is requisite for safety purposes and then any fencing proposed, must be reviewed by the ACC with a view to preserving adjoining Lot views and vistas of the lake as a criteria for approval or disapproval of the fencing types and design.
- (f) All fences constructed or installed on the interior of a Lot, e.g. dog runs, swimming pool, etc., which are visible from an adjoining Lot or from a street within the Subdivision shall be subject to prior approval by the ACC.
- (g) Privacy fences for pools, hot tubs, patios, etc. may be allowed if attached to house and made of materials and colors as approved by the ACC and covering not more area than 30% of the ground floor area of the house.
- (h) Fences installed by the Grantor or the Association on or along Common Areas shall not be altered or modified by any Owner or Occupant in any manner other than for routine maintenance (including painting, repair and replacement). Owners and Occupants shall not install parallel fences to those

installed by Grantor or the Association, behind or along the original fence installed by the Grantor or Association.

- (i) Chain link fencing is not a permitted fence type. Exceptions may be granted by the ACC on a case-by-case basis where (1) such fence would be limited to a small area (such as a dog run), (2) where the chain link fence is not used as a perimeter fencing method and would not be open to public view. In all events, uses of chain link fencing must receive prior approval by the ACC in writing with respect to location and color.

SECTION 5.25. Landscaping. The following provisions shall govern the landscaping of Lots within the Subdivision:

- (a) The owner shall prepare a landscape plan and shall submit two (2) copies of the same to the ACC as provided in Article X, below. The ACC shall approve said landscape plan prior to the installation and/or construction of landscaping on a Lot. Landscaping of a Lot shall be in accordance with the approved plan.
- (b) A desire for an open, spacious and green growing appearance with preservation of as much view of the lake as practicable will control the decisions of the ACC. The ACC shall consider overall design features of the improvements to be constructed on the Lot in reviewing and approving or disapproving the landscape plan.
- (c) The minimum landscaping requirements shall be as follows:
 - (i) Innovative landscape design, including sculptured planting areas, berms or other features with screening or bordering of foundations, fences (if any), curbs and other similar elements of the improvements on the Lot.
 - (ii) The initial landscaping shall include, as a minimum, the following: Sod or hydroseed in the front, two (2) trees of at least two inch (2") caliper in the front yard and two trees of at least two inch (2") caliper in the back yard.
 - (iii) All yards shall be irrigated with an automatic underground sprinkler system.
- (d) All required landscaping on a Lot shall be installed within one hundred-eighty (180) days after the earlier of the following: (i) substantial completion of the Building on the Lot, or (ii) occupancy of the Building by an Occupant, with a reasonable extension for winter weather.

SECTION 5.26. Addition of ACC Rules/ACC Standards. The Grantor, or in the event of the Grantor's failure to do so, the ACC, shall have the power to promulgate ACC Rules/ACC Standards relating to the planning, construction, alteration, modification, removal or destruction of Improvements within the Property deemed necessary or desirable by the Grantor, or the ACC, as the case may be, to carry out the purposes of this Amended and Restated Master Declaration.

SECTION 5.27. Exemption Of Grantor. Nothing herein contained shall limit the right of the Grantor to subdivide or re-subdivide any Lot or portion of the Property or to grant licenses, reservations, rights-of-way or easements with respect to Common Areas to utility companies, public agencies or others; or to complete excavation, grading and Development to or on any Lot or other portion of the Property owned or controlled by the Grantor, or to alter the foregoing and its Development plans and designs, or construct additional Improvements as the Grantor deems advisable in the course of Development of the Subdivision. This Master Declaration shall not limit the right of the Grantor at any time prior to acquisition of title to a Lot by an Owner to establish on that Lot additional licenses, restrictions, reservations, rights-of-way and easements to itself, to utility companies and to others, as may from time to time be reasonably necessary. The Grantor need not seek or obtain ACC approval of any Improvements constructed or placed within the Property by the Grantor in connection with the Development of the Subdivision, but this exemption shall not apply to a Building(s) constructed by the Grantor on a Lot owned by the Grantor. The Grantor shall be entitled to the non-exclusive use, without charge, of any Common Area within the Subdivision in connection with the marketing of the Lots therein.

SECTION 5.28. Leases. Any agreement for the leasing, rental or occupancy of a Lot ("lease") shall be in writing and a copy thereof shall be delivered to the Association before the term of the lease commences. Every lease shall provide or be deemed to provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the By-Laws, Supplementary Restrictions, and rules and regulations (collectively the "Governing Documents") and that any failure by the residents to comply with the terms of the foregoing documents shall be and constitute a material default under the lease.

No Owner shall be permitted to lease his/her Lot for transient, hotel, seasonal, corporate, or executive use purposes, which shall be deemed to be a lease with an initial term of less than one (1) year. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his/her entire Lot. An Owner of a Lot that is being leased must pay a \$1,000.00 security deposit to the Association. The deposit is refundable, in whole or in portion, after deducting any: early lease termination (if the lessee moves out within the first 12 months, the deposit if forfeited) and assessments, fines, and/or charges. The deposit must also be delivered to the Association before the lessee can occupy the Lot being leased.

Any Owner who shall lease his/her Lot shall be responsible for assuring compliance by the lessees with the Governing Documents. Failure of an Owner to take legal action, including without limitation the institution of eviction proceedings against a lessee who is in violation of the Governing Document, within 10 days after receipt of written demand from the Association shall entitle the Association to take any and all such action including the institution of eviction proceedings for and on behalf of such Owner against said lessee. Neither the Association nor any agent retained by the Association to manage the Project shall be liable to the Owner or lessee for any eviction under this Section that is made in good faith.

Any expenses incurred by the Association pursuant to this paragraph, including attorney's fees and costs of suit, shall be repaid to it by such Owner and shall be a debt of the Owner at the time the Limited Assessment is made and is collectible as such. Other than as stated in this Section, there is no restriction on the right of any owner to lease or otherwise grant occupancy rights to a Lot.

ARTICLE VI - SARATOGA SPRINGS OWNERS ASSOCIATION. INC.

SECTION 6.01. Organization of Association. The Owners Association, Inc. shall be

organized by the Grantor as a Utah non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its By-Laws and this Master Declaration. Neither said Articles nor said By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Master Declaration.

SECTION 6.02. Sub-Association(s). Until full and final completion of the Development, the Grantor shall have the sole and absolute right to create one or more Sub-Associations for purposes not inconsistent with this Master Declaration including, but not limited to, the following which shall be provided for in a Supplemental Declaration:

- (a) Acquire and improve any Lot, tract, parcel or portion of the Subdivision.
- (b) Promulgate rules and regulations governing Common Area owned by or under the control of the Sub-Association and rules and regulations governing the reasonable use of Lots.
- (c) Determine the services, in addition to those furnished by the Association, which are to be furnished to or for the benefit of the Members of the Sub-Association.
- (d) Assess and certify to the Association for collection the Regular, Special and Limited Assessments required to meet the estimated cash needs of the Sub-Association.

The Articles of Incorporation, By-Laws, rules, regulations and the Supplemental Declaration relating to a Sub-Association shall not be inconsistent with the terms and provisions of this Master Declaration and any inconsistency shall be governed by this Amended and Restated Master Declaration. Unless earlier consented to in writing by the Grantor, after completion of Development of the Subdivision, Sub-Associations may be formed by any Owner or group of Owners with the approval of the Board and by satisfying all necessary legal requirements including, but not limited to, the preparation, execution and recording of a Supplemental Declaration.

Except as provided to the contrary in this Amended and Restated Master Declaration or unless specifically provided to the contrary in the Supplemental Declaration relating to a Sub-Association, the provisions of this Article shall be applicable to and shall regulate each Sub-Association.

SECTION 6.03. Relationship Between Association and Sub-Associations. It is the purpose and intent of the provisions of this Amended and Restated Master Declaration that the Association shall be charged with and responsible for the management of all activities in the Subdivision including, in addition to all other duties and responsibilities set forth herein, the following:

- (a) The approval of all rules and regulations of each Sub-Association and providing of assistance to a Sub-Association in the enforcement thereof; and
- (b) The levy and collection of Assessments of each Sub-Association which have been certified by the Sub-Association Board to the Association.

Nothing herein contained shall restrict or prohibit a Sub-Association from owning, in its own

name, Common Area or other property related thereto, the use of which shall be restricted to Members of that Sub-Association. However, it is the intent of this Amended and Restated Master Declaration that any such Common Area owned by a Sub-Association, the use and maintenance thereof and the activities of the Sub-Association, shall be consistent with and in furtherance of the Project Objectives and the terms and provisions of this Master Declaration to assure that the whole of the Subdivision is developed and approved as a quality residential community.

SECTION 6.04. Members. Each Owner (including the Grantor) of a Lot by virtue of being such an Owner and for so long as such ownership is maintained shall be a Member of the Association and no Owner shall have more than one membership in the Association, but shall have such voting rights as hereafter set forth. A membership in the Association shall not be assignable, except to the successor-in-interest of the Owner and a membership in the Association shall be appurtenant to and inseparable from the Lot owned by such Owner. A membership in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

SECTION 6.05. Voting. The Association (and each Sub-Association) shall have two (2) classes of voting membership:

CLASS A. Class A Members shall be all Owners of Lots within the Subdivision, with the exception of the Grantor, and shall be entitled to one (1) vote for each Lot owned.

CLASS B. Class B Members shall be the Grantor, and its successors) in title to a Lot(s), which Lots(s) is held by such successor in an unimproved condition (i.e., without a residential dwelling thereon) for resale to a builder or other person for the purpose of constructing thereon a residential dwelling, and to which successor the Grantor has specifically granted such Class B voting rights in writing; provided, that if such voting rights are not so granted, such successor shall be entitled to the voting rights of a Class A Member with respect to each Lot owned.

Upon the first sale of a Lot to an Owner, the Grantor shall thereupon be entitled to five (5) votes for each Lot owned by the Grantor. The Class B membership shall cease and be converted to Class A membership when (i) the total votes outstanding in the Class A membership exceeds the total votes outstanding in the Class B membership, or (ii) January 1, 2010, whichever shall first occur.

In addition to individual Lots owned by the Grantor, the Grantor shall be granted the equivalent Class B voting rights of four (4) Lots per acre for all Property yet undeveloped (and Grantor-owned) in the Project.

SECTION 6.06. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles and By-Laws, as the same may be amended from time to time.

SECTION 6.07. Powers of Association. The Association shall have all powers of a non-profit corporation organized under the laws of the State of Utah subject only to such limitations as are expressly set forth in the Articles, the By-Laws or this Amended and Restated Master Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under the Articles, By-Laws or this

Amended and Restated Master Declaration, and to do and perform any and all acts which may be necessary or proper for, or incident to, the proper management and operation of the Common Areas and the performance of other responsibilities including, but not limited to, the following:

- (a) Assessments. The power to levy Regular, Special and Limited Assessments on the Owners and/or Lots and to enforce payment thereof in accordance with the provisions of this Amended and Restated Master Declaration.
- (b) Right of Enforcement. The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner(s) who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Articles, By-Laws, Amended and Restated Master Declaration or ACC Rules/ACC Standards, and to enforce by mandatory injunction or otherwise, all provisions thereof.
- (c) Delegation of Powers. The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager.
- (d) Liability of Board Members and Officers. Neither any member of the Board nor any officers of the Association shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act, error, or omission of the Association, the Board, its officer, a manager or any other representative or employee of the Association, or the ACC, provided that said Board Member, officer, manager or other person has, upon the basis of such information as was available, acted in good faith without willful or intentional misconduct.
- (e) Association Rules. The power to adopt, amend, and repeal such rules and regulations (including appropriate fines for violations thereof) as the Association deems reasonable. Such rules shall govern the use by Owners and Occupants or any other person of Common Areas and other property owned or controlled by the Association; provided, however, Association rules shall not discriminate among Owners and shall not be inconsistent with the Articles, By-Laws or this Amended and Restated Master Declaration. A copy of Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and Occupant. Upon such mailings said Association rules shall have the same force and effect as if they were set forth in and were part of this Amended and Restated Master Declaration. In the event of any conflict between an Association rule or any provision of the Articles, By-Laws or this Amended and Restated Master Declaration, the conflicting provisions of the Association rules shall be deemed superseded to the extent of any such inconsistency.
- (f) Emergency Power. The Association, or any person authorized by the Association, may enter onto any Lot or into any Building or other structure on a Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Occupants as

practicable and any damage caused thereby shall be repaired by the Association unless said entry was necessitated by a condition caused by the Owner or Occupant.

- (g) Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements, rights-of-way or fee title in, on, through, under or of the Common Areas as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating or maintaining:
- (i) Underground lines, cables, wires, conduits and other devices for the transmission of any utility or other service.
 - (ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling and irrigation water systems, water, heating and gas lines or pipes.
 - (iii) Any similar public or quasi-public improvements or facilities including but not limited to parks, pathways, streets, nature trails, boat docks, piers, slips, launching facilities, recreational facilities, pools, ponds, entrances, waterways, open spaces, clubhouses, game rooms, craft and handicraft facilities, greenhouses, hobby facilities and all other common amenities pertaining to the Development, providing that the particular feature or facility has been deeded by the Grantor to the Association.
- (h) Fiscal Year. The Board shall have the right to elect a fiscal year for the Association instead of a calendar year for budget, Assessment and accounting purposes.
- (i) Fines. The Board shall have the right to levy fines against Owners and Lots for violations of the provisions of this Declaration, the By-Laws, Supplementary Restrictions, or rules and regulations. The amount of the fines shall be determined by a Board and shall be published in a Schedule of Fines. The Board shall have the right to amend the Schedule of Fines from time to time as it sees fit. Fines shall be considered an assessment against the Lot and shall be collectible as an assessment pursuant to Articles VIII and IX herein.

SECTION 6.08. Duties of Association. In addition to the powers delegated to it by the Articles, By-Laws and this Master Declaration, without limiting the generality thereof, the Association or its authorized agents, if any, shall conduct all business affairs of common interest to all Owners and perform each of the following duties:

- (a) Operation and Maintenance of Common Areas. Perform, or provide for the performance of, the operation, maintenance and management of the Common Areas including the repair and replacement of property or Improvements thereon damaged or destroyed by casualty loss and all other property owned by the Association.

- (b) Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Areas owned by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes, levied against the Association in the event that the Association is denied the status of a tax exempt corporation.
- (c) Utilities. Acquire, provide and/or pay for water, sewer, refuse collection, electrical, telephone, gas and other necessary services for the Common Areas owned by the Association.
- (d) Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Utah and maintain in effect the following policies of insurance:
 - (i) Fire insurance, including those risks embraced by coverage of the type now known as the broad form "All Risk" or special extended coverage endorsement on a blanket agreement amount basis for the full insurable replacement value of all Improvements, equipment, fixtures and other property located within the Common Areas owned by the Association, including such equipment, fixtures and other property not located in the Common Areas, if the same are used or necessary for the use of the Common Areas or easement areas under the control of the Association.
 - (ii) Comprehensive public liability insurance insuring the Association, the Board, officers, the Grantor and the individual Owners and agents and employees of each of the foregoing against any liability incident to the ownership and/or use of the Common Areas owned by the Association or easement areas under the control of the Association. The limits of liability of such coverage shall be as determined by the Board of Directors.
 - (iii) Full coverage directors and officers liability insurance in an amount determined by the Board.
 - (iv) Such other insurance, including workmen's compensation insurance to the extent necessary to comply with all applicable laws and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary or required to carry out the Association's functions or to insure the Association against any loss from malfeasance or dishonesty of any person charged with the management or possession of any Association funds or other property.
 - (v) The Association shall be deemed a trustee of the interests of all Owners in any insurance proceeds paid to it under such policies, and shall have full power to receive their interests in such proceeds and to deal therewith.

- (vi) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the Regular Assessments levied by the Association.
- (vii) Notwithstanding any other provision herein to the contrary, the Association shall continuously maintain in effect such casualty, liability and other insurance and a fidelity bond meeting the insurance and fidelity bond requirements for PUD projects established by Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), so long as any of which is a Mortgagee or Owner of a Lot within the Subdivision, except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA or FHLMC, as applicable.
- (e) Identification Signs. Maintain, repair and replace all permanent entry and special identification signs for the Subdivision, whether the same be located within or without the boundaries of the Subdivision.
- (f) Rule Making. Make, establish, promulgate, amend and repeal Association rules.
- (g) Architectural Control Committee. Appoint and remove members of the Architectural Control Committee, all subject to the provisions of this Master Declaration.
- (h) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Master Declaration, as may be reasonably necessary to enforce any of the provisions of this Master Declaration and the Association rules.

SECTION 6.09. Budgets and Financial Statements. Financial statements for the Association shall be regularly prepared and copies distributed at the Associations annual meeting as follows:

- (a) A pro forma operating statement (budget) for each fiscal year.
- (b) Within ninety (90) days after the close of each fiscal year, the Association, or its agent, shall cause to be prepared a balance sheet as of the last day of the Association's fiscal year and an annual operating statement reflecting the income and expenditures of the Association for that fiscal year.

ARTICLE VII - ASSOCIATION PROPERTIES

SECTION 7.01. Use. Each Owner of a Lot, his family, licensees, invitees, lessees and contract purchasers who reside on the Lot, shall be entitled to use the Association properties and the properties of any Sub-Association of which the Owner is a Member subject to the following:

- (a) Articles, Etc. The provisions of the Articles and By-Laws of the Association and any Sub-Association applicable to the Lot, this Master Declaration and applicable Supplemental Declaration and the rules, regulations and standards promulgated thereunder. Each Owner,

in using the Association or Sub-Association properties, shall comply with the same.

- (b) Suspension of Rights. The right of the Association or Sub-Association to suspend the right to use properties owned by it (except roads and other means of access by an Owner) for any period during which any Assessment against that Owner's Lot remains unpaid; and for any infraction of published rules and regulations of the Association or Sub-Association.
- (c) Dedications. The right of the Association or Sub-Association to dedicate or transfer all or any part of properties owned by it to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Board, so long as said transfer does not diminish the security of the Mortgagees on any Lot or Common Area in the Subdivision.
- (d) Mortgage or Conveyance of Common Area. Except as provided in subsection (c), above, no portion of the Common Area shall be mortgaged or conveyed by the Association without the prior approval of at least one half (1/2) of the Class A Members or two-thirds (2/3) of the Class B Members, which approval may be obtained in writing or by a vote of the respective Class Members at a meeting called for such purpose and, with respect to such meeting, the provisions concerning notice and quorum in Section 8.11, below, shall apply.
- (e) Notwithstanding other provisions of this section, The Association may limit the use and fee rental or sale of the harbor, pools community center buildings and other Association facilities per rules created by the Association.

SECTION 7.02. Damages. An Owner shall be liable for any damages to the Common Area which may be sustained by reason of the negligence, reckless or intentional misconduct of said Owner or of his family, licensees, invitees, lessees or contract purchasers, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be as a Limited Assessment against that Owner's Lot and may be collected as provided in Article IX, below.

SECTION 7.03. Damage and Destruction. In the case of damage by fire or other casualty to property owned by the Association or any Sub-Association, insurance proceeds to compensate for damage and destruction shall be paid to the Association or the Sub-Association, as the case may be, and the recipient thereof shall thereafter determine what repair or reconstruction shall be undertaken.

SECTION 7.04. Condemnation. If at any time any part of a Common Area or other property owned by the Association or any Sub-Association be taken or condemned by any public entity or sold or otherwise disposed of in lieu thereof, all compensation, damages or other proceeds shall be paid to the Association or the Sub-Association, whichever entity owns said property. The recipient of said payment shall then use all or a portion of the funds to pay obligations secured by any lien on the property taken and thereafter may determine to use the funds to (i) improve other properties of the Association or Sub-Association; (ii) acquire and/or improve additional properties for the Association or Sub-Association; or (iii)

use such proceeds to reduce future assessments.

ARTICLE VIII - ASSESSMENTS

SECTION 8.01. Covenant to Pay Assessments. Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular, Special and Limited Assessments or charges, including fines, made by the Association or a Sub-Association of which the Owner is a Member (collectively referred to as "Assessment").

All such Assessments, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made, and shall be also the personal obligation of the Owner of such Lot at the time when the Assessment and/or fine becomes due and payable, provided, however, that all such assessments shall be junior and subordinate to the lien of a First Mortgage or First Deed of Trust encumbering the Lot. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise avoid liability for any Assessment by non-use of the Common Areas or by abandonment of his Lot.

SECTION 8.02. Regular Assessments. Regular Assessments shall be assessed on a calendar year basis unless otherwise determined by the Board. The Regular Assessments shall be based upon advance estimates of annual cash requirements as determined by the Board for the maintenance and operation of the Common Areas and all easement areas, if any, controlled by the Association and for the performance by the Association of its other duties and responsibilities. Such estimates may include, but shall not be limited to, expenses of management, administration and ACC activities, taxes and special assessments of local governmental units, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, legal and accounting fees, and any deficit remaining from previous periods and the creation of a reserve, surplus and/or sinking fund(s), and other expenses or obligations incurred or expected as they may be required by the Association in compliance with this Declaration.

The initial annual Regular Assessment for the calendar year during which the Grantor conveys fee title to a Lot to an owner shall be the amount of:

- * \$8.00 per Lot per month pro-rata for vacant or platted (unimproved) Lots, conveyed from the Grantor to an individual or Builder.
- * \$15.00 per Lot per month pro-rata for developed lots (with infrastructure), without homes completed. A Lot will be considered "developed" when the Lot is eligible for building permit and the lot has been conveyed from the Grantor to an individual or Builder.
- * \$45.00 per Lot per month, pro rata with a completed home.

"Commercial Lots" shall pay an annual assessment (pro-rata) based upon \$10.00 per month per acre for vacant (unbuilt) land and when such Lots are conveyed from the Grantor to an individual or Builder.

"Commercially Developed (with a building or structure complete) Lots" shall pay two (2) cents per gross square foot of enclosed building area per month.

SECTION 8.03. Special Assessments. In addition to Regular Assessments, the Association

may levy at any time a Special Assessment payable over such period as the Board may deem appropriate for the following purposes:

- (a) To defray, in whole or in part, the cost of any construction or reconstruction of Improvements on a Common Area, unexpected repair or replacement of a Common Area or any facility located thereon or an easement area controlled by the Association, the furnishing of a special service or services (other than those appropriate for a Limited Assessment), or for any other expenses incurred or to be incurred as provided in this Master Declaration.
- (b) To cure a deficit in the common and ordinary expenses of the Association for which Regular Assessments for a given calendar or fiscal year are or will be inadequate to pay, as determined by the Board.

SECTION 8.04. Limited Assessments. In addition to Regular and Special Assessments, Owners shall pay Limited Assessments as follows:

- (a) **Maintenance and Repair.** The Association shall have the power to incur expenses for maintenance and repair of any Lot or any Improvements on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the Common Area or any other portion of the Property, and if the Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy a Limited Assessment against the Owner of the Lot owned by said Owner to pay for the cost of such maintenance and repair, and any other cost or expense, including attorneys' fees, arising out of or incident to such maintenance and repair and the Assessment therefor.
- (b) **Correction of Violations.** In addition to maintenance and repair, the Board, upon certification from the ACC of the failure or refusal of an Owner to correct a violation of this Master Declaration or the ACC Rules/ACC Standards, shall have the power to correct any such violation on a Lot or any Improvement on a Lot, and incur costs necessary in connection therewith. The cost of such corrective action, together with interest, related expenses and attorneys' fees shall be assessed and collected as set forth in Articles VIII and IX of this Amended and Restated Master Declaration.
- (c) **Limited Purpose.** The Association shall have the power to levy a Limited Assessment against Owners and Lots for any limited special purpose which the Board believes necessary with respect to certain Lots but not an appropriate expense for payment by the Association. Such Limited Assessment shall not be made until the Owners of said Lots subject thereto have been given an opportunity, after notice, to participate in a hearing with respect to said Limited Assessment.

SECTION 8.05. Sub-Association Assessments. Any Sub-Association of the Subdivision is hereby empowered to assess and certify for levy and collection by the Association, Regular, Special and Limited Assessments on the Lots and Owners thereof who are Members of the

Sub-Association. The certification for levy by a Sub-Association and the collection thereof by the Association shall be as follows:

- (a) The Sub-Association Board shall, following its By-Laws, rules and regulations, meet and approve a Regular, Special or Limited Assessment.
- (b) A written certification signed by the President and Secretary of the Sub-Association that a Regular, Special or Limited Assessment has been approved by the Sub-Association Board shall be submitted to the Board. The certification shall contain the following: (i) a description of the type of Assessment to be levied and collected; (ii) the name and address of the Owner and the legal description of each Lot to be assessed; (iii) the amount to be levied and collected from each Owner; and (iv) the term of said levy and the due dates for the payment thereof by the Owners affected. The due dates may be adjusted by the Board to conform the same to the due dates of the Assessments of the Association for the purpose of achieving efficiency and economy in preparing and mailing statements and notices and collection.
- (c) Upon compliance with the foregoing, the Board shall levy the Assessment so certified in accordance with the terms of the certification in the same manner as levies for Assessments of the Association. Any levy made by the Association on behalf of a Sub-Association pursuant to a proper certification shall have the same force and effect as a levy made by the Association.
- (d) The Association, upon receipt of funds paid pursuant to a levy certified by a Sub-Association, shall deposit such funds as received in the separate account of the Sub-Association, as designated by the Sub-Association.

SECTION 8.06. Commencement of Regular Assessments. Regular Assessments of the Association against each Lot shall commence on the date the Grantor conveys title to the Lot, or Subdivided Lots, to an Owner. If the Grantor pays all or any portion of the expenses of the Association in excess of the amount assessed to Lots owned by the Grantor, such excess amounts so paid shall constitute a prepayment of Assessments (Regular and Special) to become due and payable on the Lots owned by the Grantor within the Subdivision; provided that unless such excess amounts so paid by the Grantor are paid pursuant to a written agreement with the Association to the contrary, the Grantor shall not be entitled to reimbursement in cash of any such Assessment credit nor shall such credit inure to an Owner purchasing a Lot from the Grantor, unless such person is the successor to substantially all of the interest of the Grantor in the Property. Nothing herein contained shall obligate the Grantor to pay any Assessment with respect to a Lot within a separately platted phase or subdivision within the Subdivision in which the Grantor owns all of the Lots.

SECTION 8.07. Uniform Rate Or Assessment. Except as expressly provided to the contrary in this Master Declaration, Regular and Special Assessments of the Association shall be filed at a uniform rate for all Lots.

SECTION 8.08. Assessment Due Date. The due dates for Regular, Special and Limited Assessments and fines shall be the first day of the first month of the second calendar quarter, unless some other due date is established by the Board. Each installment of an Assessment shall be delinquent if not paid within fifteen (15) days after the due date thereof. Nothing

herein contained shall prohibit the Board from requiring that Special or Limited Assessments be paid in a lump sum instead of installments.

SECTION 8.09. Interest and Penalties. Any Regular, Special or Limited Assessment, or fines levied by the Association on Lots, if not paid when due, shall bear interest at an annual rate as shall be set by the Board from time to time, or if none is so set, at an annual rate of twelve percent (12%). Such interest shall commence on the date the Assessment becomes due and payable. In addition to the interest charge the Board may, in accordance with rules and regulations promulgated by it, impose additional fines or charges for the failure of an Owner to timely pay any Assessment when due. The right of the Board to charge interest or impose additional fines or charges shall be in addition to, and not in lieu of, any other right of enforcement or sanction available to the Board in the event of non-payment of an Assessment.

SECTION 8.10. Estoppel Certificate. The Association, upon not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of such Association, a particular Owner is in default under the provisions of this Master Declaration and further stating the dates to which Assessments have been paid by said Owner, it being intended that any such certificate delivered pursuant to this Section may be relied upon by any prospective purchaser or Mortgagee of said Lot, but reliance on such certificate may not extend to any default as to which the signer shall have had no actual knowledge, nor to any architectural or structural warranty or representation.

Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications, and/or issuing an Estoppel Certificate, neither the Association, the Architectural Control Committee, the members thereof, or their administrative assignees, assumes liability or responsibility thereof, nor for any defect in any structure constructed from such plans and specifications.

The Association shall have the right to charge a reasonable fee for the certification herein provided.

SECTION 8.11. Certificate of Compliance Upon Sale. At least fourteen (14) days prior to the sale or transfer of any Improvement or Lot, the Owner transferring such Improvement or Lot (the Seller) shall notify the Architectural Control Committee (the Committee) in writing of the proposed sale or transfer and shall request the Committee to issue a Certificate of Compliance. The Committee shall within five (5) business days of it's receipt of the request, inspect the Property and any improvements constructed erected, placed or altered in compliance with the architectural control provisions.

If the Committee finds the improvements on the Lot to be in compliance with the architectural control provisions, the Committee shall issue a Certificate of Compliance to the Seller within five (5) business days following the Committee's receipt of the written request for such certification. The purchaser or transferee of such Improvement or Lot shall be entitled to rely on this Certificate of Compliance as evidence of the non-existence of violations, except violations of which the purchaser has actual knowledge and notice at the time of acquisition of the Property.

If the Committee finds the Improvement to be in violation of the architectural control provisions, the Committee shall issue a Certificate of Non-Compliance to the owner of such Property within five (5) business days of the Committee's receipt of the written request for

such certification. The Certificate of Non-Compliance shall, with particularity, describe the violation and action necessary to bring the Improvement or Lot into compliance. The seller shall then have ten (10) days or the date of the proposed sale or transfer of the Property to remedy the violation(s) and request a Certificate of Compliance from the Committee as provided herein.

If the Committee fails to issue either a Certificate of Compliance or Non-Compliance within this five (5) day period, the owner shall notify the Committee in writing of the Committee's failure to timely respond to the request for certification. The Committee shall then issue a Certificate of Compliance or Non-Compliance within two (2) business days from the Committee's receipt of such notice. If the Committee fails to issue either a Certificate of Compliance or a Certificate of Non-Compliance within the time prescribed herein, certification shall be deemed given. If an Improvement or Lot is sold or transferred without compliance with the provisions of this Section, the purchaser shall be jointly and severally responsible with the seller for the violation(s) and shall be bound by any and all remedies available to the Association and/or the Committee for the violation(s), including but not limited to, the power to impose fines to require the owner to remedy violations, or to remedy violation(s) on the Association's or the Committee's own initiative and assess the costs thereof to the seller and/or the purchaser. Notwithstanding anything to the contrary contained herein, an Estate purchaser shall be jointly and severally responsible with the seller for any violation of applicable architectural control provisions of which the purchaser has actual notice at the time of the purchase.

The Association may charge reasonable fees to cover the costs associated with the issuance of Certificates of Compliance or Non-Compliance, or reinspections to issue same.

ARTICLE IX - ENFORCEMENT OF ASSESSMENTS

SECTION 9.01. Right to Enforce. The right to collect and enforce payment of the Assessments, including fines, made by the Association (including the Assessments made and certified by a Sub-Association) is vested in the Association. Each Owner of a Lot hereby agrees to the enforcement of the payment of all Assessments in the manner herein provided. In the event an attorney is employed for the collection of an Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of any of the terms and conditions of this Master Declaration, the Owner against whom such enforcement is sought shall pay reasonable attorneys' fees in connection therewith.

SECTION 9.02. Creation of Assessment Liens. There is hereby created a continuing claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against any and all Lots in the Subdivision pursuant to this Master Declaration, together with interest thereon and all cost of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees.

Said lien shall be prior and superior to all other liens or claims created subsequent to the recordation of this Master Declaration except only for: (i) valid tax and special assessment liens on Lots in favor of any governmental unit assessing authority; (ii) a lien for all sums unpaid and secured by a first Mortgage or first Deed of Trust, duly recorded in Utah County, Utah, including all unpaid obligatory advances to be made pursuant thereto; and (iii) labor or materialman's liens, if the same are prior and superior by reason of applicable law.

All other lien holders acquiring liens on any Lot after recordation of this Master Declaration shall be deemed to consent that such liens shall be inferior liens to the lien for Assessments

levied by the Association, whether or not such consent be specifically set forth in the instruments creating such other liens.

SECTION 9.03. Notice of Assessment. If an Owner fails to pay an Assessment within thirty (30) days of its due date, the Association shall prepare a written Notice of Assessment setting forth the type of Assessment, the amount of the Assessment, the due date thereof, including the amount and due date of installments (if the same are permitted), the amount remaining unpaid at the time of filing, the name of the record Owner of the Lot and a legal description of the Lot. Such Notice shall be signed by the President and Secretary of the Association, acknowledged by a Notary Public and recorded in the office of the Utah County Recorder. At such time as a delinquent Assessment which is described in the Notice is paid, the Association shall prepare and record a Notice of Satisfaction with respect thereto.

SECTION 9.04. Enforcement. Upon the failure of an Owner to pay an Assessment in accordance with its terms, the lien for Assessment herein created may be enforced by sale by the Association, such sale to be conducted in the manner provided by law in Utah for the exercise of the power of sale in Deeds of Trust or in any other manner permitted by law elected by the Board. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including all reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire and thereafter hold, convey, lease, rent, encumber, use and otherwise deal with and in said Lot as the Owner thereof.

SECTION 9.05. Suspension of Voting Rights. During any period of time in which a regular, special or limited assessments remains unpaid, the Owner's voting rights shall be suspended for any meeting of the Association, including Board meetings if the delinquent Owner is a Board member.

SECTION 9.06. Suspension of Common Property Rights. The right of the Association or Sub-Association to suspend the right to use properties owned by it (except roads and other means of access by an Owner) for any period during which any Assessment against that Owner's Lot remains unpaid; and for any infraction of published rules and regulations of the Association or Sub-Association.

SECTION 9.07. Notice Required. Notwithstanding anything to the contrary contained in this Master Declaration, no action may be brought to foreclose the lien for any Assessment, whether by power of sale or otherwise, until the expiration of thirty (30) days after written Notice of Default has been deposited in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed to the Owner of the Lot described in such Notice at the last known address of the Owner as shown on the books and records of the Association. Said Notice shall specify the amount and due date of the unpaid Assessment(s) and the legal description of the Lot.

SECTION 9.08. Reporting. The Association shall provide a Mortgagee with a copy of a Notice of Default served on an Owner under Section 9.05, above. The duty to give such Notice shall arise only after said Mortgagee furnishes to the Association written notice of a Mortgage (or Deed of Trust) which shall contain the following:

- (a) The name and address of said Mortgagee;

- (b) A legal description of the Lot subject to the lien of the Mortgage by Lot, Block and Subdivision;
- (c) The name and address of the Owner;
- (d) The date the lien of the Mortgage was filed of record in Utah County, Utah, and the instrument number thereof;
- (e) The maturity date of the obligation secured by said Mortgage lien;
- (f) A copy of a title insurance report evidencing that the Mortgagee is the holder of a first Mortgage or the beneficiary of a first Deed of Trust;
- (g) The signature of the Mortgagee or authorized agent.

In the event the Association shall be required to notify a Mortgagee as herein provided, the Association shall assess the Owner who is delinquent the sum of \$25.00 as a reasonable charge for such notification and such charge shall be a cost of collection secured by the Assessment lien described in Section 9.02, above. The charge for such notification shall be subject to change by the Board.

SECTION 9.09. Term of Assessment. Unless sooner satisfied and released or the enforcement thereof initiated as provided in this Article, the lien for any Assessment levied under this Master Declaration or any applicable Supplemental Declaration shall expire and be of no further force or effect after a period of five (5) years from the later of (i) the date of said Assessment, or (ii) the date the last installment thereof is due and payable. Provided that the expiration of the lien as provided herein shall not release an Owner from the personal obligation to pay any Assessment.

SECTION 9.10. Non-Exclusive Remedy. The remedies set forth in this Article or elsewhere in this Master Declaration shall not be deemed to be an exclusive remedy and the Association may pursue all other remedies available at law or in equity.

ARTICLE X - SUB-ASSOCIATIONS

SECTION 10.01. Creation. The Grantor shall have the right to create Sub-Associations as Utah non-profit corporations. Each such Sub-Association shall have all power, rights, obligations, responsibilities and duties and be subject to all of the same limitations and restrictions as are specified in this Master Declaration with respect to the Association, except for such differences, requirements or limitations as are expressly set out in this Master Declaration and/or the applicable Supplemental Declaration and such changes as the Grantor may deem appropriate as a result of the different and specific Common Areas being owned, maintained and managed by such Sub-Associations, which changes shall be set forth in a Supplemental Declaration.

SECTION 10.02. Voting. Each Sub-Association shall have the two (2) classes of voting membership and the voting rights shall be as specified for the Association in Section 6.05, above.

SECTION 10.03. Powers and Duties. Each Sub-Association shall be managed by a Board of Directors and officers in the same manner as specified in Section 6.06, above, for the Association and shall have the same powers and duties with respect to its Members and the Common Areas owned, managed or maintained by it, including any easement areas controlled by it, said powers and duties to include the levying of Assessments and

certification thereof to the Association for collection, adopting rules and regulations, granting easements, licenses and rights-of-way, payment of expenses, taxes, assessments, utility charges, insurance premiums and the preparation and distribution of budgets and financial statements as are provided in Article VI, above.

SECTION 10.04. Members. The Members of each Sub-Association shall be the Owners of Lots in the portion or phase of the Subdivision described in the Supplemental Declaration relating thereto. Memberships may only be transferred in the same manner as specified in Section 6.04, above.

ARTICLE XI - ARCHITECTURAL CONTROL COMMITTEE

SECTION 11.01. Members of the Committee. The Architectural Control Committee shall be comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A member of the ACC shall hold office until he has resigned or has been removed, but in any event, until said Member's successor has been appointed. Members of the ACC may be removed at any time, with or without cause.

SECTION 11.02. Appointment. So long as the Grantor owns any Lot or parcel within the Property, the Grantor shall have the sole right to appoint and remove all members of the ACC. Thereafter, all members of the ACC shall be appointed or removed by the Board.

The ACC shall have the right by a resolution in writing unanimously adopted, to designate one (1) of its members to take any action or perform any duties for and on behalf of the ACC. In the absence of such designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

SECTION 11.03. Compensation. The members of the ACC may receive compensation for services rendered upon execution of an agreement with the Board relative to such compensation, and may be reimbursed for actual expenses incurred by them in the performance of their duties hereunder.

SECTION 11.04. Non-Liability. Neither the ACC, or any member thereof, or the Grantor or any partner, officer, employee, agent, successor or assign thereof, shall be liable to the Association, any Owner or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve an application.

Every person who submits an application to the ACC for approval of plans and specifications agrees, by submission of such an application, and every Owner or Occupant of any Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the Association, the ACC, or any member thereof, or the Grantor or any officer, partner, employee, agent, successor or assign thereof to recover such damages.

SECTION 11.05. Approval Required. No construction, alteration, modification, removal or destruction of any Improvements of any nature whatsoever, whether real or personal in nature, shall be initiated or be permitted to continue or exist within the Subdivision without the prior express written approval of the ACC.

SECTION 11.06. Variances. The ACC may authorize variances from compliance with the requirements of any conditions and restrictions contained in this Master Declaration, the ACC Rules/ACC Standards, or any prior approval when, in the sole discretion of the ACC,

circumstances such as topography, natural obstructions, aesthetics or environmental considerations or hardship may so require. Such variances must be evidenced in a writing signed by at least two (2) members of the ACC.

If a variance is granted as provided herein, no violation of this Master Declaration, ACC Rules/ACC Standards or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration or the ACC Rules/ACC Standards for any purpose except as to the particular subject matter of the variance thereof and the specific Lot covered thereby. The ACC shall have the right to consider and grant a variance as herein provided either with or without notice to other Owners or a hearing of Owners thereon.

The granting of a variance by the ACC pursuant to this Section shall not relieve the Owner from the obligation to fully comply with the applicable ordinances of Utah County, Utah or any annexing municipality.

SECTION 11.07. Application. To request ACC approval for the construction, alteration, modification, removal or demolition of any Improvements within the Property, the Owner shall submit a written application in a form required by the ACC which must be signed by the Owner and contain all information requested and be accompanied by all other material to be submitted as hereafter provided.

All applications must contain, or have submitted therewith, two (2) copies of each of the following (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards and submitted with the application form, if any, approved by the ACC:

- (a) **Site Plan.** A site plan showing the location of the Building(s) and all other structures and Improvements including fences and walls on the Lot, Lot drainage and all set backs, curb cuts, driveways, parking areas and other pertinent information relating to the Improvements, at a scale no smaller than 1" = 200'.
- (b) **Building Plan.** A building plot plan at a scale no less than 1" = 20'. Building elevation drawings of the north, south, east and west sides, and detailed specifications which shall indicate, by sample if required by the ACC, all exterior colors, materials and finishes, including roof, to be used.
- (c) **Landscape Plan.** A landscape plan for portions of the Lot to be landscaped which - shall show the location, type and size of trees, plants, ground cover, shrubs, berming and mounding, grading, drainage, sprinkler system, fences, freestanding exterior lights, driveways, parking areas and walkways. Builders of more than one home may submit prototypical plans for ACC approval - such plans to be approved and installed to meet Section 5 of this Declaration.

The ACC may, in its discretion, require the Owner to furnish additional specifications, drawings, material samples or such other information as the ACC, in its sole discretion reasonably exercised, shall deem necessary or convenient for the purpose of assisting the ACC in reviewing and processing the application.

SECTION 11.08. Decision. In reviewing the application and the materials submitted therewith and in reaching a decision thereon, the ACC shall use its best efforts and judgment to assure that all Improvements shall produce and contribute to an orderly and aesthetically complementary design and appearance and be of the quality required to maintain the Subdivision as a quality residential development.

Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within thirty (30) days after the receipt of a properly submitted and complete application. The decision of the ACC can be in the form of an approval, a conditional approval or denial.

The decision of the ACC shall be in writing, signed by a member of the ACC, dated, and a copy thereof mailed to the Owner at the address shown on the application.

A conditional approval shall set forth with particularity the conditions upon which the application is approved and the Owner shall be required to affix a copy of said conditions to the working drawings or blueprints which are to be kept on the job site during the entire course of the work to which said plans relate.

A denial of an application shall state with particularity the reasons for such denial.

SECTION 11.09. Inspection and Complaints. The ACC is empowered to inspect all work in progress on any Lot at any time. Such inspection shall be for the purpose of determining whether the Owner is proceeding in accordance with the approved application or is deviating therefrom or is violating this Master Declaration or the ACC Rules/ACC Standards or the approved plans and specifications.

Each owner or builder shall instruct their respective workers and employees to follow construction only per ACC approved plans. Any modifications or deviations from approved plans must be reapproved by the ACC prior to installation.

The ACC is empowered to receive from other Owners ("Complainant") complaints in writing involving deviations from approved applications or violations of this Master Declaration or any applicable ACC Rules/ACC Standards. In the event the ACC receives such a complaint from a Complainant, it shall first determine the validity of such complaint by inspection or otherwise.

Should the ACC determine that there has been a substantive deviation or a violation, it shall promptly issue a notice in writing thereof to the Owner and to the Complainant, which notice shall specify the particulars of the deviation or violation and shall demand that the Owner conform to either or both of the following directives:

- (a) The Owner shall immediately cease the activity which constitutes a deviation or violation.
- (b) The Owner shall adhere to the corrective measures set forth in the written notice.

Should the ACC determine there has been no substantive deviation or violation, it shall promptly issue a notice of such determination to the Owner and the Complainant. Notwithstanding any other remedy available to the ACC or the Board, the Board may levy fines for deviations or violations of the ACC Rules/ACC Standards of the Association.

SECTION 11.10. Hearing. An Owner submitting an application under Section 11.07, above,

or served with a written notice of deviation or violation, or a Complainant shall have the right to request and be heard at a hearing held by the ACC for the purpose of presenting facts and information to the ACC. Such hearing must be requested by such party within ten (10) days from the date the written notice of the decision of the ACC is mailed to the Owner (and Complainant) as evidenced by the records of the ACC. The hearing shall be held within ten (10) days following receipt by the ACC of the request for a hearing, unless the ACC shall extend said period of time because of the unavailability of ACC members.

A hearing may be continued by the ACC for the purpose of further investigation or to receive additional evidence. Upon completion of the hearing, the ACC shall issue a written opinion to the involved parties within ten (10) business days thereafter which opinion shall set forth the findings of the ACC with respect to the matters at issue and shall affirm, modify or rescind its previous decision as contained in the original written notice. If the ACC incurs any costs or expenses in connection with the investigation, processing or hearing on a matter involving a deviation or violation, including the costs of retaining a consultants) to advise the ACC and legal fees, such costs shall be paid by the Complainant unless an Owner is found to be in violation in which event such Owner shall pay all such costs. The payment of such costs shall be enforceable as provided in Section 11.12, below.

Section 11.11. Appeal. Either an Owner or a Complainant shall have the right to appeal to the Board a decision of the ACC on an application with respect to the conditions imposed thereon or a denial thereof, or a decision of the ACC adverse to the Owner or the Complainant reached following a hearing held pursuant to Section 11.10, above, provided, however, that neither an Owner nor a Complainant shall be entitled to such an appeal with respect to deviations or violations unless said Owner or Complainant, or their authorized representatives, have participated in the ACC hearing.

A notice of appeal shall be in writing and shall be delivered by mail to the Secretary of the Board within ten (10) days from the date of the decision by the ACC. Said notice of appeal shall be dated and shall contain the name of the Owner and the Complainant, if any, and a copy of the written decision or determination of the ACC. The failure of an Owner or Complainant to appeal a decision of the ACC in the manner and within the time herein provided shall terminate all rights of said Owner or Complainant to appeal said decision and it shall be binding and enforceable.

The Board shall fix a date for the hearing of such an appeal which date shall be no later than ten (10) days from the date of receipt of a notice of appeal unless extended by the Board because of the unavailability of Board members. The Owner and Complainant, if any, shall be advised of the time and place of the hearing by a mailed written notice. Written notice of time and place for hearing shall also be served by mail upon each member of the ACC.

The Board may require the Owner or Complainant to provide additional information to facilitate the Board's decision and the failure of such party to comply promptly with such a request shall entitle the Board to deny the appeal, in which event the decision by the ACC shall be considered final and not subject to further appeal. At the hearing the Owner, Complainant, if any, and the ACC, together with their representatives and other witnesses, shall present their position to the Board.

The order of presentation and the evidence to be admitted shall be solely within the discretion of the Board provided, however, that the Owner, the Complainant, if any, and the ACC shall have the opportunity to question and cross-examine witnesses presented by the other. The Owner, the Complainant, if any, and the ACC will have the opportunity to present final

argument consistent with rules adopted by the Board for such hearing process. Any party may be represented by an attorney at any hearing by the ACC or the Board.

Upon receiving all of the evidence, oral and documentary, and following the conclusion of the hearing, the Board shall retire to deliberate and shall reconvene at a time and place determined by the Board, at which time the Board shall cast its official ballot and the decision shall be duly recorded in the minutes of the meeting. The Owner, the Complainant, if any, and the ACC members shall be given written notice of the decision which shall be deemed given when deposited in the United States mail, postage prepaid and properly addressed.

If the Board incurs any costs or expenses in connection with the investigation, processing or hearing on an appeal, including the costs of retaining a consultant(s) to advise the Board and legal fees, such costs shall be paid by the party(s) filing the appeal unless the decision by the Board constitutes a substantial reversal of the decision of the ACC, in which event such costs shall be paid by the Association. If the party filing the appeal is obligated to pay such costs, payment of the same shall be enforceable as provided in Section 11.12, below.

A decision of the Board of an appeal shall be final and shall not be subject to reconsideration or further appeal.

SECTION 11.12. Enforcement. The ACC, upon approval by the Board, shall be authorized on behalf and in the name of the Association to levy a fine, commence such legal or equitable proceedings as are determined by it to be necessary or proper to correct or enjoin any activity or condition existing within the Property, the continuation of which violates the provisions of this Amended and Restated Master Declaration, the ACC Rules/ACC Standards or the approved plans and specifications.

The ACC shall not commence such legal or equitable proceedings until a written notice of the deviation or violation has been appropriately prepared and given to the Owner but thereafter the ACC shall have the sole discretion to commence such proceedings.

The authority of the ACC as herein provided shall include the power to retain legal counsel and expert witnesses, pay filing fees, deposition costs, witness fees and all other ordinary and necessary expenses incurred in commencing and carrying out said legal or equitable proceedings, all of which costs shall be paid by the Association.

In the event the ACC and/or Association shall prevail in any such legal or equitable proceedings, the Board may elect to require that all costs and expenses incurred in connection therewith including, but not limited to, attorneys' fees shall be reimbursed to the Association by the Owner against whom said proceedings are filed and upon the failure of said Owner to reimburse the Association within five (5) days after written demand therefor is mailed to the Owner, the Association shall have the right to levy a Limited Assessment against the Owner and the Lot owned by the Owner which Assessment shall be equal to said costs and expenses incurred plus any additional costs and expenses incurred in levying the Assessment. Said Limited Assessment shall be due and payable at such time or in such installments as may be determined by the Board, in its sole discretion.

The failure of the Owner to pay said assessments or any installment thereof when due, shall be enforceable in the manner provided in Article IX, above.

SECTION 11.13. Additional Damages. In addition to the costs and expenses to be reimbursed by the Owner or the Complainant, all other costs, expenses and damages determined by the Board to be proximately caused by the deviation or violation or the costs

and expenses incurred by the Association to correct the same shall be assessed as a Limited Assessment against the Owner and the Lot owned by said Owner, or the Complainant and the Lot owned by the Complainant, as the case may be, which Limited Assessment shall be due and payable at such time or in such installments as determined by the Board, in its sole discretion. The right of the Board to enforce said Limited Assessment shall be the same as provided in Article IX, above.

SECTION 11.14. Non-Exclusive Remedy. The right of the Association to levy a Limited Assessment as described in Sections 11.12 and 11.13, above, shall not be deemed to be an exclusive remedy of the Association and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of said Limited Assessments, proceed to collect any amount due directly from the Owner, levy fines against the Owner, and/or pursue any other remedies available at law or in equity.

SECTION 11.15. Private Rights. The Association shall not have the right to mediate or litigate private disputes between Owners where there is a legal or equitable remedy available to resolve said dispute when, in the sole discretion of the Board, the interests of the Association or a substantial number of the Owners would not be benefited thereby.

ARTICLE XII - ANNEXATION

SECTION 12.01. Annexation. Additional property may be annexed to the Subdivision and brought within the provisions of this Master Declaration by the Grantor, at any time, without the approval of any Owner or the Association. To annex additional property to the Subdivision, the Grantor shall record an amendment to this Master Declaration which shall specify the annexation of the additional property to the Subdivision and which may supplement this Master Declaration with addition or different covenants and restrictions applicable to the annexed property, as the Grantor may deem appropriate, and may delete or modify as to such annexed property such covenants as are contained herein which the Grantor deems not appropriate for the annexed property. Upon such annexation, the Owners of the Lots within the annexed property shall become members of the Association with all rights, privileges and obligations as all other members. The amendment of this Master Declaration as authorized by this Section, to annex additional property to the Subdivision, shall be controlled by the provisions of this Section and shall be expressly excluded from the requirements of Section 14.02 of this Master Declaration.

SECTION 12.02. De-Annexation. The Grantor shall have the right to delete all or a portion of the Property from the coverage of this Master Declaration and the jurisdiction of the Association, so long as the Grantor is the Owner of all of the property to be de-annexed and, provided further, that an appropriate amendment to this Master Declaration is recorded in the office of the Utah County Recorder.

ARTICLE XIII - PROTECTION OF MORTGAGES

SECTION 13.01. Purpose. Notwithstanding any and all provisions of this Master Declaration to the contrary, to induce the Federal Home Loan Mortgage Corporation ("FHLMC"), the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), the Federal Housing Administration ("FHA") and the Veterans Administration ("VA") to participate in the financing of the purchase of Lots within the Subdivision, the provisions of this Article are added thereto. To the extent the following Sections of this Article conflict with any other provisions of this Master Declaration or the provisions of any Supplemental Declaration, this Article shall control.

SECTION 13.02. Restrictions on Amendments. No amendment of this Master Declaration shall operate to defeat or render invalid the rights of a Mortgagee or beneficiary under any first Mortgage or first Deed of Trust upon a Lot made in good faith and for value and recorded prior to the recordation of such amendment, provided that after foreclosure of any such Mortgage or Deed of Trust such Lot shall remain subject to this Master Declaration, as amended.

SECTION 13.03. Mortgagee Defined. For the purposes of this Article only, a "Mortgagee" shall refer only to FHLMC, GNMA, FNMA, FHA and VA, as described in Section 13.01, above.

SECTION 13.04. Right to Notice. Each Mortgagee, upon filing a written request for notification with the Board in accordance with Section 9.06, above, shall be given written notice by the Association of any default by the Owner of the Lot encumbered by the Mortgage held by said Mortgagee in the performance of such Owner's obligations under this Master Declaration and under any Supplemental Declaration applicable to the Lot, the Articles or the By-Laws of the Association (hereafter collectively referred to as "Project Documents"), which default is not cured within thirty (30) days after the Association has notice of such default.

SECTION 13.05. Changes Requiring Unanimous Approval. Without the prior unanimous approval of all Mortgagees of Lots within the Subdivision, neither the Association nor the Owners shall:

- (a) By act or omissions seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas which are owned, directly or indirectly, by the Association, provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas by the Association shall not be deemed a transfer within the meaning of this Section.
- (b) Change the ratio of Assessments or method of determining the obligations, Assessments, dues or other charges which may be levied against any Owner or the method of allocating distributions of hazard insurance proceeds or condemnation awards.

SECTION 13.06. Restrictions on Other Changes. Without the prior written approval of at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots within the Subdivision, neither the Association nor the Owners shall:

- (a) Fail to maintain fire and extended coverage insurance on insurable Improvements within the Common Areas on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);
- (b) Use hazard insurance proceeds for losses occurring within the Common Areas for any purpose other than the repair, replacement or reconstruction thereof.
- (c) Abandon or terminate the covenants, conditions, restrictions and easements of this Master Declaration or any Supplemental Declaration.

SECTION 13.07. Right to Inspect Books, Etc. Mortgagees, upon written request, shall have the right to (i) examine the books and records of the Association during normal business hours; (ii) require from the Association the submission of audited annual financing reports and other financial data; (iii) receive written notice of all meetings of Owners; and (iv) designate in writing a representative to attend all such meetings.

SECTION 13.08. Notification of Damage. Upon the Board receiving notice of any damage to the Common Area or any Lot wherein the cost of repair, replacement or reconstruction exceeds Ten Thousand Dollars (\$10,000.00) or notice of any condemnation or eminent domain proceedings or other similar involuntary acquisition of any portion of the Subdivision, the Board shall give to each Mortgagee which has filed with the Board a written request for notice, prompt written notice of said damage or condemnation.

SECTION 13.09. Right to Pay Charges. Mortgagees may pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay any overdue premiums on hazard insurance policies covering said Common Area and said Mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

SECTION 13.10. Fidelity Bond Required. The Board shall secure and caused to be maintained in force at all times a fidelity bond for any person or entity handling funds of the Association.

SECTION 13.11. Lessee's Obligations. Any agreement for the leasing or rental of a Lot, shall be subject to the requirements set forth in this Amended and Restated Master Declaration. All such agreements shall be in writing and shall provide that any failure by the lessee to comply with the terms of the Project Documents shall be a default under the leasing or rental agreement.

SECTION 13.12. Liability for Taxes. All taxes levied and assessed on the Common Areas must be assessable against those Common Areas only and the Association and/or any Sub-Association shall be solely responsible for the payment thereof.

SECTION 13.13. Waiver of Liability and Subrogation. Any provision in this Master Declaration which requires Owners to indemnify the Association, a Sub-Association, the Board or the Sub-Association Board or other Owners against acts of the indemnitor is subject to the exception that if the liability, damage or injury is covered by any type of insurance and proceeds are actually paid to the insured by reason thereof, the indemnitor is relieved of liability to the extent of insurance proceeds so paid.

SECTION 13.14. FNMA and GNMA Insurance Requirements. Notwithstanding any other provisions contained in this Master Declaration, the Association or a Sub-Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by FNMA and GNMA, so long as either is a Mortgagee or Owner of a Lot within the Subdivision, except to the extent such coverage is not available or has been waived.

SECTION 13.15. Additional Contracts. In addition to the foregoing provisions of this Article, the Board may enter into such contracts and agreements on behalf of the Association as are required in order to satisfy the guidelines of FHLMC, FNMA, GNMA, FHA, VA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entity of mortgages encumbering Lots within Improvements thereon. Each Owner

hereby agrees that it will benefit the Association and each Owner, as a class of potential mortgage borrowers and potential sellers of their Lots if such agencies approve the Subdivision as a qualifying subdivision under applicable policies, rules and regulations as adopted from time-to-time.

SECTION 13.16. Consent to Release of Information by Mortgagee. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage encumbering a Lot and each Owner of a Lot encumbered by such a Mortgage hereby consent thereto.

SECTION 13.17. Restricted Application. It is expressly provided that the terms, conditions and provisions of this Article shall not be operative or in force and effect unless and until FHLMC, FNMA, GNMA, FHA or VA purchases, grants or insures a Mortgage on a Lot within the Subdivision and then only to the extent the same are required by said purchaser, guarantor or insurer. In the event the standards and guidelines of FHLMC, FNMA, GNMA, FHA or VA do not require, as a condition of approval of the Subdivision as a qualifying subdivision, the inclusion of one or more of the provisions of this Article, said non-required provisions shall be of no further force or effect.

ARTICLE XIV - MISCELLANEOUS

SECTION 14.01. Term. This Master Declaration and all covenants, conditions, restrictions and easements contained herein shall run until December 31, 2030, unless amended as hereafter provided. After December 31, 2030, said covenants, conditions, restrictions and easements shall be automatically extended for successive period often (10) years each, unless extinguished by a written instrument executed by the Owners of at least three-fourth (3/4) of the Lots covered by this Master Declaration and such written instrument is recorded with the Utah County Recorder.

SECTION 14.02. Amendment. This Master Declaration may be amended as follows:

- (a) **By Grantor.** Until title to a Lot within the Subdivision is conveyed by the Grantor to an Owner, this Master Declaration may be amended or terminated by the Grantor by recordation of a written instrument signed by the Grantor and acknowledged setting forth such amendment or termination.
- (b) **By Owner(s).** Except where a greater percentage is required by an express provision in this Master Declaration, the provisions of this Master Declaration, may be amended by an instrument in writing, signed and acknowledged by the President and Secretary of the Association, certifying that such amendment has been approved by a vote or written consent of 66% (2/3 rds) of the vote of Class A and Class B (cumulative) votes, and such amendment shall be effective upon its recordation with the Utah County Recorder.

SECTION 14.03. Sewer Covenants. The following covenants shall run with each Lot and any Common Area affected thereby and shall be binding upon each Owner of a Lot and all occupants of any Improvements constructed on a Lot:

- (a) No Lot may be used or occupied for any allowed use unless the same is connected to the public sewerage collection system constructed and

installed within the Property.

- (b) All sewer hook-up fees payable to the municipality having jurisdiction and control over the Lot shall be paid at the time of construction of the Improvements thereon and the connection thereof to the public sewerage collection system, said sewer hook-up fees to be paid at such time and in such amount as shall be required by the ordinances and regulations of the municipal entity having jurisdiction thereof.
- (c) A monthly sewerage charge shall be paid to the municipal entity having jurisdiction thereof, or its designee, after connection to the public sewerage collection system in accordance with the ordinances and regulations of said municipal entity.
- (d) All sewer service lines connected to the sewerage collection system constructed and installed by the Grantor in the Property shall be constructed in accordance with all applicable codes and regulations and shall be inspected as required by the governmental entity having jurisdiction thereof to assure a minimum of infiltration from said service line into the sewerage collection system.
- (e) The Grantor shall provide access, satisfactory to the governmental entity having jurisdiction thereof, for sewer cleaning equipment to all sanitary sewer manholes located outside of public right-of-way.
- (f) The Grantor and each Owner of a Lot hereby authorizes the governmental entity having jurisdiction thereof, or its designee, to bring any action it deems necessary or required for the collection of any fees or charges due said entity for sewer service connected or monthly sewer charges and/or to otherwise enforce any of the obligations respecting the connection to the public sewerage collection system or use thereof as provided in this Section.

SECTION 14.04. Books and Records. All books, records and minutes of the Board and all other books and records maintained by the Association shall be made available for inspection and copying by any Owner or by his duly authorized representative, at any reasonable time and for a purpose reasonably related to his interest as a member in the Association, or at such other place and time as the Board shall prescribe.

SECTION 14.05. Non-Waiver. The failure of the Grantor, the Board or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Master Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

SECTION 14.06. Acceptance. Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restrictions, easements and other provisions set forth in this Master Declaration and agrees to be bound by the same.

SECTION 14.07. Indemnification of Board Members. Each member of the Board and each member of the ACC shall be indemnified by the Owners against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of being or having been a member of the Board or the ACC, or any settlement thereof, whether or not said person is a member of the Board or ACC at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board or the ACC approves such settlement and reimbursement as being in the best interest of the Association or Owners. This Section shall extend to and apply also for the indemnification of the Grantor during the initial period of operation of the Association or prior thereto during the period the Grantor is exercising the powers of the Association.

SECTION 14.08. Notices. Any notice permitted or required to be delivered as provided in this Master Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, properly addressed.

SECTION 14.09. Interpretation. The provisions of this Master Declaration and any Supplemental Declaration shall be liberally construed to effectuate the Project Objectives set forth in Article IV, above, and shall be construed and governed by the laws of the State of Utah. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine feminine or neuter shall include the masculine, feminine or neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

SECTION 14.10. Severability. Notwithstanding the provisions of the preceding Section, each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

IN WITNESS WHEREOF the Association, having received the necessary votes, does hereby adopted this Amended and Restated Master Declaration.

SIGNATURE PAGE FOLLOWS

SARATOGA SPRINGS OWNERS ASSOCIATION

BY Kelly E Rogers
NAME: Kelly E Rogers
TITLE: President, SSOA

BY Whitney Hennen
NAME: Whitney Hennen
TITLE: Secretary, SSOA

ACKNOWLEDGMENTS

STATE OF UTAH)
: ss.
COUNTY OF Utah)

On this 23 day of January, in the year of ²⁰⁰⁶~~2005~~, before me personally appeared Kelly E. Rogers and Whitney Hennen, President and Secretary of said Association and acknowledged to me that he (or she or they) executed the same in said Association's name having received the necessary votes to effectuate these amendments.

Marissa Loveless
Notary Public
My commission expires: 12/30/2008
Residing at: Saratoga Springs, ut

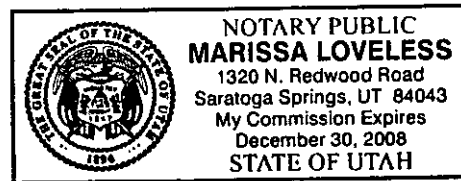


EXHIBIT A

Lots 101-162, 165-171, Saratoga Springs No. 1, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 75948:1996, and Map Filing No. 6780 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 201-255, Saratoga Springs No. 2, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 40728:1997, and Map Filing No. 7074 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 301-380, Saratoga Springs No. 3, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 75949:1996, and Map Filing No. 6781 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 401-404, Saratoga Springs No. 4, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 75950:1996, and Map Filing No. 6782 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1-75 (Lot 402 Saratoga Springs Plat 4), Saratoga Springs No. 4 Sheet 2, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 48290:1997, and Map Filing No. 7116 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1-45 (Lot 403 Saratoga Springs Plat 4), Saratoga Springs No. 4 Sheet 3, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 48291:1997, and Map Filing No. 7117 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 501-521, Saratoga Springs No. 5, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 79023:1997, and Map Filing No. 7273 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lot 512 (Lots 512-513 Saratoga Springs Plat 5), Saratoga Springs No. 512, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 113902:2003, and Map Filing No. 10092 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 601-668, Saratoga Springs No. 6, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 104007:1997, and Map Filing No. 7375 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 701-726, Saratoga Springs No. 7, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 75184:1998, and Map Filing No. 7656 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 801-835, Saratoga Springs No. 8, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 75185:1998, and Map Filing No. 7657 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lot 8A, Saratoga Springs No. 8A, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 77205:2000, and Map Filing No. 8755 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 901-906, Saratoga Springs No. 9, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 48642:1998, and Map Filing No. 7532 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1001-1044, Saratoga Springs No. 10, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 48643:1998, and Map Filing No. 7533 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1101-1148, Saratoga Springs No. 11, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 67738:1999, and Map Filing No. 8097 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1201-1223, Saratoga Springs No. 12, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 77204:2000, and Map Filing No. 8756 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1301-1362, Saratoga Springs No. 13, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 77205:2000, and Map Filing No. 8757 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1362-1363, Saratoga Springs No. 13A, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 60297:2002, and Map Filing No. 9549 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1364-1365, Saratoga Springs No. 13B, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 74651:2002, and Map Filing No. 9583 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1501-1564, 1583-1587, Saratoga Springs No. 15, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 12660:2001, and Map Filing No. 8941 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1565-1582, Saratoga Springs No. 15C, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 120758:2001, and Map Filing No. 9335 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1601-1611, Saratoga Springs No. 16, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 82544:2002, and Map Filing No. 9605 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 1901-1906, Saratoga Springs No. 19, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 51183:2005, and Map Filing No. 11078 (as said Record of Survey Map may have heretofore been amended or supplemented.)

Lots 2301-2326, Saratoga Springs No. 23, Planned Unit Development, as the same is identified in the recorded Survey Map in Utah County, Utah as Entry No. 77206:2000, and Map Filing No. 8758 (as said Record of Survey Map may have heretofore been amended or supplemented.)

EXHIBIT B**BY-LAWS OF
SARATOGA SPRINGS OWNERS ASSOCIATION, INC.**

THESE BY-LAWS, for SARATOGA SPRINGS OWNERS ASSOCIATION, INC., a Utah non-profit corporation, are hereby promulgated as the official By-Laws of said Association.

**ARTICLE I
DEFINITIONS**

The following terms used in these By-Laws shall be defined as follows:

Articles: The Articles of Incorporation of Saratoga Springs Owners Association, Inc., a Utah non-profit corporation, including any amendments thereto duly adopted.

Assessments: Payments r squired of Members of this Association as assessments as defined and required under the Master Declaration hereafter defined covering Saratoga Springs Subdivision.

Association: Saratoga Springs Owners Association, Inc., a Utah non-profit corporation.

Board: The duly elected and qualified Board of Directors of Saratoga Springs Owners Association, Inc.

By-Laws: These By-Laws of the Association including any amendments thereto duly adopted.

Common Area: All real property within Saratoga Springs Subdivision which is subject to the Master Declaration hereafter defined in which the Association owns an interest or controls and which is held or controlled for common use and enjoyment of all of its Members, including any improvements thereon. Unless a different meaning is necessarily implicit in the use of the term "Common Area," it shall also include any other area or improvements in or outside of Saratoga Springs Subdivision which, pursuant to the provisions of the Master Declaration, are either required or permitted to be maintained by the Association.

Corporation: As used herein, the term "Corporation" shall refer to the Saratoga Springs Owners Association, a non-profit entity organized under the laws of the State of Utah.

Saratoga Springs Subdivision: That certain residential subdivision in Utah County, Utah, which is subdivided, platted, and improved under the name "Saratoga Springs Subdivision," including any additional real property annexed as a part thereof. A reference herein to "Subdivision" shall mean Saratoga Springs Subdivision which is subject to the Master Declaration.

Saratoga Springs Owners Association Inc.: The Utah non-profit corporation organized by the Grantor and comprised of Members and existing for the purpose of providing self-government for Saratoga Springs Subdivision which is subject to the Master Declaration.

Grantor: A Utah Limited Partnership, and its successors in title, to a Lot(s), which Lot(s) is held by such successor in an unimproved condition (i.e., without a residential dwelling thereon) for resale to a builder or other person for the purpose of constructing thereon a residential dwelling, and to which successor the Grantor has

specifically granted such Class B voting rights in writing; provided, that if such voting rights are not so granted, such successor shall be entitled to the voting rights of a Class A Member with respect to each Lot owned. Upon the first sale of a Lot to an Owner, the Grantor shall thereupon be entitled to five (5) votes for each Lot owned by the Grantor.

Lot: A portion of Saratoga Springs Subdivision which is subject to the Master Declaration hereafter defined, which is a legally described tract or parcel of real property within Saratoga Springs Subdivision and subject to Assessment by the Association, and the Owner of which is a Member of the Association.

Master Declaration: The Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision No. 1, dated May 31, 1995, and recorded _____, as Instrument No. _____, records of Utah County, Utah, as amended by that certain First Amendment to Master Declaration of Covenants, Conditions, Restrictions and Easements for Saratoga Springs Subdivision, dated May 31, 1995, and recorded _____, as Instrument No. _____, records of Utah County, Utah, including any further amendments thereto duly adopted and recorded, which Master Declaration, as now or hereafter amended is made a part of these By-Laws as if set out in full herein. As used herein, "Master Declaration" is the same as the "Restrictive Covenants" defined in the Articles.

Member: Any person(s) who is an Owner of a Lot within Saratoga Springs Subdivision which is subject to Assessment by the Association.

Owner: A person or persons or other legal entity or entities, including the Grantor, holding fee simple title to any Lot in Saratoga Springs Subdivision, which Lot is subject to Assessment by the Association, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including any holder of a Mortgage or beneficiary under a Deed of Trust or other security holder in actual possession of any Lot as a result of foreclosure or otherwise, and any person taking title through such security holder, by purchase at foreclosure sale or otherwise.

ARTICLE II

MEETING OF MEMBERS

Section 2.01. Place of Meeting. The Board of Directors may designate any place, either within or without the State of Utah, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A Waiver of Notice signed by all Members entitled to vote at a meeting may designate any place, either within or without the State of Utah, as the place for the holding of such meeting. If no such designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Corporation in the State of Utah.

Section 2.02. Annual Meeting. The annual meetings of the Membership for the election of directors and for the transaction of such other business as may properly come before the meeting which shall be held each year on the first Wednesday of May of each year or, in the event a fiscal year is elected by the Board which ends on a date other than December 31, the annual meetings of the Members shall be held on the first Wednesday of the second month following the end of the fiscal year.

Section 2.03. Waiver. Notice of all meetings of Members shall be given to all Members entitled to vote at such meetings in the manner provided herein, but such notice may be waived either before or after the holding of a meeting.

Section 2.04. Notice of Annual Meeting. At least ten (10) days prior to the date of an annual meeting, written notice stating the place, day and hour of the meeting shall either personally or by mail, by or at the direction of the President or the Secretary or the officer or other persons calling the meeting, to each Member who, fifteen (15) days prior to the date of said annual meeting appears of record in the books of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his/her address as it appears on the membership books of the Association or to such other last known address of which the Association may have notice, with postage thereon.

Section 2.05. Deferred Annual Meeting. If for any reason the annual meeting of the Members be not held as herein provided, such annual meeting shall be called by the President, or by the Board, as soon as it is convenient. In the event the Board fails to call the annual meeting, any Member may make a demand in writing by registered mail addressed to an officer of the Association that such meeting be held within a reasonable time. If the annual meeting is not called within sixty (60) days following such written demand, any Member may compel the holding of such annual meeting by legal action directed against the Board as provided by law.

Section 2.06. Special Meetings. Special meetings of the Membership, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, by the Board of Directors or by the Members holding not less than ten percent (10%) of the votes entitled to be cast at such meeting.

Section 2.07. Notice of Meeting. Written notice stating the place, day and hour of a meeting of Members and, in the case of a special meeting, the purpose or purposes for which the meeting is called shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President or the Secretary or the officer or other persons calling the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his/her address as it appears on the membership books of the Corporation or to such other last known address of which the Corporation may have notice, with postage thereon.

Section 2.08. Quorum. Fifty-one percent (51%) of the Members of the Saratoga Springs Owners Association entitled to vote, represented in person or by proxy, shall constitute a quorum at any annual or special meeting of Membership; provided, that if a quorum is not present at a meeting duly called, the Board shall have the right to continue said meeting to a date not more than sixty (60) days after the date of scheduled meeting. Notice of this any such rescheduled meeting is required as set forth in Section 2.07 above. At such rescheduled meeting, those Members entitled to vote who are present in person or by proxy shall constitute a quorum for all purposes. The vote of the majority of the votes entitled to be cast by the Members present, or represented by proxy at a meeting at which a quorum is present shall be the act of the Members, unless the vote of a greater number is otherwise required by the Articles of Incorporation, these By-Laws, the Amended and Restated Master Declaration or by law.

Section 2.09. Members Entitled to Vote. The Members entitled to receive notice of and to vote at any meeting of the Members shall be determined from the Association's records at the time notice is mailed but not earlier than ten (10) days prior to the last day notice may properly be mailed.

Section 2.10. Temporary Adjournment. An annual or special meeting of the Members may adjourn from time to time without new notice being given until the business is completed; and such meeting may adjourn from time to time, without further notice, if there is not present a quorum of the Members, in person or by proxy. The fact of and reason for such adjournment shall be recorded in the minutes of proceedings of the meeting.

Section 2.11. Voting Record. The officer or agent having charge of the membership books of the Association shall make a complete record of the Members entitled to vote at each meeting of Members, arranged in alphabetical order, with the address of each. Such records shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member during the whole time of the meeting.

Section 2.12. Officers of a Meeting of Members. The presiding officer at a meeting of the Members shall be the President of the Association, or in his/her absence the Vice-President, or in the absence of both the President and the Vice-president, a chairman elected by the Members present at the meeting. The Secretary of the Association, or in his/her absence, any person appointed by the presiding officer of the meeting, shall act as Secretary of a meeting of Members.

Section 2.13. Voting Rights. Each Member of the Association holding a Class A membership shall be entitled to one (1) vote in person or by proxy for each Lot owned by said Member. Each Member of the Association holding a Class B membership shall be entitled to five (5) votes for each Lot owned by said Member. Except in cases in which it is otherwise provided by statute, the Articles of Incorporation, the Master Declaration, or these By-Laws, a majority of the total votes cast by each class of membership shall be required for the election and for the passage of any measure.

Section 2.14. Voting by Certain Members.

(a) A membership standing in the name of another corporation may be voted by such officer, agent or proxy as the By-Laws of such corporation may prescribe or, in the absence of such provision, as the Board of Directors of such other corporation may determine.

(b) A membership held by an administrator, executor, guardian or conservator may be voted by such person, either in person or by proxy, without a transfer of the membership into the name of said person.

(c) A membership standing in the name of a trustee may be voted by said trustee, either in person or by proxy.

(d) A membership in the name of a receiver may be voted by such receiver, and a membership held by or under the control of a receiver may be voted by such receiver without the transfer thereof into the receiver's name if authority to do so be contained in the appropriate order of the court by which such receiver was appointed.

(e) A Member whose membership is pledged shall be entitled to vote such membership until the membership has been transferred into the name of the pledgee and thereafter the pledgee shall be entitled to vote the membership so transferred.

(a) A vote may be cast in person or by proxy. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board of Directors.

(b) No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution.

(c) No proxy shall be valid if it purports to be revocable without notice.

(d) An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 2.14 below.

(e) Every proxy shall automatically cease upon sale of the Lot.

Section 2.16. Action Without a Meeting. Any action which, under any provisions of the Articles of Incorporation or these By-Laws may be taken at a meeting of the Members, may be taken without a meeting if authorized by a written instrument signed by all of the Members who would be entitled to notice of a meeting for such purposes. Whenever a certificate in respect to any such action is required by law to be filed in the office of the Utah County Recorder or in the office of the Secretary of State of Utah, the officer signing the same shall therein state that the action was authorized in the manner aforesaid.

Section 2.17. Action By Written Ballot In Lieu of a Meeting.

(a) Action By Written Ballot. At the discretion of the Board of Directors, any action, except election or removal of directors, that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner that is entitled to vote on the matter not less than twenty (20) days prior to the date on which the ballots must be received by the Association in order to be counted.

(b) Form and Effect of Ballot

(i) The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(ii) A written ballot may not be revoked.

(c) Information Required in Ballot Solicitations. All solicitations for votes by written ballot must:

(i) State the number of responses needed to meet any applicable quorum requirements and the total percentage of votes needed for approval.

(ii) Specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of the following unless the vote is pursuant to the secrecy procedure described in Subsection (d) of this section:

- (1) The date on which the Association has received a sufficient number of approving ballots to pass the proposal;
- (2) The date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage; or
- (3) A date certain on which all ballots must be returned to be counted.

(d) Secrecy Procedure. The Board of Directors may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by:

- (i) A secrecy envelope;
- (ii) A return identification envelope to be signed by the owner; and
- (iii) Instructions for marking and returning the ballot.

(e) Determination of Vote. The outcome of a vote by written ballot in lieu of a meeting shall be determined by the Board of Directors within forty-eight (48) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

(i) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of owners has voted and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected.

(ii) If approval of a proposed action otherwise would require a meeting at which a specified percentage of owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met.

(iii) Except as provided in Subsection (e)(iv) of this section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(iv) Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

(f) Owner Notification of Ballot Results. Each Owner shall be notified within ten (10) days after the ballots have been counted, by mail or other delivery of written notice, of the results of the ballot meeting or that a quorum of ballots was not returned.

Section 2.18 Absentee Ballots. Members entitled to vote may vote by absentee ballot. For all matters that require a vote of the membership, the Board shall distribute "absentee ballots" to those who have specifically requested such a ballot. In addition, the Board may distribute absentee ballots to all members for any matter to be voted upon. The absentee ballot shall be the same ballot used by those who vote in person at a regular or special meeting, except for statements that the ballot being used is an absentee ballot. Absentee ballots may be received up until the time any such meeting begins. A member may not vote in person at a meeting if they have already submitted an absentee ballot.

Section 2.19. Order of Business. At all meetings of Members, the following order of business shall be observed, so far as consistent with the purposes of the meeting:

- (a) Calling the roll to determine the Members represented at the meeting.
- (b) Reading of notice and proof of call of meeting (or unanimous waiver thereof).
- (c) Reports of officers.
- (d) Reports of committees.
- (e) Unfinished business.
- (f) New business.
- (g) Election of directors.
- (h) Miscellaneous.

Section 2.20. Elections; Voting. At each election for the persons to serve on the Board of Directors of the Association, every Member entitled to vote at such election shall have the right to one vote on each matter or issue, in person or by proxy, for each vote to which such Member is entitled. Cumulative voting is not allowed. For the purpose of electing directors, the majority of the total of all votes combined in Class A and Class B memberships (if there exists any Class B membership) shall be required to elect a person and the election of such person by each Class of Members shall not be required.

Section 2.21. Records. Records of the proceedings of meetings of Members shall be kept at the registered office of the Association.

ARTICLE III

BOARD OF DIRECTORS

Section 3.01. Number of Directors. The business of the Association shall be managed by a Board of Directors comprised of at least three (3) but no more than nine (9) persons, none of whom shall be required to be a Member of the Association.

Section 3.02. Elections-Term of Office. Each director so elected shall hold office for the term elected and until his/her successor is elected and qualified.

Election to the Board of Directors shall be by secret written ballot. At such election each Member, or his proxy, may cast one vote for each vacancy for each Class A or Class B Membership to which he is entitled. Cumulative voting is not allowed. The person(s) receiving the largest number of votes shall be elected.

Section 3.03. Nominations. Nominations for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nomination Committee shall consist of a Chairman who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members to serve from the close of such annual meeting until the date of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion determine but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members.

Section 3.04. Vacancies. Vacancies in the Board of Directors shall be deemed to exist upon the death, resignation or removal from office of a director, or if the Members increase the number of directors and fail to elect the full number of authorized directors. ,

Vacancies in the Board of Directors shall be filled by a majority of the remaining directors, though they constitute less than a quorum of a full Board of Directors and such elected director shall hold office until his/her successor is elected and qualified. The Members may elect his/her successor at their next annual meeting or at any special meeting thereof duly called for that purpose and held prior to the annual meeting and may do so at the meeting at which the By-Laws are amended authorizing the increase in the number of directors. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his/her term of office.

Section 3.05. Meetings.

(a) Regular meetings of the Board of Directors shall be held monthly, without notice, at the time and place as shall be designated by resolution of that Board or by written consent of a majority of the members of the Board.

(b) Within (10) days following each annual meeting of Members of the Association, the Board of Directors shall hold a regular meeting for the purpose of organization., election of officers and the transaction of such other business as may properly come before the meeting. No formal notice of such meeting need be given.

(c) Special meetings of the Board of Directors of the Association may be called for any purpose at any time by the President or by the Vice-President or by any two directors. , ,

(d) Notice of any special meeting shall be given at least three (3) days prior to the time set for such meeting by written notice delivered personally or mailed to each director at his/her business address or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to

be delivered when the notice is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director to a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of the business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting. Notice of the time and place of holding an adjourned meeting of the Board of Directors need not be given to absent directors if the time and place be fixed at the meeting adjourned.

Section 3.06. Quorum. A majority of the duly elected and qualified Directors comprising the Board of Directors as fixed by the By-Laws shall be necessary to constitute a quorum at all meetings of the Board of Directors for the transaction of business, except to adjourn as hereinafter provided, and the actions and decisions of a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act or acts of the Board of Directors. Provided, however, that if all of the directors shall approve the proceedings of a meeting of the Board of Directors by execution of that approval on the minutes or other records of the meeting, such meeting shall be legal regardless of the manner in which it was called, or the number of directors present.

Section 3.07. Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if, prior to such action, a written consent thereto is signed by all members of the Board or of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 3.08. Adjournment. A quorum of the directors may adjourn any director's meeting to meet again at a stated day and hour; provided that in the absence of a quorum, a majority of the directors present at the meeting, either general or special, may adjourn from time to time until a quorum shall be present and prior to the time fixed for the next regular meeting of the Board of Directors.

Section 3.09. Compensation. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board, the expenses incurred in the performance of their duties may be allowed. Nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity as an officer, agent, employee or otherwise and receiving compensation therefor.

Section 3.10. Removal. A member of the Board of Directors, or the entire Board of Directors may be removed, with or without cause, by a vote of a majority of the Members then entitled to vote at any election of directors. If less than the entire Board is to be removed, no one of the directors may be removed if the votes cast against his/her removal would be sufficient to elect him/her if then cumulatively voted at an election of the entire Board of Directors. The removal of a director, or the entire Board of Directors, in the manner prescribed in this Section may occur at any special meeting of the Members called for that purpose.

Section 3.11. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any Association matters is taken shall be presumed to have assented to the action taken unless his/her dissent shall be entered in the minutes of the meeting or unless such director shall file written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward

such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 3.12. powers. The property, business and affairs of the Association shall be controlled and managed by a Board of Directors and it shall have all lawful powers necessary or convenient to carry out the same unless prohibited by law, the Articles of Incorporation, these By-Laws or the Master Declaration.

ARTICLE IV

OFFICERS

Section 4.01. Authorized Officers. The officers of the Association shall be a President, a Secretary and a Treasurer, which shall be elected by the Board of Directors as provided in Section 4.03 of this Article. At its discretion, the Board of Directors may elect one or more Vice-Presidents, a general manager and such other officers and agents as may be necessary for the business of the Association and specify the duties, authority and compensation of each.

Section 4.02. Combining Offices. Any two (2) or more of the offices may be combined in one person except President and Secretary; and any officer of the Association may also be manager.

Section 4.03. Election of Officers. The officers of the Association, except those appointed in accordance with Section 4.04 of this Article, shall be chosen by the Board of Directors annually at their meeting following the annual meeting of the Members as provided in Section 2.02 of Article 11, hereof. Each officer shall hold office, until such officer's successor shall have been duly elected and shall have qualified or until such his/her death or until he/she shall resign or shall have been removed in the manner provided in Section 4.05 of this Article.

Section 4.04. Filling Vacancies. A vacancy in any office from whatever cause may be filled at any regular or special meeting of the Board of directors for the unexpired portion of the term.

Section 4.05. Removal. Any officer or agent of the Association may be removed by action of the Board of Directors at any meeting thereof by a majority vote of the directors in office.

Section 4.06. Resignation. The resignation of any officer or agent of the Association shall become effective by written notice to the Board of Directors, President or Secretary at the time therein specified, without acceptance by the Board, of Directors.

Section 4.07. Powers and Duties of Officers.

(a) President. The President (i) shall be the chief officer of the Association generally supervising the performance of all business policies adopted and approved by the Board of Directors; (ii) shall be the general managing officer of the operations of the Association; (iii) shall preside at all meetings of Members and the Board of Directors; (iv) shall be responsible for long-term planning of financial policies of the Association and periodically shall report and recommend financial policies and programs to the Board of Directors; (v) shall have authority to employ, designate duties and supervise the activities of all employees of the Association and shall have

ultimate authority to discharge any employee of the Association; (vi) may sign, with attestation by the Secretary, certificates of membership in the Association and with or without attestation any deeds, mortgages, bonds, notes, contracts or other instruments which the Board of Directors has authorized to be executed. The President shall perform those duties and have and exercise that authority and responsibility customarily incident to the office of president of a corporation of the nature of this one and, furthermore, shall perform those special duties and functions delegated to the President by the Board of Directors.

(b) Vice-President. In the absence of the President or in the event of the President's death, inability or refusal to act, the Vice-president (or in the event there by more than one Vice-president, the Vice-Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the President and when so acting shall have all the powers of and be subject to all restrictions upon the President. The Vice-president shall be direction responsible to the President and shall have such authority and perform such duties as shall be assigned to him/her by the President or by the Board of Directors.

(c) Secretary. The Secretary shall: (i) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (iii) be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which, on behalf of the Association, under its seal is authorized and directed by the Board of Directors; (iv) keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; (v) sign with the President, or Vice-president, certificates of membership in the Association, the issuance of which shall have been authorized by resolution of the Board of Directors; (vi) have general charge of the membership book of the Association; and (vii) in general perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors. In the event a vacancy exists in the office of Vice-president, the Secretary shall have the power and duties specified in Section 4.07(b) of this Article IV.

(d) Treasurer. The Treasurer shall (i) keep full and accurate account of the receipts and disbursements in books belonging to the Association and shall deposit all monies and other valuable effects in the name and to the credit of the Association and such banks and depositories as may be designated by the Board, but shall not be personally liable for the safekeeping of any funds or securities so deposited pursuant to the order of the Board; (ii) disburse the funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements and shall render to the President and directors at the regular meetings of the Board and, whenever they may require, accounts of all transactions as Treasurer and of the financial condition of the Association; and (iii) perform the duties usually incident to the office of Treasurer and such other duties as may be prescribed by the Board of Directors or by the President and those duties set forth in the Master Declaration.

(e) Assistant Secretary-Assistant Treasurer. If and when elected, the Assistant Secretary or the Assistant Treasurer shall perform such duties and have such authority as prescribed by the President.

Section 4.08. Bonds. The Board of Directors may, by resolution, require any 01 all of the officers of the Association to give a bond with sufficient surety, conditioned for the faithful performance of the duties of their respective offices.

Section 4.09. Salaries. The salaries, if any, of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary' by reason of the fact that he/she is also a director of the Association.

ARTICLE V

COMMITTEES

After the right of the Grantor to do so shall expire, the Board of Directors shall appoint an Architectural Control Committee, as provided in the Master Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE VI

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 6.01. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

Section 6.02. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authority may be general or confined to specific instances.

Section 6.03. Checks, Drafts., Etc. All checks, drafts and other order for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, employee or employees, or agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 6.04. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies and other depositories as the Board of Directors may select.

ARTICLE VII

ASSESSMENTS

The Association shall have the right to assess, levy and collect Assessments as provided in the Amended and Restated Master Declaration, which assessments may be enforced as provided in the said Amended and Restated Master Declaration.

ARTICLE VIII

CERTIFICATES AND TRANSFER OF MEMBERSHIPS

Section 8.01. Ownership and Certificates. Each Owner of a Lot in Saratoga Springs Subdivision which is subject to the Master Declaration shall, for the duration of such

ownership, be deemed a Member of the Association. As evidence of membership in the Association, the Board shall issue a "certificate of membership" to such Owner. The form of said certificate shall be as approved by the Board. The certificate shall be signed by the President or Vice-President and also by the Secretary and sealed with the corporate seal of the Association.

Section 8.02. Transfer of Certificates. The certificate of membership issued to each Member of the Association cannot be assigned, except by conveyance of the Lot to which the certificate of membership attaches and the transfer of the new membership on the Association records is the responsibility of the new Owner and must be accomplished according to the procedures set forth herein.

The membership in the Association shall be appurtenant to the Lot owned by the Member and shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to said Lot shall operate automatically to transfer said membership to the new Owner thereof.

Section 8.03. Transfer-Lost Certificates. In the event that an Owner of a Lot shall sell said Lot, such Owner shall, upon or prior to the transfer of possession of the Lot, deliver to the Board for cancellation the membership certificate which attaches to said Lot thereby conveyed. In the event the Owner of the Lot is unable or refuses to produce the certificate of membership as required, the buyer of the Lot in question may submit to the Board a signed affidavit stating that said affiant is the new Owner of that Lot, a description of the Lot and affirming that he/she has not received the certificate of membership. Upon receipt of such an affidavit, the Board shall cancel the old certificate of membership, change the names and other data in the Association records and reissue to the new Owner of the Lot a new certificate of membership.

ARTICLE IX

AMENDMENTS

Section 9.01. Board of Directors. These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the Board of Directors, or if so provided in the Articles of Incorporation, by the Members at any regular or special meeting.

Section 9.02. FHA/VA Approval. As long as there is a Class B membership, any amendment to these By-Laws shall require the prior approval of the Federal Housing Administration and/or the Veterans Administration.

Section 9.03. Conflict. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Master Declaration and these By-Laws, the Master Declaration shall control.

ARTICLE X

GENERAL PROVISIONS

Section 10.01. Ownership Interest. Except as may be specifically provided to the contrary in the Articles of Incorporation, these By-Laws or the Master Declaration with respect to the rights of the Class B membership, every Member shall have the same rights and interests in the Association and in the real and personal property owned by the Association

and no Member can have or acquire a greater interest therein than any other Member.

Section 10.02. Suspension of Rights. The rights of a Member may be suspended or withdrawn as more particularly provided in the Amended and Restated Master Declaration. The loss of such rights shall not relieve the Member from the Member's obligation to pay any of the Assessments properly levied by the Board. Restoration of full rights of membership must meet the conditions prescribed by the Board which may include payment of all amounts due the Association, execution and delivery of covenants and/or other security that future violations will not occur and any other terms and conditions reasonably imposed by the Board.

Section 10.03. Taxation of Real Property. The Association and the Owners shall make every effort to have each Lot subjected to its own individual real property tax and the real property taxes relating to the Common Areas owned or under the control of the Association shall be assessed against said property and shall be the sole responsibility of the Association.

Section 10.04. Contracts. The Association shall have the power to enter into any contracts and incur indebtedness on behalf of the Association, but shall be specifically limited by the limitations, if any, contained in the Articles of incorporation, these By-Laws or the Master Declaration.

Section 10.05. Rules. Regulations and Standards. The Board shall have the power to promulgate rules, regulations and standards for its own government, to aid and assist the Board and its committees in the carrying out of duties and to set standards of design, construction, maintenance, etc., the rules of conduct of Owners and occupants and Members of the Association. Reasonable fines may also be levied to help ensure compliance of the covenants, rules and policies of the Association.

Section 10.06. Inspection of Records. The Association shall keep at its registered office records of proceedings of the Members and of the Board of Directors, a register giving the names of the Members and showing their respective last known addresses and the date on which they acquired membership and a set of the By-Laws of the Association.

Each Member shall have the right to examine in person or by agent or attorney at any reasonable time or times, for any reasonable purpose, any and all of the books and records of the Association and to make extracts therefrom.