

**Master Declaration of Covenants, Conditions and  
Restrictions**

**for**

**Northgate Village**

**(A Mixed Use Planned Development)**

**(An Expandable Project)**

**MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
NORTHGATE VILLAGE**

(A Mixed Use Planned Development)

(An Expandable Project)

**THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR NORTHGATE VILLAGE** (herein referred to as the "Master Declaration") is made and executed this 13<sup>th</sup> day of September, 2006, by NORTHGATE VILLAGE DEVELOPMENT LC, a Utah limited liability company (herein referred to as the "Declarant").

**RECITALS**

WHEREAS, Declarant is the owner of certain real property situated in the City of Orem, Utah County, State of Utah, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (referred to herein as the "Property");

WHEREAS, Declarant intends to establish the Property as a planned development known and to be known as Northgate Village (A Planned Development) (referred to herein as the "Project");

WHEREAS, Declarant desires to provide for the preservation of values and amenities within the Project and for the maintenance of roadways, sidewalks, walkways, parking spaces, landscaped areas, open spaces, and any other Common Areas and Facilities or facilities to be developed as part of the Project, and to this end desires to subject the Property to the covenants, conditions, restrictions, uses, limitations, obligations, servitudes, easements, charges, liens, and other provisions (herein all together called "covenants and restrictions") set forth in this Master Declaration, each and all of which is and are for the benefit of the Property and the subsequent owners thereof;

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in the Project to create a Master Association to which will be delegated and assigned the powers and duties of maintaining and administering said Common Areas and Facilities, administering and enforcing the provisions of this Master Declaration, and disbursing the charges and Common Assessments herein created;

WHEREAS, Declarant has caused to be formed Northgate Village Master Association, Inc., a Utah non-profit corporation (herein referred to as the "Master Association"), for the

purposes of carrying out the aforesaid powers, duties, and responsibilities; and

WHEREAS, Declarant has constructed or will construct upon said Property certain improvements. All of such improvements are or will be described in the Plat Maps filed for record herewith, prepared and certified by Roger Dudley of Dudley & Associates, Inc., Utah State Registered Land Surveyor, Certificate No.147089.

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to the covenants and restrictions hereinafter set forth, all of which are declared and agreed to be for the benefit of the Project; shall protect the value of the Property and the improvements comprising the Project; shall run with and bind the Property and all persons or entities having any right, title, or interest therein, their heirs, successors, and assigns; and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns, the Master Association, and any Unit/Lot Owner in the Project.

## ARTICLE I DEFINITIONS

When used in this Master Declaration (including that portion hereof captioned "RECITALS") each of the following terms shall have the meaning indicated:

1. **Articles** shall mean the Articles of Incorporation of Northgate Village Master Association, Inc., a Utah non-profit corporation, as the same may be amended from time to time.
2. **Board or Board of Trustees** shall mean the Board of Trustees of the Master Association.
3. **Building or Buildings** shall mean a structure or structures which is designated and intended for office, professional, commercial, retail, industrial, hotel, and/or residential uses as permitted by applicable zoning and other laws, together with all improvements located on the same Unit/Lot and used in conjunction with such structure, such as steps, landings, handrails, entrance areas, etc.
4. **Bylaws** shall mean the Bylaws of the Master Association, as amended from time to time, attached hereto as Exhibit "D" and incorporated herein by this reference.
5. **Class** shall mean a class of Membership in the Master Association as set forth in Article IV, Section 4 herein. Each Owner shall be a Member in the Master Association and shall hold Membership in one Class. There shall be one Class of Membership for each of the following groups of Owners: (a) Owners of professional office Units ("Professional Office Condominiums"); (b) Owners of residential Units ("Residential Condominiums"); (c) Owners of commercial Units ("Commercial Condominiums"); (d) and Owners of commercial Lots ("Commercial Lots").

The Declarant shall determine in its sole discretion the Class of Membership each Owner shall hold, and the applicable Class of Membership which each Owner holds shall be set forth in Exhibit "C", attached hereto and incorporated herein.

**6. Common Areas and Facilities** shall mean all portions of the Project and all property (real or personal) except the Unit/Lots under the control, management, and ownership of the Master Association for the common use and enjoyment of the Owners, such as all undedicated roads or streets, parking spaces, sidewalks, walkways, landscaped areas, open spaces, statuary fountains, water features, lights, benches, common signs, and the like, together with all easements appurtenant thereto, whether or not expressly listed herein or on the Plat Maps. The Common Areas and Facilities also include: (a) those areas specifically set forth and designated as such on the Plat Maps; (b) those areas used in the installation and maintenance of central services such as water, electricity, gas, sewer, communication, fiber optic cables, etc., and all apparatus and installations existing for common use; and (c) those areas within the Project normally used in common with regards to use, maintenance, safety, or management.

**7. Common Assessment** shall mean an assessment levied by the Master Association to offset certain common expenses and/or special expenses of the Master Association as the context so specified and shall include Special Assessments and Reimbursement Assessments.

**8. Common Expenses** shall mean and refer to any of the following: (a) the expenses of (or reasonable reserves for, as may be permitted under the terms of this Master Declaration) the maintenance, management, operation, repair, and replacement of the Common Areas and Facilities; (b) the expenses of management and administration of the Master Association, including compensation paid by the Master Association to a Manager, accountants, attorneys, or other employees or agents; (c) any other item or items designated in this Master Declaration or the Bylaws of the Master Association to be Common Expenses; and (d) any other expenses reasonably incurred by the Master Association on behalf of all Owners; provided, however, that any annual expenses of management or administration of the Master Association shall not exceed eighteen percent (18%) of all Common Assessments, minus the portion of the Common Assessments attributable to the assessment of taxes and insurance premiums, collected during that year by the Master Association.

**9. Declarant** shall mean Northgate Village Development LC, a Utah limited liability company and its successors and assigns.

**10. Unit/Lot** shall mean any designated Unit/Lot within the Project that is improved, or is intended to be improved as more specifically described on the Plat Maps.

**11. Unit/Lot Owner** shall mean any person(s) or entity(ies) who is the owner of record (as reflected in the records in the office of the County Recorder of Utah County, State of Utah) of a fee or undivided fee interest in any Unit/Lot, which is a part of the Project, including contract buyers. Notwithstanding any applicable theory relating to Mortgages, no Mortgagee shall be an

Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Unit/Lot owned by it.

**12. Manager** shall mean any person or entity appointed or employed as a Manager by the Master Association in regards to the maintenance, management, operation, and repair of the Common Areas and Facilities.

**13. Master Association** shall mean the Northgate Village Master Association, Inc., a Utah non-profit corporation, and its successors and assigns. The Members of the Master Association shall be the Owners of Unit/Lots within the Project. However, each Owner of a Unit/Lot within the Project shall have no voting rights in the Master Association except such Owner's vote to elect or remove the applicable Trustee as further set forth herein.

**14. Master Declaration** shall mean this Master Declaration of Covenants, Conditions, and Restrictions for Northgate Village (A Planned Development), as the same may be amended or supplemented.

**15. Master Rules and Regulations** shall mean the rules, regulations, and procedures governing the operation and use of the Common Areas and Facilities; architectural standards, guidelines, and procedures governing the construction, repair, and replacement of Buildings and other structures and improvements; and any other matters concerning the Project, duly adopted by the Master Association.

**16. Member** shall mean a member of the Master Association. Each Owner of a Unit/Lot within the Project shall be a Member of the Master Association. However, each Owner of a Unit/Lot within the Project shall have no voting rights in the Master Association except such Owner's vote in the election of or vote for removal of the applicable Trustee as further set forth herein. Each Member's membership interest in the Master Association shall be equal to the Membership Units appurtenant to the Unit/Lot owned by such Member. The Membership Units appurtenant to each Unit/Lot shall be set forth in Exhibit "C", attached hereto.

**17. Membership Units** shall mean the Membership Units in the Master Association appurtenant to each Unit/Lot held by the Owner of each such Unit/Lot. Each Owner shall be a Member in the Master Association and shall have a vote in the Master Association equal in number to the Membership Units appurtenant to the Unit/Lot owned by such Member. Each Member in the Master Association shall only have the right to vote to elect or remove Trustees as further set forth herein and the Bylaws and shall have no other voting rights in the Master Association. The Membership Units appurtenant to each Unit/Lot are set forth on Exhibit "C", attached hereto and incorporated herein.

**18. Mortgage** shall mean any mortgage, deed of trust or trust deed, or other security instrument by which the Unit/Lot or any part thereof is encumbered.

19. **Mortgagee** shall mean and include any person or entity named as a mortgagee or beneficiary under a recorded Mortgage as defined above.

20. **Officer or Officers** shall mean an officer or officers of the Master Association as specified in the Bylaws.

21. **Plat Maps** shall mean and refer to all approved and final plats of Northgate Village (A Planned Development), Orem, Utah, and by reference made a part hereof, as recorded or to be recorded at the Utah County Recorder's Office, State of Utah, as may be amended or supplemented.

22. **Project** shall mean Northgate Village (A Planned Development) as it may exist at any given time.

23. **Property** shall mean all land covered by this Master Declaration, including Common Areas and Facilities, Unit/Lots, and Units, and shall consist of the land described in ARTICLE II hereof.

24. **Reimbursement Assessment** shall mean a charge against a particular Owner and its Unit/Lot for the purpose of reimbursing the Master Association for costs incurred in bringing the Owner and its Unit/Lot into compliance with the provisions of this Master Declaration, the Bylaws, the Master Rules and Regulations of the Master Association, or any other charge designated as a Reimbursement Assessment in this Master Declaration, the Bylaws, or the Master Rules and Regulations of the Master Association, together with costs, interest, attorney's fees, and other charges payable by such Owner, pursuant to the provisions of this Master Declaration.

25. **Special Assessment** shall mean a Common Assessment for Special Expenses.

26. **Special Expenses** shall mean the following: (a) the expenses incurred by the Master Association for the repair of damage or loss to the Common Areas and Facilities; and (b) unanticipated expenses reasonably incurred by the Master Association to protect or further the interests of the Master Association or its Members.

27. **Trustee** shall mean a member of the Board of Trustees.

28. **Unit** shall mean a condominium.

**ARTICLE II**  
**SUBMISSION OF PROPERTY; PROPERTY DESCRIPTION; EXPANDABILITY;**  
**CONVERTIBILITY**

1. **Submission of Property.** The property described in Exhibit "A" is to be subject to the provisions of this Master Declaration, and shall be held, transferred, sold, conveyed, and assigned

subject to the provisions herein.

**2. Division into Unit/Lots and/or Units.** The Project is or will be divided into Unit/Lots and/or Units as set forth on the Plat Maps for the Property.

**3. Expandability.** All or any portion of the additional land within the area described in Exhibit "B" attached hereto may be annexed into the Project by the owner thereof and the Declarant, and the necessary amendments to this Master Declaration and the filing of any Plat Maps or amendments thereto may be executed and recorded by the owner of said additional land and the Declarant, without the consent of the Master Association, the Members, or the Board of Trustees within ten (10) years from the date of recording this Master Declaration at the office of the Utah County Recorder, State of Utah. In that event, each Owner of any Unit/Lot contained in the additional land annexed pursuant to the terms herein shall become a Member of the Master Association and all Common Areas and Facilities in such annexed property shall be governed by this Master Declaration. If the Project is not expanded within ten (10) years, this expandable option shall expire. No assurances are made as to the location of any Buildings, structures, or improvements that may be constructed on any portions of the additional land annexed to the Project. No assurances are made as to the number of Unit/Lots to be designated on any portion of the additional land added to the Project. No assurances are made as to the Declarant agreeing to create Common Areas and Facilities (in terms of the type, size, etc.) within any portion of the additional land added to the Project. Any annexed land is restricted exclusively to compatible office, professional, commercial, retail, industrial, hotel, and/or residential uses as permitted by the Master Association and applicable zoning and other laws including the following:

**A.** Each Unit/Lot shall be responsible for the share of Common Expenses and Common Assessments as set forth in Exhibit "C" attached hereto.

**B.** If and when annexed, additional plats are anticipated to have one (1) or more Unit/Lots and/or Units with surrounding Common Area. Following satisfaction by an Owner of its duties set forth below in Section 4 of this Article II, the Membership Units appurtenant to such Owner's Unit/Lot in the additional land annexed into the Project shall be equal to the gross building square footage attributed to the Building(s) on such Unit/Lot. Until such time as the duties set forth in Section 4 of this Article II are satisfied by an Owner of a Unit/Lot in the additional land annexed into the Project, such Unit/Lot shall have a sum of appurtenant Membership Units equal to ten percent (10%) of the total raw land square footage of such Unit/Lot.

**C.** The number of Unit/Lots and/or Units and the Buildings constructed, or to be constructed thereon, should be adequate to reasonably support the Common Areas and Facilities in each phase of development. The number of Unit/Lots and/or Units and the Buildings constructed, or to be constructed thereon, should not overload the capacity of the Common Areas and Facilities in any phase of development.

D. If annexation occurs, all or any portion of the land described in Exhibit "B" may be annexed simultaneously or at different times.

**4. Special Duties of Unit/Lot Owners in Annexed Land.** Prior to annexation of all or any part of the additional land described in Exhibit "B" into the Project, the Declarant and the Owner or proposed Owner of such additional land, as applicable, shall provide a site plan of the additional land designating the Unit/Lots and Common Areas and Facilities thereon to the applicable governmental authorities. Upon approval of the site plan by the applicable governmental authorities, as required by applicable laws and ordinances, the additional land shall be annexed into the Project by recording in the office of the Utah County Recorder, State of Utah, an appropriate amendment to this Master Declaration and a Plat Map, at which time said additional land will become part of the Project and be subject to the provisions of this Master Declaration, including without limitation all assessments levied hereby. At such time, the amendment to the Master Declaration shall designate that said Unit/Lot has a sum of appurtenant Membership Units in the Master Association equal to ten percent (10%) of the total raw land square footage of such Unit/Lot as set forth in Section 3 B. above, and said amendment will designate for all Unit/Lot Owners in the Project the revised share and responsibility of each Unit/Lot Owner in the Common Expenses and Common Assessments of the Master Association. Said Unit/Lot Owner will be responsible for obtaining the requisite approvals and permits from the applicable governmental authorities in order to proceed with the construction of the Building(s) on the Unit/Lots and the improvements on the Common Areas and Facilities. Said Unit/Lot Owner shall be solely responsible for all costs and expenses associated with the construction of its Building(s), and the construction of the improvements on the Common Areas and Facilities, including the maintenance and repair thereof. At such time as the Building(s) to be constructed on said Unit/Lot is(are) substantially complete, an amendment to the Master Declaration shall be made, which shall designate that said Unit/Lot has a sum of appurtenant Membership Units equal to the gross building square footage attributable to the Building(s) located on said Unit/Lot, and said amendment will designate for all Unit/Lot Owners in the Project the revised share and responsibility of each Unit/Lot Owner in the Common Expenses and Common Assessments of the Master Association. It is understood and agreed that said Unit/Lot Owner shall be responsible for all improvements, maintenance, and repair of the said Common Areas and Facilities until such time as: (a) all improvements on the Common Areas and Facilities are completed by the said Unit/Lot Owner; (b) the improvements on the Common Areas and Facilities have been paid in full, and satisfactory evidence thereof has been presented to the Master Association (so as to prevent any mechanic's liens from being filed and recorded thereon); (c) the Building(s) is completed and the Unit/Lot Owner has received an occupancy permit issued by the applicable governmental authorities; and (d) all appropriate amendments to this Master Declaration and an Amended Plat Map have been prepared, approved by applicable governmental authorities, and recorded in the office of the Utah County Recorder, State of Utah. When the above four (4) items have been satisfied, said Common Areas and Facilities will be maintained by the Master Association, the costs of which will be apportioned among the Unit/Lot Owners in proportion to their respective Membership Units in the Master Association. The above referenced amendments to this Master Declaration and Amended Plat Map will set forth



with respect to the said Unit/Lot Owner, among other relevant items: (a) the Unit/Lot number/letter and street address; (b) proportion of the Master Association's Common Expenses for which the Owner of said Unit/Lot is responsible; (c) the Membership Units appurtenant to such Unit/Lot; and (d) the Class of membership held by the Owner of such Unit/Lot. In addition, the amendment to the Master Declaration will designate for all Unit/Lot Owners in the Project the revised share and responsibility of each Unit/Lot Owner in the Common Expenses and Common Assessments of the Master Association.

**5. Convertibility.** All or any portion of the convertible land within the area described in Exhibit "F" attached hereto may be converted by the owner thereof and the Declarant, in their sole discretion, into one or more residential or commercial Unit/Lots or into Common Areas and Facilities, or dedicated to the City of Orem, and the necessary amendments to this Master Declaration and the filing of any Plat Maps or amendments thereto may be executed and recorded by the owner of said convertible land and the Declarant, without the consent of the Master Association, the Members, or the Board of Trustees within ten (10) years from the date of recording this Master Declaration at the office of the Utah County Recorder, State of Utah. Any portion of the convertible land described in Exhibit "F" not yet converted in accordance with this Section 5, or any portion of it not so converted, shall be designated on the Plat Maps and hereinafter referred to in this Master Declaration as "Convertible Land." Until such Convertible Land is converted in accordance with the terms of this Section 5, such Convertible Land shall be treated for all purposes herein as a Unit/Lot owned by the Declarant and shall be allocated a sum of Membership Units equal to ten percent (10%) of the total raw land square footage of such Convertible Land. The Declarant as Owner of the Convertible Land shall hold membership in the Commercial Unit/Lot Class of the Master Association.

**6. Amendments to Exhibit "C" and Amended Plat Maps.** All amendments to Exhibit "C" of this Master Declaration and all Amended Plat Maps may be made, executed, and filed by the Declarant to effect the provisions of this Article II at any time without the consent of the Master Association, the Members, or the Board of Trustees.

### ARTICLE III NATURE AND INCIDENTS OF OWNERSHIP

**1. Unit/Lot Title.** Title to a Unit/Lot may be held or owned by any person or entity and in any manner in which title to real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

**2. No Separation.** Each Unit/Lot and each such Unit/Lot Owner's Membership in Master Association shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Unit/Lot shall constitute a gift, devise, bequest, transfer, encumbrance, conveyance, or disposition, respectively, of the entire Unit/Lot Owner's membership interest in the Master Association.

**3. Membership in Master Association.** Every Owner upon acquiring fee simple title to a Unit/Lot (subject to the terms and conditions set forth in ARTICLE II, Section 4) shall automatically become a Member of the Master Association and shall remain a Member thereof until such time as its ownership of such Unit/Lot ceases for any reason, at which time its Membership in the Master Association with respect to such Unit/Lot shall automatically cease and the successor Owner shall become a member. Membership in the Master Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Unit/Lot. Each Member shall hold a membership interest in the Master Association equal to the Membership Units appurtenant to such Member's Unit/Lot. Each Member shall hold the Class of Membership set forth in Article IV, Section 4 herein. The Members within each Class shall elect a Trustee to represent such Class on the Board of Trustees as set forth in Article IV, Section 4 herein. Each Member is also entitled to vote in the election for the at-large Trustee, as set forth in Article IV, Section 4 herein. In elections for Trustees, each Member shall have a vote equal in number to the Membership Units appurtenant to the Unit/Lot owned by such Member, which is set forth on Exhibit "C", attached hereto and incorporated herein.

**4. Ownership or Management of Common Areas and Facilities.** The Master Association shall own or manage all Common Areas and Facilities except as set forth in Article IV, Section 2 herein.

**5. Use of Common Areas and Facilities.** Subject to the limitations contained in this Master Declaration, each Unit/Lot Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities designated herein and on the Plat Maps.

**6. Partition.** The Common Areas and Facilities shall be owned by the Master Association, and no Unit/Lot Owner may bring action for partition thereof, except as authorized by law.

**7. Duty of Owner to Pay Taxes on Unit/Lots Owned.** It is understood that each Unit/Lot in the Project is subject to separate common assessment and taxation of each taxing authority and special district which has such jurisdiction over the Project for all types of taxes and common assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit/Lot Owner will pay and discharge any and all taxes and common assessments which may be assessed against such Owner relative to its Unit/Lot.

**8. Duty to Pay Master Association Common Assessments.** Each Unit/Lot Owner is obligated to pay and discharge all Common Assessments and charges levied by the Master Association as set forth herein.

**9. Multiple Ownership Interests.** In the event there is more than one Owner of a particular Unit/Lot, any vote relating to such Unit/Lot shall be exercised as such Owners may determine among themselves, but in no event shall there be more than one unanimous vote cast with respect to any Unit/Lot. A vote cast at any Master Association meeting by any such Owners, whether in

person or by proxy, shall be conclusively presumed to be the vote attributable to the Unit/Lot concerned unless an objection is made at the meeting by another Owner of the same Unit/Lot. Multiple record Owners of a single Unit/Lot shall be unanimous in their vote for such Unit/Lot; otherwise such Unit/Lot shall not be represented by a vote.

**10. Record of Ownership.** Every Owner shall promptly cause to be filed of record the conveyance document (or in the case of a contract buyer, a copy of the sales contract) of its Unit/Lot and shall file a copy of such conveyance document, along with the name and address said Owner desires any notices under this Master Declaration to be sent to, with the Secretary of the Master Association, who shall maintain a record of ownership of the Unit/Lots. Any Owner who mortgages its Unit/Lot or any interest therein by a Mortgage which has priority over the lien of any Common Assessment provided herein shall notify the Secretary of the Master Association of the name and address of the Mortgagee, and also of the release of such Mortgage; and the Secretary of the Master Association shall maintain all such information in the record of ownership.

**11. Exhibit "C".** Exhibit "C" attached to this Master Declaration and made a part hereof furnishes among other things the following information with respect to each Unit/Lot: (a) Unit/Lot number/letter and street address; (b) proportion of the Master Association's Common Expenses for which the Owner of said Unit/Lot is responsible; (c) Membership Units appurtenant to such Unit/Lot; and (d) Class of membership held by the Owner of such Unit/Lot.

**12. Unit/Lot and Building Maintenance.** Each Owner shall at its own cost and expense maintain and keep in good order and repair and in a clean and sanitary condition its respective Unit/Lot and the Building, structures, and improvements located thereon.

#### ARTICLE IV MASTER ASSOCIATION

**1. Master Association.** Declarant has created the Master Association as a Utah non-profit corporation. The Members of the Master Association shall be all Unit/Lot Owners within the Project. Declarant intends to delegate and assign to the Master Association the powers of owning, maintaining and administering the Project's Common Areas and Facilities, the duties of administering and enforcing this Master Declaration, and of levying, collecting, and disbursing the Common Assessments and charges hereinafter created.

**2. Duties of the Master Association.** The Northgate Village Master Association shall be the Master Association for the Project and shall do such things as are within its powers and as may reasonably be required to maintain the Project and its Common Areas and Facilities as an attractive and desirable land use development. The Members of the Master Association shall be all Unit/Lot Owners within the Project. The duties and powers of the Master Association shall relate to the Project as a whole and to the ownership and use of the Common Areas and Facilities, their care, maintenance and upkeep, including the imposition of Common Assessments

therefor upon the Owners and their Unit/Lot.

**3. Status and General Authority of Master Association.** The Project shall be managed, operated, and maintained by the Master Association. The Master Association, through its Board of Trustees and Officers, shall have the power to do any and all things which may be authorized, required, or permitted to be done under law and by virtue of this Master Declaration and the Bylaws, including the power to levy and collect Common Assessments as hereinafter provided, without the consent of the Members, unless the consent of the Members is specifically required herein or by law. Without limiting the generality of the foregoing, the Master Association shall have the following authorities and powers:

**A.** The authority to grant, create, or vacate on such reasonable terms as deemed advisable, utility and similar easements over, under, above, across, and through the Common Areas and Facilities.

**B.** The authority to execute and record, on behalf of all Unit/Lot Owners, any Amendments to the Master Declaration or the Plat Maps which have been approved by the vote or consent of the Board of Trustees as necessary to authorize such Amendments as provided in this Master Declaration.

**C.** The power to sue and be sued.

**D.** The authority to enter into contracts relating to the Common Areas and Facilities and other matters over which it has jurisdiction.

**E.** The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property.

**F.** The power and authority to add any interest in real property obtained pursuant to Paragraph E above to the Project.

**G.** The authority to promulgate such reasonable Master Rules and Regulations as may be necessary or desirable to aid the Master Association in carrying out its function or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit/Lot Owners. All such Master Rules and Regulations adopted by the Master Association shall be set forth in writing.

**H.** To the extent not assessed to or paid by the Owners directly, the Master Association shall pay all property taxes and Common Assessments levied upon any portion of the Common Areas and Facilities, provided that the Master Association shall have the right to contest or compromise any such taxes or Common Assessments.

**I.** The Master Association shall obtain and maintain in force such policies of

insurance required by the provisions of this Master Declaration, and such insurance policies or bonds as the Master Association may deem appropriate for the protection and benefit of the Declarant, the Master Association, the Owners, and any employee, agent, guest, lessee/tenant, customer, licensee, or invitee of the same.

**J.** To have the power and authority to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Master Declaration or any Master Rules and Regulations promulgated by the Master Association, or to enforce by mandatory injunction or otherwise all of the provisions of this Master Declaration and such Master Rules and Regulations.

**K.** The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Master Association and the Unit/Lot Owners. Any instrument executed by the Master Association relating to the Common Areas and Facilities of the Project that recites facts which, if true, would establish the Master Association's power and authority to act thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

**L.** In fulfilling any of its duties under this Master Declaration, the Master Association shall have the power and authority to: (a) pay and discharge any and all liens placed upon any Common Areas and Facilities on account of any work done or performed in the fulfillment of any of its obligations and duties of maintenance, repair, operation, or administration; and (b) obtain, contract for, pay for, or otherwise provide for: (i) construction, maintenance, repair, and landscaping of the Common Areas and Facilities on such terms and conditions as the Master Association shall deem appropriate; (ii) such utility services, including, without limitation, water, sewer, trash removal, electrical, telephone, cable television, communication, and natural gas services, as the Master Association may from time to time deem desirable; (iii) the services of architects, engineers, attorneys, certified public accountants, and such other professional or non-professional services as the Master Association may deem desirable; (iv) fire, police, and such other protection services as the Master Association may deem desirable for the benefit of the Project and the Owners; and (v) such materials, supplies, equipment, services, and labor as the Master Association may deem necessary.

**M.** The Master Association may also do all other things necessary and required of it to successfully operate and manage the Master Association.

**4. Composition of Master Association; Board of Trustees; Classes; Officers; Election; Vacancy; Declarant Control.**

**A.** The Master Association is comprised of all Members in the Project; however, each Member shall have only the voting rights in the Master Association provided for herein.

**B.** Each Owner shall be a Member in the Master Association and shall have a vote in

the Master Association equal in number to the Membership Units appurtenant to the Unit/Lot owned by such Member. The Membership Units appurtenant to each Unit/Lot are set forth on Exhibit "C", attached hereto and incorporated herein. Each Owner shall hold Membership in one Class. There shall be one Class of Membership for each of the following groups of Owners: (a) Owners of professional office condominiums and Unit/Lots ("Professional Office Condominiums"); (b) Owners of residential condominiums and Unit/Lots ("Residential Condominiums"); (c) Owners of commercial condominiums and Unit/Lots ("Commercial Condominiums"); (d) and Owners of commercial Unit/Lots ("Commercial Unit/Lots"). The Declarant shall determine in its sole discretion the Class of Membership each Owner shall hold, and the applicable Class of Membership which each Owner holds shall be set forth in Exhibit "C", attached hereto and incorporated herein.

**C.** The Board of Trustees shall be elected by the Members as provided for herein and in the Bylaws. The Board of Trustees shall be composed of five (5) members from whom shall be elected the following Officers of the Master Association: President, Vice President, and Secretary/Treasurer.

**D.** There shall be one Trustee assigned to serve on the Board as a representative for the Owners within each Class of Members. There shall also be one Trustee who shall serve on the Board at-large as a representative for all Owners within the Project. The Trustee representing the Commercial Unit/Lot Class of Members and the Trustee representing the Commercial Condominium Class of Members shall each have two votes on all matters before the Board of Trustees. All other Trustees shall each have one vote on all matters before the Board of Trustees. The following table sets forth the seats and number of votes on the Board of Trustees:

Owners Represented by Trustee	Number of Seats Held by Trustee	Number of Votes Allocated to Trustee
Owners who are Members of the Professional Office Class	1	1
Owners who are Members of the Residential Condominium Class	1	1
Owners who are Members of the Commercial Condominiums Class	1	2
Owners who are Members of the Commercial Unit/Lot Class	1	2
All Owners at-large	1	1
<b>TOTAL</b>	<b>5</b>	<b>7</b>

**E.** The Trustees shall be elected each year by the Members at the annual meeting of the Members of the Master Association, and shall hold office for a period of one (1) year or until

their successors are elected. At the annual meeting, the Members within each Class shall elect a Member to serve as Trustee in the Trustee position assigned to represent each such Class. Also at the annual meeting, the Trustee assigned to represent at-large all Owners in the Project shall be elected by the the Members at-large. The Members of the Commercial Unit/Lot Class and the Members of the Commercial Condominium Class may each cast a number of votes equal to twice the number of Membership Units held by each such Member in favor of the at-large Trustee seat. All other Members may each cast a number of votes equal to only their exact number of Membership Units of each such Member in favor of the at-large Trustee seat.

E. Notwithstanding anything herein to the contrary, until the happening of the first of the following two (2) events, namely either: (a) thirty (30) days following which title to Unit/Lots (including the Convertible Land deemed to be a Unit/Lot owned by Declarant as described in Article II, Section 5 herein) representing ninety percent (90%) of the total Membership Units in the Master Association have been conveyed or transferred by Declarant to the purchaser(s) thereof; or (b) ten (10) years have passed from the execution date of this Master Declaration; the Declarant alone shall have the right to select all members on the Board of Trustees. Upon the occurrence of either or both of the aforesaid events, the Declarant alone shall then have the right to select the at-large member of the Board of Trustees until such time when title to Unit/Lots (including the Convertible Land deemed to be a Unit/Lot owned by Declarant as described in Article II, Section 5 herein) representing one hundred percent (100%) of the total Membership Units in the Master Association shall have been conveyed or transferred by Declarant to the purchaser(s) thereof.

G. In the event a Trustee position which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Board of Trustees for the balance of the term associated with the vacant position. In all other cases of vacancy except the vacancy of the at-large Trustee seat, the Members of the Class of which the vacant seat is representative shall elect a replacement to sit on the Board until the expiration of the term for which the Trustee being replaced was elected. In the case of a vacancy of the at-large Trustee seat, the Members at-large shall elect a replacement. In such election for a replacement Trustee to the at-large seat, the Members of the Commercial Unit/Lot Class and the Members of the Commercial Condominium Class may each cast a number of votes equal to twice the number of Membership Units held by each such Member in favor of the at-large Trustee seat, and all other Members may each cast a number of votes equal to only their exact number of Membership Units in favor of the at-large Trustee seat.

H. On any matter before the Master Association requiring the vote of the Members, the Members of the Commercial Unit/Lot Class and the Members of the Commercial Condominium Class shall each be entitled to votes equal to twice the number of each such Member's Membership Units, and all other Members shall each be entitled to votes equal to only the exact number of Membership Units held by each such Member.

**5. Rights and Duties.** The Master Association shall be responsible for the general

management and administration of the Project. It is understood that the Master Association has the obligation to maintain the Common Areas and Facilities of the Project and to maintain those Unit/Lots that are not properly maintained by their Owners and to charge the costs therefor to the Owners of such Unit/Lots as a Reimbursement Assessment.

**6. Maintenance of Common Areas and Facilities.** The Master Association shall maintain, repair, replace, and landscape the Common Areas and Facilities, and provide security for the Common Areas and Facilities and all exterior areas on each Unit/Lot; it being understood and agreed that each Unit/Lot Owner shall maintain, repair, and replace the Building, structures, and improvements on its Unit/Lot and provide security for interiors of Buildings within its Unit/Lot.

**7. Right of Delegation to a Manager.** The Master Association may carry out any of its functions which are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and Facilities and shall, to the extent permitted by law and the terms of the agreement with the Master Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Master Association itself. All agreements between the Master Association and a Manager shall be in writing.

**8. Payment of Services; Etc.** The Master Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Master Association shall determine to be necessary or desirable for the proper operation of its function in the Project. The Master Association may obtain and pay for the operation of the Project or the enforcement of this Master Declaration. It is recognized that the Master Association may arrange with other persons or entities to furnish snow removal, ground maintenance, and other common services to the Project, whether such personnel are furnished or employed directly by the Master Association. All agreements between the Master Association and other persons or entities for certain services shall be in writing.

**9. Personal Property Ownership and Use.** The Master Association may acquire and hold for the use and the benefit of all the Owners tangible and intangible personal property, and any interest in such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas and Facilities. Such interests shall not be transferable except with a transfer of a Unit/Lot. A transfer of a Unit/Lot shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property without reference thereto, and such beneficial interests may in no event be reserved by the transferor of a Unit/Lot. Each Owner may use such personal property in accordance with the purposes for which they are intended, in accordance with applicable Master Rules and Regulations, without interfering with or encroaching upon the lawful rights of the other Owners. The transfer of title to a Unit/Lot under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosure.

**10. Master Rules and Regulations.** Subject to applicable zoning and other laws, and consistent with the terms of this Master Declaration and the Bylaws, the Master Association may



make reasonable Master Rules and Regulations governing the operation and use of the Common Areas and Facilities; use of the personal property; architectural standards, guidelines, and procedures governing the construction, repair, and replacement of Buildings and other structures and improvements; and any other matters concerning the Project. The Master Association may suspend any Owner's voting rights at Master Association meetings for periods during which such Owner fails to comply with the Master Rules and Regulations, or with any other obligations of such Owner under this Master Declaration. In order to suspend an Owner's voting rights in any manner, the Master Association must first hold a hearing on the matter giving reasonable notice to the accused Owner and allowing it an opportunity to be heard. Eighty percent (80%) of the members of the Board of Trustees of the Master Association must agree upon the decision to suspend an Owner's voting rights and all terms and conditions relating thereto. The Master Association may also take judicial action against any Owner to enforce compliance with such Master Rules and Regulations or other obligations or to obtain damages for noncompliance, all to the extent provided by law.

**11. Capital Improvements.** There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas and Facilities without the prior approval of the Master Association. Except as provided in ARTICLE II, Section 4 dealing with annexed land, any single item structural alteration or capital improvement in the Common Areas and Facilities in the amount of Fifty Thousand Dollars (\$50,000) or more in any given fiscal year, ending on December 31, shall require the consent of 80% of the members the Board of Trustees of the Master Association. Except as provided in ARTICLE II, Section 4 dealing with annexed land, any structural alterations or capital improvements in the Common Areas and Facilities that in the aggregate amount to Two Hundred Thousand Dollars (\$200,000) or more in any given fiscal year, ending on December 31, shall require the approval of 80% of the members of the Board of Trustees of the Master Association. Any matters involving the resurfacing or sealing of the roadways or parking areas in the Common Areas and Facilities shall require the consent of 80% of the members of the Board of Trustees of the Master Association. The Master Association has the discretion to require that any structural alterations or capital improvements in the Common Areas and Facilities be paid directly by the Unit/Lot Owners in proportion to their Membership Units to accomplish tax reporting and accounting purposes of the Unit/Lot Owners.

**12. Extended Rights.** The Master Association may exercise any other right or privilege given to it expressly by this Master Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**13. Architectural Control.** The Master Association shall act in all matters pertaining to architectural control, and shall establish standards, guidelines, rules, and procedures for submitting plans for approval of any and all construction, alteration, remodeling, etc. of Buildings or other structures or improvements in the Project.

**14. Limitation of Liability and Indemnification of Trustees and Officers.** No Trustee or

Officer of the Master Association acting in good faith shall be liable to any Owner, employee, agent, guest, lessee/tenant, customer, licensee, invitee, or any other person or entity for any error or omission of the Master Association and its representatives and employees. Each Trustee and Officer shall be indemnified and held harmless by the Unit/Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys' fees reasonably incurred by the him/her in connection with any proceeding to which he/she may become involved by reason of his/her being or having been a Trustee or Officer of said Master Association.

**15. Master Association.** The conveyance of each Unit/Lot and its appurtenant Membership Units shall be subject to the covenants, conditions, restrictions, easements, charges, and liens as contained in this Master Declaration and any supplements or amendments thereto recorded in the office of the Utah County Recorder, State of Utah. This Master Declaration provides, among other things, that all Unit/Lot Owners in Northgate Village (A Planned Development) shall, upon becoming the same, automatically become members of the Northgate Village Owners Master Association, Inc., a Utah non-profit corporation (the "Master Association"), which said Master Association shall maintain and administer certain facilities, maintain Common Areas and Facilities in the Project, enforce the covenants and restrictions imposed in this Master Declaration, and collect and disburse the Common Assessments and charges created herein. The Master Association has been established for the benefit of the Unit/Lot Owners in Northgate Village (A Planned Development).

**16. Legal Actions; Arbitration.**

A. Notwithstanding anything in this Master Declaration to the contrary, neither the Board of Trustees nor the Master Association shall, without first having obtained a vote of approval from members of the Board of Trustees holding seventy-five percent (75%) of the Board's voting rights, initiate legal action, or procure or pay for, or become obligated to pay for, whether on a contingency fee basis or otherwise, legal services for the purpose of initiating legal action, under any legal theory or cause of action against any person or entity (hereinafter, "Legal Action") except in the foreclosure of an assessment lien provided for hereunder or in the enforcement of this Master Declaration against a person or entity in that person's or entity's capacity as a Unit/Lot Owner or tenant within the Project to recover damages arising from, or to enjoin, abate, or remedy, such Unit/Lot Owner's violation of this Master Declaration by appropriate legal proceedings (hereinafter, "Permitted Enforcement Actions"). Nothing in the foregoing sentence shall be construed to prohibit the Board of Trustees or the Master Association from defending against, or procuring or paying for, or becoming obligated to pay for legal services to defend against, any legal action or threatened legal action against the Master Association without obtaining such vote of approval.

B. Any Legal Action involving a dispute between the Declarant and one or more Unit/Lot Owners, a dispute between the Declarant and the Master Association, or a dispute internal to the Master Association between one or more Unit/Lot Owners and the Board of

Trustees or the Master Association's officers, or between the Board of Trustees and the Master Association's officers, and, if required by subsection A. above, for which members of the Board of Trustees holding seventy-five percent (75%) of the voting rights of the Board have given their approval as set forth above, shall be submitted to arbitration, at which arbitration each side to the dispute shall select an arbitrator, and such arbitrators shall jointly select one additional arbitrator so that three arbitrators hear and decide such dispute. Permitted Enforcement Actions are not required to be submitted to arbitration.

## ARTICLE V COMMON ASSESSMENTS

**1. Personal Liability and Lien.** Each Owner shall, by acquiring or in any way becoming vested with its interest in a Unit/Lot, be deemed to covenant and agree to pay to the Master Association the Common Assessments described in this ARTICLE V, together with interest, costs, and attorneys' fees, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Unit/Lot with respect to which such Common Assessment is made until fully paid; and (b) the personal joint and several obligation of the Owner or Owners of such Unit/Lot at the time the Common Assessment becomes due. A lawsuit to recover a money judgment for such personal obligation shall be maintainable by the Master Association without foreclosing or waiving the lien securing the same. No Owner may exempt itself or its Unit/Lot from liability for payment of Common Assessments by waiver of its rights in the Common Areas and Facilities or by abandonment of its Unit/Lot. In a voluntary conveyance of a Unit/Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Common Assessments, interest, costs, and attorneys' fees which shall be a charge on the Unit/Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

**2. Purpose of Common Assessments.** Common Assessments levied by the Master Association shall be used for the purpose of promoting the best interests of Unit/Lot Owners in the Project. The use made by the Master Association of funds obtained from Common Assessments may include payment of the cost of: (a) taxes and insurance on the Common Areas and Facilities; (b) maintenance, repairs, and improvements of the Common Areas and Facilities; (c) establishment and funding of a reserve to cover major repairs, replacements, or improvements within the Common Areas and Facilities (contingent upon the prior approval of 80% of the members of the Board of Trustees of the Master Association - it being intended that all reserve funds for major repairs, replacements, or improvements in the Common Areas and Facilities will not be assessed and maintained by the Master Association, but will be maintained separately by the Unit/Lot Owners outside the Master Association (see Section 6, below)); and (d) any expense necessary or desirable to enable the Master Association to perform or fulfill its obligations, functions, or purposes under this Master Declaration or the Bylaws; provided, however, that any annual expenses of management or administration of the Master Association shall not exceed eighteen percent (18%) of the dollar value of all Common Assessments, minus the portion of the Common Assessments attributable to the assessment of taxes and insurance premiums, collected

during that year by the Master Association..

**3. Annual Estimated Common Assessments.** The Master Association shall determine on an annual basis the total Annual Common Assessment amount for the Project based upon advance estimates of cash requirements by the Master Association to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and Facilities and the Project.

**4. Apportionment of Common Assessments.**

**A.** Expenses attributable to the Common Areas and Facilities and to the Project as a whole shall be apportioned among the Unit/Lots in proportion to their Membership Units compared with the total Membership Units held by all Owners in the Project. Subject to Article II herein, and except as set forth in subsection B. hereinbelow, each Unit/Lot shall have a sum of appurtenant Membership Units equal to the gross building square footage existing on said Unit/Lot.

**B.** It is anticipated that upon the recording of this Master Declaration and the Plat Maps and during the initial stages of the development of the Project, no gross building square footage will be in existence anywhere in the Project. Therefore, until such time as the Building(s) to be constructed on any particular Unit/Lot is(are) substantially complete, the Membership Units appurtenant to such Unit/Lot shall be a sum equal to ten percent (10%) of the total raw land square footage of such Unit/Lot. At such time as the Building(s) to be constructed on such Unit/Lot is(are) substantially complete, an amendment to the Master Declaration shall be made, which shall designate that said Unit/Lot has a sum of appurtenant Membership Units equal to the gross building square footage attributable to the Building(s) located on said Unit/Lot.

**C.** Declarant shall have the power to amend this Master Declaration, without the consent of the Master Association or the Members to make the adjustments in the apportionment of expenses attributable to the Common Areas and Facilities and to the Project as a whole as contemplated by this Section 4.

**D.** Notwithstanding anything in this Master Declaration to the contrary, no Unit/Lot owned by the Declarant shall be assessed Common, Special, or Reimbursement Assessments until such time as the Declarant sells, uses, or leases said Unit/Lot for any commercial, office, or residential purpose other than sales model or sales office use.

**5. Establishment, Notice, and Payment of Common Assessments.** The Master Association shall determine the Annual Common Assessment amount for the Project (as set forth in ARTICLE V, Section 3, above) and give written notice to each Owner as to the amount of its share of the Common Assessment with respect to its Unit/Lot (divided into monthly installments) not less than thirty (30) days prior to the beginning of the next calendar year; provided, however, that the first Annual Common Assessment shall be for the balance of the fiscal year remaining

after the day fixed by the Master Association as the date of commencement of the Common Assessment. The Annual Common Assessment amount may be increased by the Master Association each fiscal year by not more than ten percent (10%) of the previous year without the consent of 80% of the members of the Board of Trustees of the Master Association (specifically excluding increases in the Common Assessment amount due to tax liability). The Annual Common Assessment shall be payable by each Unit/Lot Owner in equal monthly installments due on or before the first (1st) day of each month. Each monthly Common Assessment shall accrue interest at the rate of one and one-half percent (1½%) per month, assessed and compounded daily, from the date it becomes due and payable if not paid within ten (10) days after such date.

**6. Special Assessments.** In addition to the Annual Common Assessments authorized hereunder, subject to any applicable approval requirements set forth in this Master Declaration, the Master Association may determine the amount and levy Special Assessments payable over such period as the Master Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas and Facilities of the Project or any other part thereof, shortfalls in the Annual Common Assessments, or for any other expenses incurred or to be incurred as provided in this Master Declaration. Any amount assessed pursuant thereto shall be assessed to Owners in proportion to the Membership Units appurtenant to their Unit/Lots compared with the Membership Units appurtenant to all the Unit/Lots in the Project. Notice in writing of the amount of any such Special Assessment and the time for payment thereof shall be given promptly to the Owners. A Special Assessment, or any portion thereof as determined by the Master Association, shall bear interest at the rate of one and one-half percent (1½%) per month, assessed and compounded daily, from the date it becomes due and payable if not paid within ten (10) days after such date. Unless otherwise agreed to by the consent of 80% of the members of the Board of Trustees of the Master Association, it is the intention of the Unit/Lot Owners that all major repairs, replacements, or improvements in the Common Areas and Facilities that are anticipated to cost Two Hundred Thousand Dollars (\$200,000) or more for any single item or in the aggregate, in any given calendar year, will not be paid from any reserve funds maintained by the Master Association, but will be paid for by Special Assessment of the Unit/Lot Owners in proportion to said Unit/Lot Owners respective Membership Units appurtenant to their Unit/Lots compared with the Membership Units appurtenant to all the Unit/Lots in the Project.

**7. Reimbursement Assessments on a Specific Unit/Lot.** In addition to the Annual Common Assessments and any Special Assessments authorized herein, the Master Association may levy at any time Reimbursement Assessments: (a) on every Unit/Lot especially benefited by any improvement made by the written request of the Owner of the Unit/Lot to be charged; (b) on every Unit/Lot the Owner or occupant of which shall cause any damage to the Common Areas and Facilities necessitating repairs; and (c) on every Unit/Lot as to which the Master Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to the provisions of this Master Declaration. The aggregate amount of any such Reimbursement Assessments shall be determined by the cost of such improvements, repairs,

maintenance, or enforcement action, including all overhead and administrative costs, and shall be allocated among the affected Unit/Lots according to the special benefit or cause of damage, maintenance, repair work, or enforcement action, as the case may be, and such Reimbursement Assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Master Association, it shall not give rise to a Reimbursement Assessment against the Unit/Lots benefited.

**8. Liens for Unpaid Common Assessments.** All sums assessed to any Unit/Lot pursuant to this ARTICLE V, together with interest thereon as provided herein, and all costs, expenses, and attorneys' fees incurred, with or without lawsuit or before or after judgment, in collecting delinquent accounts or foreclosing against the Unit/Lot concerned, shall be secured by a lien on such Unit/Lot in favor of the Master Association and, upon recording of a Notice of Lien by the Master Association shall be a lien upon the Unit/Lot prior to all other liens and encumbrances, recorded or unrecorded, except: (a) first Mortgages; and (b) tax and Special Assessment liens on the Unit/Lot in favor of any governmental Common Assessment authority or special improvement district.

**9. Consent by Lienors.** All lienors acquiring liens on any Unit/Lot after this Master Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for Common Assessments, as provided herein, whether or not such consent be specifically set forth in the instrument creating such liens.

**10. Notice of Lien.** To evidence a lien for sums assessed pursuant of this ARTICLE V, the Master Association may prepare a written Notice of Lien setting forth the amount of the Common Assessment, the due date, the amount remaining unpaid, the name of the Owner of the Unit/Lot, and a description of the Unit/Lot. Such Notice shall be signed by or on behalf of the Master Association and recorded in the office of the Utah County Recorder, State of Utah. No Notice of Lien shall be recorded until there is a delinquency in payment of the Common Assessment. Such lien may be enforced by foreclosure by the Master Association in the same manner in which Mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the Notice of Lien, and all reasonable attorneys' fees. All such costs, expenses, and attorneys' fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Master Association, any Common Assessments against the Unit/Lot which shall become due during the period of foreclosure. The Master Association shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the subject Unit/Lot as the Owner thereof.

**11. Release of Lien.** A Release of Notice of Lien shall be executed by or on behalf of the Master Association and recorded in the office of the Utah County Recorder, State of Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded Notice of Lien.

**12. Payment by Encumbrancer.** Any encumbrancer holding a lien on a Unit/Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this ARTICLE V, and upon such payments such encumbrancer shall be subrogated to all rights of the Master Association with respect to such lien, including priority. The Master Association, upon written request, payment of a reasonable fee, and evidence of such encumbrance, shall report to any encumbrancer of a Unit/Lot any unpaid Common Assessment remaining unpaid for longer than thirty (30) days after the same shall have become due and payable.

**13. Information Concerning Unpaid Common Assessments.** Upon payment of a reasonable fee, and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Unit/Lot, the Master Association shall issue a written statement setting forth the amount of the unpaid Common Assessments, if any, with respect to such Unit/Lot; the amount of the current Common Assessment and the portion thereof, if any, which has theretofore been paid; and credit for advance payments of prepaid items, including but not limited to, an Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Master Association in favor of persons who rely thereon in good faith.

**14. Common Assessment and Collection by Master Association.** It is recognized that the Master Association under this Master Declaration will maintain the Common Areas and Facilities of the Project, except as otherwise contained herein. It is further recognized that the Master Association is authorized to determine the amount and levy Common Assessments for the purposes of performing functions it is authorized to perform with the Project. With respect to the Unit/Lots in the Project, the Master Association is authorized to collect from the Unit/Lot Owners and enforce liability for the payment of Common Assessments levied pursuant to this Master Declaration. The Master Association shall have the right to allocate the costs for any services or Common Areas and Facilities which are excluded from, or not intended for, use by some of the Unit/Lots to the Unit/Lots not excluded from, or for which are intended, said services or Common Areas and Facilities, with such allocation being made on a pro rata basis based on the respective Membership Units allocated to each such Unit/Lot not excluded from, or for which are intended, such services or Common Areas and Facilities as compared to the aggregate Membership Units allocated to all such Unit/Lots not excluded from, or for which are intended, such services or Common Areas and Facilities.

**15. Tax Liability.** It is the objective of the Master Association to minimize its overall tax liability. To accomplish this objective, the Unit/Lot Owners acknowledge and agree that the Common Assessments will be closely monitored and controlled by the Master Association in timing and amount so that the Common Assessments and expenses match as closely as possible for tax reporting and accounting purposes of the Unit/Lot Owners. In the event that the Master Association incurs any tax liability, such tax liability shall be apportioned among the Unit/Lot Owners in proportion to the Membership Units appurtenant to their Unit/Lots compared with the total Membership Units appurtenant to all the Unit/Lots in the Project assessable by the Master Association. In the event that applicable consolidation rules for federal and state income taxes

require any Unit/Lot Owner to include the Master Association in said Unit/Lot Owner's consolidated income tax returns, then the Master Association shall enter into an appropriate Tax Sharing Agreement with all Unit/Lot Owners to assure that any and all income tax liability borne by the particular Unit/Lot Owner as a result of the consolidation of the Master Association into said Unit/Lot Owner's consolidated income tax returns will be apportioned, assessed, and paid by all the Unit/Lot Owners in proportion to their respective Membership Units appurtenant to their Unit/Lots compared with the total Membership Units appurtenant to all the Unit/Lots in the Project.

**16. Payment of Future Lease Payments.** Pursuant to Section 57-8a-205 of the Utah Code, if the Owner of any Unit/Lot who is leasing the Unit/Lot, or any portion thereof, fails to pay an Common Assessment for more than sixty 60 days after the Common Assessment is due, the Board of Trustees, may demand that the tenant of such leased Unit/Lot or portion thereof pay to the Master Association all future lease payments due to such Owner, beginning with the next monthly or other periodic payment, until the amount due to the Master Association is paid. The Manager or Board of Trustees shall give such Owner written notice, in accordance with this Master Declaration, of its intent to demand full payment from such tenant as provided for herein. Such notice to the Owner shall state the following: (a) that full payment of the remaining lease payments will begin with the next monthly or other periodic payment unless the Common Assessment is received within five (5) days of the effective date of the notice; (b) the amount of the Common Assessment due, including interest or late payment fees; (c) that any costs of collection, not to exceed \$150.00, and other Common Assessments that become due may be added to the total amount due; and (d) provide the requirements and rights described in this Section 16. If such Owner fails to pay the Common Assessment due within five (5) days of the effective date of the notice described above, the Manager or Board of Trustees may deliver written notice to the tenant, in accordance with this Master Declaration, that demands future payments due to the Owner be paid to the Master Association as set forth herein. The Manager or Board of Trustees shall mail to such Owner a copy the notice sent to the tenant. Said notice to the tenant shall state the following: (x) that due to the Owner's failure to pay the Common Assessment within the time period allowed, the Owner has been notified of the intent of the Board of Trustees to collect all lease payments due to the Master Association; (y) that until notification by the Master Association that the Common Assessment due, including any interest, collection cost, or late payment fee has been paid, the tenant shall pay to the Master Association all future lease payments due to the Owner; and (z) that Utah Code §57-8a-205 provides that payment by the tenant to the Master Association as set forth herein will not constitute a default under the terms of the lease agreement. If such tenant makes payments in compliance with this Section, the Owner may not initiate an action against the tenant. All funds paid to the Master Association pursuant to this Section 16 shall be deposited in a separate account and disbursed to the Master Association until the Common Assessment due, together with any cost of administration, which may not exceed \$25.00, is paid in full. Any remaining balance shall be paid to such Owner within five (5) business days after payment in full to the Master Association. Within five (5) business days after payment in full of the Common Assessment, including any interest or late payment fee, the Manager or Board of Trustees shall notify the tenant in writing



that future lease payments are no longer due to the Master Association and shall mail a copy of such notice to the Owner.

**ARTICLE VI  
PROPERTY RIGHTS; CONVEYANCES; EASEMENTS**

**1. Easement Concerning Common Areas and Facilities.** Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Areas and Facilities subject to reasonable restrictions based on intended use. Each Owner shall have the right to vehicular and pedestrian ingress and egress over, upon, and across the Common Areas and Facilities necessary for access to its Unit/Lot. Each Owner shall have the right to utilize the roadways, parking areas, and landscaped areas within the Common Areas and Facilities. Such right and easement shall be appurtenant to, and shall pass with, title to each Unit/Lot and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any employee, agent, guest, lessee/tenant, customer, licensee, invitee, contract purchaser, or other person or entity who uses and/or occupies such Owner's Unit/Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Areas and Facilities except for the necessary parking, access, communication, utility, drainage, and sewer purposes for which such easements are intended for use in common with others.

**2. Form of Conveyancing; Leases.** Any deed, lease, Mortgage, deed of trust, or other instrument conveying or encumbering title to a Unit/Lot shall describe the interest or estate involved by said Unit/Lot's specific number/letter as shown on the Plat Maps on record in the office of the Utah County Recorder, State of Utah, and in substantially the following form:

The following described tract of land situated in Utah County, State of Utah, to wit:

Unit/Lot \_\_\_\_\_ as contained within Northgate Village (A Planned Development), Orem, Utah, as the same is identified in the Plat Map for Northgate Village (A Planned Development), Orem, Utah, recorded on \_\_\_\_\_, in the Utah County Recorder's Office, State of Utah, as Entry No. \_\_\_\_\_, Map No. \_\_\_\_\_ (as said Plat Map may have been amended or supplemented), SUBJECT TO t the Master Declaration of Covenants, Conditions, and Restrictions for Northgate Village (A Planned Development), recorded on \_\_\_\_\_, in the Utah County Recorder's Office, State of Utah, as Entry No. \_\_\_\_\_ (as said Master Declaration may have been amended or supplemented)..

TOGETHER WITH a right of use and enjoyment, and a right of way for pedestrian and vehicular ingress and egress, over, along, and across the Common Elements and the Common Areas and Facilities as more particularly described in said Master Declaration, respectively, and said Plat Map (as said Master Declaration and Plat Map may have been amended or supplemented).

SUBJECT TO restrictions, covenants, easements, and rights-of-way of record, visible by

inspection or otherwise.

Whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Master Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit/Lot. Any lease of a Unit/Lot shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Master Declaration and the Bylaws of the Master Association, and that any failure by the lessee/tenant to comply with the terms of such documents shall be a default under the lease.

**3. Limitations on Common Areas and Facilities.** An Owner's right and easement of use and enjoyment concerning the Common Areas and Facilities shall be subject to the following:

**A.** The right of the Master Association to govern by Master Rules and Regulations the use and operation of the Common Areas and Facilities by the Owners.

**B.** The right of the City of Orem, County of Utah, State of Utah, and any other governmental or quasi-governmental body having jurisdiction over the Project to have access to and rights of ingress and egress over and across any street, parking area, sidewalks, walkways, or open area contained within the Common Areas and Facilities for the purpose of providing police and fire protection and providing any other governmental or municipal service; provided, however, that any such property shall be returned to its original condition.

**C.** The right of the Master Association to dedicate or transfer any part of the Common Areas and Facilities to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Master Association.

**4. Easement for Utility Services.** There is hereby created a blanket easement upon, across, under, and over the Common Areas and Facilities for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including but not limited to, water (irrigation and culinary), drainage, sewer, natural gas, telephone, cable television, communication, fiber optic cables, network cabling conduits, electricity, and other utility services, as shall be under the control and direction of the Master Association.

**5. Easement for Encroachments.** If any part of the Common Areas and Facilities now or hereafter encroaches upon any Unit/Lot, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. Such encroachments shall not be considered to be encumbrances on either the Common Areas and Facilities, Unit/Lots, or Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original placement and construction of the Building(s) on the Unit/Lots, by error in the Plat Maps, by settling, raising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

**6. Easement for Construction and Development Activities.** The Master Association and

each Unit/Lot Owner, including Owners of annexed land as set forth in ARTICLE II, Section 4, above, shall have such easements and vehicular and pedestrian rights of ingress and egress over, under, upon, across, and through the Project, and the right to make such noise, dust, and other disturbance as may be reasonably incident to or necessary for the: (a) construction of Buildings and other improvements on the Unit/Lots; (b) improvement of the Common Areas and Facilities and construction, installation, and maintenance of roads, parking areas, sidewalks, walkways, structures, landscaping, and other improvements designed for the use and enjoyment of some or all of the Owners; and (c) construction, installation, and maintenance on lands within, adjacent to, or serving the Project of roads, walkways, and other facilities planned for dedication to appropriate governmental authorities.

**7. Easement to Master Association.** The Master Association shall have non-exclusive easements to make such use of the Common Areas and Facilities as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Master Declaration.

**8. Right of Ingress, Egress, Parking, Etc.**

A. Each Owner shall have: (a) the right to vehicular and pedestrian ingress and egress over, upon, and across the roadways, sidewalks, and walkways, in the Common Areas and Facilities necessary for access to its Unit/Lot; (b) the right to utilize the parking areas within the Common Areas and Facilities; and (c) the right to utilize the landscaped areas within the Common Areas and Facilities; and such rights shall be appurtenant to and shall pass with the title to each Unit/Lot.

B. Each Owner shall also have a non-exclusive easement for passage, use and right of way on and over each Unit/Lot, for the purpose of pedestrian and vehicular traffic and surface parking (excluding any underground parking), including but not limited to ingress and egress to and from all public and private roadways adjoining or adjacent to each Unit/Lot. The right, privilege and easement created hereby shall be for all types of vehicular traffic and uses including but not limited to, business invitees, emergency vehicles, delivery trucks, equipment and other commercial and domestic vehicles, whether or not directly related to such Owner, their successors, assigns, tenants, or licensee's operation or business. The granting of the easements provided in this subsection B. shall not confer upon each such Owner any right or privilege which would entitle the Owner to obtain a more or less intensive use of its Unit/Lot than could be sustained without reliance upon these easements. Each Unit/Lot will be required to stand alone relative to the zoning and use of said Unit/Lot irrespective of the existence of this easement. Each Unit/Lot Owner may construct Buildings, structures, and improvements in any location, size, layout, and design on said Owner's Unit/Lot as long as the construction, design, location, size, and layout of all such Buildings, structures, and improvements are accordance the requirements of the City of Orem and this Master Declaration and do not prevent or unreasonably restrict the free-flow of traffic upon the easement. Each Unit/Lot Owner shall be solely responsible for the upkeep and maintenance of the easement upon such Owner's Unit/Lot to

permit the ingress, egress, and parking provided for herein. Nothing contained in this subsection B. will be deemed to be a gift or dedication of any portion of any Unit/Lot to the general public or for any public purpose whatsoever. Unless provided otherwise herein, each Owner has the right to temporarily close all or a portion of the easement upon such Owner's Unit/Lot to such extent as is legally necessary and sufficient to prevent the dedication of the easement or any accrual of any rights therein in any person or in the public generally.

## ARTICLE VII IMPROVEMENTS

1. **Improvements.** The Plat Maps designate the number of Unit/Lots and/or Units, the Common Areas and Facilities, and Expandable Areas in the Project. The Project and all buildings and improvements built thereon shall be subject to and comply with the zoning ordinances and requirements of the City of Orem.
  
2. **Description of Buildings and Unit/Lots and/or Units.** The Project is anticipated to consist of several phases. It is anticipated that each phase will contain one (1) or more Unit/Lots, upon which Unit/Lot(s) and/or Unit(s) will be constructed one (1) or more Buildings, the primary exterior construction of which will consist of the materials established in the Orem City zoning ordinance for the Project and as approved by the Board of the Master Association. The Project shall have such other improvements as indicated on the final site plans approved by Orem City and Plat Maps and in any plans and specifications associated with the future expansion and development of the Project. Each Owner acknowledges that the Declarant makes no assurances as to the design of the Project and the improvements to be installed therein and that the Declarant is relying on the City of Orem for all determinations as to whether the improvements are built to the City of Orem's building code and zoning ordinances.

## ARTICLE VIII RESTRICTIONS ON ALL PROPERTY

1. **Use of Common Areas and Facilities.** The Common Areas and Facilities shall be used only in a manner consistent with its nature and with the use restrictions applicable to the Unit/Lots.
  
2. **Use of Unit/Lots.** Each of the Unit/Lots in the Project is intended to be used for professional office, commercial, retail, industrial, hotel, and/or residential uses as permitted by applicable zoning and other laws. No Unit/Lot shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in the cancellation or an increase in the cost of insurance covering the Common Areas and Facilities.
  
3. **Leasing.** A Unit/Lot Owner may lease all or a portion of the Building on its Unit/Lot in accordance with the use and occupancy requirements set forth in Section 2 above. All leases and

subleases of all or a portion of the Building on a particular Unit/Lot shall be in writing executed by the appropriate parties, and shall contain a specific statement that the lease or sublease is subject to the provisions of this Master Declaration and the Bylaws.

**4. Enforcement of Land Use Restrictions.** The following persons or entities have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Master Declaration: (a) any Owner; (b) the Master Association; or (c) the Declarant. The prevailing party in an action for the enforcement of any provisions of this Master Declaration shall be entitled to collect court costs and reasonable attorney's fees.

**5. Restrictions Concerning Common Areas and Facilities.** There shall be no obstructions of the Common Areas and Facilities by the Owners, their employees, agents, lessees/tenants, guests, customers, licensees, or invitees without the prior written consent of the Master Association. The Master Association may by Master Rules and Regulations prohibit or limit the use of the Common Areas and Facilities as may be reasonably necessary for protecting the interests of all the Owners or protecting the Unit/Lots or the Common Areas and Facilities. Nothing shall be kept or stored on any part of the Common Areas and Facilities without the prior written consent of the Master Association, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas and Facilities except upon prior consent of the Master Association.

**6. Miscellaneous Restrictions.** Nothing shall be done or kept in or on any Unit/Lot or the Common Areas and Facilities or any part thereof which would result in the cancellation of the insurance of the Project or any part thereof, or increase the rate of the insurance on the Project or any part thereof over what the Master Association, but for such activity, would pay, without the prior written consent of the Master Association. Nothing shall be done or kept in or on any Unit/Lot or the Common Areas and Facilities or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or any employee, agent, lessee/tenant, guest, customer, licensee, or invitee of any Owner, and each Owner shall indemnify and hold the Master Association and the other Owners harmless against all losses resulting from any such damage or waste caused thereby. No noxious, destructive, or offensive activity shall be conducted in or on any Unit/Lot or the Common Areas and Facilities or any part thereof, which is not permitted by the applicable Orem City zoning ordinances.

**7. Parking.** The parking areas are for the use of the Owners and their respective employees, agents, lessees/tenants, guests, customers, licensees, and invitees. The use and regulation of the parking areas shall be under the control of the Master Association and subject to applicable zoning and other laws.

**8. No Violation of Master Rules and Regulations.** No Owner shall violate the Master Rules and Regulations for the use of the Unit/Lots and the Common Areas and Facilities as may

be adopted from time to time by the Master Association.

**9. Signs and Advertising.** All signs and other advertising shall be in conformance with all applicable laws, ordinances, and regulations, and in conformance with the Master Rules and Regulations promulgated by the Master Association.

**10. Compliance with Recorded Easements and Covenants.** The Owners acknowledge and agree that the Project is subject to various previously-recorded easements, agreements, covenants, conditions, and restrictions, including, but not limited to this Declaration. The Owners acknowledge and agree that the Project will also be subject to any easements, agreement, covenants, conditions, and restrictions as may be granted, created, or entered into in the future by the Master Association. Accordingly, the Project and the provisions in this Master Declaration are subject to the terms and conditions of any such recorded easements, agreements, covenants, conditions, and restrictions, and the Owners agree to comply therewith.

**11. Garbage Pickup.** The Master Association shall contract with one company, person, or entity for the performance of all garbage pickup duties in the Project. The Master Association shall set standards and Master Rules and Regulations for cleanup around dumpsters, for the opening and closing of dumpster enclosures, and for permitted times of garbage pickup. All enclosures for dumpsters are to be either on the interior of a Building with garage access or to be constructed as approved the Board of Trustees. All dumpsters are to be placed in the rear or away from Buildings and street frontages where possible as approved by the City of Orem and the Master Association.

**12. Restrictions on Financial Institutions.** Except on Unit/Lot 1 of Plat A, no business whose primary purpose is as a bank or credit union shall own, use, or occupy any space within any Unit/Lot within the area more particularly described on the attached Exhibit "E". Notwithstanding anything contained in this Declaration to the contrary, this Section 12 may not be amended, supplanted, or deleted from this Declaration without the consent of the Owner of Unit/Lot 1 of Plat A, as long as such Owner is a bank or credit union.

**13. Additional Declarations of Covenants, Conditions & Restrictions.** Any Owner or group of Owners may establish and record against such Owner's or Owners' Unit/Lots additional declarations of covenants, conditions & restrictions or declarations of condominiums; provided, however, that such additional declarations of covenants, conditions & restrictions or declarations of condominiums are subordinate to this Master Declaration and do not conflict with the provisions of this Master Declaration. As an example and without limiting the applicability of this Section in any way, Owners within a Building may record against the units within their Building additional declarations of covenants, conditions & restrictions or declarations of condominiums governing the units within such Building provided that this Section 13 is complied with.

## ARTICLE IX ARCHITECTURAL CONTROL

- 1. Architectural Control.** The Board of Trustees of the Master Association shall be in charge of all matters concerning architectural control in the Project, and shall cooperate and work with applicable governmental authorities to insure that all Buildings, improvements, and landscaping within the Project conform with any and all applicable standards, guidelines, procedures, plans and specifications, laws, ordinances, and harmonize with existing surroundings and structures.
- 2. Submission to Board of Trustees.** No Building, structure, landscaping, or improvements of any kind shall be constructed, maintained, altered, or refurbished unless complete plans and specifications therefor have first been submitted to and approved by the Board of Trustees of the Master Association and applicable governmental authorities.
- 3. Standard.** In deciding whether to approve or disapprove plans and specifications submitted to it, the Board of Trustees of the Master Association shall use its best judgment to insure that all Buildings, improvements, construction, landscaping, and alterations within the Project conform to any and all applicable standards, guidelines, procedures, plans and specifications, laws, ordinances, and harmonize with existing surroundings and structures.
- 4. Approval Procedure.** Subject to submission and approval by applicable governmental authorities, any plans and specifications submitted to the Board of Trustees of the Master Association shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Board of Trustees fails to take any action within such period it shall be deemed to have approved the material submitted.
- 5. Liability for Damages.** The Board of Trustees shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this ARTICLE IX.
- 6. Diligent Prosecution to Completion.** Once begun, any Buildings, improvements, construction, landscaping, or alterations approved by the Board of Trustees of the Master Association and applicable governmental authorities shall be diligently prosecuted to completion.

## ARTICLE X INSURANCE

- 1. Insurance.** The Master Association shall secure or cause to be secured such policies of liability insurance for bodily injury and property damage, fire and hazard insurance, fidelity bond coverage, or other types of insurance to insure the Common Areas and Facilities, the Master Association, the Owners and/or others against such risks as the Master Association may deem advisable. Such insurance policies shall provide such coverages and protections, provide such

insurable amounts, and contain such endorsements as deemed advisable by the Master Association.

**2. Review of Insurance.** The Master Association shall periodically, and whenever requested by twenty five percent (25%) or more of the Owners, review the adequacy of the Master Association's insurance program and shall report in writing the conclusions and actions taken on such review to the Owner of each Unit/Lot and to the holder of any Mortgage on any Unit/Lot who shall have requested in writing a copy of such report. Copies of every policy of insurance procured by the Master Association shall be available for inspection by any Owner upon such reasonable terms as the Master Association determines.

**3. Unit/Lots, Units, and Buildings Not Insured by Master Association.** Unless determined otherwise by the Master Association, the Master Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage, or other insurance covering any Unit/Lot, or the Building, improvements, structures, and acts and events thereon, and personal property located therein. Accordingly, Owners of Unit/Lots in the Project are advised to obtain fire, extended coverage, and liability insurance in regards to their Unit/Lots, Buildings, improvements, structures, personal property, and the activities conducted therein or thereon.

## ARTICLE XI RIGHTS OF MORTGAGEES

**1. Mortgagee Protection.** The Master Association may from time to time amend this Master Declaration to adopt such provisions regarding the rights of Mortgagees as the Master Association deems necessary and appropriate.

## ARTICLE XII BYLAWS

**1. Bylaws.** The Bylaws of the Master Association are attached hereto as Exhibit "D" and incorporated herein by this reference.

## ARTICLE XIII GENERAL PROVISIONS

**1. Notices.** Any notice required or permitted to be given to any Owner under the provisions of this Master Declaration shall be deemed to have been properly furnished if personally delivered or mailed, registered or certified, postage prepaid, to the person or entity named as the Owner, at the last known address for such person or entity as reflected in the records of the Master Association at the time of delivery or mailing. Any notice required or permitted to be given to the Master Association may be given by delivering or mailing the same to the President of the Master Association.



**2. Amendment.** Except as provided in and/or subject to the terms below, the vote of at least two-thirds (2/3's) of the voting rights of the members of the Board of Trustees shall be required to amend this Master Declaration or the Plat Maps. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Master Association. In such instrument, the Master Association shall certify that the vote required by this Section 2 for amendment has occurred. The foregoing right of amendment shall, however, be subject to the following:

**A.** Until such time as: (a) the number of Unit/Lots to which ninety percent (90%) of the total Membership Units in the Project have been sold by Declarant to the purchasers thereof; or (b) ten (10) years have passed from the execution date of this Master Declaration, Declarant shall have the sole and exclusive right to amend this Master Declaration and/or the Plat Maps. Such rights shall obtain without regard to the subject-matter of amendment.

**B.** Notwithstanding anything to the contrary herein contained, no amendment to the Plat Maps or any provision of this Master Declaration may have the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant) herein shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is consented to in writing by Declarant.

**3. Consent in Lieu of Vote.** In any case in which this Master Declaration requires authorization or approval of a transaction with the assent or affirmative vote of a stated percentage of the Board of Trustees or Members, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from the Board of Trustees or Members, as applicable, who collectively hold at least the necessary percentage of voting rights.

**4. Enforcement.** Each Unit/Lot Owner shall comply strictly with the provisions of this Master Declaration, the Master Rules and Regulations promulgated pursuant thereto, as the same may be lawfully amended from time to time. Defaulting Owners shall pay all costs and expenses incurred in enforcing the provisions hereof, including reasonable attorneys' fees and costs and monies paid and due for damages or injunctive relief, or both, maintainable by the Master Association or in a proper case by an aggrieved Unit/Lot Owner.

**5. Waiver.** No provision contained in this Master Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of time lapse or the number of violations or breaches which may occur.

**6. Reserve Fund.** Upon the consent of 80% of the members of the Board of Trustees, the Master Association may establish an adequate reserve to cover the costs of reasonably predictable and necessary repairs and/or replacements of the Common Areas and Facilities and may cause such reserve to be funded by annual, monthly, or other periodic Common

Assessments as deemed appropriate.

**7. Declarant's Rights Assignable.** All or any portion of the rights of Declarant under this Master Declaration or in any way relating to the Project may be assigned.

**8. Interpretation.** The captions which precede the Articles and Sections of this Master Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both genders, and each shall include corporations, limited liability companies, partnerships, or other legal entities, as applicable. The invalidity or unenforceability of any portion of this Master Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction, and enforcement of this Master Declaration, and the parties consent to jurisdiction and venue in the Courts of Utah County, State of Utah.

**9. Covenants to Run with Land.** This Master Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit/Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit/Lot shall comply with, and all interests in all Unit/Lots and in the Common Areas and Facilities shall be subject to, the terms of this Master Declaration and the provisions of any Master Rules and Regulations, agreements, instruments, and determinations contemplated by this Master Declaration. By acquiring any interest in a Unit/Lot and in the Common Areas and Facilities, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Master Declaration.

**10. Limited Liability.** Neither the Declarant, the Master Association, the Board of Trustees of the Master Association, or the Officers of the Master Association, nor any officer, director, member, partner, employee, or agent of the same shall be personally liable to a party for any action or omission for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

**11. Effective Date.** This Master Declaration, any amendment or supplement hereto, and any amendment or supplement to the Plat Maps shall take effect upon its being filed for record in the office of the County Recorder of Utah County, State of Utah.

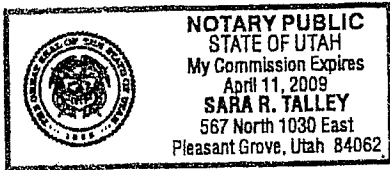
EXECUTED by Declarant on the day and year first above written.

NORTHGATE VILLAGE DEVELOPMENT LC,  
a Utah limited liability company

By: *Daryl Berlin*  
Daryl Berlin, President of Washburn, Smith & Berlin, Inc.  
Managing Member of Northgate Development LC

STATE OF UTAH )  
:SS.  
COUNTY OF UTAH )

On the 13<sup>th</sup> day of September, 2006, personally appeared before me, a Notary Public in and for the State of Utah, Daryl Berlin, who represented to me that he is the President of Washburn, Smith & Berlin, Inc., a Utah corporation, the managing member of NORTHGATE VILLAGE DEVELOPMENT LC, a Utah limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the same in behalf of the said limited liability company.



*Sara R. Talley*  
NOTARY PUBLIC

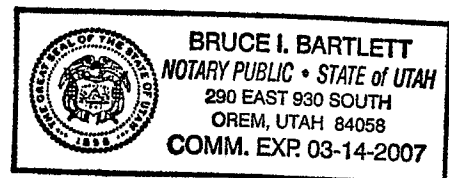
This Declaration is also agreed to and accepted by the following owners of property within the Project:

*Lee Francis*  
*manager/member*

State of Utah); County of Utah)

On the 13th Day of September personally appeared before me, Lee Francis managing member of Francis Family, LLC, who duly acknowledged to me that he executed the same.

*Lee Francis*



**EXHIBIT "A"**

The following described tract of land situated in Utah County, State of Utah, to wit:

Commencing at a point located North 00°39'38" West along the Section line 146.18 feet and West 708.35 feet from the East quarter corner of Section 9, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 89°25'50" West 1957.71 feet; thence North 18°18'08" West 27.54 feet; thence North 01°12'51" West 614.98 feet; thence North 89°32'55" East 480.50 feet; thence North 00°34'17" West 210.58 feet; thence South 89°03'05" West 411.16 feet; thence North 00°06'59" West 271.98 feet; thence North 01°16'03" West 253.96; thence East 68.14 feet; thence North 85°55'20" East 204.45 feet; thence North 04°53'09" East 90.82 feet; thence North 31°38'24" East 44.30 feet; thence North 84°09'31" East 123.61 feet; thence North 89°08'20" East 170.42 feet; thence South 599.23 feet; thence along the arc of a 605.37 foot radius curve to the left 63.24 feet (chord bears North 69°27'07" East 63.21 feet); thence North 67°43'39" East 179.31 feet; thence along the arc of a 590.00 foot radius curve to the right 217.12 feet (chord bears North 78°16'12" East 215.90 feet); thence North 88°48'45" East 55.30 feet; thence along the arc of a 290.00 foot radius curve to the right 524.81 feet (chord bears South 39°20'38" East 456.07 feet); thence along the arc of a 622.41 foot radius curve to the right 150.73 feet (chord bears South 05°04'55" West 150.36 feet); thence South 29.87 feet; thence along the arc of a 20.00 foot radius curve to the left 31.42 feet (chord bears South 45°00'00" East 28.28 feet); thence North 89°57'40" East 532.13 feet; thence South 00°23'49" East 496.41 feet to the point of beginning.

AREA= 42.84 acres

**EXHIBIT "B"**

**THE DESCRIPTION OF THE ADDITIONAL LAND TO BE ANNEXED TO THE PROJECT IS SET FORTH AND ATTACHED IN THIS EXHIBIT "B" TO THE MASTER DECLARATION SOLELY FOR PURPOSES OF IDENTIFICATION. THE MASTER DECLARATION IS NOT INTENDED AS AND SHOULD NOT BE DEEMED TO CONSTITUTE ANY LIEN, ENCUMBRANCE, RESTRICTION, OR LIMITATION UPON ANY PORTION OF SUCH ADDITIONAL LAND UNLESS AND UNTIL SUCH PORTION IS ADDED TO THE PROJECT IN ACCORDANCE WITH THE PROVISIONS OF THE MASTER DECLARATION.**

The following described tract of land situated in Utah County, State of Utah, to wit:

Parcel 1

Commencing at a point located North 00°39'38" West along the Section line 152.87 feet and West 2674.54 feet from the East quarter corner of Section 9, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 18°18'08" West along I-15 748.52 feet; thence North 00°57'12" West along I-15 852.50 feet; thence North 87°22'02" East 254.14 feet; thence South 01°12'51" East 60.16 feet; thence East 161.88 feet; thence South 39°13'56" East 30.65 feet; thence North 89°27'44" East 110.84 feet; thence South 58°21'36" East 45.51 feet; thence South 31°06'28" West 17.17 feet; thence South 04°53'21" West 91.18 feet; thence South 86°01'23" West 204.39 feet; thence West 68.14 feet; thence South 00°40'20" East 525.91 feet; thence North 89°03'05" East 410.98 feet; thence South 00°37'12" East 210.58 feet; thence South 89°32'55" West 480.50 feet; thence South 01°12'51" East 614.98 feet to the point of beginning.

AREA= 10.58 acres

Parcel 2

Commencing at a point located North 00°39'38" West along the Section line 642.60 feet and West 706.06 feet from the East quarter corner of Section 9, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 89°57'40" West 532.13 feet; thence along the arc of a 20.00 foot radius curve to the right 31.43 feet (chord bears North 45°00'00" West 28.28 feet); thence North 29.87 feet; thence along the arc of a 622.41 foot radius curve to the right 150.73 feet (chord bears North 05°04'55" East 150.36 feet); thence along the arc of a 290.00 foot radius curve to the left 524.81 feet (chord bears North 39°20'38" West 456.07 feet); thence South 88°48'45" West 55.30 feet; thence along the arc of a 590.00 foot radius curve to the left 217.12 feet (chord bears South 78°16'12" West 215.90 feet); thence South 67°43'39" West 179.31 feet; thence along the arc of a 1050.17 foot radius curve to the right 63.21 feet (chord bears South 69°27'07" West 63.21 feet); thence North 599.23 feet; thence North 89°08'20" East 296.78 feet;

thence North 89°55'24" East 390.00 feet; thence North 00°23'16" West 78.05 feet; thence North 89°43'38" East 418.24 feet; thence South 09°43'17" East 139.17 feet; thence South 14°53'36" East 259.00 feet; thence North 88°36'24" East 118.87 feet; thence South 00°23'49" East 716.90 feet to the point of beginning.

AREA= 21.55 acres

Parcel 3

Commencing at a point located North 00°39'38" West along the Section line 1360.07 feet and West 687.82 feet from the East quarter corner of Section 9, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 88°32'09" West 133.82 feet; thence North 14°54'51" West 258.75 feet; thence North 09°46'38" West 183.15 feet; thence North 89°18'45" East 226.30 feet; thence South 00°41'31" East 429.84 feet to the point of beginning.

AREA= 1.83 acres

**EXHIBIT "C"**

**MEMBERSHIP UNITS HELD BY  
UNIT/LOT OWNERS IN THE PROJECT**

<u>UNIT/LOT</u>	<u>STREET ADDRESS</u>	<u>PROPORTION OF COMMON EXPENSES &amp; ASSESSMENTS FOR WHICH RESPONSIBLE</u>	<u>MEMBERSHIP UNITS (EQUAL TO RAW LAND SQ. FOOTAGE OR GROSS BLDG SQ. FOOTAGE)</u>	<u>CLASS OF MEMBERSHIP</u>
Convertible land	Address for entire Project	100%	186,611.04	Commercial Unit/Lot

**EXHIBIT "D"****BYLAWS  
OF  
NORTHGATE VILLAGE  
MASTER ASSOCIATION, INC.  
(A Utah Non-Profit Corporation)****ARTICLE I  
NAME AND LOCATION**

The name of the Corporation is NORTHGATE VILLAGE MASTER ASSOCIATION, INC., a Utah non-profit corporation, hereinafter referred to as the "Master Association." The principal office of the Master Association shall be located as determined appropriate by the Board of Trustees for the Master Association.

**ARTICLE II  
DEFINITIONS**

The terms defined in ARTICLE I of the Master Declaration of Covenants, Conditions, and Restrictions for Northgate Village (A Planned Development) (the "Master Declaration") shall apply to these Bylaws.

**ARTICLE III  
MEETINGS OF MEMBERS**

**Section 1. Annual Meetings.** The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Master Association at a time and date set in accordance with a resolution of the Board of Trustees, and each subsequent annual meeting of the Members shall be held thereafter on a weekday after 5 p.m. or a Saturday before 5 p.m. within one (1) year and seven (7) days of the first annual meeting, at a time and exact date established by resolution of the Board of Trustees. Annual meetings shall not be held on Sundays or legal holidays.

**Section 2. Special Meetings.** Special meetings of the Members may be called at any time by the Board of Trustees or twenty-five percent (25%) of the votes of all of the Members.

**Section 3. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary of the Master Association, by mailing a copy of such notice, postage prepaid, at least ten (10) days but not more than sixty (60) days before such meeting to each Member, addressed to the Member's address appearing on the books of the Master Association, or supplied by such Member to the Master Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and in the case of a



Special Meeting, the purpose of the meeting.

**Section 4. Place of Meetings.** The Board of Trustees may designate any place within or outside the State of Utah as the place of meeting for any annual meeting or for any special meeting. If no designation is made, the place of meeting shall be the principal office of the Master Association.

**Section 5. Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast a majority of the votes of all of the Members shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Master Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat, as applicable, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 6. Voting.** The Master Association shall have a total voting percentage of one hundred percent (100%). Each Owner in the Project shall be a Member in the Master Association and shall have a membership interest in the Master Association equal in number to the Membership Units appurtenant to the Unit/Lot owned by such Member. The Membership Units appurtenant to each Unit/Lot are set forth in Exhibit "C" to the Master Declaration. Each Member shall hold membership in one Class. There shall be one Class of membership for each of the following groups of Owners: (a) Owners of professional office condominiums and Unit/Lots ("Professional Office Condominiums"); (b) Owners of residential condominiums and Unit/Lots ("Residential Condominiums"); (c) Owners of commercial condominiums and Unit/Lots ("Commercial Condominiums"); (d) and Owners of commercial Unit/Lots ("Commercial Unit/Lots"). The Class of membership which each Member holds shall be set forth in Exhibit "C" to the Master Declaration. On any matter before the Master Association requiring the vote of the Members, the Members of the Commercial Unit/Lot Class and the Members of the Commercial Condominium Class shall each be entitled to votes equal to twice the number of each such Member's Membership Units, and all other Members shall each be entitled to votes equal to only the exact number of Membership Units held by each such Member. Each Member shall have the right to vote in favor of a candidate for Trustee in any election held for the Trustee to be the representative for the Class of membership which each such Member holds. Each Member shall also have the right to vote in favor of a candidate for Trustee in any election held for the at-large Trustee. Each Member shall also be entitled to cast, as further set forth herein, a vote for the removal of such Trustees, to cast a vote to call a special meeting of the Members, and to cast a vote to be provided by the Board a statement of the acts and corporate affairs of the Master Association. Except for such voting rights, the Members shall have no other voting rights in the Master Association. All other Master Association matters shall be voted upon by the Board of Trustees.

**Section 7. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Master Association. Every proxy shall be revocable.

**ARTICLE IV  
BOARD OF TRUSTEES**

**Section 1. Declarant's Rights.** The following provisions regarding the Board of Trustees are subject to the rights of the Declarant to select members of the Board of Trustees as per ARTICLE IV, Section 4 of the Master Declaration.

**Section 2. General Powers.** The business and affairs of the Master Association shall be managed by its Board of Trustees as provided in these Bylaws and the Master Declaration. The Board of Trustees may adopt such rules and procedures for the conduct of their meetings and the management of the Master Association as they deem proper. The Board of Trustees shall have power to:

**A.** Adopt and publish Master Rules and Regulations governing the operation and use of the Common Areas and Facilities, and the personal conduct of the Members and their employees, agents, lessees/tenants, guests, customers, licensees, and invitees thereon, and to establish penalties for the violation thereof;

**B.** Exercise for the Master Association all powers, duties, and authority vested in or delegated to the Master Association and not specifically reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Master Declaration;

**C.** Declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Trustees;

**D.** Employ a Manager, an independent contractor, or such other employees or agents as they deem necessary or prudent, and to prescribe their duties; and

**E.** Employ accountants, general contractors, attorneys, title officers, or such other professionals as may be deemed necessary or prudent and to prescribe their duties.

**Section 3. Duties.** It shall be the duty of the Board of Trustees to:

**A.** Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to cast at least twenty-five percent (25%) of the votes of all the Members;

**B.** Supervise all agents and employees of this Master Association, and to see that their duties are properly performed;

**C.** As more fully provided in the Master Declaration, to:

- (1) Fix the amount of the Common Assessments;
- (2) Send to each Unit/Lot Owner written notice of each Common Assessment;
- (3) Collect the Common Assessments; and
- (4) Pursue the collection of unpaid Common Assessments, judicially or otherwise, and/or execute, record, enforce, and foreclose the Lien against any Unit/Lot for which Common Assessments are not paid;

**D.** Issue, upon written demand by any person or entity, a certificate setting forth whether or not any Common Assessment has been paid. A reasonable charge may be made by the Board of Trustees for the issuance of these certificates. A certificate shall be conclusive evidence of such payment;

**E.** Procure and maintain adequate liability and hazard insurance on property managed, controlled, and/or owned by the Master Association, as it may deem appropriate, as more fully described in the Master Declaration;

**F.** Cause all agents or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and as provided in the Master Declaration;

**G.** Cause the Common Areas and Facilities to be maintained; and

**H.** Do all those other things necessary to operate the Association for the benefit of the Owners.

**Section 4. Elections.** Election to the Board of Trustees shall be by written ballot/Unit/Lot. At such election the Members, or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Master Declaration. The persons receiving the largest number of votes shall be elected.

**Section 5. Number.** The affairs of this Master Association shall be managed by a Board of five (5) Trustees elected from among the Members of the Master Association by the Members or appointed by the Declarant, with the number of votes as specified in Article IV, Section 4 of the Master Declaration. Except those Trustees appointed by the Declarant, each Trustee shall be either a Member of the Master Association or a principal of an entity that is a Member of the Master Association.

**Section 6. Term of Office.** The Trustees of the Master Association shall hold office for a period of one (1) year, unless he/she shall sooner resign, or shall be removed, or otherwise disqualified from serving.

**Section 7. Regular Meetings.** Regular meetings of the Board of Trustees shall be held monthly, without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a Sunday or legal holiday, then that meeting shall be held at the same time on the following day which is not a Sunday or legal holiday.

**Section 8. Special Meetings.** Special meetings of the Board of Trustees may be called by the President of the Master Association or by any Trustee. The Secretary of the Master Association shall give notice of the time, place, and purpose or purposes of each special meeting to each Trustee by written notice at least three (3) business days before the meeting.

**Section 9. Quorum.** Members of the Board of Trustees representing a majority of the votes attributable to all Trustees shall constitute a quorum for the transaction of business, but less than a quorum may adjourn any meeting from time to time until a quorum shall be present, whereupon the meeting may be adjourned without further notice. Every act or decision done or made by a majority of the Trustees present at a duly held meeting shall be regarded as the act of the Board. At any meeting at which every Trustee shall be present, even though without any notice, any business may be transacted.

**Section 10. Manner of Acting.** At all meetings of the Board of Trustees, each Trustee shall have the number of votes specified in Article IV, Section 4 of the Master Declaration. Unless otherwise specifically stated otherwise in the Articles of Incorporation, the Master Declaration, or these Bylaws, the act of a majority of the votes cast at a meeting shall be the act of the Board of Trustees, provided a quorum is present.

**Section 11. Vacancies.** A vacancy in the Board of Trustees shall be deemed to exist in case of death, resignation, or removal of any Trustee, or if the authorized number of Trustees be increased, or if the Members fail at any meeting of Members at which any Trustee is to be elected, to elect the full authorized number to be elected at that meeting.

**Section 12. Removal.** Any Trustee may be removed from the Board with or without cause, by a majority vote of the Members represented by such Trustee. In the event of death, resignation, or removal of a Trustee, his/her successor shall be selected in accordance with the provisions of Article IV, Section 4 of the Master Declaration.

**Section 13. Resignation.** A Trustee may resign at any time by delivering written notification thereof to the President of the Master Association or the Secretary of the Association if the resigning Trustee is the President of the Association. Resignation shall become effective upon its acceptance by the Board of Trustees; provided, however, that if the Board of Trustees has not acted thereon within ten (10) days from the date of its delivery, the resignation shall upon the tenth (10th) day be deemed accepted.

**Section 14. Presumption of Assent.** A Trustee of the Master Association who is present at a

meeting of the Board of Trustees at which action on any Master Association matter 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 he/she shall file his/her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered or certified mail to the Secretary of the Master Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Trustee who voted in favor such action.

**Section 15. Compensation.** By resolution of the Board of Trustees, the Trustees may be paid their expenses, if any, of attendance at each meeting of the Board of Trustees, and may be paid a fixed sum for attendance at each meeting of the Board of Trustees or a stated salary as Trustee. No such payment shall preclude any Trustee from serving the Master Association in any other capacity and receiving compensation therefor.

**Section 16. Emergency Power.** When, due to a natural disaster or death, a majority of the Trustees are incapacitated or otherwise unable to function as Trustees, the remaining members of the Board of Trustees shall have all the power necessary to function as a complete Board, and for the purpose of doing business and filling vacancies shall constitute a quorum, until such time as all Trustees can attend or vacancies can be filled pursuant to these Bylaws.

**Section 17. Informal Resolution of Board of Trustees.** Unless otherwise provided by law, any action required to be taken at a duly authorized meeting of the Board of Trustees may be taken without a formal meeting, provided the resolution is placed in writing in the Minute Book of the Master Association, setting forth the action taken by the Trustees, and the same is signed by the requisite number of members of the Board of Trustees entitled to vote with respect to the subject-matter thereof. Unless otherwise specifically stated otherwise in the Articles of Incorporation, the Master Declaration, or these Bylaws, any resolution shall be as effective as any resolution passed by a majority of the members of the Board of Trustees at any lawful meeting duly authorized and called.

## ARTICLE V OFFICERS

**Section 1. Enumeration of Officers.** The Officers of the Master Association shall be a President, a Vice-President, and a Secretary/Treasurer.

**Section 2. Election of Officers.** The election of Officers shall be by and from the Board of Trustees.

**Section 3. Multiple Offices.** The offices of Secretary and Treasurer shall be held by the same person.

**Section 4. Duties.** The duties of the Officers are as follows:

**A. President.** The President shall preside at all meetings of the Master Association and of the Board of Trustees. The President shall see that orders of the Board of Trustees are carried out; shall sign all contracts and other written instruments; shall co-sign all checks and promissory notes of the Master Association; and shall have all of the general powers and duties that are usually vested in the office of President of a similar type Master Association.

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

**C. Secretary/Treasurer.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Master Association and the Board of Trustees; serve notice of meetings of the Board of Trustees and of the Members; keep appropriate current records showing the Members of the Master Association together with their addresses; and shall perform such other duties as required by the Board of Trustees. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Master Association, and shall disburse such funds as directed by the Board of Trustees; shall co-sign all checks and promissory notes of the Master Association; keep proper books of account; shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its annual meeting and deliver a copy of each to the Members; and shall perform such other duties as required by the Board of Trustees.

## **ARTICLE VI BOOKS AND RECORDS**

The books, records, and papers of the Master Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Master Declaration, the Articles of Incorporation, and the Bylaws of the Master Association shall be available for inspection by any Member at the principal office of the Master Association, where copies may be obtained at reasonable cost.

## **ARTICLE VII CONTRACTS, LOANS, CHECKS, AND DEPOSITS**

**Section 1. Contracts.** The Board of Trustees 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 Master Association, and such authority may be general or confined to specific instances.

**Section 2. Loans.** No loans or advances shall be contracted on behalf of the Master Association, no negotiable paper or other evidence of its obligation under any loan or advance shall be issued in its name, and no property of the Master Association shall be mortgaged,

pledged, hypothecated, or transferred as security for the payment of any loan, advance, indebtedness of liability of the Master Association, unless and except as authorized by consent 80% of the members of Board of Trustees. Any such authorization may be general or confined to specific instances.

**Section 3. Deposits.** All funds of the Master Association not otherwise employed shall be deposited from time to time to the credit of the Master Association in such banks, trust companies, or other depositories as the Board of Trustees may select, or as may be selected by any Officer or agent authorized to do so by the Board of Trustees.

**Section 4. Checks and Drafts.** All notes, drafts, acceptances, checks, endorsements, and evidences of indebtedness of the Master Association shall be signed by such Officer or Officers or such agent or agents of the Master Association and in such manner as the Board of Trustees from time to time may determine. Endorsements for deposit to the credit of the Master Association in any of its duly authorized depositories shall be made in such manner as the Board of Trustees from time to time may determine.

## ARTICLE VIII COMMON ASSESSMENTS

As more fully provided in the Master Declaration, each Owner is obligated to pay to the Master Association annual, monthly, or other periodic Common Assessments, Special Assessments, or Reimbursement Assessments which are secured by a continuing lien upon the property against which the Common Assessment is made. Any Common Assessments which are not paid when due shall be delinquent. If the Common Assessment is not paid within ten (10) days after the due date, the Common Assessment shall bear interest from the date of delinquency at the rate of one and one-half percent (1½%) per month, assessed and compounded daily, and the Master Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the Lien against the Unit/Lot, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such Common Assessment. No Owner may waive or otherwise escape liability for the Common Assessments provided for herein by non-use of the Common Areas and Facilities, abandonment of its Unit/Lot, or otherwise.

## ARTICLE IX AMENDMENTS AND CONFLICTS

**Section 1. Amendments.** These Bylaws may be amended, at any regular or special meeting of the Board of Trustees, by at least two-thirds (2/3's) of the votes of the members of the Board of Trustees.

**Section 2. Conflicts.** In the event of a conflict in any of the provisions of any such documents, the documents of the Master Association shall govern or control in the following order or

preference: (a) the Master Declaration; (b) the Articles of Incorporation; (c) the Bylaws; and (d) the Master Rules and Regulations.

## ARTICLE X INDEMNIFICATION

**Section 1. Indemnification.** No Officer or Trustee shall be personally liable for any obligations of the Master Association or for any duties or obligations arising out of any acts or conduct of said Officer or Trustee performed for or on behalf of the Master Association. The Master Association shall and does hereby indemnify and hold harmless each person, and his/her heirs, executors, and administrators, who shall serve at any time hereafter as a Trustee or Officer of the Master Association from and against any and all claims, judgments, and liabilities to which such persons shall become subject by reason of his/her having heretofore or hereafter been a Trustee or Officer of the Master Association, or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Trustee or Officer, and shall reimburse each such person for all legal and other expenses reasonably incurred by him/her in connection with any such claim or liability, including power to defend such person from all suits or claims; provided, however, that no such person shall be indemnified against, or be reimbursed for, any expense incurred in connection with any claim or liability arising out of his/her own gross negligence or willful misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which he/she may lawfully be entitled, nor shall anything herein contained restrict the right of the Master Association to indemnify or reimburse such person in any proper case, even though not specifically herein provided for. The Master Association, its Trustees, Officers, employees, and agents shall be fully protected in taking any action or making any payment, or in refusing so to do in reliance upon the advice of counsel.

**Section 2. Other Indemnification.** The indemnification herein provided shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any law, agreement, vote of the Board of Trustees, or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Trustee, Officer, employee, or agent, and shall inure to the benefit of the heirs, executors, and administrators of such person.

**Section 3. Insurance.** The Master Association may, but is not required to, purchase and maintain insurance on behalf of any person who is or was a Trustee, Officer, employee, or agent of the Master Association, or is or was serving at the request of the Master Association as a trustee, officer, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise against any liability asserted against him/her and incurred by him/her in any such capacity, or arising out of his status as such, whether or not the Master Association would have the power to indemnify him/her against liability under the provisions of this Section.



**Section 4. Settlement by Master Association.** The right of any person to be indemnified shall be subject always to the right of the Master Association by its Board of Trustees, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Master Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

**ARTICLE XI  
GENERAL PROVISIONS**

**Section 1. Waiver of Notice.** Whenever any notice is required to be given to any Member or Trustee of the Master Association under the provisions of these Bylaws, the Articles of Incorporation, or the Master Declaration, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance at any meeting shall constitute a waiver of notice of such meetings, except where attendance is for the express purpose of objecting to the legality of that meeting.

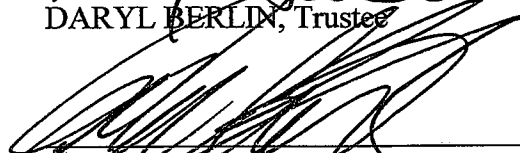
**Section 2. Fiscal Year.** The fiscal year of the Master Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**Section 3. No Liability of Members.** Except as provided in these Bylaws and in the Master Declaration, the Members are not individually or personally liable for the debts or obligations of the Master Association.


IN WITNESS WHEREOF, we, being all of the Trustees of NORTHGATE VILLAGE MASTER ASSOCIATION, INC., a Utah non-profit corporation, have hereunto set our hands this 13<sup>th</sup> day of September, 2006.

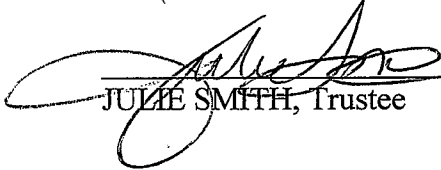
NORTHGATE VILLAGE MASTER ASSOCIATION, INC.  
a Utah non-profit corporation

  
DARYL BERLIN, Trustee

  
DENNIS CARTER, Trustee

  
WILLIAM FAIRBANKS, Trustee

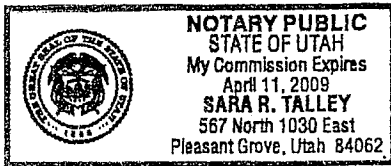
  
\_\_\_\_\_  
PAUL WASHBURN, Trustee

  
\_\_\_\_\_  
JULIE SMITH, Trustee

STATE OF UTAH    )  
                          :SS.  
COUNTY OF UTAH )

SUBSCRIBED AND SWORN to before me, a Notary Public in and for Utah County, State of Utah, DARYL BERLIN, DENNIS CARTER, WILLIAM FAIRBANKS, PAUL WASHBURN, and JULIE SMITH, Trustees of NORTHGATE VILLAGE MASTER ASSOCIATION, INC., a Utah non-profit corporation (the "Master Association"), known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that the same was the act of the Master Association, and that each of them executed the same as the act of such Master Association for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS my hand and official seal this 13<sup>th</sup> day of September, 2006.

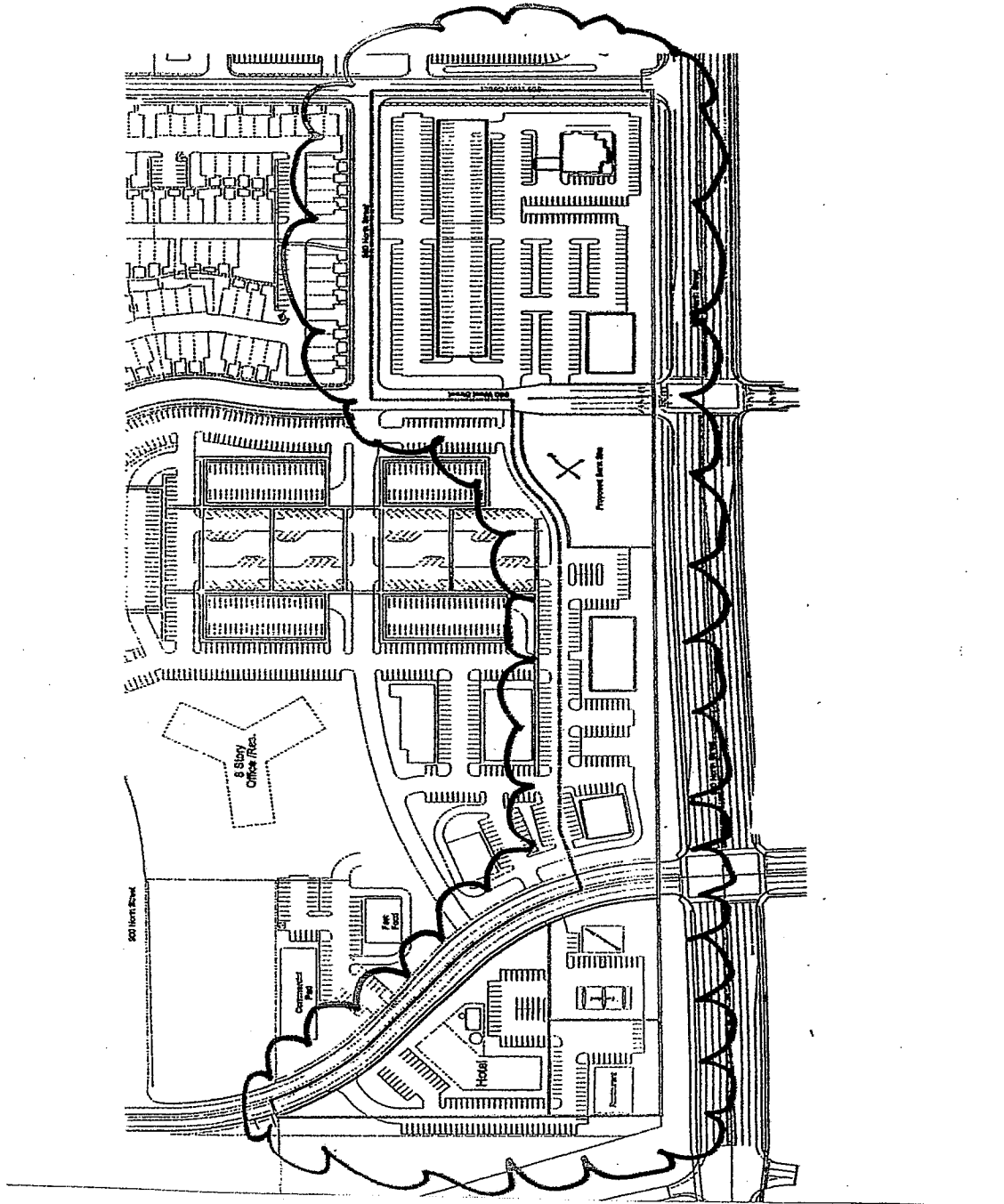


  
\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT "E"**

**PROPERTY RESTRICTED FROM FINANCIAL INSTITUTIONS**

Except for the piece of property marked with an X below, no business whose primary purpose is as a bank or credit union shall own, use, or occupy any space within any Lot within the area illustrated below as long as such property marked with an X is used as a bank or credit union.



**EXHIBIT "F"****CONVERTIBLE LAND**

The following described tract of land situated in Utah County, State of Utah, to wit:

Commencing at a point located North 00°39'38" West along the Section line 146.18 feet and West 708.35 feet from the East quarter corner of Section 9, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 89°25'50" West 1957.71 feet; thence North 18°18'08" West 27.54 feet; thence North 01°12'51" West 614.98 feet; thence North 89°32'55" East 480.50 feet; thence North 00°34'17" West 210.58 feet; thence South 89°03'05" West 411.16 feet; thence North 00°06'59" West 271.98 feet; thence North 01°16'03" West 253.96; thence East 68.14 feet; thence North 85°55'20" East 204.45 feet; thence North 04°53'09" East 90.82 feet; thence North 31°38'24" East 44.30 feet; thence North 84°09'31" East 123.61 feet; thence North 89°08'20" East 170.42 feet; thence South 599.23 feet; thence along the arc of a 605.37 foot radius curve to the left 63.24 feet (chord bears North 69°27'07" East 63.21 feet); thence North 67°43'39" East 179.31 feet; thence along the arc of a 590.00 foot radius curve to the right 217.12 feet (chord bears North 78°16'12" East 215.90 feet); thence North 88°48'45" East 55.30 feet; thence along the arc of a 290.00 foot radius curve to the right 524.81 feet (chord bears South 39°20'38" East 456.07 feet); thence along the arc of a 622.41 foot radius curve to the right 150.73 feet (chord bears South 05°04'55" West 150.36 feet); thence South 29.87 feet; thence along the arc of a 20.00 foot radius curve to the left 31.42 feet (chord bears South 45°00'00" East 28.28 feet); thence North 89°57'40" East 532.13 feet; thence South 00°23'49" East 496.41 feet to the point of beginning.

AREA= 42.84 acres