

WHEN RECORDED RETURN TO:

Ivory Development, LLC
Brad Mackay
3340 North Center Street
Lehi, UT 84045
(801) 747-7440
14-25-177-006 thru 037

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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
COTTONWOOD TITLE
BY: LDT, DEPUTY - WI 49 P.

**NEIGHBORHOOD
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
Highbury Towns East,
a part of the expandable Highbury Commons at Lake Park Development**

This Neighborhood Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Highbury Towns East, a part of the Highbury Commons at Lake Park Development (the "Declaration") is executed by Ivory Development, LLC., a Utah limited liability company, of 3340 North Center, Lehi, UT 84045 (the "Declarant").

RECITALS

- A. This Declaration affects that certain real property located in the City of West Valley in Salt Lake County, Utah described with particularity in Article II below (hereinafter referred to as the "Property").
- B. The Property is an area featuring unique and distinctive terrain;
- C. The Property is subject to and bound by the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Highbury Commons at Lake Park recorded in the official records of the County Recorder of Salt Lake County, Utah on October 6, 2006 as Entry No.9868362 in Book 9362 at Pages 804-846 (the "Master Declaration").
- D. The related final plat for the Highbury Commons at Lake Park Planned Unit Development has also been recorded in the office of the County Recorder of Salt Lake County, Utah (the "Master Final Plat").
- E. By subjecting the Property to this Declaration and the Master Declaration, it is the desire, intent and purpose of Declarant to create a neighborhood in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration and the Master Declaration, and which will increase and preserve the utility, attractiveness, quality and value of the lands and improvements therein.

F. Declarant is the owner of the Property.

G. Declarant has constructed or is in the process of constructing upon the Property a planned residential development which shall include certain Townhouse Lots, Common Area and Facilities, including the right to use and easement of enjoyment of the Common Area and Facilities of The Townhomes at Highbury Commons, subject to the provisions of the Master Declaration. The construction will be completed in accordance with the plans contained in this Declaration and the Final Plat.

H. Declarant intends to sell to various purchasers the fee title to the individual Townhouse Lots contained in the Property, together with an appurtenant undivided ownership interest in the Common Areas and Facilities, subject to this Declaration and the Master Declaration.

I. Declarant desires, by filing this Declaration and Final Plat, to submit the property and all improvements now or hereafter constructed thereon to the Utah Community Association Act, Utah Code Ann., §§57-8a-1 et seq. (2004) (the "Act") as well as the provisions and protective covenants set forth herein and the Master Declaration.

J. The Project is to be known as "Highbury Towns East."

K. Since the completion of the development of the Property may be in phases, the completed project will consist of the original phase and all subsequent phases.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Highbury Towns East and the Lot Owners thereof, Declarant hereby executes this Declaration.

1. Definitions.

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. The term Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorneys fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.

2. The term Additional Land shall mean and refer to additional real property annexed to the Project.

3. The term Architectural Review Board of Directors shall mean the person or persons appointed to review the designs, plans, specifications, homes, architecture, fencing, landscaping and other physical improvements within Highbury Towns East (the "ARC").

4. The term Area of Common Responsibility shall mean and refer to the area and items for which the Association is responsible.

5. The term Area of Personal Responsibility shall mean and refer to the area and items for which the Owners are responsible.

6. The term Articles of Incorporation shall mean and refer to the Articles of Incorporation of Highbury Towns East Association on file or to be filed with the Utah Department of Commerce.

7. The term Assessment shall mean and refer to any amount imposed upon, assessed or charged an Owner or Lot.

8. The term Association shall mean and refer to the association of Owners at Highbury Towns East taken or acting as a group in accordance with this Declaration.

9. The term Board of Directors shall mean and refer to the governing board of the Association.

10. The term Builder shall mean an owner, Declarant or contractor who obtains a construction or occupancy permit for one or more Buildings or Townhouse Lots.

11. The term Building shall mean and refer to any of the structures constructed in Highbury Towns East.

12. The term Building Exterior Assessment shall mean and refer to any amount imposed upon, assessed or charged an individual Owner for the maintenance, repair or replacement of the building exterior surfaces of his Townhouse Lot, which is not considered a Common Expense.

13. The term Bylaws shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto, marked Exhibit "C", and incorporated herein by this reference.

14. The term Capital Improvement or Addition shall mean and refer to a permanent addition to or the betterment of real property that enhances its capital value and improves the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs.

15. The term City shall mean and refer to the City of West Valley in Salt Lake County, Utah.

16. Common Area and Facilities shall mean and refer to all of the Property not privately owned or dedicated to the City, owned in common by the Owners including but not limited to the following items:

(a) The real property and interests in real property submitted hereby, including the entirety of the Property and all improvements constructed thereon, excluding the individual Townhouse Lots and any land dedicated to the City.

(b) All Common Areas and Facilities designated as such in the Master Final Plat and Final Plat;

(c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Owners, such as electricity, gas, water, and sewer;

(e) The Project's outdoor grounds including landscaping, open and green space, entry and monument; and

(f) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of the Owners.

Provided, however, utility installations such as electricity, gas, water, and sewer may be dedicated to the City and, if so, this definition shall not be construed to allow the Association to exclude the City from the ownership and control of the utility systems so dedicated.

17. The term Common Expense shall mean and refer to all sums lawfully assessed against the Owners pursuant to the Act, Master Declaration and this Declaration.

18. The term Community shall mean and refer to Highbury Towns East or if the context clearly requires all of the real property subject to the Master Association.

19. The term Community Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in Highbury Towns East as determined by the Board of Directors from time to time.

20. The term Covenant to Share Costs shall mean and refer to any contract, agreement, declaration of easements, licenses and/or covenant to share costs executed by the Declarant or the Association and recorded in the Office of the County Recorder which creates easements for the benefit of the Owners and/or which obligates the Association to share the costs of maintaining certain real, personal or mixed property described therein.

21. The term Declarant shall mean and include Ivory Development, LLC and any person or persons who might acquire title from it to all or some of the unsold Townhouse Lots through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Townhouse Lots in a sale in the nature of a bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance

with the terms and provisions of this Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Declarant and by its successor in interest as the new Declarant.

22. The term Declaration shall mean and refer to this Neighborhood Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Highbury Towns East, a part of the Highbury Commons at Lake Park Development.

23. The term Dedicated Streets shall mean and refer to those streets within the Project formally dedicated to the City or any other municipal or governmental body politic, entity or agency.

24. The term Default Assessment shall mean and refer to any amount imposed upon, assessed or charged an individual Owner pursuant to the Governing Documents for failure to perform an obligation under the Governing Documents or because the Association has incurred an expense on behalf of the Owner.

25. The term Design Guidelines shall mean and refer to any design guidelines required by the City or the Architectural Review Board of Directors.

26. The term Developer shall mean and refer to the Declarant.

27. The term Developmental Rights shall mean and refer to the right granted hereunder to the Declarant, its agents, representatives, employees, successors and assigns, to develop and improve Highbury Towns East.

28. The term Director shall mean and refer to each voting member of the Board of Directors.

29. The term Eligible Guarantor shall mean and refer to a governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with the Declaration.

30. The term Eligible Insurer shall mean and refer to an insurer of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

31. The term Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

32. The term Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Association or the Board of Directors. A vote which is for any reason suspended is not an "eligible vote".

33. The term Final Plat shall mean and refer to the recorded Final Plat for Highbury Towns East on file in the Office of the County Recorder.

34. The term Governing Documents shall mean and refer to the Master Declaration, this Declaration, Bylaws, Rules and Regulations, and Articles.

35. The term Guest shall mean and refer to a guest, visitor or invitee of an Owner or the occupant of a Unit.

36. The term Guest Parking shall mean and refer to those parking spaces reserved for the exclusive use of Guests.

37. The term Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

38. The term Individual Charge shall mean and refer to a charge levied against an Owner or Permittee for all expenses resulting from the act or omission of such Person, excepting the Owner's failure to pay any Assessment. Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Person including:

a) The cost to repair any damage to any portion of the Property caused by the such Person; or

b) The cost to satisfy any expense to any other Owner or to the Association due to any intentional or negligent act or omission of such Person, or resulting from the breach by such Person of any provisions of the Governing Documents; or

c) Any fines or other individual monetary charges.

While Individual Charges are not Assessments, they are secured by a lien in the same manner as Assessments, as set forth below. The Association also shall have all other remedies, both legal and equitable, described in the Governing Documents available against any Owner for nonpayment.

39. The term Land shall mean and refer to all of the real property subject to this Declaration.

40. The term Landscaping shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, and like improvements located within Highbury Towns East, as well as the appurtenant sprinkling and irrigation systems.

41. The term Lender shall mean and refer to a Mortgagee.

42. The term Lot shall mean and refer to a lot as shown on the Final Plat. Each Lot shall be assigned a separate "parcel" or tax identification number by the appropriate governmental agency.

43. The term Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot, identified on the Final Plat as a "Townhouse Lot Number."

44. The term Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

45. The term Manager shall mean and refer to the Person appointed or hired by the Association to manage and operate Highbury Towns East.

46. The term Map shall mean and refer to the Final Plat.

47. The term Master Assessment shall mean and refer to any Assessment assessed by the Master Association.

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

49. The term Mortgagee shall mean and refer to any person or entity named as the mortgagee, beneficiary or holder of the seller's interest (so long as a copy of the contract for deed is given to the Association) under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean and refer to any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in the Declaration shall also protect the Declarant as the holder of a First Mortgage of a Townhouse Lot, or any interest therein.

50. The term Office of the County Recorder or County Recorder shall mean and refer to the Office of the County Recorder of Salt Lake County, Utah.

51. The term Owner shall mean and refer to a Person who is the owner of a fee or an undivided fee interest in a Townhouse Lot, excluding a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

52. The term Period of Declarant's Control shall mean and refer to the period of time during which there is Class B voting.

53. The term Permittee shall mean a Guest, tenant, renter, lessee and non-occupant residents.

54. The term Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

55. The term Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions and the like thereto, including without limitation all documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

56. The term Private Street shall mean and refer to a street not dedicated to the City or any county, state, or other governmental body politic, entity or agency.

57. The term Project shall mean and refer to Highbury Towns East.

58. The term Property shall mean and refer to all of the land or real estate, improvements and appurtenances comprising the Project submitted to this Declaration.

59. The term Recreational, Oversized, or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

60. The term Repair shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

61. The term Residence Number shall mean and refer to the number, letter or combination of name, numbers and letters that identifies only one Townhouse Lot in Highbury Towns East.

62. The term Resident shall mean and refer to any person living or staying at Highbury Towns East. This includes but is not limited to natural person or persons residing in the Townhouse Lot.

63. The term Single Family shall mean and refer to one of the following: (a) a single person, (b) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (c) a group of not more than three unrelated persons who maintain a common household to be distinguished from a group occupying a boarding house,

club, fraternity or hotel. An additional person or persons may also be allowed under appropriate circumstances, for example, as a caretaker or as domestic help, with the prior written consent of the Board of Directors.

64. The term Single Family Residence shall mean and refer to both (a) the architectural style of a Building or Townhouse Lot and (b) the nature of the residential use permitted.

65. The term Size shall mean and refer to the number of cubic feet, or the number of square feet of ground or floor space, within each Townhouse Lot as computed by reference to the Final Plat and rounded off to a whole number. Certain spaces within the Townhouse Lots, such as the attic, basement, or garage space, may be omitted from the calculation or be partially discounted by the use of a ratio if the same basis of calculation is employed for all Townhouse Lots in the Project and if that basis is described in the Governing Documents.

66. The term Total Votes of the Association shall mean and refer to the total number of votes appertaining to all Townhouse Lots at Highbury Towns East.

67. The term Townhouse shall mean and refer to a Townhouse Lot.

68. The term Townhouse Lot shall mean and refer to a Lot; and all mechanical equipment and appurtenances located (a) within any one Townhouse Lot or (b) located without the Townhouse Lot but designated and designed to serve only that Townhouse Lot, such as electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Townhouse Lot; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum; all pipes, wires, conduits, or other utility lines or installations constituting a part of the Townhouse Lot or serving only the Townhouse Lot; and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Townhouse Lot, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Townhouse Lot is located shall be deemed to be part of the Townhouse Lot.

69. The term Tract shall mean and refer to all of the real estate submitted to this Declaration.

70. The term Use Restrictions shall mean and refer to the use restrictions governing the Project set forth herein, as they may be modified, amended, repealed, canceled, limited, withdrawn or expanded from time to time.

71. Visible From a Neighboring Property shall mean with respect to any object, that such object is or would be visible to an individual six feet (6') tall, standing at ground level on any portion of the neighboring property.

72. Voting Group shall mean and refer to a group of Owners designated by the Declarant as a "voting group."

73. Water-Wise Techniques shall mean and refer to the guidelines marked Exhibit "C," attached hereto and incorporated herein by this reference.

2. **Submission.**

The Declarant hereby submits the Highbury Towns East Property to the Act, Master Declaration and this Declaration, together with all appurtenances thereto, to be known collectively as Highbury Towns East, and the Declarant hereby declares that Highbury Towns East and every part thereof is and shall be held, conveyed, devised, leased, granted, encumbered, used, occupied, and otherwise transferred in any manner, subject to the provisions of the Act, Master Declaration and this Declaration. Each and all of the provisions hereof are hereby declared to be in furtherance of the general plan and scheme of ownership, and are further declared to be for the benefit of the Property and every part thereof, and for the benefit of each Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land, or as an equitable servitude, as the case may be, and shall bind all persons hereafter acquiring or owning any interest in the Property, however such interest may be obtained.

All present and future Owners, Permittees and Mortgagees shall be subject to and shall be obligated to comply with the provisions of this Declaration.

Acceptance of a deed of conveyance, entering into a lease or rental agreement, taking possession of Townhouse Lot, accepting a mortgage on one of the Townhouse Lots, or entering the Project shall constitute an agreement that the provisions of the Declaration, and all amendments thereto, are accepted and ratified by such Person, and all of such provisions shall be deemed and taken to bind any Person having at any time any interest or estate in such Townhouse Lot, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, lease or rental agreement thereof.

3. **The Buildings and Facilities.**

(a) Highbury Towns East consists or will consist of up to seventeen (17) Buildings as shown on the Final Plat.

(b) Highbury Towns East consists or will consist of up to ninety (90) Townhouse Lots as shown on the Final Plat.

(c) All details involving the description and location of the Buildings, Townhouse Lots and other like details are shown on the Final Plat.

(d) Common Areas consist or will consist of the Entry, Entry Monument, private roads, driving lanes and parking amenities, landscaped, open areas and green space, and all other

common elements as denoted on the Master Final Plat and Final Plat. The Declarant may but is not obligated to construct a clubhouse.

(e) The central road servicing Highbury Towns East is or shall be a Dedicated Street.

(f) The water lines and sewer lines, which may be located under a Dedicated Street, shall nevertheless be privately owned by the Association.

(g) There is or will be a master meter for the water lines.

(h) The fire hydrants will be privately owned by the Association, although the City and fire department shall be granted a permanent right of access.

4. **Nature and Incidents of Ownership.**

(a) In addition to a fee simple interest in a Townhouse Lot, each Owner shall be a member in the Association. Such membership is hereby declared to be appurtenant to the Lot.

(b) Percentages of ownership, voting rights and the allocation of Common Expenses shall be equal and uniform among all Lots.

(c) Title to a Townhouse Lot may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

(d) The Common Areas and Facilities may not be separated or partitioned.

(e) No Lot may be separated or partitioned from its corresponding membership interest in the Master Association or the Association.

(f) Each Lot shall always be conveyed, devised, encumbered, and otherwise affected with its appurtenant membership in the Association. The Lot and membership interest in the Association may never be separated from one another.

(g) Common Area and Facilities shall be owned by the Association and shall be used in common by all the Owners in the Project, and no Owner may bring any action for partition thereof.

(h) Subject to the limitations contained in this Declaration, any Owner shall have the non-exclusive right to use and enjoy the Common Areas.

(i) If any part of the Common Areas encroaches or shall hereafter encroach upon a Townhouse Lot, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Townhouse Lot encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Townhouse Lot, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be

considered to be encumbrances either on the Common Areas or a Townhouse Lot. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Property, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

(j) Each Owner hereby appoints the Board of Directors as his agent, to have access to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas making emergency repairs therein necessary to prevent damage to the Common Areas or to another Townhouse Lot. The Board of Directors shall also have such right independent of any agency relationship. Damage to a Townhouse Lot resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs at the insistence of the Board of Directors or an Owner shall be a Common Expense; provided however, that if such damage is the result of negligence of the Owner of a Townhouse Lot, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Board of Directors by Assessment as provided herein. The Association and each Owner, by virtue of his or her acceptance of a deed or other document of conveyance, hereby grant to the City and fire department access to the fire hydrants located in Highbury Towns East.

(j) Each Owner shall have a right of ingress and egress over, upon and across the Common Areas necessary for access to his Townhouse Lot. Each Owner shall have a right to the horizontal and lateral support of his Townhouse Lot, and such rights shall be pertinent to and pass with the title to each Townhouse Lot.

(k) The Board of Directors shall have a non-exclusive easement to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain storage and maintenance facilities in Common Areas for use by the Board of Directors.

(l) Easements are reserved throughout the Property as may be required for utility and other services.

(m) All conveyances of a Townhouse Lot hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to this Declaration, even though no specific reference to such easements appears in any such conveyance.

5. **Description and Conveyance of a Townhouse Lot.**

(a) Every conveyance or contract for the sale of a Townhouse Lot and every other instrument affecting title to a Townhouse Lot may describe that Townhouse Lot by the number shown on the Map, in substantially the following fashion:

LOT NO. _____, as shown in the Neighborhood Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Highbury Towns East, a part of the Highbury Commons at Lake Park Development and on the Final Plat for Highbury Towns East, Phase No. _____, appearing in the records of the County Recorder of Salt Lake County, Utah, together with an undivided interest in and to the Common Area and Facilities, as the same are established and identified in the Declaration and Map referred to above.

SUBJECT TO: The Master Declaration, Neighborhood Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Highbury Towns East, a part of the Highbury Commons at Lake Park Development and Final Plat for Highbury Towns East; all liens for current and future Assessments and charges imposed or levied pursuant to the Master Declaration or Neighborhood Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Highbury Towns East, a part of the Highbury Commons at Lake Park Development; mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record; all easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Final Plat or otherwise existing; an easement for every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described tract; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

Such description shall be construed to describe the Townhouse Lot, together with the appurtenant membership in the Association, and to incorporate all the rights and limitations incident to such ownership contained in the Governing Documents.

(b) Title to each Townhouse Lot is hereby made subject to the terms and conditions hereof which bind the Declarant and all subsequent owners, whether or not it be so expressed in the deed by which any Owner acquired a Townhouse Lot.

6. **Board of Directors Rights and Obligations.**

(a) The business, property and affairs of the Association shall be managed by a Board of Directors composed of three (3) individuals. Until the first regular meeting of the Association is held pursuant after the termination of the Declarant's Period of Control, the Declarant alone shall be entitled to select the three (3) members of the Board of Directors. In the event a Board of Directors seat which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Board of Directors for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Board of Directors members shall elect a replacement as provided in the By-Laws.

(b) The Board of Directors may exercise any right or privilege given to it expressly by this 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.

(c) The Board of Directors shall have the rights and obligations set forth in the By-Laws.

(d) Subject to the rights, power and authority of the Master Association and Association, the Board of Directors shall be responsible for (1) the management and control of the Common Area and Facilities within Highbury Towns East, and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair; and (2). the repair or replacement of such Common Area and Facilities and shall have the right to contract for all goods, services, and insurance payments which are made for such repairs or replacement. The cost of such management, operation, maintenance, and repair by the Board of Directors shall be a Common Expense.

(e) The Board of Directors 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 Board of Directors shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Board of Directors or by any person or entity with whom or which it contracts. The Board of Directors may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property; the enforcement of this Declaration, the By-Laws, or any Rules and Regulations. The Board of Directors may arrange with others to furnish lighting, water, snow removal, grounds maintenance and other common services. The cost of such services shall be borne as provided in paragraph 7 of this Declaration and in the By-Laws.

(f) The Board of Directors may acquire and hold, for the use and benefit of all Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Association.

(g) The Board of Directors may make Rules and Regulations governing the use of the Townhouse Lots and of the Common Area and Facilities within Highbury Towns East, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration.

(h) The Board of Directors may suspend an Owner's voting rights for the period during which such Owner fails to comply with the Governing Documents. Notice of non-compliance will be sent to an Owner at least ten (10) days prior to any meeting at which action may be taken by the Board of Directors. The Board of Directors may also take judicial action against any Owner to enforce compliance with the Governing Documents, with other obligations, or to obtain damages for non-compliance, all to the extent permitted by law.

(i) The Board of Directors may fine or otherwise sanction an Owner or Permittee for a violation of the Governing Documents.

(j) If for any reason the corporate status of the Association is suspended or dissolved, the Board of Directors may unilaterally act to reinstate the corporate status of the Association.

(k) During the Period of Declarant's Control, the Declarant hereby reserves to itself and is hereby granted the unilateral right to appoint an individual to act as the attorney-in-fact for the Board of Directors and in its name, place, and stead, and on its behalf, and for its use and benefit (the "Managing Member"), including by way of illustration but not limitation the right, power and authority to exercise or perform any act, power, duty, right, or obligation whatsoever that the Board of Directors now has, or may hereafter acquire the legal right, power, or capacity to exercise or perform in connection with, arising from, or relating to any person, item, transaction, thing, business property, real or personal, tangible or intangible, or matter whatsoever. This reservation and grant is to be construed and interpreted as a general power of attorney. The enumeration of specific items, rights, acts, or powers herein is not intended to, nor does it, limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers herein granted to said Managing Member.

7. Assessments.

(a) Each Owner of any Lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed, hereby covenant and agree with each other and with the Association to pay to the Association all Assessments, including by illustration but not limitation all Special, Individual or Default Assessments, and other fees, charges, levies and fines as provided in the Governing Documents. Anything to the contrary notwithstanding, the Declarant is not obligated to pay Assessments on Lots it owns or leases, including by way of illustration but not limitation any model units.

(b) The total annual Assessments against all Lots shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of each Owner's share of the Common Expenses and all estimated expenses growing out of or connected with the maintenance and operation of the Common Area and Facilities, among other things,

expenses of Management; grounds maintenance; taxes and special assessments levied by governmental authorities until the Lots are separately assessed as provided herein; premiums for all insurance which the Board of Directors is required or permitted to maintain; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Board of Directors employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Board of Directors for the benefit of the Owners under or by reason of this Declaration.

(c) Each Lot shall be separately metered for gas and electricity. Costs of gas and electric service to the Lots shall be paid by the individual Owners. Water and sewer for individual Lots shall be separately metered. Costs for water and sewer services to the Lots shall be paid by the individual Owners. Common utilities shall be considered a Common Expense. Water, sewer, gas, electricity and garbage for Common Area and Facilities may be metered separately or in combination with individual Lots.

(d) Expenses attributable to the Common Areas and Facilities as a whole shall be apportioned among all Lots not owned by the Declarant equally and uniformly.

(e) Annual Assessments shall be made on a calendar year basis. The Board of Directors shall give written notice of each annual Assessment not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first annual Assessment shall be for the balance of the calendar year remaining after the date fixed by the Board of Directors. Each annual Assessment shall be due and payable in monthly installments on the first day of each and every month and no separate notices of such monthly installment shall be required. Each monthly Assessment shall bear interest at the rate of eighteen (18%) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(f) In addition to annual Assessments, the Board of Directors may levy in any Assessment year a Special Assessment, payable over such a period as the Board of Directors 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 Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Board of Directors to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective membership interest in the Association. Notice in writing of the amount of such Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner provided in the notice. Any Special Assessment or part thereof shall bear interest at the rate of eighteen (18%) percent per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

(g) All sums assessed to any Lot pursuant to this section, together with interest thereon as provided herein shall be secured by a lien on such Lot in favor of the Association. Such lien shall have such priorities as established by law.

(h) To establish a lien for any unpaid Assessment, the Board of Directors shall prepare a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in the payment of an Assessment or other monetary obligation. Such lien may be enforced by judicial foreclosure by the Board of Directors as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the Board of Directors any Assessments against the Lot which shall become due during the period of foreclosure sale or other legal sale. The Board of Directors may bid on the Lot at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(i) A release of lien shall be executed by the Board of Directors and recorded in the office of the County Recorder of Salt Lake County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(j) If an encumbrancer holding a lien on a Lot pays any amounts secured by the lien created by this section, the encumbrancer shall be subrogated to all rights of the Board of Directors with respect to such lien, including priority.

(k) The Board of Directors shall report to any encumbrancer of a Lot any unpaid Assessments remaining unpaid for longer than ninety (90) days if the encumbrancer has requested in writing such notice.

(l) The amount of any Assessment against any Lot shall be the personal obligation of the Owner thereof. Suit to recover a judgment of such personal obligation shall be maintainable by the Board of Directors without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot or any amenities.

(m) Upon payment of a reasonable fee not to exceed ten dollars (\$10) and upon written request of any Owner, or any Mortgagee, prospective Mortgagee or prospective purchaser of an Lot, the Board of Directors shall issue a written statement setting forth the amount of unpaid Assessments, if any, with respect to such Lot; the amount of the current yearly Assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the Board of Directors in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid Assessments which become due prior to the making of such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien and unpaid Assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the Lot.

(n) Subject to the provisions of subparagraph (m), a purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid Assessments against the Lot up to the time of the conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such Assessments.

(o) The Board of Directors may elect to (a) terminate utilities and the right to use amenities for non-payment of Assessments and/or (b) collect rents directly from a renter if the Lot Owner who is renting the Lot fails to pay any Assessment for a period of more than 60 days after it is due and payable,

(p) Anything to the contrary notwithstanding, any Mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted Assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the Mortgagee will also be liable for any reasonable attorney's fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid Assessments, late fees, default interest and collection costs, including a reasonable attorney's fee, against the Lot for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

(q) Any Assessment, fine or other monetary obligation shall bear interest at a rate to be determined by the Board of Directors from the date it becomes due and payable if not paid within thirty (30) days after such date.

(r) A late fee in a sum to be determined by the Board of Directors may be charged on any payment not paid within ten (10) days after its due date.

8. Use of Townhouse Lots.

(a) Each Townhouse Lot is intended and restricted to be used for residential use. No Townhouse Lot shall be used except for residential purposes for a Single Family. Each Owner shall have and enjoy the privileges of fee simple ownership of his Townhouse Lot. There shall be no requirements concerning who may own a Townhouse Lot, it being intended that they may and shall be owned as any other property rights by any Person. Unless otherwise expressly and specifically noted, the Project shall be used only for residential purposes and the Common Areas and Facilities shall only be used in a manner consistent with the residential nature of the Project.

(b) There shall be no obstruction of Common Areas by Owners or Permittees without the prior written consent of the Board of Directors. The Board of Directors may, by Rules and Regulations, prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all Owners or protecting the Townhouse Lots or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written

consent of the Board of Directors, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except upon the prior written consent of the Board of Directors.

(c) Nothing shall be done or kept in any Townhouse Lot or in the Common Area which would result in the cancellation of the insurance on the Property or increase the rate of the insurance on the Property, over what the Board of Directors, but for such activity, would pay, without the prior written consent of the Board of Directors. Nothing shall be done or kept in any Townhouse Lot or in the Common Areas 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 Area and Facilities or shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board of Directors and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.

(d) Each Owner shall keep the exterior of his Townhouse Lot and the adjacent Common Area in a clean, sanitary and attractive condition, and good state of repair.

(e) No Owner or Permittee shall violate the Rules and Regulations as adopted from time to time by the Board of Directors.

(f) No alterations, plumbing, electrical or similar work within the Common Area and Facilities shall be done by any Owner or Resident without the prior written consent of the Board of Directors, except emergency repair. No alterations, plumbing, electrical or similar work within a Townhouse Lot that may affect the structural integrity of the Building or another Townhouse Lot shall be done by any Owner or Resident without the prior written consent of the Board of Directors, except emergency repair.

(g) Notwithstanding anything herein to the contrary, until the Declarant has completed and sold all of the Townhouse Lots, neither the Owners who have purchased Townhouse Lots nor the Board of Directors shall interfere with the completion of the contemplated improvements and sale of the Townhouse Lots. The Declarant may make such use of the unsold Townhouse Lots and the Common Areas as may facilitate such completion and sale, including but not limited to the maintenance of a sales office, the showing of the Townhouse Lots, and the display of signs.

(h) Similarly situated Owners and residents shall be treated similarly.

(i) The rights of Owners and residents may display religious and holiday signs, symbols, and decorations on their Townhouse Lots of the kinds normally displayed in residences located in single family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Townhouse Lot. Signs, symbols and decorations generally, such as wind chimes, wreaths, dream catchers, pinwheels and so forth, may be controlled by rule and may not

be installed or placed so as to be visible to or heard by other residents without the express prior written consent of the Board of Directors.

(j) No rule shall interfere with the freedom of occupants of Townhouse Lots to determine the composition of their households, except that the Declaration limits residency in a Townhouse Lot to a Single Family and the Association shall have the power to limit the total number of occupants permitted in each Townhouse Lot on the basis of the size and facilities of the Townhouse Lot and its fair share use of the Common Areas and Facilities. The Board of Directors may establish by rule reasonable occupancy limits.

(k) No rule shall interfere with the activities carried on within the confines of Townhouse Lots, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Townhouse Lots, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Townhouse Lot, or that create an unreasonable sounds of annoyance.

(l) No resident may operate a commercial trade or business in or from his Townhouse Lot with employees of any kind. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Townhouse Lot. No commercial trade or business may be conducted in or from a Townhouse Lot unless (a) the business activity conforms to all home occupation and zoning requirements governing the Project; (b) the operator has a city issued business license; (c) the business activity satisfies the Home Occupation Guidelines adopted by the Board of Directors, as they may be modified from time to time; and (d) the resident has obtained the prior written consent of the Board of Directors. Notwithstanding the foregoing, the leasing of a Townhouse Lot shall not be considered a trade or business within the meaning of this subsection.

(m) All motor vehicles, trailers, watercraft, bikes and other transportation devices of any kind as determined by the Board of Directors shall be subject to and governed by the rules and regulations adopted by the Board of Directors.

(n) No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

(o) Satellite dishes, aerials, antenna, or systems may only be installed in accordance with FCC regulations taking into consideration the written guidelines established for or by the Board of Directors. The Board of Directors may bar, in its sole discretion, satellite dishes, aerials, antenna, or systems, including HAM radio antenna, not expressly authorized by FCC regulations

(p) No pets, animals, livestock, or poultry of any kind may be commercially bred at the Property. Up to two (2) domestic pets as that term is defined by City Ordinance per

Townhouse Lot are allowed. All pets must be properly licensed and registered. Pets may not create a nuisance. The following acts shall be considered a nuisance: (1) causing damage to the property of anyone other than the pet owner; (2) causing unreasonable fouling of the air by odors; (3) causing unsanitary conditions; (4) running loose throughout the Property and not in a cage or on a leash and under the control of a responsible person; (5) barking, howling, whining, or making other disturbing noises in an excessive, continuous or untimely fashion; (6) molesting or harassing passersby by lunging at them or chasing passing vehicles; (7) attacking or threatening to attack people or other domestic animals; (8) otherwise acting so as to bother, annoy or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; or (9) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents. The Board of Directors may require pet registration and may charge a registration fee and/or pet security deposit.

(q) No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or in any Townhouse Lot, except one 2' x 2' "For Sale" sign may be put in one window of a Townhouse Lot. No "For Rent" signs or political signs are allowed. Anything herein to the contrary notwithstanding, this signage restriction does not apply to and is not binding upon the Declarant, who is expressly authorized to employ and use whatever signs or signage it deems appropriate to market its Townhouse Lots.

(r) All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Property land use and buildings.

(s) Personal property placed on a patio, deck or balcony shall be managed and controlled by rule adopted by the Board of Directors, as it may be modified from time to time and may, although the Board of Directors is not obligated to do so, allow one table, one set of chairs, and one BBQ grill, if covered and not visible to the other residents. Clothes lines, the hanging or drying of clothes, swimsuits and towels, dream catchers, wind chimes, pinwheels, the storing of bicycles, tricycles, equipment, machinery, furniture, appliances, furnishings or other items which may be considered inappropriate or unsightly by the Board of Directors in its sole discretion, shall not be allowed.

(t) No air conditioning systems or units are allowed except those initially installed by the Declarant and replacements authorized in writing by the Board of Directors. Window air conditioning Townhouse Lots, swamp coolers or other similar refrigeration devices are not permitted.

(u) Fencing, except that installed initially by the Declarant and its replacement authorized by the Board of Directors, is not allowed. The Declarant will install Trex Fencing along the north and south boundaries of Highbury Towns East. All replacement fencing must be approved in writing by the Board of Directors in order to maintain quality of construction and the integrity of the original design scheme.

(v) The driving, parking, standing and storing of motor vehicles and trailers in, on or about the Project shall be subject to the following:

(1) The parking rules and regulations adopted by the Board of Directors from time to time;

(2) The parking areas are not designed for Recreational, Commercial or Oversized motor vehicles and the Board of Directors has the right to make rules and regulations restricting or prohibiting their use. Unless otherwise determined by the Board of Directors, all Recreational, Commercial and Oversized Vehicles shall be parked outside the Project, except for purposes of loading and unloading.

(3) No motor vehicle or trailer may be parked or stationed in such a manner so as to create a potentially dangerous situation.

(4) No street parking that will interfere with snow removal is allowed.

(5) No motor vehicle or trailer may be parked or stationed in such a manner so as to create an obstacle or hazard or so as to block, obstruct or impair access to a garage, walkway, driveway, Building or Townhouse Lot.

(6) No motor vehicle or trailer may be parked or stationed in an unauthorized area.

(7) Residents may not park their motor vehicles in red zones, fire lanes, or in any manner that may obstruct access by emergency vehicles.

(8) Parking of motor vehicles or trailers is allowed in the driveways of front-load Townhouse Lots.

(9) Parking of motor vehicles or trailers is not allowed in the driveways with length of less than eighteen (18') feet.

(10) The parking of a damaged motor vehicle or trailer (i.e., the cost of repair is \$1,000 or more) in a driveway or so as to be visible from the street or another Townhouse Lot is prohibited.

(11) Only Guests may park in parking spaces marked, designated or otherwise identified as "Guest Parking".

(12) Owners and other non-Guests may not park in parking spaces marked, designated or otherwise identified as "Guest Parking".

(13) No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only for a seventy-two (72) hour period to enable movement thereof to a proper repair facility.

(14) No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonable parked in the garage as originally designed and constructed.

(15) Parking amenities shall be used solely and exclusively for the parking and storage of motor vehicles used for personal transportation. For use herein the term "for personal transportation" shall mean a vehicle driven at least every 72 hours for regular transportation and for a purpose other than merely satisfying this condition.

(16) Anything to the contrary notwithstanding, access to the Property by emergency vehicles must be maintained at all times.

(17) Without further or additional notice, the Association may immobilize, tow and/or impound motor vehicles and trailers parked, stationed or stored in violation of the Governing Documents, and at the owner's sole risk and expense.

(w) No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

(x) This Property is located by and is subject to the normal, everyday sounds, odors, and all other aspects associated with the nearby manufacturing area and an outdoor entertainment venue.

(y) No Owner shall be permitted to lease his Townhouse Lot for short term, transient, hotel, vacation, seasonal or corporate use, which for purposes of this section shall be considered any rental with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Townhouse Lot, including by way of illustration but not limitation to domestic help or a caretaker, without written notice to and the written consent of the Board of Directors. Any rental agreement entered into in violation of this subsection is voidable at the option of the Board of Directors and the renter may be declared "non-conforming." No renter shall be declared non-conforming without prior written notice to the Owner giving him the opportunity to be heard at an informal hearing before the Board of Directors, and to remedy the default. A non-conforming renter shall be considered a nuisance and the Association may require the Owner to permanently remove the renter (and all persons claiming a right to possession by or through him) from the Property, at the Owner's sole expense. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Townhouse Lot. The Association may require that Owners use lease forms approved by the Association or include specific terms in their leases,

such as a Crime Free Addendum or Safe Renting Addendum, and may impose a review or administration fee on the lease or transfer of any Townhouse Lot.

(z) Each Owner is strongly encouraged although not required to implement the Water-Wise Techniques.

(aa) Anything to the contrary notwithstanding, a Townhouse Lot must be owner-occupied for a period of at least one (1) year after closing. For use herein, the term "owner-occupied" shall mean a Townhouse Lot occupied by one of the following: (1) The vested owner (as shown on the records of the Salt Lake County Recorder); (2) The vested owner and/or his spouse, children or siblings; or (3) The shareholder, partner, member, trustor, beneficiary or other legal representative of an institutional owner (provided, such person holds a beneficial interest in such legal entity of at least fifty percent (50%)) and/or his spouse, children or parents.

9. **Capital Improvements.** All expenses for Capital Improvements shall be governed by and subject to the following conditions, limitations and restrictions:

(a) Any Capital Improvement or Addition to the Project which costs ten percent (10%) or less of the Total Annual Budget of the Association, and does not alter the nature of the Project, may be authorized by the Board of Directors alone (the "Capital Improvement Ceiling"). A major repair or a major maintenance expense shall not be considered a Capital Improvement or Addition.

(b) Any Capital Improvement, the cost of which will exceed the Capital Improvement Ceiling, must, prior to the commencement of construction, be authorized by at least a majority of the percentage of undivided ownership interest in the Common Area.

(c) Any Capital Improvement which would materially alter the nature of the Project (e.g., changing the roofing materials, the construction of the external Building surfaces, color scheme, etc.) must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the undivided ownership interest in the Common Areas.

10. **Operation, Maintenance and Alterations.** Each Townhouse Lot and the Common Area shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:

(a) The Townhouse Lots and Common Area and Facilities shall be maintained in a usable, clean, functional, safe, sanitary, attractive and good condition.

(b) The Association is responsible for the maintenance, repair and replacement all of the Common Area and Facilities within or serving the Project unless otherwise expressly noted (the "Area of Common Responsibility").

(c) Each Owner shall maintain, repair and replace his Townhouse Lot, his driveway and walkways servicing only his Unit, and the following improvements (whether or not such improvements are located within his Townhouse Lot), including without limitation all individual services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, fixtures, windows and window systems, glass, doors and door systems, garage doors and garage door systems, patios, balconies and decks, plumbing fixtures, systems and lateral pipes or valves, and all concrete, including the driveway, sidewalks, walkways, steps, porch and landing serving or servicing only his Townhouse Lot, including any damage caused thereby and not covered by insurance. Each Owner shall also maintain any Common Area or Facility appurtenant to his Townhouse Lot broom clean and free of debris, including his driveway, walkways, porch, landing, patio, deck or balcony, broom clean and free of grease spills, leaks, personal property, trash, litter and debris. All maintenance, repairs and replacements are subject to the approval of the Board of Directors as to construction materials, quality of construction and installation, and uniformity of appearance. No Owner shall allow his Townhouse Lot or the Common Area and Facilities adjacent thereto to detract from the health, safety or uniform appearance or design of the Project. Any repairs or replacements to physical improvements Visible to a Neighboring Property, including by way of illustration but not limitation all driveways and walkways appurtenant to a Townhouse Lot, are conditional upon and subject to the prior written approval of the Board of Directors in order to maintain quality of construction and uniformity of appearance. Any such repairs not approved by the Board of Directors shall be considered unacceptable and non-conforming.

(d) Anything to the contrary notwithstanding, (a) the Association, as part of its Area of Common Responsibility, is responsible for providing, contracting and/or subcontracting for the care, maintenance, repair and replacement of the exterior surfaces of any Building in order to maintain quality of construction and uniformity of appearance, and (b) each Owner, as part of his Area of Personal Responsibility, is personally and individually responsible to pay for his Building Exterior Assessment, which shall not be considered a Common Expense.

(e) To protect, honor and preserve the integrity and aesthetics of the Project, all landscaping within the Project, including by way of illustration but not limitation, each Entry, Entry Monument, and the perimeter wrought iron fencing with Trex and Rock Pillars, shall be maintained and cared for in a manner consistent with the (i) design scheme, standards of design, appearance and quality of construction originally established by Declarant and (ii) in accordance with any City landscaping maintenance plans or ordinances. All landscaping shall be maintained in a safe, sanitary, and aesthetic condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be mowed and edged; all trees, shrubs and bushes shall be pruned, trimmed and topped. No landscaping may affect adversely the value or use of any other Townhouse Lot, or to detract from the uniform design and appearance of the Project established by the Declarant. The Board of Directors may adopt, amend or repeal written landscaping rules, regulations, guidelines, standards, controls and restrictions from time to time.

(f) If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his obligation

with regard to the maintenance, repair, or replacement of the real property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the Association, or Board of Directors may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible party's sole cost and expense (the "Default Maintenance Cost"). The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such. In addition, it may be considered a "Fine" against a Owner. A Fine assessed hereunder which remains unpaid after the time for appeal has expired becomes a lien against the Owner's interest in the property in accordance with the same standards as a lien for the nonpayment of Common Expenses hereunder.

(g) The Declarant may make changes to the design and construction of the improvements located in or on the Common Areas without additional approval required, including without limitation the consent of the Board of Directors or Members of the Association; provided, however, no Owner or Permittee may make any structural alterations to the Common Area and Facilities, without the express prior written consent of the Board of Directors.

(h) No Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Property, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other Owners being first had and obtained.

(i) Each Owner is responsible for the removal of ice and snow accumulations from his driveway, walkways, steps and porch.

(j) The Association is responsible for the removal of snow and ice accumulations from the walks along 7800 South and Grizzly Way and other common walks, if any, and private lanes. The Association is not responsible to remove snow and ice accumulations from the driveways or walkways up to a house.

(k) If heat tape is required on or for a roof, each Owner shall be responsible to purchase, install, maintain, repair and replace the heat tape, subject to the approval of the Board of Directors in order to maintain quality of construction and uniformity of appearance.

11. **Storm Drain System, Slope and Drainage Control.** The Declarant shall establish a storm drainage system designed to serve Highbury Towns East, which may but is not obligated to include, in whole or in part, landscaping, open space, retention or detention ponds, streets, driving lanes, parking areas, and other common or private areas (collectively "Subdrain System" or "Storm Drain System").

(a) **Maintenance.** The Association is responsible to maintain, repair and replace the Subdrain System located in, on, under or within the boundaries of Highbury Towns East.

(b) Interference, Erosion or Damage Prohibited. No structure, object, whether natural or artificial, including by way of illustration but not limitation any tree, shrub, bush or plant, or other improvement or material may be placed or permitted to remain, or other acts or omissions, which may damage or interfere or threaten to damage or interfere with the Subdrain System, established controls, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels to the detention basin.

(c) Use Restrictions. It shall be the responsibility of each Owner to see that the use of his Lot or Townhouse Lot conforms with and continues to conform with any established grading and drainage plan that has previously been designed by the Declarant.

(d) Alterations to Established Drainage Pattern. For use herein the term "Established Drainage Pattern" is defined as the approved drainage pattern, facilities and improvements in existence at the time a Lot or Townhouse Lot is conveyed to a purchaser by the Declarant, its successor or assign. No changes to the Established Drainage Pattern on any Lot shall be permitted without the prior express written consent of the Board of Directors.

(e) Restriction Against Pollution of Water. In the interest of public health and sanitation, and so that the property and all other land in the same locality may be benefited by a decrease in the hazards of stream pollution and by the protection of water supplies, recreation, wild life, and other public uses of such property, no Owner or occupant shall use the property for any purpose that would result in the pollution of any waterway that flows through or adjacent to the property by refuse, sewage, or other material that might tend to pollute the waters of any such streams or otherwise impair the ecological balance of the surrounding lands.

(f) Restriction Against Excavation and Grading. No excavation or deposit of stone, gravel, earth or other material shall be made on the property, which may impair or threaten to impair the structural integrity and/or support of the Subdrain System, or any part thereof.

(g) Costs. The cost of all improvements, maintenance, repairs and replacements of the Subdrain System located in Highbury Towns East shall be considered a Common Expense.

(h) Damages. An Owner shall be responsible for damage caused to the Subdrain System in any manner, including negligence.

(i) Governmental Approval. The Association shall not have unilateral authority to change, by vote, alienation, alteration, transfer, sale, or otherwise, the use of the Subdrain System without the prior written consent of the City, who is hereby made a party to the covenants established by this Declaration for the sole purpose of protecting and preserving the use of the Subdrain System; however, the City shall neither be a member of the Association nor has a vote in the management, operation or regulation of its affairs, although the City is hereby granted a right of enforcement. This Section may not be amended without the express written consent of the City.

12. **Party Walls.**

(a) Each wall which is built as a part of the original construction of the Townhouse Lots upon the properties and placed on the dividing line between the Townhouse Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(c) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Notwithstanding any other provision of this section, an Owner who by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land and shall pass to such Owner's successors in title.

13. **Signs.**

(a) The entry monument and sign placed within the Common Area shall be maintained by the Owners in all respects. In the event of a partial or total destruction of the sign from any cause, the Owners shall rebuild the sign to restore it to its original dimensions and conditions consistent with applicable law. The Association shall have the sole and exclusive right to allocate the space on said sign for any and all purposes.

(b) Any signs comprising a part of a central directory to the Townhouse Lots or business development, or individual signs attached to individual Townhouse Lots shall conform in all respects to the Bylaws as administered by the Board of Directors.

(c) The requirements of Article 7, Section (q) apply to any and all signs.

14. **Insurance.**

(a) Each Owner will obtain:

(1) public liability insurance; and

(2) insurance against loss or damage by fire or other hazards for his Townhouse Lot, the Building in which his Townhouse Lot is contained, including by way of illustration but not limitation the foundation, columns, beams, girders, supports, basements, exterior surfaces and roofs, and contents. Each Owner shall provide the Association with a Certificate of Insurance upon request. The insurance premium shall be an individual expense. The Owner shall obtain and keep in full force and effect at all times the required insurance coverage provided by companies duly authorized to do business in Utah. The provisions of this subsection shall not be construed to limit the power or authority of the Owner to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as he may deem appropriate.

(b) The Board of Directors shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Utah (collectively, "Master Policy").

(1) The Manager, Board of Directors or Association, will obtain insurance against loss or damage by fire and other hazards for all Common Areas and Facilities, excluding the Lots, Townhouse Lots and the Buildings in which the Townhouse Lots are located. The insurance premiums shall be a Common Expense. Casualty insurance on the Property in such amounts as shall provide for full replacement thereof on the event of damage or destruction, all in the manner in which a corporation owning similar Apartments buildings would, in the exercise of prudent business judgment, obtain such insurance. Such insurance shall at a minimum include fire and extended coverage, and vandalism and malicious mischief coverage. The Board of Directors may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the opinion of the Board of Directors are consistent with good business practice.

(2) Broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall at a minimum include liability for personal injuries, operation of automobiles on behalf of the Association or Board of Directors, and activities in connection with the ownership, operation, maintenance and other use of the Property.

(3) Workers' compensation or employer's liability insurance and all other similar insurance in respect to employees of the Board of Directors in the amounts and in the forms now or hereafter required by law.

(4) A fidelity bond in the amount of 150% of the Association's estimated annual Common Expenses and reserves, to insure against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(c) The Board of Directors may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Property, including any personal property of the Board of Directors located thereon.

(d) This Section is without prejudice to the right and obligation of each Townhouse Lot Owner to insure his own Townhouse Lot for his benefit.

(e) The Board of Directors may obtain insurance on the personal property and furnishings initially placed in the Townhouse Lots by Declarant upon completion of construction of the Property in such amounts as shall provide for the full replacement thereof in the event of damage or destruction from casualty.

(f) The provisions of this section shall not be construed to limit the power or authority of the Board of Directors to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Manager, Board of Directors or Association may deem appropriate.

(g) Such policies shall provide a standard, non-contributory mortgages clause in favor of each first Mortgagee which shall have given notice to the Board of Directors of such first mortgage.

(h) Each policy also shall provide that it cannot be canceled by either the insured or the insurance company until after ten days prior written notice is first given to each Owner, to Declarant, and to each first Mortgagee.

(i) All policies of insurance shall, if possible, provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy.

(j) All policies of insurance shall, if possible, provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

(k) The Board of Directors may adjust claims.

(l) If a claim is covered by a Lot Owner's policy and the Master Policy, it is the intent of the Declarant that the Lot Owner's policy be considered primary and the Master Policy secondary.

15. **Casualty Damage or Destruction**

(a) All of the Owners irrevocably constitute and appoint the Board of Directors their true and lawful agent in their name, place and stead for the purpose of dealing with the Property upon its damage or destruction. Acceptance of a deed from the Declarant or from any Owner

shall constitute appointment of the Board of Directors as attorney in fact for the limited purposes as herein provided.

(b) As attorney in fact, the Board of Directors shall have full and complete authority, right and power to make, execute, and deliver any contract, deed or other instrument with respect to the interest of a Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the Property to substantially the same condition in which it existed prior to damage, with each Townhouse Lot and the Common Areas having substantially the same vertical and horizontal boundaries as before.

(c) In the event any Mortgagee should not agree to rebuild, the Board of Directors shall have the option to purchase such mortgage on behalf of the Association by payment in full of the amount secured thereby. The Board of Directors may obtain the funds for such purpose by Special Assessments under paragraph 7 of this Declaration.

(d) As soon as practicable after receiving estimates, the Board of Directors shall diligently pursue completion of the repair or reconstruction of the part of the Property damaged or destroyed, but only if the Property is damaged or destroyed to the extent of 75% or less than the value thereof. In the event the Property is destroyed or damaged to the extent of more than 75% of the value thereof, the Owners shall, at a meeting within one hundred (100) days after such damage or destruction duly called by the Board of Directors for the purpose, determine whether or not said premises should be rebuilt, repaired or disposed of. Unless Owners representing at least 80% of the undivided interest in the Common Areas agree to the withdrawal of the Property from the provisions of the Act and this Declaration and to its subsequent disposal, the Property shall be repaired, rebuilt or restored to substantially the same condition it was in immediately prior to destruction or damage. The Board of Directors may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in accordance with the original plans and specifications of the Property or may be in accordance with any other plans and specifications the Owners may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Townhouse Lot may not vary by more than 5% from the number of cubic feet and the number of square feet for such Townhouse Lot as originally constructed pursuant to the original plans and specifications, and the location of any building shall be substantially the same as prior to damage or destruction. The same easements for encroachments as declared in Section 4 shall apply under the provisions of this Section.

(e) The proceeds of any insurance collected shall be available to the Board of Directors for the purpose of repair or reconstruction. If the proceeds of insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Board of Directors may levy in advance a Special Assessment sufficient to provide funds to pay the estimated or actual costs of repair or reconstruction. Such Assessment shall be allocated and collected as provided in this Declaration. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

(f) The insurance proceeds held by the Board of Directors and the amounts received from Assessments provided for in Section 7 constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost or repair of reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made pursuant to the Assessments the Board of Directors made under Section 7 of this Declaration.

(g) If 75% of the Owners and all holders of first mortgages on Townhouse Lots agree not to rebuild, as provided herein, the Property may be removed from the provisions as prescribed therein. Withdrawal shall be in accordance with the Utah Statutes.

16. Duty of Owner to Pay Taxes on Townhouse Lot Owned.

Each Townhouse Lot and its appurtenant membership interest in the Association is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and Assessments authorized by law, and that as result thereof no taxes will be assessed or levied against the Property as such. Accordingly, each Owner will pay and discharge any and all taxes and assessments which may be assessed on that Townhouse Lot.

17. Allocation of Profits, Losses and Voting Rights.

a) Voting rights (subject to subsection (b) below) shall be distributed among the Lots equally. The ownership interest in the Association appurtenant to each Lot is equal. The ownership interest of each Lot and membership in the Association shall have a permanent character and shall not be altered without the express affirmative consent of at least two-thirds (2/3) of the Lots memorialized in an amendment to the Declaration duly recorded.

b) The Association shall have two (2) classes of membership -- Class A and Class B, described more particularly as follows:

1) Class A Members shall be all Owners with the exception of the Class B Members, if any.

2) Class A Members shall be entitled to vote on all issues before the Association to, subject to the following:

(a) Each Lot shall have one (1) vote;

(b) No vote shall be cast or counted for any Lot not subject to assessment;

(c) When more than one person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine

and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one person or entity seeks to exercise it.

(d) Any Owner who has leased his Lot may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three (3) days prior to any meeting.

3) Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant.

(a) The Class B Member shall originally be entitled to three (3) votes per Lot owned; provided, however, anything to the contrary notwithstanding, the Class B Member shall never have less than one (1) more vote than all Class A votes combined.

(b) The Class B membership and the Class B Control Period shall terminate, and Class B membership shall convert to Class A membership upon the happening of the earlier of the following (which is hereinafter referred to as the "Event" or "Events"): (1) After all of the Lots have been sold or (2) when, in its sole discretion, Declarant so determines and records a written "Notice of Termination of Class B Control Period."

From and after the happening of these Events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Declarant shall transfer control of the Association in the manner described herein.

18. **Amendment of this Declaration.**

(a) General. Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the Total Votes of the Association cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the Association. In such instrument an officer or Director of the Association shall certify that the vote required by this Section for amendment has occurred.

(b) Initial Declarant Right to Amend. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Townhouse Lot.

(c) Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant if such Amendment is (1) necessary to correct typographical errors or inadvertent omissions; (2) necessary to bring any provision hereof into

compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (3) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Townhouse Lots subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Townhouse Lot unless any such Owner shall consent thereto in writing.

(d) Declarant's Right to Amend Unilaterally Prior to Termination of Declarant's Right to Control. Prior to the expiration of the Period of Declarant's Control, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

(e) To Satisfy Requirements of Lenders. Anything to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Townhouse Lots, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Townhouse Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of a written Amendment duly signed by the Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the change, modification or amendment requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Townhouse Lots and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, Declarant shall have the unilateral right to amend this Declaration to restore such control.

(f) Declarant's Rights. No provision of this Declaration reserving or granting to Declarant the Developmental Rights shall be amended without the prior express written consent of Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Declarant's sole and exclusive discretion.

(g) Consent of Eligible Mortgagee. The consent of Eligible Mortgagees holding at least sixty seven percent (67%) of the undivided ownership interest of the Owners in Highbury Towns East in the Common Area and Facilities and shall be required to any amendment which would terminate the legal status of Highbury Towns East; and the consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the undivided ownership interest of the Owners in Highbury Towns East in the Common Area and Facilities shall be required to add to

or amend any material provision of this Declaration or the Final Plat which establishes, provides for, governs, or regulates any of the following, which are considered as "material":

- 1) voting rights;
- 2) increases in Assessments that raise the previously assessed amount by more than twenty-five (25%) percent, Assessment liens, or the priority of Assessments liens;
- 3) reduction in reserves for maintenance, repair, and replacement of the Common Area and Facilities;
- 4) responsibility for maintenance and repairs;
- 5) reallocation of interests in the Common Area and Facilities, or rights to their use;
- 6) redefinition of any Townhouse Lotboundaries;
- 7) convertibility of Townhouse Lots into Common Area and Facilities or vice versa;
- 8) expansion or contraction of Highbury Towns East, or the addition, annexation, or withdrawal of property to or from Highbury Towns East;
- 9) hazard or fidelity insurance requirements;
- 10) imposition of any restrictions on the leasing of Townhouse Lots;
- 11) imposition of any restrictions on an Owner's right to sell or transfer his Townhouse Lot;
- 12) a decision by the Association to establish self-management if professional management had been required previously by the Governing Documents or by an Eligible Mortgage holder;
- 13) restoration or repair of Highbury Towns East (after damage or partial condemnation) in a manner other than that specified in the documents;
- 14) any provisions that expressly benefit mortgage holders, insurers or guarantors; and

15) any provisions required by Utah State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA, any other federal, state or local governmental agency or a federally chartered lending institution, which in all respects shall govern and control.

(h) Material Amendment. Any addition or amendment shall not be considered material for purposes of this Section if it is for the clarification only or to correct a clerical error.

(i) Notice to Eligible Mortgagee. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Plat Final Plat is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Board of Directors or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Plat Final Plat or the termination of the legal status of the Project as a planned CommTownhouse Loty development if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

19. **Expansion of Highbury Towns East.**

(a) Reservation of Option to Expand. Declarant hereby reserves the option to expand Highbury Towns East to annex additional real estate and include additional Townhouse Lots in Highbury Towns East. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire five (5) years from the date following the first conveyance of a Townhouse Lot in Phase I to a Townhouse Lot purchaser unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said five (5) years. Such right may be exercised without first obtaining the consent or vote of Townhouse Lot Owners and shall be limited only as herein specifically provided. Such Townhouse Lots shall be constructed on any or all portions of the Additional Land.

(b) Supplemental Declarations and Supplemental Final Plats. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Salt Lake County, Utah, no later than five (5) years from the date this Declaration is recorded, a Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Townhouse Lots, together with supplemental Final Plat or Final Plats containing the same information with respect to the new Townhouse Lots as was required on the Final Plat with respect to the Phase I Townhouse Lots. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

(c) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to Highbury Towns East as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to Highbury Towns East by a Supplemental

Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Townhouse Lots after such expansion shall be effective to transfer rights in Highbury Towns East, with additional references to the Supplemental Declaration and the Supplemental Final Plat. The recordation in the office of the Salt Lake County Recorder of a Supplemental Final Plat incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Townhouse Lots in Highbury Towns East as it existed before such expansion the respective undivided interests in the new Common Areas added to Highbury Towns East as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Townhouse Lot in Highbury Towns East as it existed, interest so acquired by the Owner of the Townhouse Lot encumbering the new Common Areas added to Highbury Towns East as a result of such expansion.

(d) Declaration Operative on New Townhouse Lots. The new Townhouse Lots shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Townhouse Lots therein shall be subject to ownership within a planned development with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Final Plat and Supplemental Declaration in the said office of the Salt Lake County Recorder.

(e) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Townhouse Lot shall be deemed to irrevocably reserve to the Declarant the power to appoint to Townhouse Lot Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Declaration. The proportionate interest of each Townhouse Lot Owner in the Common Areas after any expansion of Highbury Towns East shall be an undivided interest of Highbury Towns East as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental or Declarations recorded pursuant hereto and each deed of a Townhouse Lot in Highbury Towns East shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Townhouse Lots may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than five (5) years after the effective date of the Declaration.

(f) Revised Schedule. Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Final Plat incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any Declaration associated with any prior phase. In the event the provisions of the separate instruments relating to Highbury Towns East conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

(g) Other Provisions Concerning Expansion. If Highbury Towns East is expanded as hereinbefore contained, then it is further provided that:

(1) All or any part of the Additional Land may be added to Highbury Towns East without any limitations whatsoever save and except that all additional Townhouse Lots created must be restricted to multi family residential housing limited to one family per Townhouse Lot.

(2) Portions of the Additional Land may be added to Highbury Towns East at different times without any limitations.

(3) Declarant shall have the right without further conveyance or documentation to build roads and access ways to the Additional Property through the easement areas as shown on the Final Plat. The Association of Townhouse Lot Owners shall not allow anything to be built upon or interfere with said easement areas.

(4) No assurances are made concerning:

a. The locations of any improvement that may be made on any portion of the Additional Land that may be added to Highbury Towns East.

b. Type, kind or nature of improvement which may be created on any portion of the Additional Land, except that the common facilities, Buildings and Townhouse Lots will be comparable to the Phase I facilities on a per Townhouse Lot basis and will be of a similar quality of materials and construction to Phase I and will be substantially completed prior to annexation.

c. Whether any Townhouse Lots created on any portion of the Additional Land will be substantially identical to those within the initial Tract except that Townhouse Lots will be constructed of an equal or better quality of materials and construction than the Townhouse Lots in Phase I.

d. Type, size, or maximum number of Common Area and Facilities which may be created within any portion of the Additional Land added to Highbury Towns East.

(5) Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to:

(a) The submission of any portion of the Additional Land to the provisions of the Act as Land under this Declaration;

(b) The creation, construction, or addition to Highbury Towns East of any additional property;

(c) The carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or

(d) The taking of any particular action with respect to the Additional Land, or any real property annexed to Highbury Towns East.

20. **Transfer of Management.**

Anything to the contrary notwithstanding, Declarant may at any time relinquish its reserved right to select the Members of the Board of Directors and may elect to transfer the management of Highbury Towns East to a Board of Directors elected by the Owners. Upon the termination of the Period of Declarant's Control, or sooner if the Declarant so elects, Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date"). The transfer shall be considered effective on the date of the Notice of Transfer Date letter. Thereupon, the Owners shall be obligated to call a meeting to elect the members of the Owner controlled Board of Directors to take office as of the Transfer Date. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. The Owners covenant with the Declarant to cooperate with Declarant in effecting an orderly transition of management. Declarant shall cause all obligations for Common Expenses of the Association prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Association funds to the newly elected Board of Directors.

21. **Working Capital Fund.**

A working capital fund shall be established by the Declarant equal to or greater than two (2) months' Assessments for each Townhouse Lot. Each Townhouse Lot's share of the working capital fund shall be paid by the buyer of a Townhouse Lot, collected by the title company, and transferred to the Association at the time of closing of the sale of each Townhouse Lot. If the working capital contribution is paid for by the Declarant, in cash or kind, then the Declarant shall be reimbursed for such contribution by the buyer of such Townhouse Lot at the time of closing. The purpose of the working capital fund is to insure that the Board of Directors will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of Highbury Towns East. Sums paid into the working capital fund are not to be considered as advance payments or regular monthly payments of Common Expenses. Thereafter, the Board of Directors may continue the working capital fund by charging a reasonable transfer or impact fee when Townhouse Lots are sold or rented.

22. **Enforcement and Right to Recover Attorneys Fees.**

(a) **General Remedies.** Should the Association, Manager, Board of Directors or an aggrieved Owner be required to take action to enforce the Governing Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorneys fee, which may arise or accrue.

(b) **Additional Remedies.** In addition, the Board of Directors may impose the following sanctions after proper notice and the opportunity to be heard:

- (1) imposing Individual Charges, Default Assessments and fines, which may be secured by a lien against the Owner's interest in the Property;
- (2) suspending an Owner's right to vote;
- (3) suspending any Person's right to use any of the recreational amenities located in the Common Area; provided, however, nothing herein contained shall authorize the Board of Directors to limit ingress or egress to or from a Townhouse Lot;
- (4) requiring an Owner at his sole expense to remove any structure or improvement in the Common Area and Facilities, and upon the failure of the Owner to do so, the Board of Directors or its designee shall have the right to enter the property and remove the violation and restore the property to its original condition, and such action shall not be deemed a trespass;
- (5) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the Governing Documents; and
- (6) levying Individual Charges or a Default Assessment to cover costs and expenses incurred by the Association to bring an Owner into compliance.

23. **Service of Process.**

Until changed by amendment to this Declaration, the name of the person to receive service of process and the place of his residence is:

Christopher P. Gamvroulas
978 East Woodoak Lane
Salt Lake City, Utah 84117

24. **Mortgagees.**

Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Townhouse Lot shall be subject to and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) where such interest was made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien on the interest of the purchaser at such foreclosure sale to secure all Assessments made pursuant to this Declaration after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the manner as provided herein. All other mortgages shall have such rights and priorities as established by law.

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage who does not join in the execution thereof.

25. **Indemnification of Board of Directors.**

Each member of the Board of Directors shall be entitled to be indemnified and held harmless by the Owners against all cost, expenses, and liabilities whatsoever, including attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of being or having been a member of the Board of Directors.

26. **Severability.**

If any provision, paragraph, sentence, clause, phrase, or word of this Declaration should under any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

27. **Topical Headings and Conflict.**

The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration of any paragraph or provision hereof. In case any provisions hereof shall conflict with Utah law, Utah law shall be deemed to control.

28. **Effective Date.**

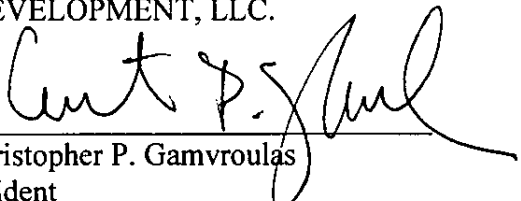
This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

29. **Incorporation of Master Declaration and This Declaration as Supplemented and Amended.** It is expressly agreed by the parties that this document is supplemental to the Master Declaration and this Declaration, which are by reference made a part hereof, and all of the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to Highbury Towns East and are made a part of this document as though they were expressly rewritten, incorporated and included herein.

30. **Conflict.** In the event of any conflict, inconsistency or incongruity between the provisions of the Master Declaration and this Declaration, as supplemented or amended, and this Declaration, the provisions of the former shall in all respects govern and control.

~~September~~ IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 9th day of ~~June~~, 2009.


DECLARANT:
IVORY DEVELOPMENT, LLC.

By: 
Name: Christopher P. Gamvroulas
Title: President

ACKNOWLEDGMENT

STATE OF UTAH)
 ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 9th day ~~June~~ ^{September}, 2009 by Christopher P. Gamvroulas, as President of IVORY DEVELOPMENT, LLC, a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC executed the same.


NOTARY PUBLIC
Residing at: SLC
My Commission Expires: 01-30-2012

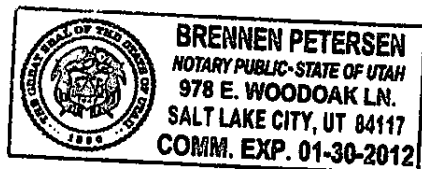


EXHIBIT "A"

**LEGAL DESCRIPTION
Highbury Towns East Property**

The Property referred to in the foregoing document as the Highbury Towns East Property is located in Salt Lake County, Utah and is described more particularly as follows:

Highbury Towns East P.U.D. Phase 1, Lots 101-131, inclusive, as shown on the official plat thereof on file and of record in the office of the Salt Lake County Recorder; and

All appurtenant Common Area and Facilities as shown on the official plats on file and of record in the office of the Salt Lake County Recorder.

EXHIBIT "B"

BYLAWS OF THE HIGHBURY TOWNS EAST ASSOCIATION

ARTICLE I NAME AND LOCATION

Section 1 .01 Name and Location. The name of the association is Highbury Towns East Association (the "Association"). The principal office of the corporation shall be located at 3340 North Center, Lehi, UT 84045, but meetings of Members and Board of Directors may be held at such places within the State of Utah, as may be designated by Board of Directors.

ARTICLE II DEFINITIONS

Section 2.01 Definitions. Except as otherwise provided herein or as may be required by context, all terms defined in Paragraph 1 of the Declaration shall have such defined meanings when used in these Bylaws.

ARTICLE III MEETINGS OF MEMBERS OF THE ASSOCIATION

Section 3.01 Annual Meeting. The Board of Directors shall meet as often as it deems reasonably necessary but not less than annually at a convenient time and place.

Section 3.02 Special Meetings. Special meetings of the Members of the Association may be called at any time by the President, by a majority of the Members of the Board of Directors, or by a petition signed by $\frac{1}{4}$ of the Lots.

Section 3.03 Notice of Meetings. Written notice of each meeting of the Association shall be given to each Owner by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to said Owner addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the 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 3.04 Quorum. Those Owners present in person or by proxy at any meeting shall constitute a quorum.

Section 3.05 Proxies. At all Association meetings, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable

and shall expire, if not previously revoked, eleven (11) months after the date it is given by the Owner.

Section 3.06 Action Taken Without a Meeting. The Association shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of at least a majority of the Lots, unless a higher percentage is required by the Declaration. Any action so approved shall have the same effect as though taken at a meeting of the Association.

ARTICLE IV BOARD OF DIRECTORS AND TERM OF OFFICE

Section 4.01 Number. The affairs of the Association shall be managed by a Board of Directors comprised of three (3) natural persons. Each Member must be duly qualified and appointed or elected. The initial Members of the Board of Directors are Christopher P. Gamvroulas, Bardley T. Mackay and Steven Palmer.

Section 4.02 Replacement. If a Member resigns or is otherwise unable or unwilling to serve, then the remaining Members shall appoint a replacement to complete his term of office.

Section 4.03 Term of Office. Each Member on the Board of Directors shall serve a term of one (1) year.

Section 4.04 Compensation. No Member shall receive compensation for any service he may render to the Association as a member of the Board of Directors, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services. A Member may enter into a separate and independent contract with the Association to provide additional services for a fee.

Section 4.05 Action Taken Without a Meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Members. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

Section 4.06 Voting. Each Member shall have one (1) vote.

Section 4.07 Managing Member. The initial Managing Member shall be Christopher P. Gamvroulas. This office and agency shall expire automatically upon the termination of the Period of Declarant's Control.

**ARTICLE V
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 5.03 Powers. The Association shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. Without in any way limiting the generality of the foregoing, the Association may act through its Board of Directors and shall specifically have the powers and duties set out in this Article V, including

Section 5.03.1 Assessments. The power and duty to levy Assessments on the Owners, and to enforce payment of such Assessments in accordance with the Declaration.

Section 5.03.2 Association Property. The right to own and/or lease the Association Property and the duty to maintain and manage the Common Areas and Facilities and improvements thereon. In particular the Association shall:

- a. Maintain and repair in an attractive, safe and functional condition the Common Areas and Facilities;
- b. Pay all taxes and Assessments levied upon the Common Areas and Facilities and all taxes and Assessments payable by the Association;
- c. Obtain any water, sewer, gas and electric services needed for the Common Areas and Facilities; and
- d. Do each and every other thing reasonable and necessary to operate the Common Areas and Facilities and the Association.

**ARTICLE VI
OFFICERS AND THEIR DUTIES**

Section 6.01 Enumeration of Officers. The officers of the Association shall be a president and secretary, plus such other officers as the Board of Directors may from time to time by resolution create. The same individual may not hold the office of president and secretary at the same time. The officers need not be Members of the Board of Directors.

Section 6.02 Election of Officers. The Board of Directors shall elect or appoint officers at the first meeting of the Board of Directors during each calendar year.

Section 6.03 Term. Each officer of the Association shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 6.04 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

Section 6.05 Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.06 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6.07 President. The president shall (a) preside at all meetings of the Board of Directors, (b) see that orders and resolutions of the Board of Directors are carried out and (c) sign all contracts.

Section 6.08 Secretary. The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Association, (b) keep the corporate seal of the Association and affix it on all papers requiring said seal, (c) serve notice of meetings of the Board of Directors and of the Association, (d) keep appropriate current record showing the Members of the Association together with their addresses and (e) perform such other duties as may be required by the Board of Directors.

ARTICLE VII SUBCOMMITTEES

Section 7.01 Board of Directorss. The Board of Directors may appoint such subcommittees as deemed appropriate in carrying out its purposes.

ARTICLE VIII BOOKS AND RECORDS

Section 8.01 Books and Records. The books and records shall be kept with detailed accounts of the receipts and expenditures affecting Highbury Towns East, and the administration of Highbury Towns East, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working

days at the times and in the manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

Section 8.02 Signatures. The Board of Directors will determine the signatures required on all Association checks, contracts, instruments, documents and writings.

Section 8.03 Bookkeeping. The accounting and financial statements for Association must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may not be a member of the Board of Directors or an officer of the Association. The accountant or bookkeeper shall prepare and file all tax returns for the Association.

Section 8.04 Audit. Either a (a) majority vote of the Members of the Board of Directors or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement or Audited Statement of the Association.

ARTICLE IX AMENDMENTS

Section 9.01 Amendment to Bylaws. These Bylaws may only be amended (a) unilaterally by the Declarant until the expiration of the Period of Declarant's Control or (b) the affirmative vote of a majority of the members of the Board of Directors, or (c) a majority of the Owners. In the event of a conflict between the decision of the Owners and the Board, the former shall in all respects govern and control.

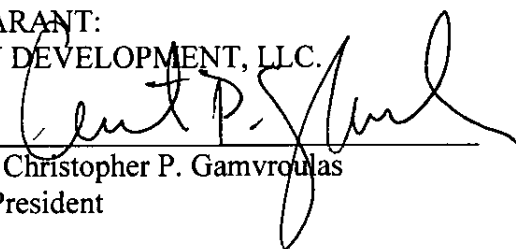
Section 9.02 Conflict Between Articles, Bylaws and Declaration. In the case of any conflict between the Declaration and these Bylaws or Articles, the former shall in all respects govern and control.

ARTICLE X MISCELLANEOUS

Section 10.01 Miscellaneous. The fiscal year of the Association shall begin on the first day of March and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 9th day of ~~June~~^{September}, 2009.

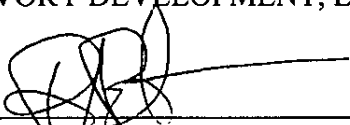
DECLARANT:
IVORY DEVELOPMENT, LLC.

By: 
Name: Christopher P. Gamvroulas
Title: President

ACKNOWLEDGMENT

STATE OF UTAH)
 ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 9th day ~~June~~ ^{September}, 2009 by Christopher P. Gamvroulas, as President of IVORY DEVELOPMENT, LLC, a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC executed the same.



NOTARY PUBLIC
Residing at:
My Commission Expires:

