

When Recorded Return to:  
Scott R. Sabey  
FABIAN & CLENDENIN  
215 South State Street, Suite 1200  
Salt Lake City, UT 84111

12033926  
4/20/2015 4:27:00 PM \$94.00  
Book - 10316 Pg - 3767-3807  
Gary W. Ott  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 41 P.

**MASTER DECLARATION**  
**OF**  
**COVENANTS, CONDITIONS AND RESTRICTION FOR:**

**Canyon Centre**  
7350 South Wasatch Boulevard Cottonwood Heights, Utah

April 17, 2015

Prior Parcel # 22-25-176-021  
CTIA-72829-AP

## TABLE OF CONTENTS

<b>ARTICLE I Definitions .....</b>	<b>1</b>
Defined Terms.....	1
<b>ARTICLE II Submission .....</b>	<b>6</b>
2.1 Declaration .....	6
2.2 Covenants to Run With Land .....	6
2.3 After Acquired Title.....	6
2.4 Dedication of Roadways.....	7
2.5 Master Plan .....	7
2.6 Amendment of Plat.....	7
2.7 Condominium Declaration .....	7
2.8 Enforcement .....	7
2.9 Relationship of Associations .....	7
<b>ARTICLE III Administration of Project .....</b>	<b>8</b>
3.1 Development of Lots.....	8
3.2 Construction of Improvements .....	8
3.3 Maintenance of Improvements .....	8
3.4 Parking .....	9
3.5 Barriers Restricted.....	9
3.6 Landscaping .....	9
3.7 Common Facilities .....	9
3.8 Costs of Landscaping Common Easement Areas .....	10
3.9 Management of Landscaping in Common Easement Areas .....	10
3.10 Permitted Use.....	10
3.11 Environmental Restriction.....	10
3.12 Reserve Analysis .....	11
3.13 Compliance with Law .....	11
3.14 Storage .....	11
3.15 Nuisances .....	11
3.16 Signs.....	11
3.17 Utilities.....	12
3.18 Subdivision of Lot.....	12
3.19 Reservation by Declarant .....	12
3.20 No Third Party Beneficiary .....	12
<b>ARTICLE IV Roadways .....</b>	<b>12</b>
4.1 Roadways .....	12
<b>ARTICLE V Other Easements .....</b>	<b>13</b>
5.1 In General.....	13
5.2 Other Easements.....	13
5.3 Ingress, Egress and Parking on Common Easement Areas.....	13
5.4 Use of Roadways.....	13
5.5 Public Utilities Easement .....	13
5.6 Drainage Easement.....	14
5.7 Sign Easements .....	14
5.8 Encroachment Easement .....	14
5.9 Access to Perform Duties .....	14
5.10 Extension of Easement .....	14
5.11 No Public Dedication .....	15

<b>ARTICLE VI Master Association</b> .....	15
6.1 The Master Association.....	15
6.2 Members of Master Association.....	15
6.3 Voting Rights.....	15
6.4 Voting.....	16
6.5 Multiple Ownership.....	16
6.6 Vote of Members.....	16
6.7 Meetings.....	16
6.8 Organization.....	17
6.9 No Personal Liability; Indemnification.....	17
<b>ARTICLE VII Rights, Duties, Obligations and Restrictions</b> .....	17
7.1 Management of Common Easement Areas.....	17
7.2 Rules and Regulations.....	18
7.3 Allocation of Taxes.....	18
7.4 Special Services.....	18
7.5 Project Signs.....	18
7.6 Restriction Against Hotel.....	19
7.7 Enforcement of Rights.....	19
7.8 Manager.....	19
7.9 Implied Right.....	19
<b>ARTICLE VIII Assessments</b> .....	19
8.1 Payment of Assessment.....	19
8.2 Apportionment.....	20
8.3 Annual Budget.....	20
8.4 General Assessment.....	20
8.5 Supplemental Assessments.....	21
8.6 Reimbursement Assessment.....	21
8.7 Collection of Assessments.....	21
8.8 Notice of Unpaid Assessment.....	21
8.9 Remedies to Enforce Assessments.....	22
8.10 Lien for Assessments.....	22
8.11 Priority of Lien; Liability of Owner.....	22
8.12 Certificate of Assessment.....	23
8.13 No Avoidance.....	23
8.14 Accrual of Interest.....	23
8.15 No Offset.....	23
8.16 No Assessments to Park Owner.....	23
<b>ARTICLE IX Mortgagee Protection</b> .....	24
9.1 Mortgagee Protection.....	24
9.2 Notice of Noncompliance to Mortgagee.....	24
9.3 Priority of Assessment Lien.....	24
9.4 Financial Information.....	24
9.5 Amendment to Article.....	24
9.6 Notices to Mortgagee.....	24
<b>ARTICLE X Architectural Control</b> .....	25
10.1 Architectural Control.....	25
10.2 Architectural Control Committee.....	25
10.3 Purpose of Architectural Control Committee.....	25
10.4 Design Guidelines and Standards.....	25

10.5 Design Review Procedures.....	26
10.6 Required Vote .....	27
10.7 Variances.....	27
10.8 Final Plans.....	27
10.9 Inspection .....	27
10.10 Notice of Noncompliance.....	28
10.11 Correction of Noncompliance .....	28
10.12 No Liability .....	28
10.13 Exclusions .....	28
<b>ARTICLE XI Insurance and Condemnation .....</b>	<b>29</b>
11.1 Insurance .....	29
11.2 Condemnation .....	29
<b>ARTICLE XII Miscellaneous Provisions .....</b>	<b>30</b>
12.1 Notices .....	30
12.2 Amendment.....	30
12.3 Amendment by Declarant.....	30
12.4 Duration .....	30
12.5 No Merger .....	30
12.6 Assignment of Declarant's Rights and Remedies .....	31
12.7 Violation Creates Nuisance .....	31
12.8 Violation of Law .....	31
12.9 No Third Party Beneficiary .....	31
12.10 Words of Conveyance .....	31
12.11 Liberal Interpretation.....	32
12.12 Gender and Number .....	32
12.13 Captions .....	32
12.14 Invalidity of Provision.....	32
12.15 Exhibits .....	32
12.16 Governing Law and Venue.....	32

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CANYON CENTRE**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CANYON CENTRE is executed this 17 day of April, 2015 by CANYON CENTRE CAPITAL, LLC, a Utah limited liability company ("**Declarant**").

A. Declarant is the fee simple owner of certain real property (the "**Property**") located in the city of Cottonwood Heights, Salt Lake County, State of Utah and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference.

B. The Property includes a resort based residential, retail and commercial center to be known as "**Canyon Centre**", and may from time to time be referred to herein as the "**Project**".

C. The Plat was recorded April 8, 2015 as Entry # 12026637 in Book 2015P at Page 83, and the Master Plan for the Property has been approved by the City. Copies of the Plat and the Master Plan are attached hereto respectively as **Exhibits B and C** respectively, and are incorporated herein by this reference.

D. Declarant desires to adopt this Master Declaration to establish common easements, easements, covenants and restrictions and to provide for the common management and operation of the Project, to place certain use restrictions on the Property and to protect and preserve the value of the Project and the improvements which are intended to be constructed therein.

NOW, THEREFORE, Declarant does hereby declare that the Property, as defined and described herein, is subject to the Act.

**ARTICLE I  
DEFINITIONS**

1. **Defined Terms.** Unless the context clearly indicates otherwise, certain terms used in this Master Declaration have the meanings set forth in this Article I. Unless the context requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

"**Act**" means and refers to the Utah Revised Nonprofit Corporation Act, Utah Code Ann. 16-6a-101 et seq.

"**Allocated Interest**" means the undivided interest in the Common Easement Areas, Common Facilities and the Common Expense liability as set forth in Section 8.2.

"**Annual Budget**" means the budget adopted by the Board for the following year based on the Board's projections of Common Expenses and reserves for such year.

"**Architectural Control Committee**" means the committee of the Master Association established pursuant to Section 10.2, which committee shall be separate from and in addition to any governmental or quasi-governmental architectural or design review process.

**“Articles”** means the Articles of Incorporation prepared and filed for the formation of the Master Association in accordance with the requirements of applicable laws and regulations of the State of Utah.

**“Assessments”** means all of General Assessments, Supplemental Assessments and Reimbursement Assessments.

**“Board”** means the governing board of the Master Association.

**“Building”** means a structure built on any portion of the Project for permanent use, including, but not limited to, buildings, the Parking Structure, theaters, stages, amphitheaters, outside platforms and docks, canopies, plazas, enclosed atriums, malls and porches.

**“Bylaws”** means the written procedures adopted for the regulation or management of the affairs of the Master Association, as they may be amended from time to time.

**“City”** means Cottonwood Heights, a municipal corporation of the State of Utah, or the Cottonwood Heights Community Development and Renewal Agency, as applicable.

**“Common Easement Area”** means any easements, including designated easements as shown on Exhibit D within the Project owned by the Master Association for the use and benefit of the Master Association and which may in the future be formally designated on the Plat (without further approval or consent from any Owner) as areas to be owned and used in common and/or the conveyance of such areas by deed to the Master Association. Except where the context shall require otherwise, the term Common Easement Areas shall include all Common Facilities. The Park and all Park Improvements are expressly excluded from the Common Easement Area.

**“Common Expenses”** means any and all costs and expenses incurred by the Master Association in the performance and preservation of the rights, duties and obligations of the Master Association, including, by way of explanation but not by way of limitation, (i) the ownership, operation and/or maintenance of the Common Easement Areas, and Common Facilities, (ii) the costs and expenses associated with the existence of the Master Association, (iii) a reasonable contingency reserve, surplus and/or sinking fund, and (iv) a ten percent (10%) administrative fee to be paid to the Master Association.

**“Common Facilities”** means all Project signs and all improvements located upon the Common Easement Areas, if any, and including, without limitation, any directional, traffic, identification and/or Project signs used for the entire Project and not exclusively for any specific Building or Occupant. Common Facilities shall also include any and all equipment which shall be leased, owned or used by the Master Association in the ownership, operation and maintenance of the Project.

**“Condominium Association”** means and refers to THE CANYON CENTRE CONDOMINIUM ASSOCIATION incorporated as a Utah nonprofit corporation to govern the operation and maintenance of the Units, including the Parking Structure, and to implement the provisions of the Condominium Declaration.

**“Condominium Declaration”** means the Condominium Declaration for Canyon Centre recorded against Lot 2 of the Property.

**“Condominium Plat”** means the record of survey map of the portion of the Project subject to the Condominium Declaration and recorded in the records of the county recorder of Salt Lake County, Utah, and all amendments and supplements thereto.

**“Declarant”** means and refers to Canyon Centre Capital, LLC, a Utah limited liability company.

**“Declaration”** means this Master Declaration of Covenants, Conditions and Restrictions for Canyon Centre.

**“Default Rate”** means the rate of interest determined in accordance with the provisions of Section 8.14 and which is required to be paid in accordance with the provisions of this Master Declaration.

**“Design Guidelines and Standards”** means the standards and procedures which are to be adopted by the Architectural Control Committee pursuant to Section 10.4 hereof.

**“Development Agreement”** means the Development Agreement entered into between Cottonwood Heights Community Development and Renewal Agency, City and Developer with respect to the Project.

**“Director”** has the meaning set forth in Section 6.9.

**“Drainage Easement”** has the meaning set forth in Section 5.6.

**“Drainage Lines”** has the meaning set forth in Section 5.6.

**“Easement” or “Easements”** means any easement or, as the context shall require, all easements (i) granted pursuant to the provisions of this Master Declaration, (ii) set forth on the Plat, or (iii) to which the Property is subject pursuant to documents which have been or will be recorded with the Salt Lake County Recorder, State of Utah.

**“Environmental Laws”** has the meaning set forth in Section 3.11.

**“General Assessments”** means the share of the Common Expenses which are to be paid by each Owner, except the Owner of the Park, as more specifically set forth in Section 8.16 hereof.

**“Hotel Plaza”** means that portion of the Hotel Unit (as defined in the Condominium Declaration) designated as the Hotel Plaza on the Condominium Plat, which plaza shall be constructed and maintained by the Hotel Owner as determined by the Board and the Architectural Control Committee and which shall be open to the public at the times determined by the Board, subject to reasonable rules and regulations promulgated and enforced by the Hotel Owner.

**“Improvements”** means and includes all Buildings and other improvements made to or constructed upon any portion of the Property and shall include, by way of explanation and not by way of limitation, all Buildings, plazas, driveways, sidewalks, parking areas, the Parking Structure, curb, gutters, landscaping, retaining walls, signs, utilities, exterior lighting and exterior signs.

**“Interest Rate”** means that rate of interest determined in accordance with the provisions of Section 8.14 and which shall be paid in accordance with the provisions of this Master Declaration.

**“Landscaping”** means lawn, ground cover, flowers, shrubbery, trees and the like which may be complemented with earth berms, masonry or similar materials and the real property located thereunder, together with all sprinkling or other irrigation system related thereto.

**“Landscape Plan”** means the plan for the installation and maintenance of Landscaping of a Lot which has been submitted to and approved by the Architectural Control Committee.

**“Lot”** means a parcel, plot, or other division of land designed for separate ownership or occupancy and shown on the Plat, and also includes a Unit in a condominium association that is a part of the Project even though such condominium Unit is constructed on only a portion of a platted lot. Except where the context specifically otherwise requires, reference to a Lot shall include a reference to the Allocated Interest in the Common Easement Area appurtenant to such Lot.

**“Master Association”** refers to the CANYON CENTRE OWNERS ASSOCIATION, a Utah nonprofit corporation, organized to own the Common Easement Areas and Common Facilities, if any, to govern the operation and maintenance of the Project, except as maintained by the Owners hereunder, and to implement the provisions of this Master Declaration.

**“Master Plan”** means and refers to the non-binding, general plan of development for the Property, as amended from time to time, and as further described in Section 2.5.

**“Member or Members”** refers to each or all Owners, each of which is entitled to vote and otherwise participate in decisions made by the Master Association and which parties shall consist of all Owners.

**“Mortgage”** means any mortgage, deed of trust or other security instrument by which a Lot or any part of the Property is encumbered. No Mortgage executed by an Owner of a Lot shall be construed to constitute a lien or other encumbrance upon any other Lot or the Common Easement Areas or Common Facilities.

**“Mortgagee”** means any person or entity named as the mortgagee or beneficiary under a Mortgage or any successor in interest to such person or entity.

**“Occupant”** means any party, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership or association which has purchased, leased, rented or otherwise acquired the right to occupy and use any Building or any portion thereof, whether or not such right is exercised.

**“Office Plaza”** means the portion of the Office Unit (as defined in the Condominium Declaration) designated as the Office Plaza on the Condominium Plat, which plaza shall be constructed and maintained by the Office Owner as determined by the Board and the Architectural Control Committee and which shall be open to the public at the times determined by the Board, subject to reasonable rules and regulations promulgated and enforced by the Office Owner.

**“Owner”** means and refers to any party, including Declarant, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership or association, which holds in fee title, the rights and incidents of ownership of real property in the State of Utah as to a Lot within the Project as evidenced in the official records of Salt Lake County, State of Utah, and shall also include any sub-association created by any Lot Owner (other than the Condominium Association), but not the individual sub-lots therein. The term "Owner" does not refer to any party that holds such interest solely as security for performance of any obligation, including a Mortgage.

**“Owner’s Percentage”** has the meaning set forth in Section 8.2.

**“Park”** means Lot 1 of the Project.

**“Park Improvements”** means the improvements located on the Park, including a summer theatre with a covered stage area as and if reasonably directed by City, grassy area, one Water Feature, perimeter walking trail, lighting and other features, all to be constructed and maintained by City.



**“Parking Unit”** means the Unit depicted on the Condominium Plat that is available for parking by the Owners as more particularly set forth in the Condominium Declaration or the Development Agreement.

**“Parking Structure”** means the Parking Structure to be constructed by Declarant within Units 2A, 2B, and 2C of the Project and which will be maintained by the Condominium Association.

**“Plat”** means a subdivision plat of the Property which shall be prepared, submitted and approved in accordance with applicable ordinances of the City and which shall, either prior to or subsequent to the recordation of this Master Declaration, be recorded in the official records of Salt Lake County, State of Utah, and all amendments and supplements thereto.

**“Project”** means the Property, together with the Improvements, the Common Easement Areas, the Common Facilities and the Landscaping which are now located upon or may in the future be located upon the Property and which shall collectively be commonly known as **“Canyon Centre”**.

**“Project Signs”** has the meaning set forth in Section 7.5.

**“Property”** means the real property described in Recital A, less any portion thereof that shall be deeded or otherwise dedicated to the City for public use, and all of which is subject to this Master Declaration.

**“Reference Rate”** has the meaning set forth in Section 8.14.

**“Reimbursement Assessment”** means amounts required to be repaid by an Owner pursuant to Section 8.6 hereof.

**“Required Maintenance”** has the meaning set forth in Section 3.3.

**“Reserve Analysis”** means an analysis to determine (i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Easement Area that has a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the Master Association; and (ii) the appropriate amount of any reserve fund.

**“Restaurant or Retail Plaza”** means any portion of the Restaurant or Retail Unit (as defined in the Condominium Declaration), designated as Restaurant or Retail Plaza on the Condominium Plat, which plaza shall be constructed and maintained by the Restaurant or Retail Owner as determined by the Board and the Architectural Control Committee and which shall be open to the public at the times determined by the Board, subject to reasonable rules and regulations promulgated and enforced by the Restaurant or Retail Owner.

**“Road Improvements”** has the meaning set forth in Section 4.1.

**“Roadways”** means the roads within the Project as set forth on the Plat.

**“Rules and Regulations”** means standards for the occupancy and use of the Common Easement Areas and other portions of the Project and other matters related to the administration and management of the Project which may be adopted and amended from time to time in accordance with the provisions of this Master Declaration.

**“Sign Easements”** has the meaning set forth in Section 5.7.

**“Supplemental Assessments”** means the share of any additional assessment levied in accordance with provisions of Section 8.5 hereof which is to be paid by each Owner.

**“Taxes”** means all taxes, assessments, charges and fees imposed, assessed or levied by any governmental or public authority against or upon the Property and/or Improvements.

**“Unit”** means each separate condominium Unit of the Project as depicted on the Condominium Plat and designated thereon as a Unit, all of which Condominium Plat is included within platted Lot 2 of the Project.

**“Utility Easement”** has the meaning set forth in Section 5.5.

**“Utility Lines”** has the meaning set forth in Section 5.5.

**“Water Features”** means any natural or artificial streams, ponds, waterfalls or the like at any time located on the Park or other Lot within the Project. The water feature located at the southeastern end of the Project and shown on Exhibit D shall not be considered a Common Facility, and if constructed, will be maintained by the Condominium Association.

## **ARTICLE II SUBMISSION**

2.1 **Declaration.** Declarant hereby declares that the Property and any and all Improvements that are at any time located upon any portion of the Property shall be held, sold, conveyed, transferred, designed, constructed, operated, maintained, leased, subleased, encumbered and occupied subject to the easements, covenants, conditions and restrictions set forth in this Master Declaration and which are for the purpose of establishing Common Easement Areas, Easements, covenants and restrictions which shall provide for the operation of the Project, to place certain use restrictions on the Property, which shall be binding on Declarant, its successors and assigns and all parties having or acquiring any right, title or interest in and to any and all portions of the Property, and the respective heirs, successors and assigns of such parties.

2.2 **Covenants to Run With Land.** This Master Declaration and all of the easements, covenants, conditions, restrictions and other provisions contained herein are intended to be, and shall constitute covenants which shall run with the land and which shall be binding upon and shall inure to the benefit of Declarant, each respective Owner, each Occupant and any other party which has or may acquire any interest in or to any portion of the Property. Any party that acquires an interest in any portion of the Project, or which may occupy any portion of the Project, shall be deemed to consent and agree to be bound by the Declaration and all of the easements, covenants, conditions, restrictions and other provisions herein contained.

2.3 **After Acquired Title.** In the event that as of the date of the recordation of this Master Declaration, Declarant shall not be the holder of record of legal title to any portion of the Property, then all of Declarant's right, title and interest in such portion of the Property, whether such right, title and interest shall arise by reason of a contract for deed or otherwise, shall be deemed to be equitable title, and such equitable title shall be deemed to be subject to and bound by this Master Declaration and all of the easements, covenants, conditions and restrictions and other provisions herein contained. In the event that fee simple title to any portion of the Property shall become vested in Declarant at any time after the execution, delivery and/or recordation of this Master Declaration, then any such real property shall immediately and automatically, without the necessity of the execution, delivery or recordation of any other document or instrument, become

subject to and bound by this Master Declaration and all of the easements, covenants, conditions and restrictions and other provisions herein contained.

2.4 **Dedication of Roadways.** All of the main roadways within the Project, have been dedicated as public rights of way on the Plat, and the ownership, use and maintenance thereof will be governed by the ordinances of the City and applicable law.

2.5 **Master Plan.** During the period of time required to plan, develop and construct the Project, the Master Plan may be revised, modified or amended by the Declarant in response to technological, economic, environmental, planning, social, marketing, municipal, financial, governmental or other requirements. The Master Plan may be modified by recordation of a supplement to this Master Declaration recorded for the purpose of revising the Master Plan, which supplement shall be signed by Declarant and any other then Owner whose Lot is modified by the Master Plan modification.

2.6 **Amendment of Plat.** Declarant reserves the right to cause an amended Plat to be recorded subsequent to the date of the recordation of this Master Declaration; provided, however, that any modification to the Plat must be signed by any Owner whose Lot is impacted by the Plat modification. Declarant specifically reserves the right to record such number of Plats as Declarant shall determine, in its discretion, to be necessary to adequately define the Project and all of the Lots, Common Easement Areas, Roadways, and other parts of the Project. Each amended Plat, when so approved and recorded as required by this Section 2.6 shall be deemed to be the Plat, and any such Plat shall then constitute the Plat of the Project. After an Owner becomes the owner of a Lot, no revision, amendment, restatement or supplement to the Plat may modify conditions which exist upon an Owner's Lot without the written consent of such Owner, which consent shall not be unreasonably withheld or delayed. An amendment, restatement or supplement to the Plat permitted in accordance with the provisions of this Section 2.6 shall be attached to a supplement to this Master Declaration and recorded in the office of the county recorder of Salt Lake County, State of Utah. Such supplement to this Master Declaration shall specifically state that the Plat attached thereto shall, for all purposes thereafter, constitute the Plat referred to in this Master Declaration. Any such supplement to this Master Declaration authorized pursuant to this Section 2.6 shall be signed by Declarant and need not be signed by, nor consented to by any Owner, Mortgagee, or the City.

2.7 **Condominium Declaration.** Declarant intends to record the Condominium Declaration with respect to platted Lot 2 as described in the Condominium Plat, for the purpose of addressing improvements and restrictions unique to Lot 2, including without limitation those affecting the Parking Structure.

2.8 **Enforcement.** Unless otherwise specifically set forth herein, Declarant or any Owner has the right to enforce, by any proceeding at law or in equity, all Easements, covenants, conditions, restrictions, liens, charges, rights and/or duties now or hereafter imposed by the provisions of this Master Declaration. Failure of Declarant or any Owner to enforce any Easement, covenant, condition, restriction, lien, charge, right and/or duty contained herein on any one or more occasion shall not be deemed a waiver of the right to do so on any subsequent occasion.

2.9 **Relationship of Associations.** The Master Association shall do such things as are within its powers and as may reasonably be required to maintain the Project and its development. The Members of the Master Association shall be Declarant and the Owners of the Lots or any other sub-association, if applicable, other than the Condominium Association, which shall not be a separate member of the Master Association and shall not have any voting rights separate from the rights of each Owner of a Unit. The duties and powers of the Master Association shall relate to the Property and the Project as a whole, while the duties and powers of the Condominium Association shall relate only to the land governed by the Condominium Plat as expressly set

forth therein and not otherwise governed by this Master Declaration, and the duties and powers of an sub-association shall relate only to the Lot governed by such sub-association.

### **ARTICLE III ADMINISTRATION OF PROJECT**

3.1 **Development of Lots.** Each Owner shall be responsible for the construction of all Improvements on its Lot that are not constructed by Declarant. No Owner shall be responsible to contribute to the cost of the initial construction of any Improvements located upon any other Lot. Further, each Owner, except the City, for so long as it is the Owner of the Park, shall be responsible to pay its proportionate share of the repair, replacement and/or reconstruction of Improvements constructed within the Common Easement Areas for which the Master Association has responsibility in accordance with the provisions of this Master Declaration.

3.2 **Construction of Improvements.** No Improvements shall be constructed upon a Lot, nor shall there be any alteration or repainting of the exterior of any existing Building or other Improvement unless and until complete plans and specifications therefore have first been submitted to and approved by the Architectural Control Committee; provided, however, that the consent of the Architectural Control Committee shall not be required for any repair or repainting of an existing Improvement if upon completion of such repair, repainting or refurbishing the Improvement shall be in compliance with plans and specifications previously approved by the Architectural Control Committee for such Improvement. Approval from the Architectural Control Committee is not required for Improvements to be constructed by Declarant on Common Easement Areas, or Roadways. No temporary structure shall be permitted on any Lot; provided, however, that trailers, temporary construction offices, sheds and other similar temporary structures shall be permitted for construction purposes during the actual construction of the Improvements. Once commenced, construction of all Improvements shall be diligently prosecuted to completion. The Owner of the Lot on which Improvements are being constructed shall at all times keep the Roadways contiguous to the Lot reasonably free from any dirt, mud, garbage, trash or other debris which might be occasioned by construction of the Improvements.

3.3 **Maintenance of Improvements.** All Improvements located upon a Lot, including the parking strip and islands within parking lots, shall be continuously maintained by its Owner at such Owner's sole cost and expense so as to preserve a well-kept appearance of a first-class commercial development, including any landscaping features constructed on such Lot, and the Condominium Association shall maintain all Condominium Common Easement Areas. Each Owner shall be required, at its sole cost and expense, to maintain its Lot in a clean, safe and orderly manner and to cause all weeds, rubbish and debris to be removed from its Lot. Except for the Water Feature within the Condominium Common Area which is a Common Facility to be maintained by the Condominium Association, each Owner shall be responsible for the exterior maintenance of any and all Buildings and any and all Improvements, including, sidewalks, parking lots and driveways, located on said Owner's Lot. The Condominium Association shall also be responsible for the maintenance of the Parking Structure, subject to receipt of the Parking Expenses (as defined in the Condominium Declaration). If the Master Association reasonably determines that the level of exterior maintenance on any Improvement located on an Owner's Lot or the maintenance landscaping or of a vacant Lot or the Parking Structure is unacceptable, the Master Association shall so notify the Owner, or Condominium Association, as applicable, in writing, and the Owner will have thirty (30) days thereafter in which to correct the deficiencies specified in such notice. If, in the Master Association's opinion, the Owner fails to correct the stated deficiencies within said thirty (30) day period, the Master Association may order the necessary work (the "**Required Maintenance**") performed at the Owner's expense or expense of the Condominium Association, as applicable. The cost of the Required Maintenance shall be assessed to the applicable Owner as a Reimbursement Assessment.

3.4 **Parking.** All parking and driving surfaces constructed upon a Lot must be (i) properly graded to assure adequate drainage and collection and distribution of storm water runoff, (ii) paved with concrete, asphalt or other hard surface paving material approved by the Architectural Control Committee, (iii) marked to designate approved parking areas, with appropriate parking reserved to permit access by the physically impaired, and adequately lighted and screened, all as specifically set forth in the Design Guidelines and Standards. Each Owner shall be responsible to construct and maintain all parking and driving surfaces located upon such Owner's Lot other than parking subject to the Condominium Declaration which shall be constructed and maintained as set forth therein. No parking of company vehicles or vehicles of employees, guests, visitors or business invitees shall be permitted upon the Roadways. The public parking rights in the Parking Unit shall be as set forth in the definition of "Parking Unit" in Article 1, above.

3.5 **Barriers Restricted.** The Design Guidelines and Standards may contain certain requirements for the construction of walls, berms, enclosures, screening or other Improvements which shall be designed and constructed to enhance the overall appearance of the Project.

3.6 **Landscaping.** Each Owner shall be responsible to cause Landscaping to be planted, installed and maintained upon all portions of each Lot upon which no other Improvements have been constructed, including, without limitation, those portions of a Lot which shall be subject to Easements granted pursuant to this Master Declaration. All Landscaping shall be planted, installed and maintained pursuant to a Landscaping Plan which meets the Design Guidelines and Standards, and which has been submitted to and approved by the Architectural Control Committee prior to installation of the Landscaping; provided, however, that approval from the Architectural Control Committee for Landscaping to be planted or installed by Declarant on any portion of the Project, other than a Lot improved by Declarant, is not required. No Owner shall be required to cause Landscaping to be planted or installed upon any Lot upon which no Improvements have been constructed; provided, however, that in the event that an Owner shall utilize only a portion of its Lot by the construction of limited Improvements (e.g., a parking lot), then that portion of the Lot on which Improvements are not constructed may be required to be landscaped as part of the construction of such limited Improvements as determined by the Architectural Control Committee. In any event, each Owner shall be required to keep such Owner's Lot free from rubbish, debris, fire hazards or any unsanitary, unsightly or offensive condition and to conduct such weed abatement, rubbish and debris removal and other maintenance as shall be required to cause said Lot to be maintained in compliance with standards established by the Master Association and the City.

3.6.1 **Landscaping Plan.** Once landscaping is installed, each Owner shall maintain the Landscaping on such Owner's Lot, whether planted or installed by Owner or Declarant or the predecessor of either, in accordance with the maintenance standards set forth in the approved Landscaping Plan, including the planting of replacement plants as necessary to maintain a well-kept appearance. Any changes in the Landscaping shall be approved by an amendment or revision of the existing Landscaping Plan submitted to and approved by the Architectural Control Committee.

3.6.2 **Failure to Maintain.** If the Master Association reasonably determines that the Landscaping for a Lot is not being maintained in accordance with the approved maintenance standards, the Master Association shall so notify the Owner of such Lot in writing, and the Owner will have thirty (30) days thereafter in which to correct the deficiencies specified in such notice. If, in the Master Association's opinion, the Owner fails to correct the stated deficiencies within said thirty (30) day period, the Master Association may order the necessary work performed on the Landscaping at the Owner's expense, plus a 10% administrative fee. The cost of said action shall be assessed to said Owner as a Reimbursement Assessment.

3.7 **Common Facilities.** The Master Association shall manage, administer and maintain the Common Facilities, provided, however, that nothing contained herein shall preclude the Master Association

from entering into contracts with other parties, including a management company, to perform tasks related to the management, administration and maintenance of the Common Facilities. All costs and expenses incurred in connection with such management, administration and maintenance, including specifically, but without limitation, any capital improvement which is made upon or within the Common Easement Areas (except the initial capital cost) and the cost of the acquisition of any Common Facilities, shall constitute a Common Expense. Declarant or any subsequent Owner of a Lot shall be responsible for the payment of costs and expenses incurred in the initial construction of Improvements upon the Common Easement Areas within such Lot; provided, however, that any subsequent Owner of a Lot has the right to determine what Improvements, if any, shall be constructed upon the Common Easement Areas.

3.8 **Costs of Landscaping Common Easement Areas.** Except as otherwise agreed between Declarant and an Owner, Declarant shall be responsible for (i) the planting of any and all Landscaping within the Common Easement Areas, (ii) the construction and installation of all sprinkler and irrigation systems required to maintain such Landscaping, and (iii) the payment of any and all costs and expenses incurred in such planting, construction and installation.

3.9 **Management of Landscaping in Common Easement Areas.** Each Lot Owner shall manage, administer and maintain Landscaping on such Owner's Lot, including within the Common Easement Areas and including the maintenance, repair and replacement of sprinkler or irrigation systems required to maintain such Landscaping. The Master Association shall be entitled to the actual benefit of any warranty that may be related to such planting, construction and installation. No party other than Declarant, including the City, shall be entitled to enforce the provisions of this Master Declaration related to the maintenance of the Landscaping within the Common Easement Areas as a third party beneficiary.

3.10 **Permitted Use.** All Lots shall be used exclusively for resort, residential or commercial purposes and shall include uses which are an integral part of the business of the Owner or Occupant of a Lot and which are located in Buildings constructed as required by the Design Guidelines and Standards and used in a manner consistent with Declarant's intention that the Project be developed and used as a resort, residential and business center. Subject to applicable zoning ordinances, such use shall specifically include governmental, professional or business offices, banks or financial institutions, research and development facilities, retail sales, hotels, single family or multifamily residences, restaurants and medical facilities as well as a public park, outdoor theatre and public parking. So long as Declarant shall remain a Class "B" Member, Declarant shall, in its discretion, determine if an intended use is an appropriate use within a resort, residence and business center. At such time as Declarant shall cease to be a Class "B" Member, the Board shall, in its discretion, determine if an intended use is an appropriate use within a resort, residence and business center. Appropriate uses of the Park include, without limitation, activities such as plays, concerts, festivals, open air markets, fairs, expositions and other public gatherings, all of which shall be under the control and direction of the City or other owner of the Park. Each Owner is permitted to impose reasonable rules and regulations concerning access by the public to the improvements constructed by such Owner on its Lot.

3.11 **Environmental Restriction.** Each Lot shall be used and occupied in compliance with all environmental laws which may now or which may in the future, be applicable to such Lot including without limitation all present and future federal, state, and local judicial decisions, orders, decrees, laws, statutes, rules, rulings, regulations, permits, certificates, codes or ordinances of any governmental authority having jurisdiction over the Property, including, without limitation, the Utah Environmental Quality Code, Title 19, Utah Code Annotated; the Comprehensive Environmental Response Compensation and Liability Act ("**CERCLA**"), 42 U.S.C. 9601 *et seq.*; the Resource Conservation and Recovery Act ("**RCRA**"), 42 U.S.C. 6901 *et seq.*; the Toxic Substances Control Act ("**TSCA**"), 15 U.S.C. 2601 *et seq.*; the Clean Air Act, 42 U.S.C. 7401 *et seq.*; the Federal Water Pollution Control Act ("**Clean Water Act**"), 33 U.S.C. 1251 *et seq.*; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001 *et seq.*; the Hazardous Material Transportation Act, 49

U.S.C. 5101 *et seq.*; the Atomic Energy Act, 42 U.S.C. 2011 *et seq.*; any so-called "Superfund" or "Superlien" law; and the rules, rulings, regulations, decisions and publication promulgated pursuant to said laws, all as may be amended from time to time (collectively the "**Environmental Laws**"). Notwithstanding any standard set forth in the Environmental Laws, in no event shall a Lot be used for any business or other activity which will generate reportable quantities of hazardous wastes, or which will store, treat or dispose of hazardous wastes, unless the Master Association shall provide express, prior written approval of such use. The terms "generate," "store," "treat," "dispose of" and "hazardous wastes" has the same meaning as defined in RCRA or regulations promulgated thereunder. The phrase "reportable quantities of hazardous wastes" means any quantities of hazardous wastes which must be reported to the Environmental Protection Agency pursuant to 40 CRF Part 302, as amended.

3.12 **Reserve Analysis.** The Master Association shall cause a Reserve Analysis to be conducted no less frequently than every five (5) years. The Master Association shall review and, if necessary, update a previously conducted Reserve Analysis no less frequently than every two (2) years. The Reserve Analysis and updates shall project a minimum of 30 years into the future. The Master Association shall maintain a reserve fund based on the Reserve Analysis for the maintenance, repair, and replacement of the Common Easement Areas as determined by the Owners annually and which will be included in the Annual Budget. All such funds shall be segregated from other operating accounts to the extent required by Utah law, and to the extent such funds are not expended, they shall be retained as additional reserves. The Reserve Analysis report shall be prepared by a person or persons with (1) experience in current building technologies, (2) a solid working knowledge of building cost estimating and life cycle costing for facilities, and (3) the tools and knowledge to prepare a report. Preferably, but subject to the discretion of the Board in determining that the qualifications have otherwise been met by one person, two people shall prepare the Reserve Analysis, an architectural consultant who will perform a property condition assessment and a reserve study professional who will utilize the property condition assessment and prepare the Reserve Analysis. The Reserve Analysis shall be presented at the annual meeting or special meeting of the Owners, and the Owners shall be given an opportunity to discuss reserves and to vote on the funding of the reserve fund. The minutes of the Master Association shall reflect such decisions. Notwithstanding anything to the contrary herein, the Declarant or the Board may unilaterally, without approval of any Owner or Mortgagee, amend this Section to comply with future changes of applicable law.

3.13 **Compliance with Law.** No portion of the Project may be occupied for any use which is in violation of applicable ordinances, laws and regulations of any governmental entity having jurisdiction over the use of all or any portion of the Project.

3.14 **Storage.** Unless specifically approved in writing by the Architectural Control Committee, no materials, supplies or equipment (except during the construction of Improvements) shall be stored in any area of any Lot except inside a Building or behind a visual barrier approved by the Architectural Control Committee.

3.15 **Nuisances.** No Owner or Occupant shall create a nuisance in the Project. No rubbish or debris of any kind shall be placed or permitted to accumulate outside a Building upon any Lot, and no odor shall be permitted to arise therefrom, so as to render any Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any Property in the vicinity thereof or to the Occupants thereof. No use or operation shall be conducted in the Project that is noxious, objectionable, unsightly or detrimental to others in any manner and due to any cause such as, but not limited to, vibration, sound, radiation, air, water, drainage or sewer pollution, dust or emission of odorous toxic or nontoxic substances.

3.16 **Signs.** No sign which is to be placed upon the exterior of any Building, including glass surfaces, or any sign located within any Building which may be viewed from the exterior of said Building shall

be installed without the prior written approval of the Architectural Control Committee. All such signs shall be in compliance with the Design Guidelines and Standards. Notwithstanding the foregoing, any sign providing general designation of the Project or any sign benefitting the Project which shall be installed by Declarant shall not be subject to review and approval by the Architectural Control Committee.

3.17 **Utilities.** All utility lines, connections and installations must be underground and rise within the Building to be serviced by such lines. Any external transformers, motors, heating and/or air conditioning equipment or other similar apparatus must be screened as to eliminate visibility from ground level at any location in the Project as shall be specifically set forth in the Design Guidelines and Standards or as shall be approved by the Architectural Control Committee.

3.18. **Subdivision of Lot.** No Lot shall be further subdivided without the prior written consent of Declarant for so long as Declarant owns any portion of the Property. Declarant shall, in the exercise of its sole discretion, be permitted to grant or withhold such approval. At such time as Declarant shall cease to be an Owner of any portion of the Property, no Lot shall be further subdivided without the prior written consent of the Board. Notwithstanding the foregoing, Declarant has the right, subject to applicable laws and ordinances but without the consent being required of any Owner or any Mortgagee, to relocate or otherwise reconfigure the boundary lines of any Lot, to eliminate Lots designated on the Plat, to create new Lots through the subdivision or reconfiguration of one or more existing Lots and to otherwise design and develop the Lots within the Project as Declarant shall determine; provided, however, that such rights shall be applicable only to Lots which shall be owned by Declarant at the time of such adjustments or to Lots owned by an Owner that has provided written consent to such change. Nothing contained herein shall be construed to grant Declarant the right to alter the boundary of any Lot not owned by Declarant without the express written consent of the Owner of such Lot. Upon any reconfiguration of a Lot, Declarant shall cause to be prepared and recorded an amendment to the Plat which shall set forth the boundaries of the reconfigured Lot. No signature of any Mortgagee or any Owner, other than Declarant, or other Owner in the event such Lot is not owned by Declarant, shall be required on any such amendment.

3.19 **Reservation by Declarant.** Declarant reserves the right to erect, construct and maintain the Common Easement Areas located at any entrance to the Project or upon any portion of the Project owned by Declarant, such signs, sales offices or other administrative office as may be reasonably necessary for the completion of the Project and the leasing, sale or disposition of the Lots.

3.20 **No Third Party Beneficiary.** This Master Declaration is being recorded for the benefit of Declarant and the Owners and no other party shall be entitled to enforce any provision hereof. No party shall be permitted to claim that such party is an intended third party beneficiary entitled to enforce rights, duties and/or obligations set forth herein.

#### ARTICLE IV ROADWAYS

4.1 **Roadways.** Declarant has constructed all Roadways and Road Improvements within the Project, all of which have been dedicated to the City. Access to the Roadways from a Lot shall be at such locations as shall be determined by Declarant in accordance with regulations and limitations imposed on the Lot by the City.



## ARTICLE V OTHER EASEMENTS

5.1 **In General.** The Property and any portion of the Property which is sold as a separate Lot shall be conveyed and owned subject to and together with the Easements herein recited or as shall be set forth on the Plat, whether or not such Easements are specifically set forth in the document of conveyance. In each instance the physical location of an Easement may, in some circumstances, be located in the same place and the use thereof may be shared with other Easements similarly located and in each such instance the rights and privileges associated with each such Easement shall be interpreted separately, but the use shall be deemed to be non-exclusive with any other Easement similarly located. Easements granted pursuant to this Master Declaration shall be utilized in the manner that shall be reasonably determined to be the least disruptive to the Lot upon which such Easement is situated. No Easement may be amended, extinguished or otherwise modified in any manner by an amendment to this Master Declaration or the Plat without the express written approval of the owner of the real property which shall be benefited or intended to be benefited by the existence of such Easement. It is expressly agreed that any and all Easements granted pursuant to this Master Declaration shall survive any termination, expiration or other cessation of this Master Declaration and shall be extinguished only upon the execution and delivery of a termination executed by the party legally entitled to terminate the Easement intended to be terminated.

5.2 **Other Easements.** In addition to other Easements specifically granted in this Master Declaration, there is hereby granted to each Owner certain perpetual easements described in this article and/or which are described on the Plat, including, without limitation, a non-exclusive Easement for ingress and egress for pedestrians over all areas designated on the Plat as Common Easement Areas, or which shall in the future be designated as Common Easement Areas.

5.3 **Ingress, Egress and Parking on Common Easement Areas.** There is hereby granted to each Owner a non-exclusive Easement for ingress and egress for both pedestrian and vehicular traffic over and across, together with the right for temporary parking of motor vehicles upon, all portions of the Common Easement Areas which have been designed, constructed and designated or which shall in the future be designed, constructed and designated for such use, together with the right to temporarily park vehicles upon such portions of the Common Easement Areas which have been constructed and designated or which shall in the future be designed and constructed for such use. All parking pursuant to the Easement hereby established shall be for temporary use associated with the conduct of permitted uses within the Project and shall be in accordance with applicable Rules and Regulations.

5.4 **Use of Roadways.** Each Owner agrees that during the actual construction of Improvements on such Owner's Lot, the use of the Roadways shall be limited to wheeled vehicles of such weight and size that shall be in compliance with applicable laws and ordinances, and (ii) the use shall not interfere with the access rights of other Owners.

5.5 **Public Utility Easement.** There is hereby granted to Declarant, each Owner and to the provider of any utility service, a non-exclusive Easement (the "**Utility Easement**") to construct, install, operate, service, repair, replace and maintain any and all underground public and private utility lines of any nature, including, without limitation, culinary water, irrigation water, sanitary sewer, storm water drainage, natural gas, electricity, cable television, telephone and other forms of communication, which may now exist or which may in the future exist which may be required or desirable to service any Improvements, including specifically, but without limitation, all wiring, lines, conduits, pipes, sewers, valves, junction boxes, control boxes and drainage lines and related facilities (the "**Utility Lines**"). The Utility Easement shall be located upon those areas of the Project designated on the Plat. The Utility Easement herein granted shall include an easement over and across the surface of the Property within the boundaries of the Utility Easement as may be

necessary to service and maintain such Utility Lines. In the event any utility company, quasi-utility company, public entity, agency or district, cable company or similar entity furnishing a service covered by this Utility Easement requests a specific easement to be located within the Utility Easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement, provided that such Easement shall be in compliance with the provisions of this Section 5.5. At such time as Declarant shall cease to be the Owner of a real property over which the Utility Easement is required, the Master Association shall be deemed to have reserved the right and authority to grant such easement, provided that such easement shall conform with the provisions of this Section 5.5.

5.6 **Drainage Easement.** There is hereby granted to Declarant and each Owner a non-exclusive Easement (the "**Drainage Easement**") to construct, install, operate, service, repair, replace and maintain any and all gutters, culverts, underground lines and other facilities necessary to provide for the drainage of the Project (the "**Drainage Lines**"). The Drainage Easement shall be located upon those areas of the Project designated on the Plat. The Drainage Easement herein granted shall include an easement over and across the surface of the Property within the boundaries of the Drainage Easement as may be necessary to service and maintain such Drainage Lines.

5.7 **Sign Easements.** There is hereby granted to Declarant and the Master Association one or more easements (the "**Sign Easements**") to construct, install, service, replace and maintain the Project Signs. The Sign Easements shall be located upon the Common Easement Areas, and other areas of the Project specifically designated on the Plat. The Sign Easements herein granted shall include an easement over and across the surface of the Property from the Roadway to the location of the Project Signs as shall be reasonably necessary for the construction, installation, servicing, replacement and maintenance of the Project Signs. The Sign Easement shall be utilized in the manner that shall be reasonably determined to be the least disruptive to those portions of the Property upon which such Easement is situated. Responsibility for the maintenance of the Project Signs is specifically set forth in Section 7.5. An Owner of a Lot upon which one of the Sign Easements shall be located shall be responsible to install and maintain Landscaping upon such areas of the Sign Easement that shall not be occupied by a Project Sign, but shall not be responsible to maintain any Project Signs and related Improvements installed by Declarant or the Master Association upon said Owner's Lot.

5.8 **Encroachment Easement.** There is hereby granted to Declarant and each Owner a reciprocal appurtenant Easement of encroachment as between Lots and Common Easement Areas, as applicable, due to the placement or settling or shifting of any Improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each adjacent portion of such areas, as applicable, along a line perpendicular to such boundary at such point; provided, however, in no event shall an Easement for encroachment exist if such encroachment occurred due to willful conduct on the part of the party responsible for the installation of such Improvements.

5.9 **Access to Perform Duties.** There is hereby granted unto the Master Association an Easement, together with the right to grant and transfer such Easement to others as is reasonably required to accomplish the intended purpose of such Easement, over and through all portions of the Project for the purpose of permitting the Master Association to exercise its rights and discharge its obligations and duties under this Master Declaration. Such right of access shall be specifically granted to security personnel employed by or under contract with the Master Association, all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties.

5.10 **Extension of Easement.** Each Lot, whether now existing or whether in the future existing, as defined in accordance with the provisions of this Master Declaration, has appurtenant thereto, and shall be benefitted and burdened by, as applicable, the Easements herein granted. Each Owner shall be entitled to the

benefit of the Easements herein granted and shall be entitled to permit each Occupant, together with any employee and any business customer, invitee and guest of said Owner and/or Occupant, to enjoy the benefits of the Easements herein granted, but said Owner's use and enjoyment of its Lot shall be subject to and burdened by the Easements also herein granted.

5.11 **No Public Dedication.** Nothing contained in this Master Declaration shall be deemed to be a gift or dedication of any portion of the Project to or for the general public or for any public purpose whatsoever, it being the intention of the Declarant that this Master Declaration will be strictly limited to and for the purposes herein expressed. Notwithstanding the grant of the Easements, each Owner may be entitled to take whatever steps it deems necessary to protect and preserve the private ownership of its Lot and to prevent same from being dedicated to the public use as a matter of law; provided, however, that such steps shall be taken in such manner and at such time as shall cause minimal disruption of the occupancy and usage of said Owner's Lot. An Easement granted herein to the City shall be deemed granted to the City, which may be used by its employees, agents, contractors and representatives in performance of their respective duties within the Project, and shall not be construed to be a grant to the public generally.

## ARTICLE VI MASTER ASSOCIATION

6.1 **The Master Association.** The Master Association shall exist for the sole purpose of performing the functions and providing the services contemplated in this Master Declaration. The Master Association shall own the Common Easement Areas and Common Facilities and shall be responsible for administration of the Project. The Master Association shall be organized as required by the Act prior to or concurrently with the execution and recordation of this Master Declaration and Declarant shall be responsible to pay costs and expenses incurred in such organization. The Master Association shall be operated as a nonprofit corporation and shall be governed by the Board and officers authorized by the Bylaws. The Board may adopt, amend and revise from time to time, Bylaws which shall constitute written procedures for the regulation or management of the affairs of the Master Association, provided, however, that no provision of the Bylaws shall materially alter or amend the rights or obligations of the Owners set forth in this Master Declaration.

6.2 **Members of Master Association.** Each Owner shall be entitled and required to be a Member of the Master Association. An Owner shall become a Member of the Master Association immediately and automatically upon becoming an Owner and shall cease to be a Member immediately and automatically upon ceasing to be an Owner as evidenced in the official records of the County Recorder, Salt Lake County, State of Utah. The right to be a Member shall be appurtenant to the real property within the Project and shall not be transferred except upon the transfer of title to said real property and then only to the transferee of title thereto. Any transfer of title to a Lot shall operate automatically to transfer the Owner's rights as a Member of the Master Association appurtenant thereto to the new Owner thereof. Any attempted separate transfer shall be void.

6.3 **Voting Rights.** The Master Association has two (2) classes of Members.

6.3.1 **Class "A" and Class "B".** Class "A" Members shall be all Owners, with the exception of Declarant. Each Class "A" Member shall be entitled to vote on all issues to be voted upon by the Members of the Master Association. Each Member shall be entitled to the Allocated Interest in the Association and number of votes appurtenant to his or her Lot, as set forth in Section 8.2. Each Lot shall have one (1) vote. In the event the Additional Property is added to the Project, the number of votes held by each existing Class "A" Member shall decrease by recalculating pursuant to the foregoing formula.

The Class "B" Member shall be Declarant and any successor or assignee of Declarant who takes title to one or more Lots for the purpose of development and sale and to whom Declarant assigns in a recorded writing one or more of the Class "B" votes. Each Class "B" Member shall be entitled to three (3) times the number of votes that said Member would be entitled to cast were said Class "B" Member voting as a Class "A" Member as calculated in accordance with this Section 6.3.1.

The Class "B" Membership shall terminate and any Owner then holding Class "B" Membership shall be deemed to be a holder of Class "A" Membership upon the happening of the earliest to occur of the following: (i) when the total outstanding Class "A" votes in the Master Association equal the total outstanding Class "B" votes; or (ii) fifteen (15) years from the date of recording of this Master Declaration; or (iii) when Declarant so determines. From and after the happening of any one of the stated events, Declarant shall advise the Master Association in writing of the termination of Class "B" Membership within thirty (30) days of the happening of such event.

6.4 **Voting.** Each Member shall be entitled to vote on all matters brought before the Members for a vote thereon. The Master Association may deny any Member the right to vote or participate in any meeting of the Members solely because of the failure of said Member to pay Assessments levied against such Member's Lot. Unless otherwise specifically provided, a majority of the votes present, in person or by proxy, and entitled to vote on any matter before the Master Association shall be required to approve such matter. Any Owner may, by written notice to the Master Association, transfer its voting rights to its Mortgagee or to the Occupant of such Owner's Lot. Such transfer shall be effective until notice of revocation of such transfer signed by said Owner shall be received by the Master Association. No such transfer shall relieve an Owner of any obligation under this Master Declaration.

6.5 **Multiple Ownership.** If title to a Lot is held by more than one party, then all such parties shall be Members of the Master Association and entitled to participate as a Member, but the votes allocated to such Lot must be voted together so that all votes associated with a Lot shall be voted as a block; provided, however, that such Member(s) may be counted together for the sole purpose of determining whether a quorum regardless of whether such Member(s) vote as a block. No fractional votes shall be allowed. Joint or multiple Owners of a Lot shall designate in writing one party to vote on behalf of said Owners and such designated Owner, and only such designated Owner, shall cast the votes attributable to such Lot.

6.6 **Vote of Members.** The Board may cause such matters as it shall determine to be submitted to a vote of the Members either at the annual meeting of the Members or at a special meeting called for the purpose of conducting a vote of Members. In addition to such matters as the Board may submit to a vote of the Members, there shall be submitted to a vote of the Members any matters required to be voted upon by Members in accordance with the provisions of the Act, including specifically but without limitation, any amendment to the Articles.

6.7 **Meetings.** There shall be a meeting of the Members of the Master Association not less often than once each calendar year; provided, however, that a meeting of the Members may also be called by the Board or upon the written request of Members which shall be entitled to cast at least one-third (1/3) of the total votes of the Master Association. A meeting of the Members shall be held at such time and place within Salt Lake County, State of Utah, as shall be designated by the Board. In the event that the Board shall receive a written request for a meeting from at least one-third (1/3) of the total votes of the Master Association, within ten (10) days of the date of the receipt of such request, the Board shall set the date, time and location of such meeting and such meeting shall be held within thirty (30) days of the date of such request. At any meeting of Members, the Members entitled to cast, in person or by proxy, a minimum of fifty-one percent (51.0%) of the total votes of the Master Association, shall be required to constitute a quorum necessary for the conduct of business at such meeting. If the quorum required for the conduct of the business of the Master Association

shall not be present at any meeting, then the Members so present may adjourn the meeting to a date which shall be not less than ten (10) days or more than thirty (30) days from that date. Notice of such adjournment and the date to which the meeting has been adjourned shall be given to all Members. The quorum to be required at the rescheduled meeting shall be fifty percent (50.0%) of the quorum which was required at the meeting which was adjourned without the conduct of the business of the Members. In the event that the required quorum shall not be present at any meeting so rescheduled in the manner set forth, the meeting shall again be rescheduled and notice shall again be given to all Members, all in the manner set forth for the first rescheduled meeting, and the quorum required shall again be reduced to fifty percent (50.0%) of the quorum required at the most recent rescheduled meeting. Any meeting can be rescheduled as many times as may be required to eventually permit the business of the meeting to be conducted.

6.8 **Organization.** The Board shall be entitled to establish such organization and elect such officer(s) as it shall deem necessary to properly perform the functions of the Master Association; provided, however, that if no other officer or organization shall be established, the Board shall, at a minimum, upon a majority vote of the Board, appoint at least a President who shall be authorized to act for and on behalf of the Master Association and shall be authorized to enter into contracts and other agreements and to execute such other documents as may be required to permit the Master Association to perform the duties and obligations and exercise the rights and privileges of the Master Association as contained in this Master Declaration. An officer of the Master Association need not be a Member.

6.9 **No Personal Liability; Indemnification.** No Member of the Board (a "Director") or officer of the Master Association shall be personally liable to the Master Association or its Members for civil claims arising from acts or omissions made in the performance of duties as a Director or officer, unless the acts or omissions are the result of the intentional misconduct of such Director or officer. To the full extent allowed under Utah law and in accordance with the provision contained herein, the Master Association shall indemnify an individual made a party to a proceeding because such person is or was a Director or officer of the Master Association against any and all reasonable expenses, including attorney's fees and costs, in connection with such proceeding if (i) such person's conduct was in good faith, and (ii) such person reasonably believed that said person's conduct was in, or not opposed to, the Master Association's best interest, and (iii) in the case of any criminal proceeding, said person had no reasonable cause to believe such person's conduct was unlawful. The Master Association shall not indemnify a Director or officer under this provision in connection with (i) a proceeding by or in the right of the Master Association in which the Director or officer was adjudged liable to the Master Association, or (ii) any other proceeding charging that the Director or officer derived an improper personal benefit, whether or not involving action in such person's official capacity, in which proceeding said person was adjudged liable on the basis that said person derived an improper personal benefit.

## ARTICLE VII RIGHTS, DUTIES, OBLIGATIONS AND RESTRICTION

7.1 **Management of Common Easement Areas.** The Master Association, acting through the Board, has the powers and duties provided in the Articles and Bylaws and such additional powers as shall be reasonable and necessary for the Master Association to accomplish the purposes of this Master Declaration. The Master Association shall be responsible for the operation, management, regulation, maintenance, repair and replacement of the Common Easement Areas, except to the extent any such functions are assumed by another entity. The Master Association shall be responsible for the exclusive management, control, operation and maintenance of the Common Easement Areas, and shall keep the same in good, clean, attractive, safe and sanitary condition, order and repair. Where it deems necessary or desirable, the Master Association may construct, reconstruct, repair or replace any capital improvement related to or located upon the Common Easement Areas. The Master Association shall not be responsible for the maintenance of any Lot except to the extent that Common Easement Areas or Common Facilities (such as the Water Feature) are located on such

Lot. The Master Association may, by written contract, delegate in whole or in part, to such person or persons as it shall deem advisable, such of the Master Association's duties, responsibilities and functions as are properly delegable. The Master Association has the right to exercise any right or privilege given to it expressly by this Master Declaration or by law, and every other right or privilege or duty given to it herein or reasonably necessary to effectuate any such right, privilege or duty. All goods and services procured by the Master Association in performing its responsibilities shall constitute a Common Expense. Nothing contained in this Master Declaration shall be construed to obligate the Master Association to incur any expenses which cannot be reimbursed to the Master Association from the Owners by virtue of an Assessment.

7.2 **Rules and Regulations.** The Master Association may, in its discretion, make reasonable Rules and Regulations governing the use of the Common Easement Areas and Common Facilities; provided, however, that such Rules and Regulations shall be consistent with the rights and obligations established by this Master Declaration. The Master Association or any aggrieved Owner may initiate and prosecute, as permitted by law, appropriate legal proceedings against an offending Owner and/or Occupant to enforce compliance with such Rules and Regulations or to recover damages for noncompliance therewith. In the event that the Master Association or any aggrieved Owner shall initiate any such legal proceedings, if such party prevails, such party shall be entitled to recover from the offending Owner costs and expenses incurred by the Master Association in connection with such proceedings, including court costs and reasonable attorneys' fees. Each Owner shall be responsible to insure that each Occupant of any portion of said Owner's Lot(s) complies with such Rules and Regulations. Each lease or other agreement which shall provide for the occupancy of all or any part of the Lot shall require the Occupant to comply with this Master Declaration and the Rules and Regulations.

7.3 **Allocation of Taxes.** Each Owner shall be responsible to pay, prior to delinquency, any and all Taxes which shall be levied against an Owner's Lot and any Improvements located upon such Owner's Lot. Declarant shall be responsible to pay, prior to delinquency, any and all Taxes which shall be levied against any portion of the Property owned by Declarant. The Master Association shall be responsible to pay, prior to delinquency, all Taxes levied against the Common Easement Areas and Common Facilities. All Taxes levied against the Common Easement Areas and Common Facilities shall be a Common Expense and shall be paid by all Owners as part of the Common Expenses. Any Owner, Declarant or the Master Association shall be entitled to protest or appeal the amount of Taxes levied and delay payment of Taxes being protested or appealed, provided that such protest or appeal is prosecuted according to applicable law and such law shall permit delay in payment of such Taxes pending resolution of such protest or appeal. In the event that Taxes are not separately levied and collected by the applicable taxing authority between the Lots, Common Easement Areas and Common Facilities, then the Master Association shall make a reasonable allocation of the Taxes based upon the value of applicable portions of the Project.

7.4 **Special Services.** The Master Association has the power to provide services to an Owner or a group of Owners not otherwise provided in this Master Declaration. Any such service or services to an Owner or group of Owners shall be provided pursuant to an agreement in writing which shall provide (i) a detailed description of the service or services to be provided, (ii) for the payment to the Master Association by such Owner or Owners, of all costs and expenses incurred by the Master Association in providing such services, including a fair share of the overhead expenses of the Master Association, (iii) that the agreement shall be binding upon the successors and assigns of such Owner or Owners, and (iv) that amounts required to be paid, if not paid when due, shall be subject to a Reimbursement Assessment levied in accordance with the provisions of this Master Declaration.

7.5 **Project Signs.** Declarant may construct certain signs which shall be designed to identify the name, logo and other identification of the Project generally and not for the use or identification of any specific Owner or Occupant to the exclusion of others (the "**Project Signs**"). The Project Signs, if constructed, shall be constructed within the "**Sign Easements**" described in Section 5.7. The initial design of the Project Signs

may vary from location to location, shall be determined in the sole discretion of Declarant and may, but shall not be required to include in some instances the sign, supporting pole or structure and lighting. Declarant shall be responsible for payment of costs and expenses incurred in the construction and installation of any Project Signs Declarant shall elect to install. The Master Association shall be responsible to maintain any Project Signs installed and Improvements related to such Project Signs and any and all costs and expenses which shall be incurred in the operation, servicing, replacement and maintenance of the Project Signs (and such related Improvements) shall be a Common Expense.

7.6 **Restriction Against Hotel.** For so long as the Hotel to be constructed within the Condominium Unit (the "Hotel") is completed and open for occupancy on or before December 31, 2017 and is continuing to operate as a hotel, (i) no other hotel shall be constructed within the Project, and (ii) no rooms within the Project shall be rented for short-term rentals at a rate less than 150% of the Hotel's then average daily rate. Only the owner of the Hotel Unit may enforce this restriction, and in no event shall Declarant have any responsibility for enforcement of this restriction.

7.7 **Enforcement of Rights.** The Board shall be responsible to reasonably pursue performance of duties and obligations to be performed and/or collection of payments required to be made to or for the benefit of the Master Association or the Project generally, including, by way of illustration and not by way of limitation, payment of unpaid Assessments from Owners, enforcement of warranty obligations of parties responsible for the construction and/or maintenance of Improvements constructed for the benefit of the Master Association or the Project generally and insurance claims resulting from damage to the Common Easement Areas or Common Facilities. Declarant shall cooperate in the assignment to the Master Association of any warranties associated with the construction of Improvements constructed by Declarant and Landscaping installed upon the Common Easement Areas.

7.8 **Manager.** The Master Association may by written contract delegate in whole or in part to a professional manager such of the Master Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any manager retained by the Master Association shall be a Common Expense.

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

## **ARTICLE VIII ASSESSMENTS**

8.1 **Payment of Assessment.** Each Owner by acceptance of a deed to any Lot, whether or not it shall be so expressed in such deed or other conveyance shall be deemed to and does hereby covenant and agree to pay to the Master Association any and all Assessments levied against such Lot and any Unit included therein, as applicable, in accordance with the provisions of this Master Declaration. Assessments on Units may be levied on and delivered to the Condominium Association or to individual owners of Units at the discretion of the Master Association, so long as duplicate Assessments are not made. Unless later determined otherwise by the Board, all Units shall be assessed at the Unit level by the Master Association for Common Expenses of the Master Association rather than through the Condominium Association. The Assessments, together with interest thereon which shall accrue at the Interest Rate or Default Rate, as set forth herein, late charges and costs of collection thereof, including court costs and reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot, as applicable, against which such Assessments are made from the date on which such Assessments are due. Declarant has the duty to pay any and all Assessments which shall be levied against

any Lot owned by Declarant and Assessments shall commence upon the date of the recording of this Master Declaration; provided, however, that no Assessments shall be levied for, nor shall any Common Expenses be incurred for any portion of the Project for which construction and/or installation of Improvements or Landscaping required to be completed by Declarant has not been so completed.

8.2 **Apportionment.** The amount of each General or Supplemental Assessment to be paid by an Owner shall be computed by apportioning the total of such Assessment among and to all Owners in accordance with the lineal footage of such Owner's Lot along the Roadways adjacent to such Lot. Such percentage shall be obtained by dividing the Owner's lineal footage by the total lineal footage within the total Project to arrive at the Owner's percentage interest in the Project (the "**Owner's Percentage**"). The total amount of the applicable Assessment will be multiplied by the Owner's Percentage to determine the amount of the applicable Assessment which such Owner shall be required to pay.

8.3 **Annual Budget.** General Assessments shall be determined on the basis of a calendar year beginning January 1, and ending December 31, next following; provided, however, that the first such year shall begin on the date that this Master Declaration is recorded and shall end December 31 of such year. On or before November 1st of each year, the Board shall prepare and furnish to each Owner or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year the "**Annual Budget**". The Annual Budget shall itemize for the applicable year, the estimated Common Expenses, as defined above, anticipated receipts, if any, and any estimated deficits or surpluses from the prior operating period. The Annual Budget shall serve notice of and as the supporting document for the General Assessment for the upcoming fiscal year and as a guideline under which the Project shall be operated during such annual period.

8.4 **General Assessment.** All Common Expenses shall be paid through an annual general assessment to all Owners, apportioned as set forth in Section 8.2 and Schedule 8.2. Each Owner's share of the total Common Expenses, as estimated by the Annual Budget, shall be a "**General Assessment**". Except as set forth on Schedule 8.2, each respective share of a General Assessment shall be based upon the Owner's Percentage of the Annual Budget. At the end of each calendar year, the Board shall determine the exact amount of the Common Expenses which have been incurred, and shall charge or credit each Owner in the next assessment period for the difference between the actual Common Expenses incurred for the prior assessment period and the estimated Common Expenses upon which said General Assessment was based. Within ninety (90) days of the close of each calendar year, each Owner shall be provided a copy of the operating statement of the Master Association for the preceding year. Said operating statement shall provide reasonable detail of the actual income and expenses of the Master Association for the applicable year. In the event actual expenses are less than indicated in the Annual Budget, excess amounts shall be retained by the Board to be applied to the expenses the following year.

8.4.1 **Notice.** The General Assessment for each calendar year shall be due and payable on January 1 of such year. Failure of the Board to give timely notice of any General Assessment by delivery of the Annual Budget, as provided herein, shall not be deemed a waiver or modification in any respect of the provisions of this Master Declaration or a release of any Owner from the obligation to pay such General Assessment or any other Assessment; provided, however, the date on which payment shall become due in such case shall be deferred to a date thirty (30) days after notice of such General Assessment has been given to the Owners in the manner provided in this Master Declaration.

8.4.2 **Payment.** Any Owner which shall not have paid its annual General Assessment in full on or before January 1 of each year shall be deemed to have elected to pay such General Assessment in equal semi-annual installments. Any General Assessment which shall not be paid on or before January 1 of the applicable year shall accrue interest at the Interest Rate on the unpaid balance thereof from the original date due until paid. The Board may, but shall not be required to send out semi-annual statements to an Owner and



each such installment shall be due and payable on the first day of each month without notice or demand. Any semi-annual installment of any General Assessments which shall not have been received by the Board on or before the fifth day of any month in which it is due shall be assessed a late charge in an amount to be determined from time to time by the Board, but which shall not be in an amount in excess of five percent (5.0%) (or the maximum rate permitted by applicable law, whichever is lower) the amount of the unpaid installment. In the event that a semi-annual installment of a General Assessment is not paid when due, then so long as the semi-annual payment or payments shall remain delinquent, the unpaid balance of such General Assessment shall accrue interest at the Default Rate. Late charges and interest on any unpaid semi-annual installments of any General Assessments may be charged according to procedures established by the Board, regardless of whether semi-annual statements are sent. The Board has the right to establish a fee for costs and expenses incurred in maintaining records of the installment payments of General Assessments, which fee shall be charged only to Owners who pay such General Assessments on an installment basis.

**8.5 Supplemental Assessments.** In addition to the General Assessment, the Board may upon the vote of the majority of the Board at a meeting called for the purpose of such vote, levy, in any year, one or more Supplemental Assessments applicable to that year only for the purpose of paying, in whole or in part, (i) the cost of any reconstruction, repair or replacement of a capital improvement upon the Common Easement Areas and Common Facilities, (ii) deficits created by non-payment of any Assessments by any Owner, (iii) extraordinary costs and expenses which may be incurred in the maintenance required to be paid by the Owners, and (iv) other costs and expenses required to be paid by the Owners in accordance with the provisions of this Master Declaration. At the time of the adoption of such Supplemental Assessment, the Board shall designate the time and the manner in which such Supplemental Assessment is to be paid by each Owner; provided, however, that the due date for payment of a Supplemental Assessment shall be at least thirty (30) days from the date that notice of the Board's approval of the Supplemental Assessment shall be given by the Board. Such Supplemental Assessment shall be apportioned to each Owner based on the Owner's Percentage. Any Supplemental Assessment which shall not be paid on or before the applicable due date shall accrue interest at the Default Rate on the unpaid balance thereof from the original date due until paid.

**8.6 Reimbursement Assessment.** The Board may, subject to the provisions hereof, levy an Assessment against any Owner if the willful or negligent failure of such Owner to comply with this Master Declaration, the Articles, the Bylaws or the Rules and Regulations has resulted in the expenditure of funds by the Master Association to cause such compliance, including without limitation attorney's fees and costs. Such Assessment shall be known as a Reimbursement Assessment and shall be levied only after written notice to the Owner. The amount of the Reimbursement Assessment shall be due and payable to the Master Association thirty (30) days after notice to the Owner of the decision of the Board that the Reimbursement Assessment is owing. Interest shall accrue on any Reimbursement Assessment at the Default Rate from the date of expenditure of funds by the Master Association until such amounts shall be repaid.

**8.7 Collection of Assessments.** The Board shall in its sole discretion, be entitled to establish such procedures for the collection of Assessments, including provisions for filing a lien against the Lot in the overdue amount as set forth in Section 8.10, late charges, interest on unpaid Assessments, and such other matters as the Master Association shall determine, and has any and all rights and remedies provided at law or in equity for the collection of debts, subject only to the requirement of notice and hearing provided in Section 8.8.

**8.8 Notice of Unpaid Assessment.** If any Assessment or any installment thereof is not paid within thirty (30) days after its due date, the Board may mail a notice of default to the applicable Owner. Such notice shall specify (i) that the applicable Assessment or installment thereof is late, (ii) the action required to cure such default, including the specific amount required to be paid, including late charges, interest and costs of collection, if any, (iii) a date not less than thirty (30) days from the date the notice is mailed by which such

default must be cured, and (iv) that a failure to cure the default on or before the date specified in the notice may result in the acceleration of the balance of the Assessment for the current year and the filing and foreclosure of a lien for the Assessment. If the default in the payment of the Assessment is not cured as specified in the notice, the Board, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further notice or demand to the Owner and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law or in this Master Declaration.

8.9 **Remedies to Enforce Assessments.** Each Assessment, together with accrued interest, late charges or other similar charges, levied shall be a separate, distinct and personal debt and obligation of the Owner against whom such Assessment is assessed. Suit to recover a money judgment for such personal obligation shall be maintainable by the Master Association against such Owner without foreclosing or waiving the lien securing the same. Any and all rights and remedies shall be exercised in such manner, on one or more occasions and in such order as the Board shall elect, without waiver of any other right or remedy or lien provided in this Master Declaration or by law. Any failure of the Board to exercise any such right on one or more occasions shall not constitute a waiver of the right to so exercise such right in the future. In addition to the amount of the unpaid Assessment, an Owner shall be required to pay any and all costs and expenses which may be incurred by the Master Association in collection of such Assessment, including reasonable attorneys' fees and costs, whether or not litigation is commenced.

8.10 **Lien for Assessments.** All sums assessed to an Owner of any Lot in the Project pursuant to the provisions of this Master Declaration, together with interest thereon at the Interest Rate or Default Rate, as applicable, late charges and costs of collection, shall be secured by a lien on such Lot in favor of the Master Association. To evidence a lien for sums assessed pursuant to this Master Declaration, the Board shall cause to be prepared a written notice of lien setting forth (i) the name of the Owner of the applicable Lot, (ii) the legal description of the Lot, (iii) the amount of the Assessment, (iv) the date such Assessment was due and (v) the amount remaining unpaid. Such notice of lien shall be signed and acknowledged by an officer of the Master Association, and shall be recorded in the office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in the payment of the Assessment and after the notice required to be given pursuant to Section 8.8. Such lien may be enforced by the sale or foreclosure of the Lot encumbered by the lien at a foreclosure sale conducted by the Board or its attorney in accordance with the provisions of Utah law applicable to the foreclosure of a mortgage or in any manner permitted by Utah law, including specifically, but without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanics lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code Annotated, as amended from time to time. In any such sale or foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, and such costs and expenses shall be secured by the lien herein provided whether or not the same shall be specifically set forth therein. The Owner shall also be required to pay to the Master Association any Assessments against the Lot which shall become due during the period of foreclosure or sale, and all such Assessments shall be secured by the lien herein provided. The Master Association has the right and power to bid in any foreclosure or sale and, upon purchase thereof, to hold, lease, mortgage or convey the subject Lot. In the event a proceeding for the foreclosure of the lien granted hereby shall be commenced, while such proceeding shall be in process, the Master Association shall be entitled to the appointment of a receiver to collect the rentals being derived from said Lot.

8.11 **Priority of Lien; Liability of Owner.** The priority of lien for Assessments provided for herein over a Mortgage shall be governed by the provisions of Section 9.3. No foreclosure of a lien shall extinguish the personal liability of the Owner therefor unless the Master Association shall either (i) actually purchase the Lot at the foreclosure sale conducted to foreclose such lien, or (ii) actually receive payment in full of amounts due. An Owner's personal liability for payment of Assessments shall be reduced by the amount actually paid at the foreclosure by the successful bidder that shall remain after allocation for payment of costs

and expenses incurred by reason of such sale. No other sale or transfer shall relieve such Owner from liability for any Assessments which shall be due as of the date of foreclosure.

8.12 **Certificate of Assessment.** The Board shall, upon written request, and for a reasonable charge, furnish a certificate signed by an officer of the Master Association, setting forth whether the Assessments on a specific Lot have been paid and said certificate may be conclusively relied upon by the party requesting same.

8.13 **No Avoidance.** No Owner may avoid or diminish such Owner's obligation to pay Assessments, the right of the Master Association to assert a lien against said Owner's Lot to enforce payment of same or be relieved of such Owner's personal obligation for the payment of Assessments by reason of (i) a waiver of the use or enjoyment or the actual non-use of any of the Common Easement Areas, Common Facilities or any other portion of the Project, (ii) a waiver of any services provided for in this Master Declaration, or (iii) all or any part of said Owner's Lot being unoccupied for all or any portion of the period for which such Assessments have been made.

8.14 **Accrual of Interest.** Interest shall accrue on amounts required to be paid in accordance with the provisions of this Master Declaration from the date such payment is due until the required amount is received by the Master Association. The term "**Interest Rate**" when used in this Master Declaration shall refer to a per annum rate of interest which shall be two percent (2.0%) per annum above the Reference Rate. The term "**Default Rate**" when used in this Master Declaration shall refer to a per annum rate of interest which shall be six percent (6.0%) per annum above the Reference Rate. The Interest Rate and the Default Rate shall be adjusted at the same time and in the same manner as there shall occur any change in the Reference Rate. The Reference Rate is the rate of interest established and made public from time to time by Wells Fargo Bank, N.A. and its successors and assigns, and used by such bank as its reference point for pricing loans to substantial commercial borrowers, whether such rate shall be denominated as its reference rate, prime rate or other similar or dissimilar term (the "**Reference Rate**"). The Reference Rate shall be deemed also to refer to any subsequent reference point, however denominated, that may in the future be adopted by such bank as the replacement for the Reference Rate which is currently being used by such bank as its reference point. All calculations of interest hereunder shall be made as follows: (i) the Interest Rate or the Default Rate, as applicable, shall be multiplied by the amount due, (ii) the product determined in clause (i) above shall be divided by three hundred sixty-five (365); and (iii) the quotient obtained in clause (ii) above shall be multiplied by the actual number of days in the period for which the calculation is being made.

8.15 **No Offset.** All Assessments shall be payable in the amounts specified in the levy thereof, and no offset or reduction thereof shall be permitted for any reason, including, without limitation, any claim that the Master Association, the Board or any officer, employee, agent or representative thereof is not properly exercising its duties and powers under this Master Declaration.

8.16 **No Assessments to Park Owner.** The Park beautifies the entire Project, but will generate little or no revenue for its Owner even though the Owner will incur significant expense maintaining the Park Facilities (excluding the Water Feature, which is a Common Facility). Consequently, notwithstanding anything in this Declaration to the contrary, as long as the City is the Owner of the Park, it shall not be required to pay any Assessments of any type (whether General Assessments, Supplemental Assessments, or otherwise), and during such period the provisions of this Declaration concerning Assessments against Owners are not applicable to the Owner of the Park. Such relief from Assessments favoring the City as Owner of the Park is not subject to modification or amendment without the express, prior written consent of the City for such period as it owns the Park. Notwithstanding anything in the foregoing, this Section 8.16 does not impact any assessment that may be charged to the City pursuant to the Condominium Declaration.

**ARTICLE IX  
MORTGAGE PROTECTION**

9.1 **Mortgage Protection.** No breach of any of the covenants, conditions, restrictions, or limitations contained in this Master Declaration shall defeat or render invalid the lien of any Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions or limitations contained herein shall be binding upon an Owner whose title is derived through foreclosure, trustee's sale or by deed or assignment in lieu of foreclosure.

9.2 **Notice of Noncompliance to Mortgagee.** From and after the time a Mortgagee makes written request to the Master Association therefore, the Master Association shall notify such Mortgagee in writing in the event that the Owner of a Lot encumbered by the Mortgage held by such Mortgagee neglects, for a period of thirty (30) days or more, to cure any failure on the part of such Owner to perform any of his obligations under this Master Declaration.

9.3 **Priority of Assessment Lien.** The lien or claim against a Lot for unpaid Assessments levied by the Master Association pursuant to this Master Declaration shall be subordinate to a Mortgage affecting such Lot which has been recorded prior to the date such Assessment became due. A Mortgagee who comes into possession of the Lot pursuant to its Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder or delivery of a deed or assignment in lieu of foreclosure, except that such Mortgagee shall be responsible for the payment of a pro rata share of such prior Assessments or charges resulting from a pro rata reallocation thereof to all Lots including the Lot in which the Mortgagee is interested.

9.4 **Financial Information.** Any Mortgagee has the right, at its request and expense and upon reasonable notice, to examine the books and records of the Master Association during reasonable business hours. From and after the time a Mortgagee makes written request to the Master Association therefore, and at the expense of such Mortgagee, the Master Association shall furnish to such Mortgagee copies of such financial reports or writings summarizing or reflecting the financial position or history of the Project as may be prepared for distribution to or use by the Owners generally.

9.5 **Amendment to Article.** No amendment to this Article IX which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the first Mortgagees of the individual Lots have given their prior written approval to such amendments. Any amendment to this Article IX shall be accomplished by an instrument executed by the Master Association and filed for record in the office of the County Recorder of Salt Lake County, State of Utah. In any such instrument, an officer of the Master Association shall certify under penalties of perjury that the prior written approval of first Mortgagees required by this Article IX as a condition to amendment has been obtained.

9.6 **Notices to Mortgagee.** Any notice to a Mortgagee under this Article IX shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class mail, postage prepaid, and addressed to the Mortgagee at the address for notices from time to time specified by the Mortgagee in writing to the Master Association. Any such notice shall be given in the manner specified in Section 12.1 of this Master Declaration.

## **ARTICLE X ARCHITECTURAL CONTROL**

10.1 **Architectural Control.** No Owner, except Declarant, shall, without the prior written approval of the Architectural Control Committee, granted in accordance with the provisions of this Article X, undertake or permit others to undertake upon said Owner's Lot (i) the construction, installation, erection or expansion of any Building or other Improvement, including utility facilities, (ii) the voluntary demolition or destruction of any Building or other Improvement, (iii) the grading, excavation, filing or similar disturbance of the surface of the land, including, without limitation, changes of grade or drainage pattern, (iv) landscaping, clearing or removal of trees, shrubs or plants, (v) planting or other installation of Landscaping, or (vi) any change or alteration of any previously approved Improvement, including any change of exterior appearance, color or texture or approved Landscaping. Approval shall be requested and granted or denied in accordance with this Article and the Design Guidelines and Standards. If the Architectural Control Committee should determine, in accordance with the provisions of this Master Declaration, that a proposed Improvement or alteration of same is not consistent with the Design Guidelines and Standards, such Improvement or alteration shall not be made. Declarant and the Board has the standing and authority to enforce in accordance with rights and remedies provided in this Master Declaration and in courts of competent jurisdiction, the Design Guidelines and Standards and the decisions of the Architectural Control Committee.

10.2 **Architectural Control Committee.** There shall be established a three (3) member Architectural Control Committee to administer the provisions of this Article X. The members of the Architectural Control Committee may, but need not be Owners or Occupants of the Project. Until the earlier to occur of (i) January 1, 2030 or (ii) the date upon which Declarant shall no longer own any Lots within the Project, Declarant has the right to appoint all members of the Architectural Control Committee. Thereafter, the membership of the Architectural Control Committee shall be determined by the Board and its members shall be appointed and/or removed upon a vote of the Board.

10.3 **Purpose of Architectural Control Committee.** It is the stated purpose of the Architectural Control Committee to assure that all Buildings and other Improvements which shall be constructed or installed upon the Project shall (i) be of good quality and sound construction, (ii) harmonize with the existing surroundings and Improvements which have been or will be constructed upon the Project, (iii) are located upon the applicable Lot in such manner as to enhance the overall design of the Project, (iv) be in compliance with Design Guidelines and Standards adopted by the Architectural Control Committee, and (v) not detract from the overall quality and design of the Project. The Architectural Control Committee shall be permitted to approve such plans and specifications as it shall, in its best judgment, have determined will promote the development and maintenance of the Project as a first-class development. Compliance of proposed plans and specifications with applicable zoning requirements, building codes and other laws shall not necessarily mean that such plans and specifications shall be permitted to be developed and implemented pursuant to this Master Declaration. Approval of the plans and specifications may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Master Declaration, but also by virtue of the reasonable dissatisfaction of the Architectural Control Committee with the location of the Improvements on the Lot, the elevation, the color scheme, the finish, design, proportions, architecture, drainage plan, shape, height, style and appropriateness of the proposed Improvements or alteration to existing Improvements, the materials used therein, the Landscaping, including size, height or location of vegetation on the Lot, or because of the Architectural Control Committee's reasonable dissatisfaction with any other matters which, in the reasonable judgment of the Architectural Control Committee, will render the proposed Improvements to not be in harmony with the Project or not in keeping with the Design Guidelines and Standards.

10.4 **Design Guidelines and Standards.** The Architectural Control Committee shall adopt such Design Guidelines and Standards as it reasonably deems necessary to inform Owners of the standards which

will be applied in approving or disapproving proposed Improvements (“**Design Guidelines and Standards**”). The Design Guidelines and Standards and any requirements imposed by the Architectural Control Committee as a condition for approval of any proposed Improvements shall be in compliance with existing law, but may impose additional requirements not otherwise imposed by law. The Architectural Control Committee has the right to amend or revise the Design Guidelines and Standards from time to time as the Architectural Control Committee may determine upon a majority vote of its members; provided, however, that no amendment or revision shall require an Owner to alter or modify either (i) any existing Improvement or Landscaping constructed in accordance with the provisions of this Article X upon said Owners Lot or (ii) plans and specifications which have been approved by the Architectural Control Committee within six (6) months of the date of the adoption of such amendment or revision, pursuant to which plans and specifications construction has commenced, but may not be completed. The different, additional or revised Design Guidelines and Standards shall become effective as to all matters requiring Architectural Control Committee approval from and after the date of adoption of the revised Design Guidelines and Standards by the Architectural Control Committee. Design Guidelines and Standards may amplify, but may not be less restrictive than the regulations and restrictions contained in this Master Declaration and shall be binding upon all Owners of Lots within the Project. Review and approval by the Architectural Control Committee shall be based upon the standards set forth in this Master Declaration and in the Design Guidelines and Standards. The Architectural Control Committee shall consider not only the quality of the specific proposal, but also its effect and impact on neighboring Lots, existing Buildings and the entire Project. In no event shall any Improvement be constructed which shall not be in compliance with engineering, architectural or building codes or any other code design requirements and zoning or other applicable municipal, state or federal laws, ordinances or regulations.

10.5 **Design Review Procedures.** The Design Guidelines and Standards shall specifically state the procedures of the Architectural Control Committee with respect to the submission of plans and specifications for approval and may state such other rules, regulations, policies and recommendations which the Architectural Control Committee will consider in approving or disapproving proposed construction or alteration of Improvements; provided, however, that such procedures shall not be less restrictive than the procedures required in this Article X. An Owner shall submit three (3) copies of preliminary "plans and specifications" for any Improvements to be constructed upon its Lot, which plans and specifications shall include, site plans, maps, dimension drawings, exterior elevations, drainage plans, parking plans, exterior colors, materials and textures and other data sufficient to adequately disclose the scope and design of the proposed Improvements and a detailed Landscape Plan. Within five (5) days of its receipt of a submission from an Owner, the Architectural Control Committee shall advise such Owner in writing if the Architectural Control Committee considers the materials sufficiently complete to permit review by the Architectural Control Committee. If the Architectural Control Committee determines the submission to be insufficient, such notice shall specify the information that will be required to permit the Architectural Control Committee to begin its review.

10.5.1 **Review Period.** All such plans and specifications submitted to the Architectural Control Committee shall be approved or disapproved by the Architectural Control Committee in writing within thirty (30) business days after its receipt of a complete submission. In the event that additional information is requested by the Architectural Control Committee, the approval period will be extended accordingly. The Architectural Control Committee shall provide written notification of approval or disapproval. In the event that the plans and specifications are not approved as submitted, such written notification shall also include a reasonably detailed explanation of the reasons for such disapproval. The Architectural Control Committee has the right to approve submitted plans and specifications subject to specified conditions. Upon approval, two (2) copies of the plans and specifications and related materials shall be returned to the Owner and one (1) copy shall be retained by the Architectural Control Committee.

10.5.2 **Term of Approval.** Approval by the Architectural Control Committee shall be effective for a period of twelve (12) months from the date the approval is given, or six (6) months from the

expiration of the thirty (30) day period specified where approval is not expressly granted or denied. If construction has not commenced within the said six (6) month period, the approval shall be deemed expired and no construction shall thereafter commence without written renewal of such prior approval and such renewal shall be upon such terms as shall be imposed by the Architectural Control Committee pursuant to Design Guidelines and Standards then in effect.

10.6 **Required Vote.** The act, concurrence or determination of any two (2) or more members of the Architectural Control Committee shall constitute and shall be necessary for the Architectural Control Committee to act. Such concurrence or action of said two (2) or more members of the Architectural Control Committee may occur with or without a meeting, and at the same time or at different times. The Architectural Control Committee shall maintain such records as it shall deem necessary to record actions taken or determinations made by it.

10.7 **Variances.** The Architectural Control Committee may from time to time authorize variances from compliance with any provision of the Design Guidelines and Standards when circumstances such as topography, natural obstructions, or aesthetic, environmental or planning objectives or considerations may so warrant; provided, however, that no variance granted shall, in the reasonable opinion of the Architectural Control Committee, constitute a material violation of the standards for the Project. Each such variance must be approved by a majority of the members of the Architectural Control Committee. If such a variance is granted, no violation of this Master Declaration or the Design Guidelines and Standards shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive or to render unenforceable any of the terms and provisions of this Master Declaration for any purpose except as to the particular Lot and the provisions and circumstances covered by the variance, nor shall the granting of a variance be deemed to set a precedent with respect to any subsequent requests for variances. The Architectural Control Committee shall not delegate to any single member or group of members of the Architectural Control Committee or to any other person the power to grant variances pursuant to this Section 10.7. Any request for variance must be in writing and specify the variance requested and the reasons for such variance. A request for a variance shall be reviewed by the Architectural Control Committee within thirty (30) business days after its receipt of a written request for the same. The Architectural Control Committee shall provide written notification of approval or disapproval. Notification of disapproval shall include a reasonably detailed explanation of the reasons for such disapproval. In the event that the Architectural Control Committee shall fail to act within said thirty (30) day period, the requested variance shall be deemed disapproved, and within fifteen (15) days from said date, the Architectural Control Committee shall provide written notification of the reasons for such disapproval.

10.8 **Final Plans.** Upon approval of preliminary plans and specifications, the Owner shall proceed to prepare final construction plans and specifications, including a final Landscape Plan, which shall conform with the plans and specifications approved by the Architectural Control Committee. No later than the time the final plans and specifications are submitted to the appropriate governmental authority for the issuance of building permits, the Owner shall submit copies of the final plans and specifications and final Landscape Plan to the Architectural Control Committee. Prior to the commencement of construction, the Architectural Control Committee has the right to determine whether the final plans and specifications and Landscape Plan conform with the approval previously granted by the Architectural Control Committee. Such determination shall be made within ten (10) business days of the date final plans and specifications are delivered to the Architectural Control Committee. The Architectural Control Committee shall provide written notice of its approval or disapproval. Failure of the Architectural Control Committee to provide such notice within said ten (10) day period shall be deemed approval.

10.9 **Inspection.** The Architectural Control Committee has the right and authority to monitor construction of the Improvements to see that such Improvements are in compliance with the plans and

specifications which have been approved by the Architectural Control Committee. The Architectural Control Committee shall notify the Owner in writing of any failure to comply with the plans and specifications approved by the Architectural Control Committee. This right of inspection shall expire thirty (30) days after the Design Review Committee has received a written notice of completion of construction from the Owner.

10.10 **Notice of Noncompliance.** If the Master Association determines that any Improvements have been constructed without approval of the Architectural Control Committee or were not constructed in substantial compliance with the description and materials furnished to and any conditions of approval imposed by the Architectural Control Committee, then the Master Association or the Architectural Control Committee shall notify the Owner in writing of such noncompliance. Such notice shall specify the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance within thirty (30) days of the date of such notice, or in the event such noncompliance is not reasonably capable of being remedied within said thirty (30) days, then within such time as is reasonably necessary. In every such instance, the Owner shall commence such action as shall be required to remedy the noncompliance and shall diligently prosecute same to completion.

10.11 **Correction of Noncompliance.** If the Owner does not comply with the notice sent pursuant to Section 10.10, then the Master Association may, in its discretion, record a notice of noncompliance against the Lot on which the noncompliance exists, may remove or correct the noncomplying Improvement and, in such event, the Owner shall reimburse Declarant or the Master Association, as applicable, upon demand, for any and all expenses incurred in connection therewith. If such expenses are not reimbursed within thirty (30) days of notice thereof, the Board shall levy a Reimbursement Assessment in accordance with the provisions of Section 8.6. The Master Association has standing and authority to enforce in courts of competent jurisdiction the Design Guidelines and Standards and the decisions of the Architectural Control Committee. The right to remedy or remove any noncomplying Improvement shall be in addition to all other rights and remedies which the Master Association may have at law, in equity or under this Master Declaration, including specifically, but without limitation, the right to injunctive relief from a court of competent jurisdiction to stay construction or compel removal of a noncomplying Improvement. Should the Master Association be required to enforce the provisions hereof by legal action, the attorneys' fees and costs incurred, whether or not judicial proceedings are involved, shall be collectible from the Owner.

10.12 **No Liability.** No member of the Architectural Control Committee shall be personally liable for civil claims arising from acts or omissions made in the performance of duties as a member of the Architectural Control Committee, unless the acts or omissions are the result of the intentional misconduct of such member. Plans and specifications are not reviewed for (i) engineering, architectural, building code or any other code design requirements, (ii) compliance with zoning or other applicable municipal ordinances or regulations, or (iii) compliance with the requirements of any public utility. Neither the approval of plans and specifications by the Architectural Control Committee, nor the compliance of such plans and specifications to the Design Guidelines and Standards shall be construed to constitute any acknowledgement, warranty or representation by Declarant, the Master Association or the Architectural Control Committee as to the technical sufficiency, adequacy or safety of any Improvement or the compliance with applicable building codes, regulations or laws, including specifically, but without limitation, the Americans With Disabilities Act of 1990, as amended, and any regulations adopted pursuant thereto.

10.13 **Exclusions.** The provisions of this Article X shall not be applicable to the Common Easement Areas and any and all Improvements related thereto or constructed by Declarant; provided, however, that the provisions of this Article X, including specifically the Design Guidelines and Standards, shall be applicable to any Building and related Improvements that Declarant intends to construct upon a Lot owned by Declarant.



**ARTICLE XI  
INSURANCE AND CONDEMNATION**

11.1 **Insurance.** The Master Association shall obtain and maintain such insurance as may be required by law, including workman's compensation insurance, and has the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Board shall deem necessary or desirable. Insurance policies and insurance coverage shall be reviewed at least annually by the Board in light of the then existing and reasonably anticipated liabilities of the Master Association. All policies required shall be written by a company or companies authorized to write such insurance in the State of Utah and having a Best's Insurance Reports Rating of not less than A-XII, or in the event such publication ceases to be published, then an equivalent rating from an alternative rating service reasonably acceptable to the Master Association.

11.1.1 **Owner's Insurance.** Each Owner shall at all times maintain commercial general liability and property damage insurance providing coverage against personal injury, death and property damage occurring on such Owner's Lot in reasonable amounts and coverage that are customary for owners of first-class buildings for similar use in the metropolitan Salt Lake City, Utah area. Commercial general liability insurance shall include coverage for any Improvement that may be located upon an Owner's Lot and shall, to the extent reasonably obtainable, have limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence. Each Owner or Occupant, to the extent such Owner shall place responsibility on the Occupant to do so, shall keep its Lot and all Improvements thereon insured for the full replacement value thereof (less deductible) against property loss. Subject to the rights of any Mortgagee, all proceeds from such policy for any property loss, to the extent required, shall be used first by the Owner to repair or replace the Improvements on any Lot damaged by a covered peril.

11.1.2 **Master Association Insurance.** The Master Association shall acquire and maintain general commercial liability and property damage insurance providing coverage against personal injury, death and property damage occurring on or about the Common Easement Areas or Common Facilities, so long as such areas shall be owned by Declarant, and shall, to the extent reasonably obtainable, have limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per person and Two Million Dollars (\$2,000,000.00) per occurrence. In addition, the Master Association shall keep all Project Signs insured for the full replacement value thereof (less deductible) against property loss. Insurance for the Common Easement Areas and Common Facilities may be written in the name of, and the proceeds thereof payable to the Master Association, as trustee for each Owner. Premiums for insurance carried by the Master Association shall be a Common Expense.

11.2 **Condemnation.** In the event that all or any part of the Common Easement Areas is taken through condemnation or is conveyed to a condemning authority under threat of condemnation, the entire condemnation award or proceeds shall be used first to pay costs and expenses incurred to restore the remaining portions of the Common Easement Areas or Common Facilities that were taken to the condition that existed prior to such taking and any portion that shall remain thereafter shall be allocated to all Owners in the same proportion as used in the allocation of Common Expenses. Costs and expenses incurred in restoring such Common Easement Areas or other areas which shall be in excess of said condemnation award allocable to the Common Easement Areas shall be a Common Expense and may be included in a Supplemental Assessment made to all Owners. Subject to the rights of any Mortgagee, should the Improvements on any Lot be taken by eminent domain or be conveyed by the Owner by deed in lieu thereof, the proceeds therefrom shall be used first to restore the remaining Improvements on the Lot.

**ARTICLE XII  
MISCELLANEOUS PROVISIONS**

12.1 **Notices.** Upon acquisition of title to a Lot, each Owner shall provide written notice to the Master Association of such Owner's address for purposes of furnishing notices in connection with this Master Declaration. The Master Association shall maintain a record of the notice addresses furnished by the Owners. The address provided by an Owner shall be used for any notice required to be given under this Master Declaration and if no such address has been provided, then the address used by Salt Lake County for the mailing of real property tax statements for such Lot shall be used for such notice. All notices to be given pursuant to this Master Declaration shall be sufficient if given by personal service, by guaranteed overnight delivery service or by being mailed postage prepaid, certified or registered mail, return receipt requested, to the prescribed address. Any time period provided in the giving of any notice hereunder shall commence upon the date of personal service, the date after delivery to the guaranteed overnight delivery service or two (2) days after mailing certified or registered mail. Notice of the regular annual meeting of the Members shall be sent as set forth in the Bylaws.

12.2 **Amendment.** Except where otherwise specifically provided in this Master Declaration, this Master Declaration may be amended upon the affirmative vote of a majority of the total votes of the Owners, taken together, as determined in accordance with Sections 6.3 and 6.4. Any such amendment shall recite that a vote of the Owners has been properly taken and that the amendment has been approved in accordance with the provisions hereof, shall be certified by an officer of the Master Association and shall be recorded in the office of the Salt Lake County Recorder, State of Utah. Any such amendment shall take effect upon such recordation. Each Owner makes, constitutes and appoints the Master Association the true and lawful attorney-in-fact of said Owner to act in said Owner's name, place and stead to make, execute, sign, acknowledge and file with respect to the Project such amendments to this Master Declaration as may be required by law or by vote taken pursuant to the provisions of this Master Declaration. Any amendment to this Master Declaration which shall require the express consent of a specified party, shall be accomplished only by an amendment executed by both the Master Association and the party from whom such consent shall be required which shall be filed for record in the office of the County Recorder of Salt Lake County, State of Utah.

12.3 **Amendment by Declarant.** Declarant reserves and has the sole right to (i) amend this Master Declaration without the vote or consent of any Owner for the purpose of curing any inconsistency between the provisions contained herein, (ii) amend this Master Declaration without the vote or consent of any Owner in any manner which does not adversely affect the substantive rights of existing Owners or Mortgagees, and (iii) to amend this Master Declaration without the vote or consent of any Owner during the first two (2) years after the same has been recorded to comply with the request of any Mortgagee referred to in Article IX. The foregoing amendments may be made without the joinder or approval of any Owner, Mortgagee or the Master Association.

12.4 **Duration.** The covenants and restrictions of this Master Declaration shall run with and bind the Property and Project for a term of fifty (50) years from the date this Master Declaration is recorded, after which time, they shall be automatically extended for successive periods of ten (10) years, unless terminated at the end of any such period by the affirmative vote of two-thirds (2/3) of the Owners. No such termination shall terminate any Easement granted herein and all such Easements shall survive any termination of this Master Declaration and may be extinguished only in the manner provided by law for the termination of an easement.

12.5 **No Merger.** The easements, covenants and restrictions and other provisions contained in this Master Declaration shall remain in full force and effect despite the fact that any of the Lots may be owned by the same persons from time to time. It is the express intent of the Declarant to create a common scheme for the

development and operation of the Project which will not be terminated by the doctrine of merger or otherwise unless this Master Declaration is terminated in accordance with the provisions hereof.

12.6 **Assignment of Declarant's Rights and Remedies.** Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation, association or other entity which assumes such assigned duties of Declarant hereunder. In the event that Declarant attempts to assign less than all of the rights, powers and reservations of Declarant set forth herein, then any such assignment must specify which rights, powers and reservations are being assigned, and the only party that shall be permitted to exercise a right reserved or granted unto Declarant shall be the party to whom such right has been assigned. To be effective, such assignment must be in writing, must be recorded in the office of the Salt Lake County Recorder, State of Utah, and must specifically refer to the rights, powers and reservations of Declarant hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity (such acceptance may be shown, among other ways, by execution of such assignment by such assignee, or by such assignee recording the assignment in the office of the Salt Lake County Recorder, State of Utah) and recording of such assignment in the office of the Salt Lake County Recorder, State of Utah, said assignee shall, to the extent of such assignment, assume, and be deemed to have assumed, Declarant's duties hereunder and have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment and recording, and to the extent thereof, the party making such assignment shall be relieved from all liabilities, obligations and duties hereunder arising from and after the date of such assignment. Anything contained elsewhere herein to the contrary notwithstanding, the mere conveyance or transfer of ownership of the Property by Declarant to any person or party, whether by deed or other instrument of conveyance, shall in no way convey any right, power or reservation of Declarant hereunder. A successor to Declarant by reason of any merger or consolidation of the then Declarant shall automatically be deemed to have assumed Declarant's duties hereunder and has the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

12.7 **Violation Creates Nuisance.** Any violation of any provision, covenant, condition or equitable servitude contained in this Master Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any party entitled to enforce the provisions of this Master Declaration.

12.8 **Violation of Law.** Any violation of any federal, state, municipal or local law, ordinance, rule or regulation pertaining to the ownership, occupation or use of any Property or Improvements within the Project, as the same are amended or revised from time to time, is hereby declared to be a violation of this Master Declaration and shall be subject to any and all of the enforcement procedures set forth in this Master Declaration.

12.9 **No Third Party Beneficiary.** This Master Declaration has been executed and recorded for the benefit of Declarant and the Owners. Unless otherwise set forth herein with specificity which shall include the name of the party which shall be intended to be benefited by a specific provision of this Master Declaration, no other party shall be construed to be an intended third party beneficiary of any of the rights, duties or obligations set forth herein, and no party other than Declarant or an Owner shall, therefore, have the right to enforce any provision hereof, unless such right shall be specifically set forth herein.

12.10 **Words of Conveyance.** The use of the word "grant," and any form thereof, as used in provisions of this Master Declaration to create or preserve easements, licenses or other rights and privileges described herein shall be deemed to be construed in such manner as shall be required to give effect to the easement, license, right or privilege intended to be created or preserved by such provisions and, to the extent necessary to effect such result, and any use of the word grant, or any form thereof, shall be deemed to include

such other words of conveyance (e.g. such as reserve, quitclaim, convey, transfer, etc.) as may be required to give effect to the easement, license, right or privilege intended to be created or preserved.

12.11 **Liberal Interpretation.** The provisions of this Master Declaration shall be liberally construed as a whole to effectuate the purpose of this Master Declaration.

12.12 **Gender and Number.** In this Master Declaration, unless the context requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

12.13 **Captions.** The titles, headings and captions used herein are for convenience only and are not a part of this Master Declaration and shall not be considered in construing, nor shall same be used to limit or amplify the terms and provisions hereof.

12.14 **Invalidity of Provision.** If any provision of this Master Declaration as applied to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Master Declaration, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of the Declaration as a whole.

12.15 **Exhibits.** All exhibits to this Master Declaration are incorporated herein by this reference.

12.16 **Governing Law and Venue.** This Master Declaration and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah, and if necessary shall be heard in the Third District Court, Matheson Courthouse.

**[SIGNATURE PAGE TO FOLLOW ON NEXT PAGE]**

EXECUTED to be effective the day same shall be recorded in the office of the Salt Lake County Recorder, State of Utah.

DECLARANT:

CANYON CENTRE CAPITAL, LLC,  
a Utah limited liability company

By: Chris McCandless  
Its: Manager

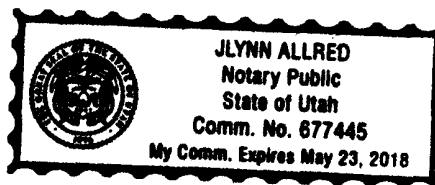
STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

The foregoing instrument was acknowledged before me on the 17<sup>th</sup> day of April, 2015, by Chris McCandless the Manager of Canyon Centre Capital, LLC, a Utah limited liability company.

My Commission Expires: May 23, 2018

Jlynn Allred  
Notary Public  
Residing at Utah County

607088.3



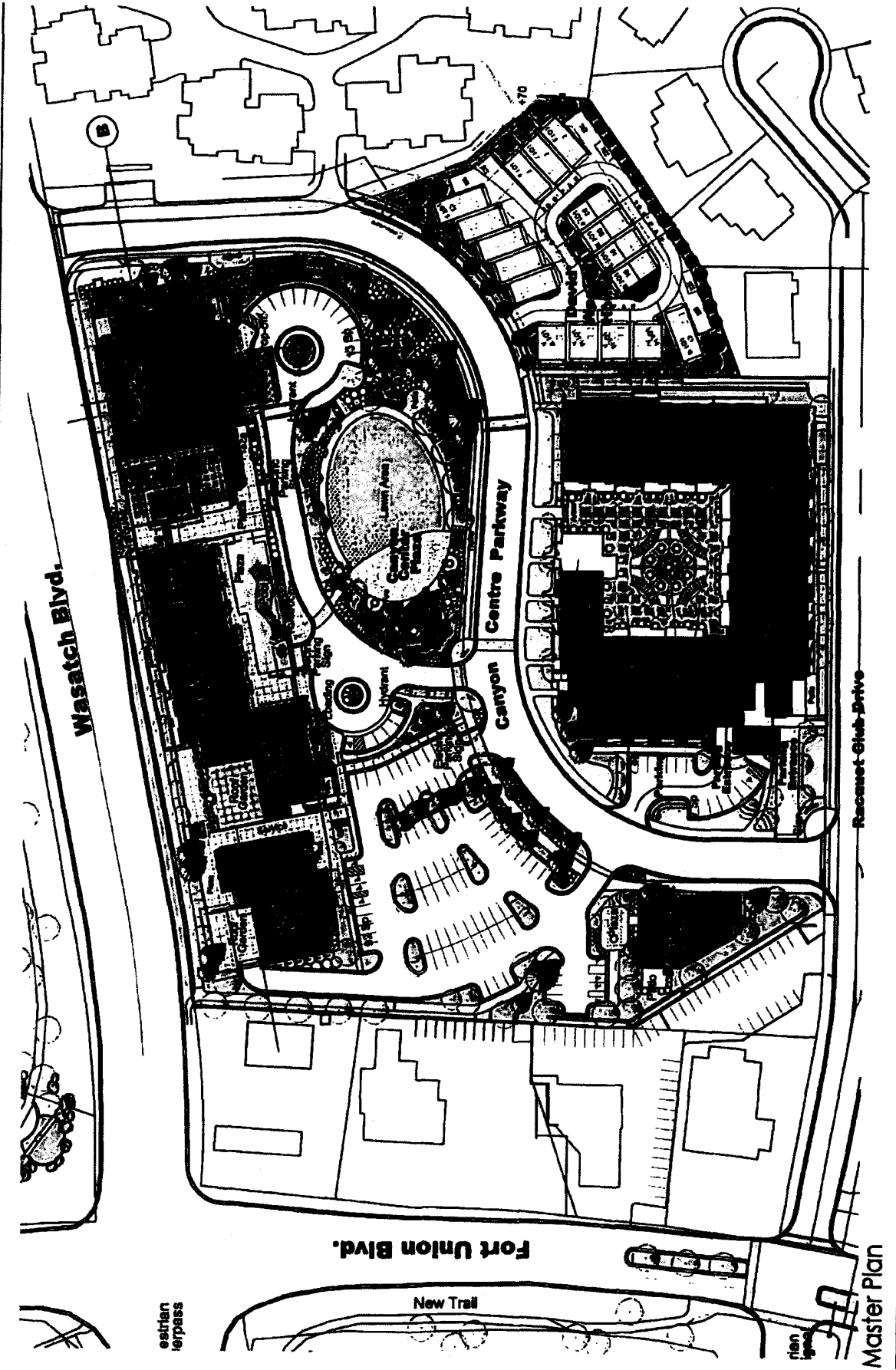
**EXHIBIT A  
TO  
MASTER DECLARATION**

**LEGAL DESCRIPTION**

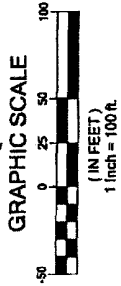
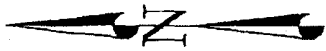
All of lots 1, 2, 3, 4 & 5, of Canyon Center Amending Wasatch Gates Subdivision, according to the official plat thereof.



# Exhibit C - Master Plan







NOTE:  
ALL LANDSCAPE AND SIGN  
EASEMENTS IN FAVOR OF  
CANYON CENTRE OWNERS  
ASSOCIATION

# EXHIBIT D COMMON EASEMENT AREAS

