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Declaration PAGE 1/114

MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE 236.00 BY APEX PARK CITY RESIDENCES LLC



DECLARATION OF CONDOMINIUM

FOR

APEX RESIDENCES PARK CITY

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EXHIBIT C – ASSOCIATION BYLAWS

DECLARATION OF CONDOMINIUM

FOR

APEX RESIDENCES PARK CITY

This Declaration of Condominium for Apex Residences Park City ("Declaration") is made and executed by Apex Park City Residences LLC, a Delaware limited liability company ("Declarant"), for itself, its successors and assigns, pursuant to the provisions of the Utah Condominium Ownership Act, Title 57, Chapter 8, Utah Code Ann., as amended ("Act").

RECITALS

- A. Declarant holds both legal and equitable title to the real property located in Park City, Summit County, State of Utah, more particularly described on the attached Exhibit A ("Property"), upon which Declarant desires to develop a residential condominium project known as Apex Residences Park City ("Project").
- B. Recorded previously or simultaneously herewith is a Condominium Plat of the Project as required by the Act.
- C. Declarant shall organize and cause the Apex Residences Park City Owners Association, Inc., ("Association") to be incorporated as a Utah non-profit corporation, which Association will maintain the Common Areas and Facilities within the Project as hereinafter described, provide for the management and operation of the Common Areas and Facilities, levy and collect Common Assessments and administer and enforce the terms of this Declaration.
- D. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto are intended to be enforceable equitable servitudes and shall run with the land.
- E. The Project is intended to be a condominium project pursuant to the Act.
- F. All capitalized terms used in this Declaration and not defined in connection with their initial use shall be defined as set forth in Article I, below. All of the foregoing Recitals are incorporated into and made a part of this Declaration for all purposes.

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

**ARTICLE 1
DEFINITIONS**

Unless the context clearly indicates otherwise, certain terms as used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Article 1.

1.1 "Act" shall mean the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code Ann., as amended).

1.2 “Amendment” shall mean any amendment to this Declaration made in accordance with this Declaration.

1.3 “Articles” shall mean the Articles of Incorporation of the Association.

1.4 “Architectural Review Committee” shall mean the committee of the Association created pursuant to ARTICLE 15 below.

1.5 “Assessments” shall mean Common Assessments and any other assessments levied by the Association.

1.6 “Association” shall mean the Apex Residences Park City Owners Association, Inc., Utah a non-profit corporation, organized for the purposes set forth in this Declaration.

1.7 “Association Manager” shall mean the person, firm or company designated by the Association to manage, in whole or in part, the affairs of the Association.

1.8 “Association Rules” shall mean the rules and regulations adopted for the Association by the Management Committee pursuant to this Declaration governing the use and operation of the Project, as they may be amended from time to time.

1.9 “Building(s)” shall mean the buildings constructed as part of the Project, as described in Section 2.1.

1.10 “Bylaws” shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit C, as amended from time to time.

1.11 “City” shall mean Park City Municipal Corporation.

1.12 “Clubhouse” shall mean the Building designated as the Clubhouse on the Condominium Plat and shall include the related facilities and amenities within such Building.

1.13 “Common Areas and Facilities” shall mean all portions of the Project other than the Units, as described in ARTICLE 4 hereof.

1.14 “Common Assessments” shall mean those assessments described in ARTICLE 17 to fund the Common Expenses, and include Regular Common Assessments, Special Assessments, and certain other assessments levied by the Association.

1.15 “Common Expense Fund” shall mean one or more deposit or investment accounts of the Association into which are deposited the Common Assessments.

1.16 “Common Expenses” shall mean (i) all expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities; (ii) certain premiums for insurance (including deductibles) obtained by the Management Committee on behalf of the Association for the benefit of the Project; (iii) all expenses of repair, maintenance, operation, replacement, upgrades, expansions and lease payments associated with utilities, cable, fiber optics, television, internet, voice and data services, wireless technology, support hardware and

software, and all other telecommunications, technology and equipment software, wiring, hardware and related improvements and facilities servicing the Units; and (iv) all other expenses denominated as Common Expenses by the Management Committee, this Declaration or by the Act, which are assessed by the Management Committee against the Owners.

1.17 "Condominium Documents" shall mean this Declaration, the Plat, the Articles, the Bylaws, resolutions of the Association, and Association Rules, as each document may be amended from time to time.

1.18 "Condominium Plat" or "Plat" shall mean the condominium plat for Apex Residences Park City recorded in the office of the County Recorder for Summit County, State of Utah, as it may be amended from time to time pursuant to this Declaration and the Act. The Plat may be amended by Declarant in the event there are material changes in the Unit boundaries or elevations as constructed, or as otherwise provided herein. Such amendments to the Plat are expressly authorized and may be undertaken by Declarant without the joinder or consent of any other Owners. All other amendments to the Plat are governed by Section 25.4.

1.19 "Cost of Living Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items 1982-1984 = 100 compiled by the Bureau of Labor Statistics, United States Department of Labor. The Index for March 2014 is the reference base index. Declarant may select any other comparable index which measures changes in the cost of living.

1.20 "County" shall mean Summit County, Utah.

1.21 "Declarant" shall mean Apex Park City Residences LLC, a Delaware limited liability company or any successor in interest, as provided in the Act and in Section 29.3 below.

1.22 "Declarant Control Period" shall mean the period of Declarant control of the Association described in Section 9.3 below.

1.23 "Declaration" shall mean this Declaration of Condominium for Apex Residences Park City, and all amendments, modifications and supplements hereto.

1.24 "Design Guide" shall mean that certain Design Guide for Apex Residences Park City and rules associated therewith for development of the Property, if any, as established by the Declarant and/or the Architectural Review Committee from time to time.

1.25 "Developmental Rights" shall mean the exercise of any of the rights set forth in ARTICLE 9 hereof, and the exercise of any other right reserved by Declarant pursuant to this Declaration.

1.26 "Eligible Mortgagee" shall mean and refer to a First Mortgagee that has requested notice of certain matters from the Association in accordance with Section 24.1 of this Declaration.

1.27 "Limited Common Areas and Facilities" shall mean a portion of the Common Areas and Facilities designated by this Declaration, the Plat or the Act for the exclusive use of one or more, but fewer than all, of the Units.

1.28 "Management Committee" shall mean the Board of Directors of the Association, appointed or elected in accordance with this Declaration and the Bylaws.

1.29 "Mortgage" shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Unit.

1.30 "Mortgagee" shall mean any person or entity named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage.

1.31 "Occupant" shall mean any Person other than an Owner who occupies or is in possession of a Unit, or any portion thereof or building or structure thereon, whether as a lessee or otherwise, other than on a merely transient basis.

1.32 "Official Records" shall mean the official records of the Summit County, Utah Recorder's office.

1.33 "Owner" shall mean any person or entity, including Declarant, at any time owning a Unit within the Project, or any portion thereof or interest therein. The term "Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.34 "Private Road" shall mean any and all private roadways shown on the Plat providing access to and from the Project from adjacent roadways.

1.35 "Project" shall mean the Property, the Units, the Common Areas and Facilities and all improvements submitted by this Declaration to the provisions of the Act.

1.36 "Property" shall mean that certain real property situated in the County of Summit, State of Utah, more particularly described on the attached Exhibit A, on which the Units, Common Areas and Facilities and other improvements are located.

1.37 "Regular Common Assessments" shall mean the annual assessments levied by the Association to pay the budgeted Common Expenses.

1.38 "Residential Unit(s)" shall mean any Unit designated as a Residential Unit on the Condominium Plat, or any amendment thereto, used and occupied for residential purposes as described in ARTICLE 10 below.

1.39 "Residential Unit Owner(s)" shall mean any Person, including Declarant, at any time owning a Residential Unit. The term Residential Unit Owner shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.40 "Resort Management Activities" shall mean performance, administration and management of resort operations, Project support-related functions, back-of-house, management, housekeeping, storage, lobby areas and all other activities necessary, related or incidental to the operation of the Project as a luxury resort and all other operations conducted on the Common Areas and Facilities, including without limitation, support-related functions, Owner and guest services, and all other activities necessary, related or incidental to the operation of a luxury resort property.

1.41 "Resort Management Documents" shall mean (i) any franchise, license, or management agreement for the management and operation of the Common Areas and Facilities, as may be in existence from time to time, entered into and between the Association and the Resort Manager or a third-party franchisor or licensor of a resort or other hospitality brand, as applicable; (ii) any property management agreement for the Common Areas and Facilities, as may be in existence from time to time, entered into and between the Association and the Resort Manager; (iii) those certain documents, standards and guidelines unilaterally established and promulgated from time to time by the Association, or the Resort Manager on behalf of the Association, governing the appearance, decorating style, upkeep, furnishings, maintenance and repair of the Common Areas and Facilities; and (iv) any other franchise, license, easement, contract or agreement governing the use, occupancy, maintenance, repair, replacement and operations of the Common Areas and Facilities.

1.42 "Resort Manager" shall mean the person, firm or company designated by the Management Committee to manage, in whole or in part, certain affairs of the Common Areas and Facilities pursuant to the Resort Management Documents.

1.43 "Resort Quality Standard" shall mean the standards of construction, operation, service, maintenance, repair and refurbishment of the Project which shall be: (i) at the level of service and quality of a luxury residential condominium project; and (ii) consistent with the requirements and limitations set forth in the Resort Management Documents; or (iii) reasonably likely to protect and preserve the assets that comprise the Project and optimize the long-term value of the Project over the life of the Project; provided, however, that at any time a Resort Management Document is in effect for the Project, Resort Quality Standard shall mean the standards required under such Resort Management Document during the term of such Resort Management Document. The definition of Resort Quality Standard may not be amended without the prior written consent of the Management Committee or the Resort Manager on behalf of the Management Committee.

1.44 "RVMA" shall mean The Canyons Resort Village Association, Inc., a Utah nonprofit corporation.

1.45 "RVMA Agreement" shall mean that certain Canyons Resort Village Management Agreement, dated November 15, 1999 and recorded on December 15, 1999, as Entry No. 555285, in Book 1300, beginning at Page 1, in the Official Records, together with any amendments thereto.

1.46 "Ski Facility" shall have the meaning ascribed to such term in Section 6.2.

1.47 "Ski Resort Easement" shall mean those easements on the Property created by that certain Ski Resort Easement Agreement (Parcel RC 25) dated July 15, 2016 and recorded in the Official Records on July 15, 2016 as Entry No. 01049565, in Book 2362, beginning at Page 1305.

1.48 "Ski Trails" shall mean those certain pathways or trails around and/or through the Property and across the Common Areas and Facilities that may be developed and maintained from time to time as part of ski and/or hiking trail systems within the Project as may be shown on the Plat.

1.49 "SPA Agreement" shall mean that certain Amended and Restated Development Agreement for The Canyons Specially Planned Area, dated November 15, 1999, and recorded with the Summit County Recorder on November 24, 1999, as Entry No. 553911, in Book 1297, beginning at Page 405, as amended.

1.50 "Special Assessments" shall mean assessments which the Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

1.51 "Square Feet" or "Square Footage" shall mean for purposes of calculating the undivided interest in the Common Areas and Facilities appurtenant to each Unit, the gross square feet of ground or floor space within each Unit, as calculated by Declarant in its sole and exclusive discretion, as set forth in the Plat and Exhibit B hereto. Because this Declaration and the Plat are prepared and recorded prior to construction of the Project, based on the architectural plans and specifications for the Project, there will likely be differences in Square Footage between the Plat and the as-built Project. The Square Footage shall be determined as Declarant shall exclusively assign and as measured and unilaterally calculated by Declarant during the Declarant Control Period, and thereafter, the Management Committee, on a consistent basis, as set forth in the Plat and Exhibit B hereto. The calculation of square footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such square footages. In the event of any disagreement or uncertainty as to the calculation of Square Footage in the Project and/or as to which Units and improvements are constructed, Declarant, so long as it has any Developmental Rights hereunder, and thereafter, the Management Committee, shall have the sole and exclusive power (but without obligation to take any corrective action) to make such determination, and such Declarant's or the Management Committee's determination shall be conclusive, final and unappealable.

1.52 "Structure" shall mean anything constructed, the use of which requires a fixed location on or in the ground or attached to something which has a fixed location on the ground and which imposes an impervious material on or above the ground, including a Building.

1.53 "Supplemental Plat" shall mean any amendment to the Plat made in accordance with this Declaration and the Act.

1.54 "Total Votes of the Association" shall mean the total number of votes appertaining to all Units, as described in Section 16.1 hereof.

1.55 "Unit" shall mean and refer to an individual portion of the Project designated as a Residential Unit on the Condominium Plat and designed for separate ownership and occupancy as described in ARTICLE 3 hereof.

1.56 "Unit Number" shall mean the number, letter or combination of numbers and letters that identifies only one Unit in the Project.

ARTICLE 2

DESCRIPTION OF THE IMPROVEMENTS/SUBMISSION TO THE ACT/LICENSES

2.1. Improvements. The initial improvements will consist of twenty-one (21) multi-family Buildings containing sixty-three (63) Residential Units, the Clubhouse, the Ski Trails, driveways and parking areas and related support improvements that are part of the Common Areas and Facilities. The initial Units and any subsequent Units constructed on the Property will be of wood frame construction. The roofs will be a mix of flat and sloped pitches, with single ply EPDM membrane roofing. Exteriors will be a mix of natural stone, wood siding, and aluminum clad wood windows. The Units will be supplied with telephone, cable television, electricity, natural gas, water, and sewer service.

2.2. Lockouts. No Residential Unit or portion thereof may be used as a separate lockout room without the approval of the Architectural Review Committee, the County and the RVMA.

2.3. Submission to the Act. Declarant hereby submits the Property, the Units and all other improvements thereon to the provisions of the Act. All of the Project is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a residential condominium project. All of the Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of the Project and division thereof into Units; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, the successors and assigns of the Declarant, and any person acquiring, leasing, subleasing or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

2.4. License to Use of Project Name. Declarant hereby grants to the Association a non-exclusive license and right to use of the name "Apex Residences Park City", "Apex", "Apex Condominiums" and similar marks associated with the Project for the limited, non-commercial purpose of identifying the Project and the Units. The Association and each Owner acknowledge and agree that the marks associated with the Project and all rights and goodwill pertaining thereto belong exclusively to Declarant and its affiliates and subsidiaries. Upon termination or expiration of the license granted to the Association or upon termination of an Owner's right, title or interest in and to a Unit, such Owner's limited right to use of the marks associated with the Project and owned by Declarant shall immediately terminate and such Owner shall release and disclaim all right or interest in and to such marks.

**ARTICLE 3
DESCRIPTION OF UNITS**

3.1. Unit Boundaries. The boundary lines of each Unit are as set forth on the Plat, and as further described below. The Plat and/or Exhibit B hereto contain the Unit Number of each Unit in the Project. The boundaries of the Residential Units consist of the inside face of each Unit's demising wall studs, lowermost floor, uppermost ceiling, and the interior surfaces of windows and doors. The interior surfaces of the doors and windows mean the points at which such surfaces are located when such window or door is closed. Each Residential Unit shall include both the portions of a Building within such boundary lines and the space so encompassed, including fixtures and hardware and all improvements contained within the perimeter walls, ceilings, and floors, excepting Common Areas and Facilities. Without limitation, the Residential Units shall include all sheetrock, paneling, tiles, wallpaper, paint, sub-flooring and any material constituting part of the finished surface of a wall, floor, or ceiling. Notwithstanding the fact that they may be within the boundaries of the Unit, the following are not part of any Residential Unit: bearing walls, floors, ceilings and roofs (except the interior surfaces thereof), foundations, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except that outlets, plumbing valves and fixtures and similar items located within the Residential Unit shall be part of the Residential Unit.

3.2. As Constructed. Notwithstanding the description of Units described in Section 3.1 above, for the purposes of interpreting this Declaration and the Plat, the boundaries of all Units constructed in substantial accordance with the Plat and this Declaration shall be conclusively presumed to be the actual boundaries rather than the description and depiction of the Units set forth on the Plat, regardless of the settling or lateral movement of the Units and regardless of minor variances between boundaries shown on the Plat and the constructed boundaries of the Units. It is acknowledged that the Plat is prepared from the architectural drawings of the Project, prior to construction, and that there will be variances between the boundaries and other features shown on the Plat and the actual construction of the Project.

**ARTICLE 4
DESCRIPTION AND OWNERSHIP OF COMMON AREAS AND FACILITIES**

4.1. Description of the Common Areas. The Common Areas and Facilities shall mean and include the Property on which all Units are located and all portions of the Project not included as part of any Unit, including, but not by way of limitation: the foundations, columns, girders, beams, supports, perimeter and supporting walls for the Buildings containing Residential Units; the mechanical installations of the Buildings containing Residential Units consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating, refrigeration, central air-conditioning and incinerating which exist for use by one or more of the Owners, including the pipes, vents, ducts, flues, cable conduits, fiber optic lines, wires, telephone wire, and other similar utility installations used in connection therewith; the Clubhouse and related facilities and amenities, including, but not limited to, the plaza, swimming pool, hot tubs and related facilities; the yards, sidewalks, walkways, Ski Trails, paths, grass, shrubbery, trees, planters, driveways, landscaping, gardens and related facilities upon the Property; the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and equipment of the Buildings containing

Residential Units existing for use of more than one Owner; and, in general, all other parts of the Project designated by Declarant as Common Areas and Facilities and existing for the use of one or more of the Owners; provided, however that any heating, ventilation, or air conditioning units, water heaters or similar equipment located entirely within and servicing a single Unit shall not be part of the Common Areas and Facilities. The monument sign at the entrance to the Project is part of the Common Areas and Facilities and such sign may include lighting. The Common Areas and Facilities include those areas described in this Declaration and on the Plat as Limited Common Areas and Facilities. In the event of a conflict between this Declaration and the Plat regarding the designation of Building components as part of Units or part of the Common Areas and Facilities, the provisions of this Declaration shall control.

4.2. Calculation of Undivided Interest. The undivided ownership interest in the Common Areas and Facilities appurtenant to each Unit shall be allocated in accordance with the Square Footage of each Unit in the Project. The undivided interest in the Common Areas and Facilities appurtenant to each Unit shall be a fraction, the numerator of which is the Square Footage of the particular Unit, and the denominator of which is the total Square Footage of all Units in the Project, as set forth on attached Exhibit B. Alternatively, such fraction may be expressed as a decimal number or percentage. The undivided interest appurtenant to each Unit shall have a permanent character and shall not be altered, except as provided in this Declaration and the Act. The sum of the undivided interests and votes in the Common Areas and Facilities allocated to all Units shall at all times equal one hundred percent (100%). Declarant is authorized to round the undivided interest of one or more Units in order to cause the total to equal one hundred percent (100%).

ARTICLE 5 DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES

5.1. Description. Limited Common Areas and Facilities means those parts of the Common Areas and Facilities which are limited to and reserved for the use of the Owners of one or more, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Areas and Facilities shall include: any balcony, deck, patio, or entryway adjacent to a Unit and designated as Limited Common Areas and Facilities on the Plat; parking garages and driveways attached to a Unit and designated as Limited Common Areas and Facilities on the Plat; parking spaces assigned to specific Units as provided on the Plat; circulation and entryways between lockout rooms and designated as Limited Common Areas and Facilities on the Plat; elevators and elevator shafts designated as Limited Common Areas and Facilities on the Plat; ski preparation rooms attached to a Unit and designated as Limited Common Areas and Facilities on the Plat; individual water and sewer service lines, and any plumbing or other installation servicing a Unit; and all other items designated as Limited Common Areas and Facilities on the Plat or as provided for by the Act. No reference to Limited Common Areas and Facilities need be made in any instrument of conveyance, encumbrance, or other instrument.

5.2. Use. The use and occupancy of designated Limited Common Areas and Facilities shall be reserved to specific Units as shown on the Plat or as specified in this Declaration. Without requiring an Amendment to this Declaration, Declarant hereby reserves the right to grant exclusive control over any Limited Common Areas and Facilities to the Owner of the Unit to which such areas are appurtenant. Control of the Limited Common Areas and Facilities shall

include maintenance, upkeep, repair, refurbishment, design and appearance, and the right to establish rules for use by licensees or invitees of such Limited Common Areas and Facilities.

5.3. Reallocation. Owners may not reallocate Limited Common Areas and Facilities between or among Units in which they have an interest. Notwithstanding the foregoing, Declarant hereby reserves the right and grants to the Association the right to reallocate Limited Common Areas and Facilities to the fullest extent permitted under the Act.

ARTICLE 6 MOUNTAIN RESORT DEVELOPMENT

6.1. Assumption of Risk, Waiver and General Release of Claims. Each Owner, by his, her or its purchase of a Unit, hereby acknowledges that the Project is part of a mountain resort community with resort-type activities, which may include, without limitation: skiing, ski runs and trails, hiking trails, mountain biking trails, open spaces, wildlife, rugged terrain, snowmaking, horses and horseback riding, games and activities, running, snow shoeing, alpine and cross country skiing and mountain bike courses and/or races and/or other competitions of various kinds, and other resort-type facilities, events, activities and programs (collectively, "Resort Activities"), and each such Owner expressly assumes the risk of noise, nuisances, hazards, personal injury, or property damage related to any and all Resort Activities, including without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance may take place at any time(s) of the day or night), (b) noise caused by Resort Activities, participants, and spectators, (c) noise from snowmaking systems and trail grooming machinery, (d) construction and development activities, (e) view restrictions caused by installation, relocation and maturation of trees and shrubbery, and the construction of other buildings and facilities, (f) reduction in privacy, including that related to maintenance activities, (g) errant equipment, including skis and mountain bikes, and (h) facilities design and construction activities of the Ski Facility. Each such Owner agrees that neither Declarant, the Association, any Resort Manager, any committee created by the Association, any of the Declarant's affiliates or agents, nor any Resort Activities participant (unless acting recklessly or in a willfully wrongful manner) shall be liable to an Owner or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to: (i) the proximity of an Owner's Unit to any ski run, ski easement, ski trail, hiking trail, or other Resort Activity venue; (ii) any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents, any Resort Manager, the Association, or any committee created by the Association (and all of their respective affiliates, subsidiaries, parent companies and other related companies, and all of their respective past and present directors, officers, shareholders, members, managers and all of their respective agents, representatives, attorneys, and employees of any of the foregoing) (collectively referred to herein as "Released Parties"); or (iii) any Resort Activity (collectively referred to herein as the "Waived Claims"). Each Owner, on behalf of itself, and his, her or its heirs, spouse, administrators, representatives, successors, affiliates, agents, and assigns (hereinafter, "Releasors"), does hereby fully, finally, and unconditionally release, and forever discharge the Released Parties from and waives all actions, causes of action, lawsuits, appeals, claims, charges, complaints, debts, obligations, demands, rights, grievances, promises, liability, damages, costs and/or fees whatsoever in law or

equity related to the Resort Activities and all Waived Claims asserted by such Owner and/or by such Owner's guests. Each Owner and guest understands and agrees that the waiver and release set forth in this ARTICLE 6 is intended to be a "general release" and is not an admission of wrongdoing or liability by or on the part of any Released Party. Nothing in this ARTICLE 6 shall in any way be construed as an admission by any Released Party that it acted wrongfully with respect to the Releasers. Each Owner and guest agrees that he, she or it will not, directly or indirectly, disparage, defame, or make defamatory or disparaging statements to any person or entity, including the press, regarding the Released Parties, any Waived Claim, or Declarant's past or present management, directors, officers, employees, and agents. If any covenant or provision of this ARTICLE 6 is declared invalid, illegal, or incapable of being enforced by reason of any rule of law, administrative order, judicial decision, or public policy, all other covenants and provisions herein shall, nevertheless, remain in full force and effect. If any portion of this ARTICLE 6 is held to be illegal, void, or unenforceable, each Owner on behalf of itself and its guests agrees to execute a valid release, waiver, or covenant satisfactory to each Released Party without additional consideration. Neither an Owner nor any guest shall seek to have any court or other adjudicative body determine that any portion of this ARTICLE 6 is illegal, invalid, or unenforceable. In the event an Owner or such Owner's guest commences, joins in, continues, or in any manner asserts or attempts to assert any Waived Claim released by this ARTICLE 6, such Owner and Owner's guest shall indemnify and hold harmless any affected Released Party from and against all losses incurred thereby, including without limitation its attorneys' fees and other costs associated with defending against such claim and enforcing its rights under this ARTICLE 6.

6.2. Ski Area Operations. By acceptance of a deed to a Unit, each Owner hereby agrees and acknowledges the Project is located adjacent to a public skiing facility known as the Canyons Village at Park City (the "Ski Facility"), which area may generate an unpredictable amount of visible, audible and odorous impacts and disturbances from activities relating to the construction, operation, use and maintenance thereof. The activities associated with the Ski Facility include, without limitation: (i) vehicular and residential traffic, including, without limitation, (a) buses, vans, snowcats, snowmobiles and other vehicles which transport residents and guests around and through the Ski Facility, and (b) construction vehicles and equipment; (ii) activities relating to the construction, operation and maintenance of ski trails, skiways and skier bridges and tunnels relating to the Ski Facility, including, without limitation, (a) construction, operation and maintenance of access roads serving the Ski Facility, snow-making equipment and chair lifts, gondolas and other skier transportation systems, and (b) operation of snow-grooming vehicles and equipment, and safety and supervision vehicles; and (iii) activities relating to the use of the Ski Facility, including, without limitation, skiing, snow-boarding, hiking, horseback riding, bicycling and other recreational activities. By acceptance of a deed to a Unit, each Owner also agrees and acknowledges that the Declarant is not the operator of the Ski Facility, and accordingly, the Declarant cannot make any representations relating thereto. Neither the Declarant nor any of its employees or agents can make any representations regarding the opening or closing dates of the Ski Facility or other nearby ski areas in any given year. Each Owner fully understands that the operator of those ski areas may decide, in its sole discretion, whether any or all of the ski lifts within those ski areas should be operated.

6.3. Disclaimer Regarding Ski Facility. ALL PERSONS, INCLUDING WITHOUT LIMITATION ALL OWNERS, ARE HEREBY ADVISED THAT, EXCEPT AS EXPRESSLY

SET FORTH IN THIS DECLARATION, NO REPRESENTATIONS, WARRANTIES OR COMMITMENTS HAVE BEEN OR ARE MADE BY EITHER DECLARANT, ANY DECLARANT AFFILIATES OR ANY OTHER PERSON OR ENTITY WITH REGARD TO THE PRESENT OR FUTURE DEVELOPMENT, OWNERSHIP, OPERATION OR CONFIGURATION OF, OR RIGHT TO USE, THE SKI FACILITY, INCLUDING ITS SKI RUNS, LIFTS OR RELATED FACILITIES WITHIN, NEAR OR ADJACENT TO THE PROJECT, WHETHER OR NOT DEPICTED ON THE PLAT, OR ANY OTHER LAND USE PLAN, SALES BROCHURE OR OTHER MARKETING DISPLAY, RENDERING OR PLAN. NO PURPORTED REPRESENTATION, WARRANTY OR COMMITMENT, WRITTEN OR ORAL, IN SUCH REGARD SHALL EVER BE EFFECTIVE WITHOUT AN AMENDMENT HERETO EXECUTED BY EACH DECLARANT. FURTHER, THE OWNERSHIP, OPERATION OR CONFIGURATION OF, OR RIGHTS TO USE, ANY SUCH SKI RESORT OR RELATED FACILITIES MAY CHANGE AT ANY TIME AND FROM TIME TO TIME. NO OWNER OR OCCUPANT SHALL HAVE ANY OWNERSHIP INTEREST IN OR RIGHT TO USE, OR RIGHT TO EXERCISE ANY DEGREE OF CONTROL OVER THE SKI FACILITY OR RELATED FACILITIES SOLELY BY VIRTUE OF: (I) HIS, HER OR ITS MEMBERSHIP IN THE ASSOCIATION; OR (II) HIS, HER OR ITS OWNERSHIP, USE OR OCCUPANCY OF ANY UNIT, OR PORTION THEREOF OR INTEREST THEREIN.

6.4. Operation of the Ski Resort. Each Owner acknowledges that the operation and maintenance of any ski resort within, near or adjacent to the Project, including but not limited to, all facilities that are now or hereinafter part of the Ski Facility, will require that maintenance personnel and other workers perform work relating to the operation and maintenance of such ski resort and that snowmaking, snow grooming and other equipment may operate at any time(s) of the day or night. In connection therewith, each Owner and occupant agrees that the Released Parties shall not be responsible or accountable for, liable for and shall be held harmless from, any claims, causes of action, loss or liability arising in connection with or associated with any noise or inconvenience normally associated with such ski and resort operations.

6.5. Other Ski Agreements. Each Owner (for such Owner and its occupants, guests and invitees) recognizes, agrees and accepts that: (a) operation of a year-round resort and related facilities will often involve parties, events and other gatherings (whether or not related to skiing) at or on the Project and Ski Facility and adjoining property, competitions, loud music, use of public address systems and the like, supplemental lighting and other similar or dissimilar activities from early in the morning until late at night; (b) by their very nature, ski resorts present certain potentially hazardous conditions which may include, without limitation, man-made or naturally occurring snow, avalanches and topographical features such as washes, gullies, canyons, uneven surfaces and the like; (c) grooming and snowmaking or related facilities may result in snow drifting or blowing onto adjacent or nearby Units and the Common Areas and Facilities; and (d) neither such Owner nor his, her or its guests shall make any claim against the Released Parties in connection with the matters described or referenced in (a), (b) and (c) above, whether in the nature of a claim for damages relating to personal injury or property damage, or otherwise.

6.6. Off Site Construction. By acceptance of a deed to a Unit, each Owner hereby agrees and acknowledges, that, inasmuch as an Owner may be purchasing a Unit during a period of construction at the Project, and the acquisition of the Unit may occur prior to the completion

of the construction of other Units and improvements at the Project, there may be certain inconveniences, including, but not limited to, interruption of travel caused by road construction, noise, dust, odors and debris associated with construction, until all construction within the Project is complete. Each Owner waives all claims against the Released Parties with respect to any such inconveniences and nuisances.

6.7. Disclaimer of Warranties. Declarant hereby disclaims any and all and each and every express or implied warranties, whether established by statutory, common, case law or otherwise, as to the design, construction, continuation of any particular view (it being understood and agreed that construction on any adjacent properties may obstruct such view), sound and/or odor transmission, existence and/or development of molds, mildew, toxins or fungi, furnishing and equipping of the Project, including, without limitation, any implied warranties of habitability, fitness for a particular purpose or merchantability, compliance with plans, all warranties imposed by statute (to the extent permitted by law) and all other express and implied warranties of any kind or character.

ARTICLE 7 ADDITIONAL DISCLOSURES, DISCLAIMERS AND RELEASES

7.1. Additional Disclosures. WITHOUT LIMITING ANY OTHER PROVISION IN THIS DECLARATION, THE ASSOCIATION AND, BY ACQUIRING TITLE TO A UNIT, OR BY POSSESSION OR OCCUPANCY OF A UNIT, EACH OWNER FOR ITSELF AND FOR THE OWNER'S PERMITTEES, SHALL CONCLUSIVELY BE DEEMED TO UNDERSTAND, AND TO HAVE ACKNOWLEDGED AND AGREED TO, ALL OF THE FOLLOWING:

7.1.1. EACH RESIDENTIAL UNIT OWNER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, UNTIL THE EXPIRATION OF THE DECLARANT CONTROL PERIOD, THE DECLARANT SHALL HAVE THE RIGHT, IN ITS SOLE DISCRETION, TO (1) SELECT A RESORT MANAGER TO MANAGE AND OPERATE, IN WHOLE OR IN PART, THE COMMON AREAS AND FACILITIES AND TO NEGOTIATE AND ENTER INTO ALL RESORT MANAGEMENT DOCUMENTS; AND (2) TO CHANGE SUCH RESORT MANAGER OR TERMINATE THE RESORT MANAGEMENT DOCUMENTS FROM TIME TO TIME. EACH RESIDENTIAL UNIT OWNER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT NEITHER THE DECLARANT NOR ANY OF ITS RESPECTIVE AGENTS OR REPRESENTATIVES HAS MADE ANY REPRESENTATIONS, WARRANTIES, GUARANTIES OR OTHER CLAIMS OF ANY KIND REGARDING THE IDENTITY OF A RESORT MANAGER. DECLARANT EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, GUARANTIES OR OTHER CLAIMS OF ANY KIND REGARDING THE IDENTITY OR CONTINUED ENGAGEMENT OF A PARTICULAR RESORT MANAGER.

7.1.2. EACH RESIDENTIAL UNIT OWNER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT NEITHER THE DECLARANT NOR ANY OF ITS AGENTS OR REPRESENTATIVES HAS MADE ANY REPRESENTATIONS,

WARRANTIES, GUARANTIES OR OTHER CLAIMS OF ANY KIND REGARDING (1) ANY RENTAL INCOME, IF ANY, THAT MAY BE OBTAINED BY A RESIDENTIAL UNIT OWNER FROM RENTING A RESIDENTIAL UNIT; OR (2) ANY RENTAL PROGRAMS THAT MAY BE CURRENTLY AVAILABLE, OR IN THE FUTURE MADE AVAILABLE, FOR PARTICIPATION BY RESIDENTIAL UNIT OWNERS. DECLARANT EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, GUARANTIES OR OTHER CLAIMS OF ANY KIND REGARDING ANY RENTAL PROGRAMS.

7.1.3. Living in a resort condominium community entails living in very close proximity to other persons, businesses and recreational facilities, with attendant limitations on solitude and privacy. Walls, floors and ceilings have been designed to meet applicable building codes. However, Residential Unit Owners may hear noise from adjacent Residential Units within the Project, including, but not limited to, noise from showers, bathtubs, sinks, toilets or other sources of running water and/or plumbing fixtures. Also, Residential Unit Owners may hear noise from items such as the pool, vacuum cleaners, stereos or televisions, or from people running, walking, exercising and socializing. Finally, Residential Unit Owners may hear substantial levels of sound, music, noise, odors, vibrations, and other nuisances from retail, commercial and hotel developments in the vicinity of the Project. Owners may also experience light entering the Residential Units from commercial lighting in close proximity to the windows and doors of the Residential Units.

7.1.4. The Association and Declarant have no control over the transmission of noise, light or odors within the Project and/or from the adjacent retail, commercial, condominium and hotel developments, and the potential effect of such noise, light or odors on Residential Units within the Project.

7.1.5. Each Owner acknowledges that (i) there are no protected views in the Project, and no Unit is assured the existence or unobstructed continuation of any particular view, and (ii) any construction, landscaping or other installation of improvements by the Declarant or owners of other property in the vicinity of the Project, including, without limitation, the owners and operators of the Ski Facility and adjacent property, may impair the view from any Unit, and each Owner consents to such view impairment.

7.1.6. Certain portions of land (the "Neighboring Developments") outside, abutting and/or near the Project have not yet been developed or may be subject to redevelopment, and in the future may be developed by Declarant or third parties over whom Declarant has no control. The Association and Declarant have no jurisdiction over the future Neighboring Developments, and accordingly, there is no representation as to the nature, use or architecture of any future development or improvements on Neighboring Developments; and such use, development and/or construction on Neighboring Developments may result in noise, dust, or other "nuisance" to the Project or Owners.

7.1.7. Residential construction is an industry inherently subject to variations and imperfections, and items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects. Each Owner hereby releases the Declarant from any and all claims arising from or relating to such expected minor flaws.

7.1.8. The finished construction of each Unit and the Common Areas and Facilities, while within the standards of the industry in Summit County, Utah, and while in substantial compliance with the plans and specifications, will be subject to variations and imperfections and expected minor flaws. Each Owner hereby releases the Declarant from any and all claims arising from or relating to such variations, imperfections and flaws.

7.1.9. Indoor air quality of the Residential Units and other portions of the Project may be affected in a manner and to a degree found in new construction within industry standards, including, without limitation, by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes, and similar products. Each Owner hereby releases the Declarant from any and all claims arising from or relating to such matters.

7.1.10. Installation and maintenance of any security or traffic access device, operation, or method, shall not create any presumption or duty whatsoever of the Declarant or the Association (or their respective officers, directors, managers, employees, agents, and/or contractors) with regard to security or protection of persons or property within or adjacent to the Project. Each Owner, by acceptance of a deed to a Unit, whether or not so stated in the deed, shall be deemed to have agreed to take any and all protective and security measures and precautions which such Owner would have taken if the Project had been located within public areas and not gated.

7.1.11. Even with a "slip sheet" underneath, certain hard surface flooring may still be subject to hairline cracks, and grout may crack and/or deteriorate, and furthermore, cracks in the walls may result from normal settlement and shifting around doors, windows, walls and ceilings. Each Owner shall be solely responsible for any such cracking or deterioration.

7.2. Releases. THE ASSOCIATION AND, BY ACCEPTANCE OF A DEED TO A RESIDENTIAL UNIT, EACH OWNER, FOR ITSELF AND ALL PERSONS CLAIMING UNDER SUCH OWNER, SHALL CONCLUSIVELY BE DEEMED TO HAVE ACKNOWLEDGED AND AGREED TO RELEASE THE DECLARANT AND ITS AFFILIATES, AND ALL OF THEIR RESPECTIVE OFFICERS, MANAGERS, AGENTS, EMPLOYEES, SUPPLIERS, AND CONTRACTORS, FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, LOSS, DAMAGE OR LIABILITY (INCLUDING, BUT NOT LIMITED TO, ANY CLAIM FOR NUISANCE OR HEALTH HAZARD, PROPERTY DAMAGE, BODILY INJURY, AND/OR DEATH) ARISING FROM OR RELATED TO ALL AND/OR ANY ONE OR MORE OF THE CONDITIONS, ACTIVITIES, OCCURRENCES,

OR OTHER MATTERS DESCRIBED IN THE FOREGOING SECTION 7.1. EACH OWNER (BY VIRTUE OF ACCEPTANCE OF TITLE TO A UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING USE OF, ANY PORTION OF THE PROJECT (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE DECLARANT ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE DECLARANT HAS BEEN DISCLAIMED IN THIS DECLARATION.

ARTICLE 8 OPTION TO CONTRACT

Declarant hereby reserves the unilateral and exclusive option, pursuant to Section 57-8-13.8 of the Act, to withdraw land from the Project (the "Option to Contract") without the prior consent of the Owners, Mortgagees, Management Committee or any other Person having any right or interest in all or any portion of the Project. Each Option to Contract may be exercised at any time prior to the expiration of Declarant Control Period. The terms and conditions of the Option to Contract shall be as follows:

8.1. Withdrawable Land. The real property subject to this Option to Contract consists of all of the Property, sometimes hereinafter referred to as the "Withdrawable Land," being more particularly described in Exhibit A. Accordingly, there is no land to which the Option to Contract does not apply.

8.2. Exercise of the Option to Contract. The Option to Contract may be exercised as to the entire parcel described in Section 8.1 above, or to any portion thereof, and in any order and at different times.

8.3. Effectiveness of Withdrawal. A withdrawal of the Withdrawable Land from the Project shall be deemed to have occurred at the time of the recordation of an Amendment to this Declaration and a Supplemental Plat (if necessary or required), executed by Declarant, containing the legal description of the Withdrawable Land being withdrawn, or any portion thereof. After the recording of such Amendment to this Declaration reflecting Declarant's exercise of the Option to Contract, or any part thereof, title to each such portion of the Withdrawable Land shall be vested in and held by Declarant and none of the Owners, Mortgagees, the Management Committee nor any other Person having any right or interest in all or any portion of the Project prior to or subsequent to withdrawing all or portions of the Withdrawable Land shall have any claim or title to or interest in such Withdrawable Land. Any withdrawn land may be utilized by Declarant for any lawful purpose in Declarant's sole and exclusive discretion, and shall no longer be subject to this Declaration.

8.4. Undivided Interest. The undivided ownership interest in the Common Areas and Facilities, the corresponding responsibility for Common Assessments and the votes for all Units in the Project shall be changed at the time Declarant records an Amendment to this Declaration and Supplemental Plat (if necessary or required) reflecting Declarant's exercise of the Option to Contract in accordance with the provisions set forth in this ARTICLE 8. Said changes in

ownership interest and votes, as calculated in accordance with Section 4.2 above, shall be reflected in an amended Exhibit B to this Declaration to be recorded as part of the Amendment. It is contemplated that there may be multiple Amendments filed by Declarant and such Amendments are hereby expressly authorized.

8.5. Third Party Units. Declarant shall have no right to withdraw Units which have been conveyed to a third-party purchaser other than an affiliate of Declarant. Notwithstanding the foregoing, Declarant has the right to withdraw any Unit owned by Declarant or an affiliate of Declarant.

8.6. Reservation of Easements Over Project. If all or part of the Withdrawable Land is withdrawn from the Project, the owner(s) of the Withdrawable Land, including Declarant, shall have an easement over and across the Project for vehicular, pedestrian and construction access to and from such Withdrawable Land, for utilities, and for such other purposes as Declarant or such other owner of the Withdrawable Land may deem necessary or desirable in order to develop and use such Withdrawable Land; and Declarant shall have the right to execute and record separate easement agreements to evidence the aforesaid easements over the Project and may unilaterally amend this Declaration to include reference to the recorded easement(s) as authorized by ARTICLE 19 below. Unilateral preparation and recordation by Declarant of an easement pursuant to this Section 8.6 shall conclusively determine the existence, location and extent of the easements that are necessary or desirable as contemplated by this Section 8.6.

ARTICLE 9 CERTAIN ADDITIONAL DEVELOPMENTAL RIGHTS

The following additional Developmental Rights are hereby granted or reserved by Declarant:

9.1. Completion of Improvements. Declarant hereby reserves an easement throughout the Project for a period of ten (10) years from the recording of this Declaration for the purpose of completing all improvements contemplated by the Declaration and the Plat.

9.2. Offices and Signs. Declarant hereby reserves the right to maintain sales offices, management offices, signs advertising the Project and Models (as defined below) in any of the Units which it owns or leases or on the Common Areas and Facilities of the Project for a period of ten (10) years from the recording of this Declaration. Declarant may relocate sales offices, management offices and Models to other Units or Common Areas and Facilities at any time. Declarant may maintain an unlimited number of sales offices or model units in the size and locations at the Project as it shall determine in its sole and exclusive discretion. All signage shall comply with County and RVMA regulations as they may be amended from time to time. Declarant shall have the right to show Units and the Common Areas and Facilities to prospective purchasers and to arrange for the use of any parking, storage, or recreational facilities within the Common Areas and Facilities and other portions of the Project by prospective purchasers.

9.3. Declarant Control Period. There is hereby established a Declarant Control Period, during which period Declarant or persons designated by it shall have the authority to appoint and remove the Association officers and members of the Management Committee and exercise the

powers and responsibilities of the Association. The Declarant Control Period shall terminate no later than the earlier of:

9.3.1. three (3) years after the first Unit is conveyed by deed to an Owner; or

9.3.2. after Units to which three-fourths (3/4) of the undivided interest in the Common Areas and Facilities appertain have been conveyed to Owners; or

9.3.3. the surrender by Declarant of such right by written notice to the Management Committee.

9.4. Amendment of Condominium Plat. Declarant may unilaterally amend the Plat at such time as the Buildings are constructed in the event there are material changes in the Building(s) or Unit boundaries or elevations as constructed. Such an Amendment to the Plat is not required, but is expressly authorized and may be undertaken by Declarant without the joinder or consent of any other Owners. Notwithstanding the foregoing, prior to amending the Plat as provided herein, Declarant shall have submitted detailed plans for the Units depicting the height and dimensions of each of the Buildings containing the Units over existing grade, and such plans shall have been approved by the County's Planning Department ("Approved Building Plans"). No building permit for any Building in the Project shall be applied for and issued unless the construction plans for any such Building materially complies with the Approved Building Plans.

9.5. Conveyance to Association. Declarant may convey fee simple title to any Unit(s) it owns to the Association and the Association is obligated to accept such conveyance. Any such Unit(s) conveyed to the Association shall be part of the Common Areas and Facilities, and the expenses thereof shall be part of the Common Expenses, for so long as the Association owns such Unit(s).

9.6. No Actions Adverse to Developmental Rights. The Association, the Management Committee, or any Owner may not take any action or adopt any rule or regulation that interferes with or diminishes any Developmental Rights hereunder, without Declarant's prior written consent. Any action taken in violation of this Section 9.6 shall be null and void and have no force or effect.

ARTICLE 10

NATURE AND INCIDENTS OF RESIDENTIAL UNIT OWNERSHIP

10.1. Nature of Units. Each Residential Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

10.2. Use of Property. Subject to the limitations contained in this Declaration, and subject to any rules and regulations adopted by the Declarant or the Association, each Residential Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use his or her Residential Unit and any Limited Common Areas and Facilities designated for exclusive use by such Owner or all Residential Unit Owners.

10.3. Alteration of Units. Each Residential Unit Owner shall have the exclusive right to maintain and repair the interior of such Owner's Residential Unit, including the right to paint, repaint, tile, wax, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors. Each Residential Unit Owner shall keep his or her Residential Unit, including without limitation, walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. In the event that any such Residential Unit should develop an unsanitary condition or fall into a state of disrepair and in the event that the Owner of such Residential Unit should fail to correct such condition or state of disrepair promptly following written notice from the Management Committee, the Management Committee shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Residential Unit and correct or eliminate said unsanitary condition or state of disrepair. An Owner may not make any change or alteration to the exterior of his or her Residential Unit or structure of the Residential Unit without the approval of the Management Committee. Owners of adjoining Residential Units may not modify the boundaries of such Units. Residential Unit Owners may not subdivide their Residential Units.

10.4. Right of Entry. The Management Committee shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter into any Residential Unit for the purpose of maintenance, repairs, including emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous or unlawful activity.

10.5. Transient Rental. Subject to the Association Rules, nothing in this Declaration shall limit the rights of Declarant or any other Owner to operate the Residential Unit(s) owned by it for transient rental purposes. The Association shall not restrict or prohibit rentals of Units within the Project unless an Amendment to this Declaration is unanimously approved by all Owners (100% of the Total Votes of the Association), including Declarant, in accordance with the amendment procedures set forth in this Declaration. In the event any Residential Unit is used for transient rental purposes, such Residential Unit must at all times comply with the Resort Quality Standard as determined by the Management Committee, or the Resort Manager on behalf of the Management Committee, in its sole and absolute discretion. In the event the Management Committee or Resort Manager determines that a Residential Unit is not in compliance with the Resort Quality Standard, then the Residential Unit may not be used as a transient rental until such time as the Residential Unit's Owner has performed such maintenance, repairs or improvements to the Residential Unit as are required to bring the Residential Unit into compliance with the Resort Quality Standard.

10.6. Third Party Service Providers. Should a Residential Unit Owner require or desire the services of a third party in the maintenance, repair or upkeep of the interior of such Owner's Residential Unit, the Residential Unit Owner may only use, hire or enlist a third-party service provider approved in writing by the Management Committee as it shall determine in its sole and absolute discretion.

10.7. Use of Deck Areas. No Residential Unit Owner may use the deck area appurtenant to such Owner's Residential Unit in any way prohibited by the Resort Quality Standard. The Management Committee shall have the power to establish specific Association Rules governing use of deck areas in accordance with the Resort Quality Standard.

10.8. Telephone. The Resort Manager on its behalf, shall have the power to establish specific Association Rules governing telephone, in-room entertainment services and other electronic communications devices within the Project in accordance with the Resort Quality Standard.

ARTICLE 11 RESORT MANAGEMENT

11.1. Operation of Project as Luxury Resort. The Association, or the Resort Manager on behalf of the Association, shall operate the project as a luxury resort in accordance with the Resort Quality Standard. Notwithstanding anything herein to the contrary, the Association, or the Resort Manager on behalf of the Association, may:

11.1.1. Perform such Resort Management Activities within the Common Areas and Facilities as are common to or necessary for the conduct of resort operations, including, without limitation, meetings, conferences, and conventions, management offices, housekeeping services, storage, laundry, retail sales and rentals, sales of services relating to recreational activities, the installation, operation and maintenance of illuminated and non-illuminated signage, sales and consumption of food and alcoholic and non-alcoholic beverages for consumption on and immediately adjacent to the Project, meeting rooms and any other uses or activities permitted by law, and any lights, sounds and odors which result from such Resort Management Activities shall not violate the terms of this Declaration.

11.1.2. Apply for and obtain special use permits and licenses which are necessary or appropriate for the conduct of Resort Management Activities within the Project and for the sale or service of food or alcoholic beverages on the Project in accordance with the Condominium Documents, without obtaining the approval of the Management Committee, on the condition that such permits and licenses are consistent with the existing zoning and actual uses of the Common Areas and Facilities at the time the permit or license is applied for.

11.2. Additional Rights of Resort Manager. Notwithstanding anything to the contrary contained in this Declaration, the Association, or the Resort Manager on behalf of the Association, shall have the following additional rights:

11.2.1. The right to install, operate, maintain, repair and replace machinery, equipment, utility lines, wires, circuits, cables, and conduits serving the Project along, across and through any and all Common Areas and Facilities, on the conditions that (i) the Association, at its sole cost and expense, shall repair, replace and restore any damage to the Common Areas and Facilities, and (ii) such installation, maintenance, repair or replacement complies with all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

11.2.2. In addition to Declarant's reserved rights to maintain signs in connection with its marketing and sale of Units as set forth in Section 9.2 above, the Association and Resort Manager shall have the exclusive right to maintain any signs, flags or advertising

devices of any nature on the Common Areas and Facilities of the Project, including, without limitation, promotional, political, informational or directional signs or devices, or signs advertising the Project.

11.2.3. Notwithstanding anything in this Declaration to the contrary, no Owner or Occupant shall have any right to the sale or service of food or alcoholic beverages on the Project. The Association, or the Resort Manager on behalf of the Association, may designate in writing any and all permitted providers for the sale or service of food or alcoholic beverages on the Project. No Owner or Occupant shall do anything to hinder or interfere with the ability of the Association, the Resort Manager or any person or entity designated by the Association as its permitted provider, to secure and maintain licenses for the sale or service of food or alcoholic beverages. The Management Committee shall promptly execute such documents as may be requested by the Resort Manager, from time to time, to further assure the rights granted to the Resort Manager under this Section 11.2.3.

11.2.4. Notwithstanding any restriction or limitation in this Declaration, the Association, or the Resort Manager on behalf of the Association, shall have the right, without the consent or approval of the Owners, but without obligation, to (a) make alterations, additions or improvements, structural and nonstructural, interior and exterior, ordinary and extraordinary, in, to and upon the Common Areas and Facilities (including, without limitation, the removal of walls, floors, ceilings and other structural portions of any improvements within such Units), and (b) expand, alter, discontinue, replace or add to all or any part of the recreational facilities or other improvements within the Project.

11.2.5. There is reserved to the Association, the Resort Manager, its express successors, transferees, designees, agents, assigns and co-licensees, the exclusive right to provide room service, housekeeping, and any other resort operations and resort services on the Project, including the non-exclusive right to sell, serve and deliver alcoholic beverages of every kind and character to and within all portions of the Project, specifically including the Residential Units, the Common Areas and Facilities, and all Limited Common Areas and Facilities appurtenant to such Residential Units. The exercise or grant of such exclusive and non-exclusive rights shall not be deemed to preclude, prevent or prohibit other uses of the Common Areas and Facilities or the Units not in conflict with such exclusive and non-exclusive rights. Grantees of any interest in the Project, by acceptance of any deed, lease, license or other instrument of conveyance to a Unit shall be and are hereby bound by such reservation of rights.

11.3. Resort Quality Standard. The Association may from time to time create and enter into any Resort Management Document as it shall determine in its sole and exclusive discretion and may promulgate certain rules, guidelines and restrictions regarding the appearance, design, maintenance, upkeep, decorating, furnishing and cleanliness of the Common Areas and Facilities in order to establish and maintain the Resort Quality Standard. The Resort Quality Standard, as applicable to both the operational and physical components of the Project, shall be subject to change over time, as the Association, or the Resort Manager on behalf of the Association, determines is necessary or desirable, in order to adapt to technology, general market conditions,

consumer preferences, trends and standards in the luxury resort industry and/or standards set forth in any Resort Management Document.

11.4. Resort Manager. The Association may enter into a contract with a Resort Manager for the management of the Common Areas and Facilities. Pursuant to such management contract, the Association may delegate to a Resort Manager some or all of the duties, powers, and responsibilities referred to in this ARTICLE 11 or as otherwise provided for in this Declaration. The Resort Manager so engaged shall be responsible for managing the Common Areas and Facilities for the benefit of the Association, and shall, to the extent permitted by law and by the terms of any Resort Management Documents, be authorized to perform any of the functions or acts required to be performed by the Association. The costs associated with such contract or Resort Management Documents shall be allocated by the Association as Common Expenses.

11.5. Private Branch Exchange (PBX) Switch. The Association, or the Resort Manager on behalf of the Association, may own and operate a PBX switch, or other central device or facility for providing telephone service to Units, within the Project and in such event all telephones within the Residential Units must be connected to such PBX switch unless otherwise approved by the Association. Costs of all acquisition, repair, replacement, maintenance, lease payments, and all other costs and expenses associated with the PBX switch within the Project shall be Common Expenses.

11.6. Restrictions on Amendment. Any Amendment to this ARTICLE 11 and/or any other restrictions subsequently imposed on the use of the Common Areas and Facilities, whether in this Declaration or any other Condominium Document, shall require the consent of sixty-seven percent (67%) of the Total Votes of the Association, which percent shall include the consent of one hundred percent (100%) of the votes held by Declarant, subject to Declarant's right to cast its votes for or against such action as it shall determine in its sole and exclusive discretion. Such consent and agreement must be reflected in an Amendment duly executed by the Management Committee on behalf of the Association and recorded in accordance with the provisions of this Declaration.

ARTICLE 12 TITLE TO UNITS

12.1. Manner in Which Title May Be Held. Title to a Unit within the Project may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

12.2. Title Inseparable. Title to no part of a Unit within the Project may be separated from any other part thereof, and each Unit and the undivided interest in the Common Areas and Facilities appurtenant to each Unit shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth.

12.3. No Partition. The Common Areas and Facilities shall be owned in common by all of the Owners, and no Owner may bring any action for partition or division of any part thereof.

12.4. Right to Mortgage. Each Owner shall have the right to encumber his or her interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas and Facilities or any part thereof except the undivided interest therein appurtenant to his or her interest in a Unit. Any Mortgage of any Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure, the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

12.5. Labor and Services; Indemnification. No labor performed or services or materials furnished with the authorized or unauthorized consent of an Owner may be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner (including interest in any portion of the Common Areas and Facilities). Labor performed or services or materials furnished for the Common Areas and Facilities, if authorized by the Association and provided for in this Declaration, shall be deemed to be performed or furnished with the express consent of each Owner and may be the basis for the filing of a lien against each of the Units. In the event a lien against two or more Units or any part thereof becomes effective, the Owner may remove his or her Unit from the lien by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his or her Unit. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien for labor performed or for materials furnished in work on such Owner's Unit against the Unit of another Owner or against the Common Areas and Facilities, or any part thereof.

12.6. Enforcement by Association. At its own initiative or upon the written request of any Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of Section 12.5 above by collecting from the Owner of the Unit on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanic's lien, including all costs and reasonable attorneys' fees incidental to the lien, and obtain a release of such lien. In the event that the Owner of the Unit on which the labor was performed or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount of the claim, or any portions thereof from time to time, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section 14.5, and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Unit, and enforceable by the Association in accordance with 17.1 below.

12.7. Legal Description of Units. Every contract for the sale of a Unit, and every other instrument affecting title to a Unit within the Project, may describe a Unit by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its Unit Number as shown on the Plat. Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas and Facilities and to incorporate all the rights incident to ownership of a Unit within the Project and all of the limitations on such ownership as described in this Declaration.

12.8. Notice of Ownership and Address. Any person, on becoming an Owner, will furnish the Secretary of the Association with a photocopy of the recorded deed or other instrument or such other evidence as may be specified by the Management Committee under the Bylaws or the Association rules, vesting the person with the interest required to make him or her an Owner. At the same time, the Owner will provide the Association with the single name and address to which the Association will send any notices given pursuant to the governing documents of the Project. The Owner will state in such notice the voting interest in the Association to which the Owner believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice, including any change of ownership, the Owner will give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Owner.

ARTICLE 13 RESTRICTIONS ON USE

13.1. Use of Residential Units. No Residential Unit shall be used for any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner occupant may conduct business activities within the Residential Unit so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Residential Unit; (b) the activity conforms to all zoning requirements and local ordinances; (c) the activity does not involve regular visitation of the Residential Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Condominium; and (d) the activity is consistent with the residential character of the project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other occupants, as may be determined in the sole discretion of the Management Committee. Notwithstanding the foregoing, nothing in this Section 13.1 shall prevent (i) Declarant or an affiliated entity or a duly authorized agent from using any Residential Unit owned or leased by Declarant as sales offices and Models or a property management office as provided in Section 9.2 hereof, or (ii) any Owner, including Declarant, or his or her duly authorized agent from renting or assigning use rights to his or her Unit from time to time.

13.2. Resort Operations. The Association, or the Resort Manager on behalf of the Association and in accordance with the Resort Management Documents, shall have the sole and exclusive authority to conduct, perform and provide resort management and operational services for the Project and the Common Areas and Facilities in the Project.

13.3. Group Events. Notwithstanding anything to the contrary in this Declaration, any group event occurring within the Common Areas and Facilities shall be limited to events where: (a) all invited guests are staying at the Project, or (b) the host of the event owns a Unit and is in attendance at the event. The Management Committee shall adopt, as part of the Association Rules, other reasonable restrictions on event hours, use of amplified sound, and may otherwise impose limitations on group events that are typical for condominium projects in the Canyons Resort area.

13.4. Architectural Control. Except for those improvements initially installed by Declarant in constructing the Project, all improvements (whether temporary or permanent),

alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any Unit must comply with the Resort Quality Standard, and are subject to the prior written approval of the Architectural Review Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Review Committee shall be made without the prior written approval of the Architectural Review Committee. No exterior or structural addition to or change or alteration to a Unit or the Common Areas and Facilities or Limited Common Areas and Facilities (including the construction of any additional skylight, window, awning or door) shall be made until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted to and approved in writing by the Architectural Review Committee as to harmony of external design and location in relation to surrounding structures and topography. The alterations and changes described in this Section 13.4 shall also be in compliance with and have received any other approvals required by applicable zoning and other laws, rules and regulations.

13.4.1. All Improvements constructed within the Project shall be of new construction, and no intact buildings or other structures shall be moved from other locations to the Project (except for construction and sales trailers or similar facilities approved in advance by the Architectural Review Committee).

13.4.2. No devegetation, excavation, grading, planting or revegetation work shall be performed within the Project without the prior written approval of the Architectural Review Committee.

13.4.3. No Improvement shall be constructed, installed or removed within the Project without the prior written approval of the Architectural Review Committee.

13.4.4. No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within the Project, or any Improvements located thereon, shall be made or done without the prior written approval of the Architectural Review Committee, nor shall any Unit be split, divided or further subdivided in any manner.

13.4.5. Any Owner or other Person desiring approval of the Architectural Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his, her or its Unit or other portion of the Project, or any Improvements located thereon, shall submit to the Architectural Review Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform. Any Owner or other Person requesting the approval of the Architectural Review Committee shall also submit to the Architectural Review Committee any additional information, plans and specifications which the Architectural Review Committee may reasonably request. In the event that the Architectural Review Committee fails to approve or disapprove an application for approval within forty-five (45) days after the application, together with all supporting information, plans and specifications required by the Design Guide or reasonably requested by the Architectural Review Committee, have been submitted to it, approval will not be required and this Section will be deemed to have

been complied with by the Owner or other Person who submitted such application for approval.

13.4.6. The approval by the Architectural Review Committee of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this Section shall not be deemed a waiver of the Architectural Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

13.4.7. Upon receipt of approval from the Architectural Review Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other Work approved by the Architectural Review Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Review Committee.

13.4.8. Any change, deletion or addition to the plans and specifications approved by the Architectural Review Committee must be approved in writing by the Architectural Review Committee.

13.4.9. The Architectural Review Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section 13.4, which fee shall be payable at the time the application for approval is submitted to the Architectural Review Committee. Such fee, if established and charged by the Architectural Review Committee, shall be set at such reasonable level as the Architectural Review Committee may estimate will be necessary to defray the reasonable costs and expenses of the Architectural Review Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Review Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Architectural Review Committee by an architect or engineer.

13.4.10. The provisions of this Section do not apply to, and approval of the Architectural Review Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

13.4.11. The approval required of the Architectural Review Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other recorded instrument. The Architectural Review Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Architectural Review Committee of evidence satisfactory to the Architectural Review Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have

obtained) any and all such other approvals or permits. The Architectural Review Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Review Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

13.5. Restrictions of Use of Units and Common Areas and Facilities. The Units and Common Areas and Facilities, including but not limited to the Limited Common Areas and Facilities, except as otherwise permitted in writing by the Management Committee, shall be used in accordance with the following restrictions:

13.5.1. No noxious, offensive or illegal activity shall be carried on in or upon any part of the Project nor shall anything be done on or placed in or upon any part of the Project which is or may become a nuisance or may cause unreasonable embarrassment, disturbance or annoyance to Owners.

13.5.2. No activities shall be conducted, or improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

13.5.3. No signs, flags or advertising devices of any nature, including, without limitation, political, commercial, informational or directional signs or devices, shall be erected or maintained on any part of the Project, except (i) as may be temporarily necessary to caution or warn of danger, (ii) as required by law, (iii) for Unit identification signs, provided the size, color, content and location of such signs have been approved in writing by the Management Committee, (iv) as approved by the County in connection with operation of the Project, and (v) as may be used by Declarant as part of its sales program.

13.5.4. Except for fish, there shall be allowed no more than two (2) household pets in a Unit with an aggregate weight not to exceed one hundred (100) pounds; *provided, however*, that said pets may consist only of domesticated dogs, domesticated cats and fish and may not be kept, bred, or maintained for any commercial purpose and may not be kept in any Unit after such time as the Management Committee notifies the Owner of such Unit that said pets have become, in the reasonable determination of the Management Committee, a nuisance or annoyance to any other Owner and/or any of their guests, tenants, occupants, licensees, invitees, agents, servants, contractors or subcontractors. All pets must be registered and approved in writing by the Management Committee, which approval may be given or withheld in its sole and absolute discretion. Owners must immediately pick up all solid waste of their pets and dispose of such waste appropriately. All individual pets, including cats, must be leashed at all times when outside a Unit. No reptiles, birds or other forms of wildlife shall be kept in or on the Units or the Common Areas and Facilities. Violations of the provisions of this Section shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Owners (as provided herein or in the Association Rules) and/or to require any pet to be permanently removed from the Property. Notwithstanding the foregoing, prior to the installation of a fish tank exceeding fifty-five (55) gallons in volume, an

Owner must deliver plans for such tank to the Management Committee for its written approval, which approval may be withheld in its sole and absolute discretion.

13.5.5. The draperies, shades and other interior window coverings in Residential Units shall present a uniform appearance from the outside of the Units. All draperies, shades or other interior window coverings shall be installed only with the prior written approval of the Management Committee. The Management Committee shall have the right to establish rules requiring window coverings to present a uniform appearance from the exterior of Residential Units.

13.5.6. No Residential Unit or portion thereof may be further divided or subdivided (either physically or legally) or a fractional portion thereof sold or conveyed so as to be held in divided ownership as more fully described in Section 13.6 below (as opposed to community property, tenancy in common, or other form of joint undivided ownership).

13.5.7. No Owner shall, without the prior written consent of the Architectural Review Committee, make or permit to be made any exterior alteration, improvement or addition in or to any Unit. No Owner shall do any act that would impair the structural soundness or integrity of any Unit or the safety of property, impair any easement or hereditament appurtenant to the Project, or make or permit to be made any alteration, improvement or addition to the Common Areas and Facilities. Furthermore, no Owner shall, without the prior written consent of the Declarant, so long as the Declarant an affiliate of Declarant owns any land or improvements in the Project, improve or modify a Unit, any Limited Common Areas and Facilities or other Common Areas and Facilities in a manner that would increase the habitable square footage of any Unit.

13.5.8. There shall be no obstruction of the Common Areas and Facilities by any Owner. Owners shall neither store nor leave any of their property in the Common Areas and Facilities, other than Limited Common Areas and Facilities appurtenant to their Unit, except with the prior consent of the Management Committee. Notwithstanding the foregoing, the Association, or the Resort Manager on behalf of the Association, may make any use of the Common Areas and Facilities so long as the Association or the Resort Manager does not obstruct access to the Residential Units or the Common Areas and Facilities providing access to the Residential Units.

13.5.9. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, or an increase the rate of insurance on the Project or any part thereof over what the Association would pay, but for such activity, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or guest, lessee, licensee or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other

Owners harmless against all loss resulting from any such damage or waste caused by him or her or his or her guests, lessees, licensees or invitees.

13.5.10. No Owner shall violate the Association Rules as adopted from time to time by Declarant or the Management Committee.

13.5.11. Any lease agreement between an Owner and a lessee respecting a Unit shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws, and any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such lease agreements shall be in writing. Other than the foregoing, there is no restriction on the right of any Owner to lease or rent his or her Unit. An Owner shall be responsible and liable for any damage to the Project caused by its tenants.

13.5.12. The Project is located within the Resort Core Development Area of the Canyons Village (as defined in the SPA Agreement) and, as such, the use of the Common Areas and Facilities and the Units within the Project is subject to the terms, conditions, restrictions and provisions in the SPA Agreement applicable to such area.

13.6. Prohibition on Fractional Ownership. No Unit, or portion thereof, shall be used for the operation of or developed as a Fractional Program. For purposes of this Declaration, "Fractional Program" specifically means:

13.6.1. Any and all use and occupancy arrangements falling within the definition of "timeshare interests" under the Utah Timeshare and Camp Resort Act (Utah Code Ann. §§ 57-19-1, et seq.);

13.6.2. Units used for the operation of a timesharing, fractional ownership, interval ownership, private residence club or similar program whereby the right to exclusive use of the Unit rotates among participants in the program, regardless of whether such program utilizes a fixed or floating schedule, a first come-first served reservation system or any other arrangement;

13.6.3. Units used for the operation of a reservation or time-use system among co-owners of a Unit, regardless of whether or not any co-owner may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating, if one or more of the following conditions exist: (i) the ownership interest in such Unit is marketed for sale to the public subject to such system; or (ii) the co-owners are or were required as a condition of purchase of the ownership interest in such Unit to subject the interest to a pre-determined reservation or time-use system among co-Owners; or

13.6.4. Units used in the marketing, offering or selling of any club membership interest, limited liability company interest, limited partnership interest, program interest or other interest whereby the interest-holder acquires a right to participate in a reservation or time-use system among the interest-holders, or among the interest-holders and others, involving the Unit, or involving the Unit and other alternate or substitute properties, regardless of whether such interest is equity or non-equity, regardless of whether or not

any interest-holder may later opt out of such system and regardless of whether the reservation or time-use system is recorded or unrecorded, fixed or floating.

13.6.5. Notwithstanding the foregoing, a Fractional Program does not include: (a) ownership of a Unit by a family trust so long as all beneficiaries of the trust are closely related family members; (b) ownership of a Unit by an entity where all members, owners, partners, or shareholders of such entity are closely related family members; or (c) ownership of a Unit by an entity where there are four (4) or fewer members, owners, partners, or shareholders of such entity who are not closely related family members. For purposes herein, "closely related family members" refer to an individual's spouse, children, grandchildren, parents, grandparents, and siblings, whether by blood, marriage, or adoption.

13.7. Association Rules. All Owners are given notice that use of their Units and the Common Areas and Facilities is limited by the Association Rules as adopted and modified from time to time by the Management Committee. The Management Committee may not amend the Association Rules or adopt new Association Rules that impair or that are inconsistent with the Resort Manager's ability to operate, perform, conduct or administer the resort management services under the Resort Management Documents, or that adversely limit the rights of Declarant or any other Owners to operate the Unit(s) for transient rental purposes, as Declarant shall determine in its sole and exclusive discretion. Any action taken in violation of this Section 13.7 shall be null and void and have no force or effect. By acceptance of a deed, each Owner acknowledges and agrees that the use and enjoyment and marketability of the Owner's Unit can be affected by this provision and that the rules and regulations may change from time to time.

13.8. Security Gates and Security Devices. Security gates (manned or unmanned) and/or other security devices designed to limit access and to provide more privacy for Owners and Occupants may be constructed, removed, modified or relocated from time to time within or adjacent to the Project. Each Owner and Occupant, and their families, guests and invitees, acknowledge that any such security gate or security device may restrict or delay entry into, or access within, the Project by police, fire department, ambulances and other emergency vehicles or personnel. Each Owner and Occupant and their families, guests and invitees agree to assume the risk that any such security gate or security device will restrict or delay entry into, or access within, the Project by police, fire department, ambulances or other emergency vehicles or personnel. Neither the Declarant, the Association nor any director, officer, agent or employee of the Declarant or the Association, or its agents, officials, officers or employees, shall be liable to any Owner or Occupant or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence or maintenance of any such security gate or security device. All present and future Owners and all present and future Occupants are advised that, notwithstanding anything to the contrary, any security gate or security facility: (a) shown or depicted on any site plan, site map, conceptual plan, development plan or other drawing, diagram or map, however denominated, (b) contained, stated or depicted in any contract, recorded document, advertising material, promotional material, brochure or other document of any kind or type, or (c) contained, stated or set forth in any representations, promises or statements of any kind whatsoever, oral or written, by or attributed to any salesman, broker, Owner or any officer, director, agent or representative of the Association, or any member of any committee of the Association (including, without limitation, the Architectural Review

Committee), or any officer, director, employee, agent or representative of the Declarant, or any other Person: (i) may never be constructed, (ii) if constructed may be removed at some future date or dates, (iii) if constructed may be relocated at some future date or dates to a site which does not control or limit access to the Property or portions thereof, or (iv) if constructed may be modified (including, without limitation, to change the same from a manned facility to an unmanned facility), in all such cases without any notice or liability to or consent of any Owners or Occupants of the Property or any portion thereof or interest in the Property. Declarant makes no representations regarding, and shall have no liability for, the adequacy or degree of security or protection provided by any security gate or other facility constructed as part of the Project.

13.9. Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack or garage, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Review Committee, RVMA or County shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve (12) months without the prior written approval of the Architectural Review Committee.

13.10. Suspension of Construction. If at any time prior to completion of construction and receipt of a certificate of occupancy, construction is suspended for a period of more than thirty (30) days, any temporary buildings, trailers or other structures used during construction as well as any staging or construction equipment and materials related to construction shall be removed until such time as construction re-commences.

13.11. Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Unit or any portion of the Property, and no odors, loud noises or loud music shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon or adjacent to any Unit or any portion of the Property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements shall not be considered a nuisance or otherwise prohibited by this Declaration, but during construction periods, Units and other property shall be kept in a neat and tidy condition, trash and debris shall not be permitted to accumulate, supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved in writing by the Architectural Review Committee, and no loud music shall be permitted. In addition, any construction equipment and building materials stored or kept on any Unit or any portion of the Property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Review Committee, which may also require screening of the storage areas, The Architectural Review Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant.

13.12. Diseases and Insects. No Person shall permit any thing or condition to exist upon any Unit or other property which shall induce, breed or harbor infectious diseases or noxious

insects. Upon discovery of any such object, the Owner of the applicable Unit shall immediately cause such object to be removed and properly disposed of.

13.13. Repair of Building. No Unit shall be permitted to fall into disrepair and each Unit and other Improvements shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Unit, building, structure or other Improvement is damaged or destroyed, then such Unit, building, structure or other Improvement shall be immediately repaired or rebuilt or shall be demolished.

13.14. Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon any Unit unless such antenna, pole, tower or dish is fully and attractively screened or concealed, which means of screening or concealment shall be subject to the regulation and prior approval of the Architectural Review Committee. Nothing in this Section shall be deemed to prohibit the Declarant from installing and maintaining flagpoles on, at or adjacent to model homes within the Project.

13.15. Mineral Exploration. No Unit or any portion of the Property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant.

13.16. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Unit or any portion of the Property except in sanitary, covered containers of a type, size and style which are approved by the Architectural Review Committee, and such containers shall be stored within a Unit or building except on the days for collection. All rubbish, trash or garbage shall be removed from Units and any portion of the Property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be maintained on any Unit or any portion of the Property.

13.17. Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Unit or any portion of the Property.

13.18. Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any Unit or any portion of the Property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Review Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that reasonable efforts shall be made to avoid

placing any such meter, panel or other equipment on the outside front wall of a residence or other building facing the street running directly in front of such residence.

13.19. Health, Safety and Welfare. In the event additional uses, activities or facilities are deemed by the Management Committee to be a nuisance or to adversely affect the health, safety or welfare of Owners and Occupants, the Management Committee may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Architectural Review Committee to make rules governing their presence on Units or other property.

13.20. Model Units. Any provisions of this Declaration governing use of property or parking of vehicles shall not prohibit the construction and maintenance of model units of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Declarant, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. No Unit or other structure shall be used as a Model for the sale of units or other structures not located in the Project. Neither the provisions of this Section nor the provisions of any other Section of this Declaration shall restrict or prohibit the right of the Declarant or an affiliate of Declarant to construct, operate and maintain Models in the Project.

13.21. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Unit, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a Building, appurtenant structures or other Improvements; and (b) that which the Declarant or the Association may permit or require for the development, operation and maintenance of the Project.

13.22. Signs. No signs whatsoever (including, but not limited to commercial, political, "for sale," "for rent" and similar signs) shall be erected or maintained on any Unit except:

13.22.1. Signs required by legal proceedings.

13.22.2. Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Review Committee, the RVMA and the County.

13.22.3. Such construction job identification signs which are in conformance with the requirements of Summit County or any municipality having jurisdiction over the Property and which have been approved in writing by the Architectural Review Committee as to number, size, color, design, message content and location.

13.23. Required Approvals for Further Property Restrictions.

13.23.1. All proposed site plans must be approved in writing by the Architectural Review Committee prior to commencement of construction on the applicable Unit. No Unit, or portion thereof, shall be further subdivided, no Unit lines or

boundaries may be modified, and no portion less than all of any such Unit, or any easement or other interest therein, shall be conveyed or transferred by any Owner.

13.23.2. No further covenants, conditions, restrictions, or easements shall be recorded against any Unit, or portion thereof, without the prior written approval of the Management Committee and the Architectural Review Committee.

13.23.3. No Owner may modify the boundary lines of such Owner's Unit or combine adjacent Units without the prior written approval of the Architectural Review Committee.

13.23.4. No applications for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, shall be filed with any governmental authority or agency without the prior written approval of the Architectural Review Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration.

13.23.5. No subdivision plat, easement, declaration of further covenants, conditions, restrictions or easements or other instrument which is to be recorded and which is required by this Section 13.23 to be approved by the Architectural Review Committee shall be effective unless the required approval is evidenced on such instrument by the signature of an authorized representative of the Architectural Review Committee.

13.23.6. No site plan, subdivision plat, or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits shall be submitted to Summit County or any other governmental authority or agency unless the same has first been approved in writing by the Architectural Review Committee as provided in this Section 13.23; further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the Architectural Review Committee hereunder unless such changes or modifications have first been approved by the Architectural Review Committee in writing.

13.23.7. Notwithstanding the foregoing, neither the Declarant nor any affiliate of Declarant shall be required to seek or obtain any of the approvals or consents otherwise required under this Section 13.23 as to any Unit, or any portion of either, of which the Declarant or any affiliate of Declarant is the Owner.

13.24. Vehicles. In general, all Vehicles (as defined below) must be parked, kept, maintained, stored, constructed, reconstructed or repaired only within a garage appurtenant to a Unit or in other areas within the Common Areas and Facilities approved in writing by the Architectural Review Committee (which approval may be conditioned upon the planting or construction of landscaping or other screening approved by the Architectural Review Committee). For purposes of this Section, the term "Vehicles" includes cars, trucks and vans of all sizes, motorcycles, motorbikes, snow mobiles, mopeds, mini-bikes, motor scooters, all-terrain vehicles, off-road vehicles, motorhomes, recreational vehicles, trailers, travel trailers, tent

trailers, camper shells, detached campers, boats, boat trailers, mobile homes, or other similar machinery or equipment, whether motorized or not, whether wheeled or not and whether or not in operating condition. Notwithstanding the foregoing: (a) up to one car, van or truck having a capacity of one ton or less may occasionally be parked on driveways or other improved parking areas so long as the same are in operating condition and are regularly used for transportation of passengers; (b) additional cars, vans or trucks having a capacity of one ton or less may be parked from time to time on driveways or other improved parking areas to accommodate visitors or guests (provided that the Architectural Review Committee may adopt rules or regulations relating to the number or frequency of guest or visitor vehicle parking, if it determines, in its discretion, that such rules or regulations are necessary); and (c) service, repair or delivery vehicles may be parked on driveways, but only for the period reasonably required to effect the needed service, repair or delivery. Except for emergency repairs, no Vehicle shall be repaired, constructed or reconstructed on the Property except within a fully-enclosed garage. No Vehicle shall be parked on the Private Road or any other roadway or street within or adjacent to the Property.

13.25. Towing of Vehicles. The Management Committee has the right, without notice, to have any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Condominium Documents towed away at the sole cost and expense of the owner of the Vehicle. Any expense incurred by the Association in connection with the towing of any Vehicle must be paid to the Association upon demand by the owner of the Vehicle. If the Vehicle is owned by an Owner or Occupant, any amounts payable to the Association will be secured by the Assessment lien against that Owner's or Occupant's Unit, and the Association may enforce collection of those amounts in the same manner provided for in this Declaration for the collection of Assessments.

13.26. Snow Removal. The Association shall be responsible for removal of snow from the Private Road and other Common Areas and Facilities providing access to and from the Units. Each Owner shall be responsible for removal of snow from the driveway and sidewalks on the Limited Common Areas and Facilities appurtenant to such Owner's Unit. No snow may be pushed or blown onto another Owner's Unit or onto any Common Areas and Facilities.

13.27. Variances. The Architectural Review Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this ARTICLE 13 if the Architectural Review Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants and is consistent with the high quality of life intended for residents of the Project.

13.28. Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and slightly condition. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

13.29. Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Review Committee, the RVMA and any other approvals that may be required by law, solar collecting panels and other active solar devices may be placed, constructed or maintained upon any Unit so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Review Committee or the RVMA may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property).

13.30. Exterior Lighting. Exterior lighting shall be permitted on a Unit in accordance with the Design Guide and subject to the approval of the Architectural Review Committee.

13.31. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent or require Architectural Review Committee approval for the construction, installation or maintenance by the Declarant, any affiliate of Declarant or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property.

13.32. No Implied Use Rights. No interest in or right to use any amenity located on or near the Project, such as spas, club facilities, ski facilities or the like, shall be conveyed to an Owner pursuant to this Declaration. The owners of nearby facilities shall have the right, in their sole discretion, to remove, relocate, discontinue operation, restrict access to, charge fees for the use of sell interests in or otherwise deal with such assets in their sole discretion without regard to any prior use of or benefit to any residents of the Project.

ARTICLE 14 ASSOCIATION AND COMMITTEES

14.1. Membership in Association. The persons or entities who are at the time of reference Unit Owners, shall be members of the Association, the characteristics and nature of which are determined by the Act, this Declaration, the Bylaws, the Articles and other applicable Utah law.

14.2. Management Committee. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Management Committee consisting of three (3) natural persons, as further provided in the Bylaws. The Management Committee shall be elected as provided in this Declaration and in the Bylaws.

14.3. Powers of Management Committee. Except as otherwise provided herein, the Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, the Utah Revised Nonprofit Corporation Act, Utah Code Ann.

§§ 16-6a-101 et seq. (“Nonprofit Act”), this Declaration and the Bylaws, including but not limited to the following:

14.3.1. To make and enforce all Association Rules governing the operation and maintenance of the Project and the Units.

14.3.2. To engage the services of the Resort Manager and enter into the Resort Management Documents and to pay the Resort Manager the compensation provided in such Resort Management Documents.

14.3.3. To engage the services of an Association Manager and other accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

14.3.4. To operate, maintain, repair, improve and replace the Common Areas and Facilities.

14.3.5. To determine and pay the Common Expenses.

14.3.6. To assess and collect the proportionate share of Common Expenses from the Owners, as provided in Section 17.1 below.

14.3.7. To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

14.3.8. To open bank accounts on behalf of the Association and to designate the signatories therefor.

14.3.9. To purchase, hold, sell, convey, mortgage or lease any one or more Units in the name of the Association or its designee.

14.3.10. To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Management Committee, the Association or the Project in excess of \$100,000 (as measured in year 2016 dollars and thereafter adjusted by the Cost of Living Index) without the prior approval of a majority of the Total Votes of the Association at a meeting or by written ballot distributed to Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Association’s insurance carrier and which in either case results in no actual liability of funds of the Association in excess of \$100,000 shall not require Association approval.

14.3.11. To obtain insurance for the Association with respect to the Units and the Common Areas and Facilities, as well as worker’s compensation insurance.

14.3.12. To repair or restore the Project following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an

action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.

14.3.13. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Management Committee and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

14.3.14. To borrow money for the purpose of improving the Common Areas and Facilities in a manner designed to promote the enjoyment and welfare of the Owners consistent with this Declaration.

14.3.15. To pledge, hypothecate or otherwise encumber current or future Assessments for any purpose permitted under this Declaration.

14.3.16. To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws. Such books and records shall include detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred. The Association or the Management Committee shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of this Declaration, the Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, no later than fourteen (14) days after written request, during normal business hours or under other reasonable circumstances.

14.3.17. To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

14.3.18. To prepare, adopt, amend and disseminate budgets for the Common Expenses and other information from time to time in accordance with the terms of the Bylaws,

14.3.19. To grant easements and rights-of-way over the Common Areas and Facilities and to approve signage for the Project.

14.3.20. The Management Committee may convey or subject to a Mortgage all or portions of the Common Areas and Facilities of the Project if Owners entitled to cast a majority of the Total Votes of the Association agree to that action at a meeting or by written ballot distributed to Owners by mail, electronic mail or other means of written communication. Any such agreement shall comply with all other applicable provisions of the Act.

14.4. Bulk Service Agreements.

14.4.1. The Management Committee, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Management Committee deems appropriate, all with the primary goals of providing to Owners and Occupants cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Management Committee believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

14.4.2. If all Units within the Property are to be served by a particular Bulk Service Agreement, the Management Committee shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement (as reasonably determined by the Management Committee, and with such frequency as may be determined by the Management Committee, but no more often than monthly) (provided that such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or other charges). If not all Units within the Property will be served by a particular Bulk Service Agreement the Management Committee shall have only the billing option described in clause (b) above.

14.4.3. The Declarant, for each Unit, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Unit, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Unit) by the Management Committee pursuant to this Section 14.4, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Units against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Unit at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

14.4.4. No Owner of a Unit covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Management Committee to such Owner or such Owner's Unit under this Section 14.4, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Management Committee shall have the right, at its option, to exempt from payment of such amounts any Unit upon which no building has been completed.

14.4.5. "Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners or Units, or within one or more portions thereof, pursuant to a "Bulk Service Agreement" (as defined below).

14.4.6. "Bulk Service Agreement" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners or Units, or within one or more portions thereof.]

14.5. Limitation on Liability of Committees. Members of the Management Committee, Architectural Review Committee, the officers and any assistant officers, agents and employees of the Association (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

14.6. Indemnification of Committees. When a member of the Management Committee or Architectural Review Committee is sued for liability for actions undertaken in his or her role as a member of the applicable committee, the Association shall, subject to the provisions of the Nonprofit Act, indemnify him or her for his or her losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful misconduct, intent to inflict harm on the Association or an Owner, or with gross negligence. After such proof, the Association shall no longer be liable for the cost of defense, and may recover costs already expended from the member of the committee who so acted. Members of the Management Committee and Architectural Review Committee are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from individual Owners, their guests and invitees whose activity gives rise to such damages.

14.7. No Sale of Property. Neither the Management Committee nor the Resort Manager shall sell any property of the Association except as permitted by the Act and Section 14.3.20 of this Declaration.

14.8. Association Manager. The Association, acting through the Management Committee may enter into a contract with an Association Manager for the management of the Association consistent with the limitations and grant of authority of Section 14.3 hereof. The Association Manager so engaged shall be responsible for managing the affairs of the Association for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required to be performed by the Association itself.

14.9. Providing Payoff Information; Written Statement. The Management Committee may charge a reasonable fee for providing Association payoff information needed in connection with the closing of an Owner's financing, refinancing or sale of a Unit. Such fee shall not exceed the maximum amount (if any) set forth in the Act. The Management Committee must provide payoff information within five (5) business days after the closing agent for a transaction requests such information. Such request shall include all information required by the Act and be delivered in accordance with the requirements set forth in the Act. Even when not needed in connection with the closing of an Owner's financing, refinancing or sale of a Unit, an Owner may request in writing a written statement from the Management Committee indicating any unpaid Assessments with respect to the Owner's Unit. The Association may charge the Owner requesting the statement a fee not to exceed the maximum amount (if any) set forth in the Act.

14.10. Registration with the Department of Commerce. The Association shall register with the Department of Commerce within ninety (90) days of the recordation of this Declaration. Within ninety (90) days after a change of any information provided in the Association's registration with the Utah Department of Commerce, the Management Committee shall submit an updated registration in the manner established by the Utah Department of Commerce and the Act.

14.11. Working Capital Contribution. In addition to certain other amounts due to the Association at the time of closing of the sale of a Residential Unit, each Residential Unit Owner, upon the initial purchase from Declarant, hereby agrees and acknowledges that it shall pay to the Association a non-refundable working capital contribution ("Capital Contribution") at the time it acquires a Residential Unit from Declarant as a contribution to the Association's working capital fund in accordance with the following provisions:

14.11.1. The purpose of the Capital Contribution is to ensure that the Association will have cash available for the operation of the Project. The working capital funds for the Project may, but shall not be required to be maintained in a segregated account for the use and benefit of the Association. Each Owner's Capital Contribution amount shall be a sum equal to three (3) monthly installments of the annual Assessments for its Residential Unit. Each Owner's Capital Contribution shall be collected and transferred to the Association at the time of the closing of the sale of that Residential Unit from Declarant. Interest on such Capital Contribution shall accrue to the benefit of the Association. Each Owner's obligation to pay the Capital Contribution shall be

enforceable in the same manner as payment of Assessments and shall be secured by the Assessment lien. The Capital Contribution shall not be considered advance payment of any regular Assessment.

14.11.2. No Capital Contribution shall be due or payable other than on the initial sale from Declarant to a purchaser of a Residential Unit.

ARTICLE 15 ARCHITECTURAL REVIEW COMMITTEE

15.1. Membership. There is hereby established an Architectural Review Committee which shall be responsible for the establishment and administration of the Design Guide and to carry out all other responsibilities assigned to the Architectural Review Committee in order to carry out the purposes and intent of this Declaration. The members of the Architectural Review Committee need not be Members of the Association. All of the members of the Architectural Review Committee shall be appointed, removed, and replaced by Declarant in its sole discretion during the Declarant Control Period, and thereafter by the Management Committee.

15.2. Purpose. The Architectural Review Committee shall review, study and either approve, reject or request resubmittal of proposed developments and Improvements to a Unit, all in compliance with this Declaration and as further set forth in the rules and regulations of the Architectural Review Committee and the Design Guide adopted and established from time to time by the Architectural Review Committee.

15.2.1. The Architectural Review Committee shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures in the Project as to external design, quality and type of construction, materials, color, location height, grade and finished ground elevation, and all aesthetic considerations set forth in this Declaration and in the Design Guide.

15.2.2. Except for Improvements made by Declarant, no Improvement on a Unit shall be erected, placed or altered nor shall any construction be commenced until plans for such Improvement shall have been approved by the Architectural Review Committee; provided, however, that Improvements and alterations which are completely within a building may be undertaken without such approval.

15.2.3. The actions of the Architectural Review Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties subject to appeal as provided in the Bylaws.

15.3. Expenses. Except as provided below, all expenses of the Architectural Review Committee shall be paid by the Association. The Architectural Review Committee shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Architectural Review Committee from time to time, which amount shall not exceed the actual cost of reviewing and approving the plans, and such fees shall be collected by the Architectural Review Committee and remitted to the Association to help defray the expenses of the Architectural Review Committee's operation.

15.4. Design Guide and Rules. The Architectural Review Committee shall adopt, establish, and publish from time to time a Design Guide. The Design Guide shall define and describe the design standards for the Project. The Design Guide may be modified or amended from time to time by the Architectural Review Committee, To the extent permitted by the Design Guide, the Architectural Review Committee, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the design review process is not a substitute for compliance with applicable municipal authority building, zoning, and subdivision regulations and requirements, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to obtaining final approval of any Improvements from the Architectural Review Committee and prior to commencing construction.

15.5. Procedures. As part of the Design Guide, the Architectural Review Committee shall make and publish such rules and regulations as it may deem appropriate to govern its proceedings. Appeals shall be conducted as provided in the Bylaws.

15.6. Limitation of Liability. The Architectural Review Committee shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Architectural Review Committee, nor any individual Architectural Review Committee member, shall be liable to any person for any official act of the Architectural Review Committee in connection with submitted plans and specifications, except to the extent the Architectural Review Committee or any individual Architectural Review Committee member acted with gross negligence or was guilty of willful misconduct. Approval by the Architectural Review Committee does not necessarily assure approval by the appropriate municipal authority. Notwithstanding that the Architectural Review Committee has approved plans and specifications, neither the Architectural Review Committee nor any of its members shall be responsible or liable to any Owner, developer, or contract holder with respect to any loss, liability, claim, or expense which may arise by reason of such approval of the construction of any Improvements. Neither the Management Committee, the Architectural Review Committee, or any agent thereof, nor Declarant or any of its shareholders, employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Condominium Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Architectural Review Committee and its members shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Architectural Review Committee's decision. The Association, however, shall not be obligated to indemnify each member of the Architectural Review Committee to the extent any such member of the Architectural Review Committee shall be adjudged to be liable for gross negligence or willful misconduct in the performance of his duty as a member of the Architectural Review Committee, unless and then only to the extent that the court in which such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

15.7. Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the Management Committee, and upon written request of any Owner or his agent, an existing or prospective Mortgagee, or a prospective grantee, the Architectural Review

Committee shall issue an acknowledged certificate, in recordable form, setting forth generally, to the best of the Architectural Review Committee's knowledge, that the Owner is not in violation of any of the terms and conditions of the Project documents. Unless such request shall be complied with within thirty (30) days after receipt of the request, it shall be conclusively presumed that the Owner and the Owner's Improvements are in conformance with all the terms and conditions subject to the control of the Architectural Review Committee.

ARTICLE 16 VOTING

16.1. Voting Rights. At any meeting of the Association, each Owner of a Unit, including Declarant, either in person or by proxy, shall be entitled to vote the number of votes appurtenant to each respective Unit as set forth in Exhibit B. The voting rights appurtenant to each Unit shall vest upon execution and recording of this Declaration.

16.2. Permanent Character. The number of votes appurtenant to each Unit shall have a permanent character, and, except as otherwise permitted and provided for in this Declaration, shall not be altered without the unanimous consent of all Owners expressed in a duly recorded Amendment.

ARTICLE 17 ASSESSMENT OF UNITS BY THE ASSOCIATION

17.1. Levying Assessments. The making and collection by the Association of Assessments from Owners of Units for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

17.1.1. Liability for Payment of Common Expenses. Each Owner, including Declarant, for each Unit which it owns, shall be liable for a proportionate share of the Common Expenses, such share being the same as the ownership interest in the Common Areas and Facilities appurtenant to the Unit owned by him or her. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses. Such combined expenses shall constitute the Common Expenses, and the funds received from Common Assessments under this Section 17.1.1 shall be the Common Expense Fund. Common Assessments shall include Regular Common Assessments and Special Assessments, and any other assessments levied by the Association. Until the Association makes an assessment for Common Expenses, the Declarant shall pay all Common Expenses. After an assessment has been made by the Association, Regular Common Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Regular Common Assessments shall be levied against each separate Unit, and shall commence as to each Unit in the Project on the first day of the month following issuance of a temporary or permanent certificate of occupancy for the Unit, whether subject to conditions or otherwise, is issued by the appropriate authority.

17.1.2. Declarant Subsidy. To the extent permitted by law, Declarant may without obligation pay the Association an amount less than its proportionate share of Common Expenses or other permitted Assessments for which it owes, provided Declarant has executed a subsidy agreement requiring Declarant to pay monies which are sufficient, together with the Assessments paid by all other Owners, to enable the Association to timely pay all of the applicable expenses. Any subsidy agreement shall require Declarant to pay its full proportionate share of all reserves for replacement and capital improvements assessed against the Units that it owns.

17.1.3. Limit on Regular Common Assessments. The Association may not impose a Regular Common Assessment per Unit which is more than twenty-five percent (25%) greater than the previous year's Regular Common Assessment, without first obtaining the affirmative vote of Owners holding at least fifty percent (50%) of the Total Votes of the Association, cast at a meeting of the Association at which a quorum is present. The Association shall provide notice, by first class mail to all Owners, of any change in the Regular Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date the increased Regular Common Assessment is due.

17.1.4. Special Assessments. In addition to other Assessments, the Association may levy in any calendar year, Special Assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon any Common Areas and Facilities, including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Assessments from the Owners. However, in any fiscal year, except as otherwise provided in this Declaration, the Management Committee shall not, without the affirmative vote of Owners holding at least fifty percent (50%) of the Total Votes of the Association, cast at a meeting at which a quorum is present, levy Special Assessments which in the aggregate exceed twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year. The portion of any Special Assessment levied against a particular Unit shall be equal to the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Unit. These provisions with respect to the imposition or allocation of Special Assessments shall not apply when the special assessment against an Owner is a remedy utilized by the Management Committee to reimburse the Association for costs incurred in bringing the Owner and/or his or her Unit into compliance with the provisions of this Declaration, the Bylaws, rules and regulations of the Association, or any other governing instrument for the Project. The Management Committee shall provide notice by first class mail to all Owners of any Special Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

17.1.5. In addition to the foregoing Assessments, Unit Owners and the Association will be subject to the payment of certain other charges and assessments payable to the RVMA under the RVMA Agreement which may include, but will not necessarily be limited to, an annual member assessment, transient occupancy assessments for those Units used as transient rentals, and real estate transfer assessments, all as provided in the RVMA Agreement. Charges and assessments levied to all Units under

the RVMA Agreement may be paid by the Association and charged to the Owners as Common Expenses as provided in this ARTICLE 17.

17.1.6. Interest/Late Fees. All Assessments shall be due as determined pursuant to the Bylaws. Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Management Committee, from the date when due until paid. Furthermore, Owners who do not pay their Assessments when due shall be subject to a reasonable late fee, established by the Management Committee from time to time. All payments of Assessments shall be first applied to accrued interest and late fees, costs of collection, and then to the Assessment payment first due. All Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to their share of Common Expenses. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Unit(s). If the Owners' percentage interests in the Common Areas and Facilities are reallocated, assessments for Common Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests of the Owners.

17.1.7. Lien for Assessments. There shall be a lien upon the applicable Unit for all unpaid Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to the Declaration and the Act. The recordation of this Declaration in the Official Records constitutes record notice and perfection of such assessment lien. To establish the priority of the lien pursuant to Section 17.1.9 below, a written notice of lien shall be recorded setting forth the amount of the Assessment, the date(s) due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment. Such lien may be enforced by sale or foreclosure by the Management Committee or Association Manager conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by 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 Title 38, Chapter 1a, Utah Code Annotated, as amended from time to time.

17.1.8. Foreclosure. In any such 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 being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Unit which shall become due during the period of foreclosure, together with interest and late fees as set forth herein, and all such Assessments shall be secured by the lien being foreclosed. In furtherance of such foreclosure rights, the Association may bring an action at law against the Owner personally obligated to pay the same or the Association may foreclose the lien in accordance with the provisions of the Act. The Declarant, Association and each Owner hereby convey and warrant pursuant to Utah Code Ann. Sections 57-1-20 and 57-8-45 to Coalition Title Agency, located at 2200 Park Ave., #C100, Park City, Utah 84060, with

power of sale, the Units and all improvements to the Units for the purpose of securing payment of Assessments under the terms of this Declaration. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code Annotated. Each Owner hereby conveys all of its right, title and interest in its Unit to such trustee, in trust, with a power of sale, for the sole purpose of securing each Owner's obligations under the Declaration, including but not limited to the obligation to pay all Assessments. The Association may, through the Association Manager or other duly authorized agent, bid on the Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey the same.

17.1.9. Priority of Lien. The lien of the Association has priority over each lien and encumbrance on a Unit except: (a) a lien or encumbrance recorded before recordation of this Declaration, (b) a first or second Mortgage on a Unit that is recorded before a recorded notice of lien by or on behalf of the Association, or (c) a lien of real estate taxes or other governmental assessments or charges against the Unit. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

17.1.10. Nonjudicial Foreclosure. At least thirty (30) calendar days before initiating a nonjudicial foreclosure, the Association shall provide notice ("Foreclosure Notice") to the Owner that is the intended subject of the nonjudicial foreclosure. The Foreclosure Notice shall: (i) notify the Owner that the Association intends to pursue nonjudicial foreclosure with respect to the Owner's unit to enforce the Association's lien for unpaid Assessments; (ii) notify the Owner of the Owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure; (iii) be sent to the Owner by certified mail, return receipt requested and be included with other Association correspondence to the Owner; and (iv) be in substantially the following form:

NOTICE OF NONJUDICIAL FORECLOSURE
AND RIGHT TO DEMAND JUDICIAL
FORECLOSURE

Apex Residences Park City Owners Association, Inc., a Utah corporation (the "Association"), the association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for

paying those costs and attorney fees. If you want to make this demand, you must state in writing that demand a judicial foreclosure proceeding upon my unit,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is Apex Residences Park City Owners Association, Inc., _____ (insert the address of the Association for receipt of a demand).

17.1.11. Demand for Judicial Foreclosure. The Association may not use a nonjudicial foreclosure to enforce a lien if an Owner mails the Association a written demand for judicial foreclosure: (i) by U.S. mail, certified with a return receipt requested; (ii) to the address stated in the Foreclosure Notice; and (iii) within 15 days after the date of the postmark on the envelope of the Foreclosure Notice.

17.1.12. Liability upon Conveyance. In a voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his or her Assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. The Management Committee, upon written request, shall furnish to an Owner a statement setting forth the amount of unpaid Assessments against the Unit. This statement shall be furnished within ten (10) business days after receipt of the request and upon payment of a reasonable fee (not to exceed the maximum amount (if any) allowed by the Act) and is binding on the Association, the Management Committee, the Association Manager and every Owner, in favor of all who rely on such statement in good faith. The grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments against the grantor in excess of the amount set forth in the statement furnished under this Section 17.1.12.

17.1.13. Action to Recover. The amount of any Assessment against any Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and Facilities or by abandonment of his or her Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

17.1.14. Lien Unaffected. The lien to secure unpaid Assessments shall not be affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved in which case any First Mortgagee who obtains title to a Unit pursuant to the remedies in the Mortgage or through foreclosure will not be liable for Assessments or

charges accrued before the acquisition of the title to the Unit by the First Mortgagee, but such acquisition shall not relieve any Owner from paying further Assessments.

17.2. Capital Improvements. The Association through the Management Committee shall include in the Common Assessments amounts representing sums to be used for the replacement of or additions to capital items or improvements in the Project. Said amounts shall be dedicated for the uses provided in this Section 17.2. Upon the transfer of a Unit, the capital reserves previously paid by the transferring Owner shall remain the property of the Association, for the use and benefit of the Association in making future repairs, replacements, improvements and capital additions to the Project. In utilizing such reserves, there shall be no single improvement exceeding the sum of One Hundred Thousand Dollars (\$100,000) (as measured in year 2016 dollars and thereafter adjusted by the Cost of Living Index) made by the Management Committee without the same having been first voted on and approved by the majority of the votes of those present in person or by proxy at a meeting of the Association duly called for that purpose or otherwise so approved without a meeting. The foregoing 'shall not apply in connection with damage or destruction referred to in ARTICLE 21 hereof or to such structural alterations or capital additions or capital improvements to the Common Areas and Facilities as are necessary in the Management Committee's reasonable judgment to preserve or maintain the integrity of the Common Areas and Facilities.

17.3. Reserves.

17.3.1. Use of Reserve Funds. The Management Committee shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas and Facilities for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Furthermore, the Association shall not use money in a reserve fund for daily maintenance expenses, unless a majority of the Total Votes of the Association consent and vote to approve the use of the reserve fund money for that purpose. Upon the approval of a majority of the Total Votes of the Association, the Management Committee may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Management Committee may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Management Committee shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Assessment shall not be subject to the limitations set forth in Section 17.1.4 hereof.

17.3.2. Reserve Analysis. At least once every six (6) years the Management Committee shall cause a reserve analysis to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The

Management Committee shall, thereafter, review the reserve analysis at least every three (3) years and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve analysis shall include, at a minimum:

17.3.2.1 A list of the components identified in the reserve analysis that will reasonably require reserve funds (the “Components”).

17.3.2.2 A statement of the probable remaining useful life, as of the date of the reserve analysis, of each Component identified in the reserve analysis.

17.3.2.3 An estimate of the cost to repair, replace, or restore each of the Components identified in the reserve analysis.

17.3.2.4 An estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each of the Components identified in the reserve analysis during the Components’ useful life and at the end of the Components’ useful life.

17.3.2.5 A reserve funding plan that recommends how the Association may fund the annual contribution described in Section 17.3.2.4.

17.3.3. Providing Reserve Analysis to Owners. Each year the Association shall provide a summary of the most recent reserve analysis, including any updates, to each Owner. Owners may receive a complete copy of the reserve analysis upon a request submitted to the Management Committee.

17.3.4. Reserve Fund Line Item. The Association’s budget shall include a reserve fund line item as determined by the Management Committee, based on the reserve analysis and the amount the Management Committee determines is prudent under the circumstances. Within forty five (45) days after the day on which the Association adopts its budget, the Owners may veto the reserve fund line item by the vote of fifty one percent (51%) of the Total Votes of the Association at a special meeting called by the Owners for the purpose of voting whether to veto the reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved budget of the Association that was not vetoed, the Association shall fund the reserve account in accordance with that prior reserve fund line item.

17.4. Leased Units. If an Owner fails to pay Assessments or any other amounts due under this Declaration for a period of more than sixty (60) days after such amounts are due and payable, the Association may require a Tenant (defined below) under a Lease (defined below) with an Owner to pay the Association all future Lease payments due to the Owner beginning with the next monthly or periodic payment due from the Tenant and until the Association is paid the Amount Owing (defined below). Notices and collection of payments shall comply with the following provisions; provided, however, that if the requirements under the Act are less restrictive, the Association need only comply with the requirements thereunder:

17.4.1. Terms. Capitalized terms used in this Section and not otherwise defined in this Declaration shall be defined as follows:

17.4.1.1 “Amount Owing” means the total of any Assessment or obligation under this Declaration that is due and owing together with any applicable interest, late fee, and cost of collection;

17.4.1.2 “Lease” means an arrangement under which a Tenant occupies a Residential Unit, including nightly rentals, in exchange for the Owner, and/or such Owner’s rental or other property manager, receiving a consideration or benefit, including a fee, service, gratuity, or other compensation; and

17.4.1.3 “Tenant” means a person, other than the Owner, who has exclusive occupancy of an Owner’s Unit whether on a nightly rental or other basis; provided, however, if an Owner has contracted with a rental or other property manager to rent such Owner’s Unit, the manager shall be considered the Tenant for purposes of this Section 17.4.

17.4.2. Landlord Notice. Before requiring a Tenant to pay Lease payments to the Association, the Association Manager or Management Committee shall give the Owner notice (“Notice to Landlord”), in accordance with this Declaration. The Notice to Landlord shall state: (i) the amount of the Assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other Assessments that become due may be added to the total amount due and be paid through the collection of Lease payments; and (iii) that the Association intends to demand payment of future Lease payments from the Owner’s Tenant if the Owner does not pay the Amount Owing within fifteen (15) days.

17.4.3. Tenant Notice. If an Owner fails to pay the Amount Owing within fifteen (15) days after the applicable Association Manager or Management Committee gives the Notice to Landlord, the Association Manager or Management Committee may exercise the Association’s rights to collect Lease payments by delivering written notice (“Notice to Tenant”) to the Tenant. The Notice to Tenant shall state that: (i) due to the Owner’s failure to pay an Assessment within the required time, the Association Manager or the Management Committee has notified the Owner of the Association’s intent to collect all Lease payments until the Amount Owing is paid; (ii) the law requires the Tenant to make all future Lease payments, beginning with the next monthly or other periodic payment, to the Association, until the Amount Owing is paid; and (iii) the Tenant’s payment of Lease payments to the Association does not constitute a default under the terms of the Lease with the Owner. The Association Manager or Management Committee shall mail a copy of the Notice to Tenant to the Owner.

17.4.4. Lease Payments. A Tenant to whom the Notice to Tenant has been given shall pay to the Association all future Lease payments as they become due and owing to the Owner: (i) beginning with the next monthly or other periodic payment after the Notice to Tenant is delivered to the Tenant; and (ii) until the Association notifies the Tenant that the Amount Owing is paid. An Owner shall credit each payment that the

Tenant makes to the Association under this Section against any obligation that the Tenant owes to the Owner as though the Tenant made the payment to the Owner. An Owner may not initiate a suit or other action against a Tenant for failure to make a Lease payment that the Tenant pays to the Association as required under this Section. Within five (5) business days after the Amount Owing is paid, the Association Manager or Management Committee shall notify the Tenant in writing (and mail a copy thereof to the Owner) that the Tenant is no longer required to pay future Lease payments to the Association. For any Unit subject to a nightly rental contract, the amount paid to the Association pursuant to this Section 17.4.4 shall be the amount that would otherwise be paid to the Owner.

17.4.5. Separate Account. The Association shall deposit money paid to the Association under this Section 17.4 in a separate account and disburse that money to the Association until the Amount Owing is paid and any cost of administration, not to exceed the maximum amount set forth in the Act (if any) is paid. The Association shall, within five (5) business days after the Amount Owing is paid, pay to the Owner any remaining balance.

17.5. Termination of Delinquent Owner's Rights. The Management Committee may terminate a Delinquent Owner's (defined below) right to receive a utility service for which the Owner pays as a Common Expense and may also terminate the right of access to and use of recreational facilities at the Project (collectively, the "Owner's Rights"). Before terminating an Owner's Rights, the Association Manager or the Management Committee shall give the Delinquent Owner notice ("Notice of Delinquency") of such termination. The Notice of Delinquency shall state: (i) that the Association will terminate any of the Owner's Rights, if the Association does not receive payment of the Assessment owed to the Association within fourteen (14) days after the Delinquent Owner receives the Notice of Delinquency; (ii) the amount of the Assessment due, including any interest or late payment fee; and (iii) the Owner's right to request a hearing. A Delinquent Owner may submit a written request to the Management Committee for an informal hearing to dispute the Assessment. Such request shall be submitted within fourteen (14) days after the date the Delinquent Owner receives the Notice of Delinquency. The Management Committee shall conduct the informal hearing in accordance with the standards provided in the Bylaws. If a Delinquent Owner requests a hearing, the Association may not terminate the Owner's Rights until after the Management Committee conducts the hearing and enters a final decision. If the Association terminates an Owner's Rights, the Association shall take immediate action to reinstate the service or right following the Owner's payment of the Assessment, including any interest, late payment fee or other charges. The Association may assess an Owner for the cost associated with reinstating a utility service that the Association terminates and demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in the Notice of Delinquency. As used in this Section, "Delinquent Owner" means an Owner who fails to pay an Assessment or other amounts owed to the Association when due.

ARTICLE 18

MAINTENANCE, ALTERATION AND IMPROVEMENT

18.1. Maintenance of Common Areas and Facilities. The maintenance, replacement and repair of the Common Areas and Facilities, shall be the responsibility of the Association, and the

cost thereof shall be a Common Expense. The maintenance, replacement, upkeep and repair of the Common Areas and Facilities must be in accordance with the Resort Quality Standard. All incidental damages caused to a Unit by the maintenance, replacement and repairs of the Common Areas and Facilities or utility services shall be repaired promptly and the cost thereof charged to the Association as a Common Expense.

18.2. No Liability for Latent Defects. NOTWITHSTANDING THE DUTY OF THE ASSOCIATION TO MAINTAIN AND REPAIR PORTIONS OF THE PROJECT, AND EXCEPT TO THE EXTENT COVERED BY ASSOCIATION INSURANCE AS DESCRIBED IN ARTICLE 20, THE ASSOCIATION SHALL NOT BE LIABLE TO OWNERS FOR INJURY OR DAMAGE, OTHER THAN FOR THE COST OF MAINTENANCE AND REPAIR, CAUSED BY ANY LATENT CONDITION OF THOSE PORTIONS OF THE PROJECT TO BE MAINTAINED AND REPAIRED BY THE ASSOCIATION, OR CAUSED BY THE ELEMENTS OR OTHER OWNERS OR PERSONS.

18.3. Right of Entry. Some of the Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association, its agents and contractors, shall have the irrevocable right to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Unit. The Association shall also have the irrevocable right to have access to any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with advance written notice to the Unit Owner at reasonable times and in a manner that does not disrupt the operations or use of such Unit or the performance, provision and administration of the Resort Management Activities, and with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association.

18.4. Owner's Obligation to Maintain Units. Notwithstanding anything in this Declaration to the contrary, each Owner at the Owner's expense shall maintain and keep in repair such Owner's Unit in accordance with the Resort Quality Standard, including windows and the fixtures and utilities located in the Unit to the extent current repair shall be necessary in order to avoid damaging other Units or the Common Areas and Facilities. All fixtures, equipment, and utilities installed and included in a Unit serving only that Unit, commencing at a point where the fixtures, equipment and utilities enter the Unit, shall be maintained and kept in repair by the Owner of that Unit. An Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of any Unit, or impair any easement or hereditament. No alterations may be made to the Common Areas and Facilities by any Residential Unit Owner and any alterations of the Common Areas and Facilities by the Association, or the Resort Manager on behalf of the Association, shall not require the consent of any Owner or any other third-party Person.

18.5. Failure to Maintain. In the event that portions of a Unit or other improvements are not properly maintained and repaired, and if the maintenance responsibility for the unmaintained improvement lies with the Owner of the Unit, or in the event that such improvements are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after written notice to the Owner and the expiration of a thirty (30) day cure period, and with the approval of the Management Committee, shall have the right to enter upon and within the Unit to perform such work as is reasonably required to restore the Unit and other improvements to a condition of good order and repair; provided, however, if such repair and reconstruction due to an event of casualty cannot be reasonably performed within such thirty (30) day cure period, the Owner shall have such time as reasonably required to perform such repair and reconstruction so long as the work has been commenced within such cure period and is diligently pursued to completion. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Section 17.1 of this Declaration.

18.6. Joint Use of Adjacent Units. Upon compliance with RVMA and County requirements and the following procedures, two or more adjoining Units may be utilized by the Owner(s) thereof as if they were one Unit, including the removal of separating walls and doors. Before utilizing adjacent Units as one Unit, the Owner thereof shall submit plans depicting any modifications to be made to the Units to the Declarant during the Declarant Control Period, and thereafter the Architectural Review Committee for review. Such plans shall demonstrate that the modifications will not have any negative effects on the structural soundness any Units or the Common Areas and Facilities. The Owner shall be solely responsible for all costs in preparing the plans and all costs of the Declarant or Architectural Review Committee in reviewing the plans. Declarant or the Architectural Review Committee, as applicable, may approve or reject the proposed plans or impose any requirements deemed appropriate, in their sole and exclusive discretion. If approved, all costs of construction in accordance with the plans shall be the sole responsibility of the Owner. In the event of and at such time as the Owner no longer desires to use the adjoining Units as one Unit, such Owner shall, at its sole expense, repair and restore the Units, including any separating walls and floors, to the same condition as prior to joint use.

18.7. Procedure for Combination of Units. Adjacent Units may be legally combined into one Unit only upon compliance with the following procedures and requirements:

18.7.1. Notice Required. No Units shall be combined or subdivided either by agreement or legal proceedings, except as provided in this Section 18.7. An Owner or Owners wishing to combine Units must first give notice in writing to the Declarant during the Declarant Control Period, and thereafter the Management Committee, or Association Manager on its behalf, the Mortgagee(s) of the Unit(s) to be combined and to the RVMA and the County. The notice must include complete plans and specifications for accomplishing the combination and proposed Amendments of this Declaration and the Plat.

18.7.2. Approvals. The combination of Units may be accomplished only with the written approval of: (a) the Mortgagee(s) of the Units to be combined, if required by their Mortgages, (b) the County, (c) the RVMA and (d) Declarant during the Declarant Control Period and thereafter the Management Committee and Architectural Review Committee. The Declarant, or the Management Committee and Architectural Review Committee, may approve the combination in its sole and exclusive discretion, and may impose any requirements it deems appropriate.

18.7.3. Common Areas and Facilities. A combination of Units shall provide for reallocation of the undivided ownership interest in the Common Areas and Facilities among the resulting Unit(s), consistent with the provisions of Section 4.2, so that the combined percentages of undivided ownership interest of the resulting Unit(s) are identical with the combined percentage undivided ownership interest of the Units prior to combination or subdivision.

18.7.4. Liability for Costs. The Owner(s) of the Units to be combined shall be responsible for all costs associated with its implementation including but not limited to (a) costs of preparing and recording an Amendment to this Declaration and an amended Condominium Plat to effect the proposal, if necessary or required; (b) review of the plans and Amendment by Declarant, or the Management Committee and Architectural Review Committee, including reasonable engineer, architectural, and attorneys' fees; and (c) the cost of any modifications to the Project to implement the proposal.

18.7.5. Declaration and Plat Amendments. Declarant during the Declarant Control Period, and thereafter the Management Committee, may unilaterally execute and record the approved Amendments to this Declaration and the Plat without the approval or consent of any other Owner. All costs of recording shall be at the requesting Owner's sole and exclusive expense.

18.7.6. Additional Requirements. Upon receipt of all necessary approvals, the Owner(s) may proceed according to the proposed plans and specifications; provided that the Declarant during the Declarant Control Period, and thereafter the Management Committee, may require that the Declarant or Management Committee administer the work, or that provisions for the protection of other Units or Common Areas and Facilities and/or reasonable deadlines for completion of the work be inserted in the contracts for the work.

ARTICLE 19 EASEMENTS

19.1. Encroachment on Units. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the

Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

19.2. Easement for Units. It is contemplated that Declarant or another party may construct additional Units that may encroach upon portions of the Common Areas and Facilities, and Declarant shall also have an easement over, across and within the Common Areas and Facilities for such purposes.

19.3. Support. Each Owner shall have the right to the horizontal, vertical and lateral support of his or her Unit.

19.4. Association Easement. The Association shall have an easement to make such use of the Common Areas and Facilities as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain Project improvements in the Common Areas and Facilities for use by the Owners and the Association.

19.5. Construction Easement. The Declarant shall have a temporary construction easement over the Common Areas and Facilities for the purpose of doing all things that are reasonably necessary as a part of constructing the Project including all future Units and other physical improvements as well as Common Areas and Facilities. The Owners do hereby acknowledge and agree that there will be construction activities, traffic, noise, dust, odors and vibrations which may temporarily disrupt their quiet enjoyment of their Units and the Common Areas and Facilities appurtenant thereto, and such Owners do hereby waive any right to object to such construction activity. Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the restrictions set forth in ARTICLE 13 hereof.

19.6. Easement for Infrastructure. Declarant, for itself and its successors and assigns, including Owners, retains and hereby grants to the Association a right and easement in and about the Units for the construction and installation of any duct work, additional plumbing, or other additional services or utilities in the Common Areas and Facilities in connection with the improvement or alteration of any Unit, including the right of access to such areas of the Common Areas and Facilities as is reasonably necessary to accomplish such improvements. In the event of a dispute among Owners with respect to the scope of the easement reserved in this Section 19.6, the decision of the Management Committee shall be final.

19.7. Grant Implied. All conveyances of Units within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

19.8. Communication and Data Facilities. Declarant reserves a non-exclusive easement for itself and its assignees to construct, operate, maintain, repair and replace all types of communication and data facilities within the Project. Declarant further reserves a right of access

to such facilities over, across, and through all other Common Areas and Facilities of the Project in order to access the facilities to exercise the rights established herein. Declarant may transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more communication or data services providers. Declarant may exercise all of the rights under this Section 19.8 without the consent of any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in form satisfactory to the Declarant, and any assignee of its rights hereunder.

19.9. Equipment Easement. Declarant reserves a non-exclusive easement for itself, Declarant affiliates and their assignees to construct, operate, maintain, repair and replace all types of technology and related equipment and facilities within the Project, including but not limited to the use of satellites, receivers, cell phone towers, antennae, other communications and data facilities, solar panels, and other energy-related facilities. Declarant further reserves a right of access to such facilities over, across, and through all other Common Areas and Facilities of the Project in order to access such equipment to exercise the rights established herein. Declarant may transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more technology service providers. Declarant may exercise all of the rights under this Section 19.9 without the consent of any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in form satisfactory to Declarant, and any assignee of its rights hereunder.

19.10. Utility Easement. There is hereby created a general easement upon, across, over, in, and under all of the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, data and other communication systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electrical, telephone, data transmission, and other communication services to erect and maintain the necessary equipment on or beneath the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without unduly disturbing the uses of the Owners, the Association, and Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, Declarant or the Management Committee shall have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 19.10 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property. Notwithstanding the foregoing grant of blanket utility easements, Declarant reserves the right to record an instrument which narrows and limits such grant of utility easement to the normal easement width of the utility in those specific areas of the Project which actually contain the utility facilities as described in such instrument and for the purposes described therein. Such reserved right is subject to the utility companies' rights then located under the real property depicted on the Plat.

19.11. Public Safety Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

19.12. Streets, Parking and Facilities. Declarant reserves (a) the right to enter into agreements for access to and use of roads and streets serving the Property; and (b) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair maintenance or regulation of parking or recreational facilities, which may or may not be a part of the Property for the benefit of the Owners, or the Association.

19.13. Easements for Ski Trail System. It is anticipated that the Project will include certain pathways or trails around and/or through the Property and across Common Areas and Facilities developed and maintained from time to time as part of ski and/or hiking trail systems serving the Owners and Occupants and providing access to and from adjacent ski and/or hiking trails that are located adjacent to but are not part of the Project as provided on the Plat and the Ski Resort Easement (the "Trail System"). Declarant hereby dedicates and reserves, for the benefit of the Owners and Occupants, a perpetual nonexclusive easement on, over, upon, across, above, under and through the portions of the Property shown on the Plat and the Ski Resort Easement for location, construction, maintenance and repair of the Trail System and for other related recreational purposes. All Owners whose Units are subject to the Trail System easement depicted on the Plat, shall repair any damage to the Trail System caused by their construction, development and maintenance activities and shall restore the Trail System improvements to substantially the same condition as existed immediately prior to any construction, development and maintenance activities therein. Owners and Occupants shall have the right to use and enjoy such Trail System for the purposes for which it is developed and maintained, subject to reasonable, non-discriminatory rules and regulations as the Management Committee may adopt from time to time.

19.14. Declarant's Use and Easements.

19.14.1. The Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Areas and Facilities with respect to the sales of Units or other property in the Project, The Declarant reserves the right to place models, management offices and sales and leasing offices on any Units or other property owned by the Declarant and on any portion of the Common Areas and Facilities in such number, of such size and in such locations as the Declarant deems appropriate. The Association shall provide security codes or access numbers to any security gate for the Project to Declarant and shall keep such security gate open for Declarant during normal business hours so long as Declarant owns Units in the Project.

19.14.2. So long as the Declarant is marketing Units or other portions of the Property, the Declarant shall have the right to restrict the use of the parking spaces on the Common Areas and Facilities, Such right shall include reserving such spaces for use by prospective purchasers, the Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

19.14.3. The Declarant shall have the right and an easement on and over the Common Areas and Facilities to construct all Improvements the Declarant may deem necessary and to use the Common Areas and Facilities and any Units and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project and property adjacent to the Project.

19.14.4. The Declarant shall have the right and an easement upon, over and through the Common Areas and Facilities as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

19.15. Other Easements and Restrictions. Declarant anticipates recording certain other easements and restrictions against the Property concerning the development and use of the Project and adjacent properties, including, but not limited to, the Ski Facility (collectively, the “Easements and Restrictions”). Such Easements and Restrictions may include, but will not necessarily be limited to, the Ski Resort Easement, restrictions on use of the Project or the Units for commercial purposes in competition with the Ski Facility, and easements for the use and maintenance of the road providing access to and from the Project. Each Owner, by acceptance of a deed to a Unit, agrees to comply with all Easements and Restrictions and to indemnify and hold harmless the Declarant and the Association from and against any and all damages, claims, liability, costs and expenses, including, but not limited to, reasonable attorneys’ fees and legal expenses, arising out of or related to such Owner’s breach or violation of any of the Easements and Restrictions.

ARTICLE 20 INSURANCE

20.1. Insurance Policies. The Association shall at all times, to the extent reasonably available, maintain in force insurance meeting the following requirements:

20.1.1. Blanket Insurance. A “master” or “blanket” type policy of property insurance shall be maintained covering the entire Project, including: the Buildings in which the Residential Units are located; Common Areas and Facilities; Limited Common Areas and Facilities; all Units, including any fixtures, improvements, or betterments that are permanently part of or affixed to a Unit or the Limited Common Areas and Facilities appurtenant thereto; fixtures, machinery, building service equipment, personal property and supplies comprising a part of the Common Areas and Facilities or owned by the Association, but excluding items normally not covered by such policies. References herein to a “master” or “blanket” type policy of property insurance are intended to denote single entity insurance coverage. At a minimum, such “master” or “blanket” policy shall afford protection against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, which are customarily covered with respect to projects similar to the Project in construction, location, and use. Such “master” or “blanket” policy shall be in an amount not less than one hundred percent (100%) of the full replacement cost of the insured property at the time the insurance is purchased and at

each renewal date, excluding items normally excluded from property insurance policies. Each Owner is an insured person under a property insurance policy.

20.1.2. General Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas and Facilities, Unit exteriors, public ways in the Project, all other areas of the Project that are under the Association's supervision, and any commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least Ten Million Dollars (\$10,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, Unit exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), bailee's liability, elevator collision liability, garage keeper's liability, host liquor liability, contractual and all-written contract insurance, workers' compensation and employer's liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least thirty (30) days' prior written notice to the Association and to each First Mortgagee which is listed as a scheduled holder of a Mortgage in such policy. Each Owner is an insured person under a liability insurance policy obtained by the Association, but only for liability arising from: (a) the Owner's ownership interest in the Common Areas and Facilities; (b) maintenance, repair, or replacement of the Common Areas and Facilities; and (c) the Owner's membership in the Association.

20.1.3. Fidelity Bonds or Crime Insurance. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds or crime insurance for all officers, members, employees of the Association and for all other persons handling or responsible for funds of or administered by the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to the Association Manager, the Association Manager shall provide "blanket" fidelity bonds or crime insurance, with coverage identical to such bonds or insurance required of the Association, for the Association Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. In addition, the Association Manager shall, within a reasonable time period, submit evidence to the Association that he or she has secured such insurance. The total amount of coverage required shall be based upon the Association's best business judgment and shall not be less than the

estimated maximum amount of funds, including reserve funds, in the custody of the Association, or the Association Manager, as the case may be, at any given time during the term of each bond.

20.2. Endorsements.

20.2.1. Replacement Cost Clause or Endorsement. If the Management Committee deems such advisable, the insurance policy shall include either of the following clauses or endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost wording (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (2) Replacement Cost Clause or Endorsement (under which the insurer agrees to pay up to one hundred percent (100%) of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance).

20.2.2. Required Endorsements. Each policy required to be maintained by Section 20.1 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least thirty (30) days' prior written notice (ten (10) days for non-payment of premiums) to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

20.3. Deductibles.

20.3.1. Amounts. Unless the Management Committee otherwise determines, the maximum deductible amount for a property insurance policy covering the Common Areas and Facilities shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. However, for losses related to individual Units that are covered by such a policy, the deductible related to each individual Unit shall be the lesser of One Thousand Dollars (\$1,000.00) or one percent (1%) of the Unit's insurable value. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner: (i) the Association's policy provides primary insurance coverage; and (ii) the building property coverage (often referred to as coverage A) of the Owner's policy applies to that portion of the loss attributable to the policy deductible of the Association. The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or ten thousand dollars (\$10,000.00), whichever is less.

20.3.2. Payment by Owners. An Owner who owns a Unit that has suffered Unit Damage (defined below) as part of a Covered Loss (defined below) is responsible for an amount calculated by applying the Unit Damage Percentage (defined below) for that Unit to the amount of the deductible under the property insurance policy of the Association. If an Owner does not pay such amount within thirty (30) days after substantial completion

of the repairs to the Unit, the Association may levy an assessment against the Owner for that amount. As used in this paragraph, "Covered Loss" means a loss, resulting from a single event or occurrence, that is covered by a property insurance policy of the Association, "Unit Damage" means damage to a Unit or to Limited Common Areas and Facilities applicable to that Unit, or both, and "Unit Damage Percentage" means the percentage of total damage resulting in a Covered Loss that is attributable to Unit Damage. If, in the exercise of the business judgment rule, the Management Committee determines that a Covered Loss is likely not to exceed the property insurance policy deductible of the Association and until it becomes apparent the covered loss exceeds the deductible of the property insurance of the Association and a claim is submitted to the property insurance insurer of the Association: (i) the Owner's policy is considered the policy for primary coverage to the amount of the policy deductible of the Association for Unit Damage; (ii) the Association is responsible for any Covered Loss to any Common Areas and Facilities; (iii) an Owner who does not have a policy to cover Unit Damage is responsible for that damage and the Association may recover any payments the Association makes to remediate the Unit Damage; and (iv) the Association need not tender the claim to the Association's insurer.

20.4. Additional Provisions. Each policy required to be maintained by Section 20.1 shall provide, if available at reasonable cost to the Association, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively or the Association; and the policy is primary in the event the Owner has other insurance covering the same loss.

20.5. Allocation of Expenses. The Management Committee shall allocate the cost of premiums and deductibles for all policies maintained hereunder as Common Expenses as it deems appropriate in its sole and exclusive discretion.

20.6. Management Committee Duties. In contracting for the policies of insurance required to be maintained by Section 20.1, the Management Committee shall make reasonable efforts to secure (where economically feasible and reasonably available) coverage commonly required by private mortgage investors for projects similar in construction, location and use. If the Management Committee becomes aware that insurance described in Sections 20.1.1 or 20.1.2 is not reasonably available, the Management Committee shall, within seven (7) calendar days after becoming aware, give all Owners notice that the insurance is not reasonably available.

20.7. Designation of Insured. The name of the insured under each policy required to be maintained by Section 20.1 shall be the Association for the use and benefit of the individual Owners (said Owners shall be designated by name if required by law). Notwithstanding the requirement of the foregoing sentence, each such policy may be issued in the name of an authorized representative of the Association, including any trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), for the use and benefit of the individual Owners. Losses payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's

Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

20.8. Additional Insureds. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any Insurance Trustee, who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

20.9. Insurance Provider Performance Requirements. Each insurance policy maintained pursuant to the foregoing Sections 20.1, 20.2 and 20.3 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has an A general policyholder's rating or a financial performance index of 8 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Management Committee, or the Association; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Management Committee, the Association, or Owner) from collecting insurance proceeds. The provisions of this ARTICLE 20 shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

20.10. Regular Review. All insurance policies shall be reviewed regularly by the Management Committee in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

20.11. Owner to Insure. Unless required to be maintained by the Association pursuant to Section 20.1 above, it shall be the responsibility of each Owner, at such Owner's expense, to maintain physical damage property insurance on such Owner's personal property and furnishings and on all fixtures in the Owner's Unit. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Unit as the Owner in the Owner's sole discretion shall conclude to be desirable. However, none of such insurance coverages obtained by such Owner shall affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage, nor shall such

insurance coverage of an Owner result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association as a result of insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a default Assessment, with the understanding that the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners. Each Owner shall be responsible to provide insurance coverage for the amount of any additional value to any Unit caused by any improvement to the Unit made by such Owner and not initially made by Declarant, including, but not limited to, the value of structural upgrades or fixtures supplied by the Owner, or if the applicable insurance is to be provided by the Association, for any additional insurance costs associated with such increased value due to the improvements.

ARTICLE 21 DESTRUCTION OR DAMAGE

21.1. Appointment of Association. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

21.2. Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having substantially the same vertical and horizontal boundaries as before.

21.3. Association's Duties. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

21.3.1. The Association shall give timely written notice to any Eligible Mortgagee on a Unit who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas and Facilities or a Unit subject to such First Mortgage.

21.3.2. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

21.3.3. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

21.3.4. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 17.1.4 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

21.3.5. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the votes of the Total Votes of the Association vote to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Total Votes of the Association to carry out such repair and reconstruction and if, to the extent permitted by the Act, Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by Eligible Mortgagees do not approve such repair and reconstruction, the Association shall record in the office of the County Recorder of Summit County, State of Utah, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

21.3.5.1 the Project shall be deemed to be owned in common by the Owners;

21.3.5.2 Each Owner shall own an undivided interest in the Project equal to his or her percentage ownership interest in the Common Areas and Facilities;

21.3.5.3 Any liens affecting any of the Units shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

21.3.5.4 The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in an amount equal to the percentage of undivided interest owned by each Owner in the

Project after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner.

21.3.6. In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

21.4. Diligence. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original architectural plans and specifications.

21.5. Repair Fund. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from Special Assessments made pursuant to Section 17.1.4 hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in accordance with their undivided percentage interest in the Common Areas and Facilities.

21.6. Amendment of Article 15. This ARTICLE 21 shall not be amended unless Owners entitled to vote at least sixty seven percent (67%) of the Total Votes of the Association, which percent shall include the consent of one hundred percent (100%) of the votes held by the Declarant, consent and agree to such Amendment. Such consent and agreement must be reflected in an Amendment duly executed by the Management Committee on behalf of the Association and recorded in accordance with the provisions of this Declaration.

ARTICLE 22 TERMINATION

22.1. Vote Required. Except as otherwise provided in ARTICLE 20 and ARTICLE 21, the Project may be terminated only by the affirmative vote of Owners holding one hundred percent (100%) of the Total Votes of the Association at a meeting of the Owners duly called for such purpose.

22.2. Removal from the Act. All of the Owners may remove the Project from the provisions of the Act by an instrument duly recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly recorded that their liens

are transferred to the fractional ownership interest of the Owners in the Project. Provided further, as long as Declarant has ownership rights in the Project, its consent shall also be required to remove the Project from the provisions of the Act.

22.3. Termination Agreement. A termination agreement may provide that the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

22.4. Sale of Property Following Termination. The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to Sections 22.1 and 22.2. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the Owners respective undivided interest in the Common Areas and Facilities. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all Assessments and other obligations imposed on Owners by this Declaration.

22.5. Distribution of Proceeds. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Units which were recorded before termination may enforce those liens in the same manner as any lienholder.

ARTICLE 23 EMINENT DOMAIN

23.1. Notices. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Management Committee and each Owner shall be entitled to notice thereof and the Management Committee shall, and the Owners at their respective expense may, participate in the proceedings incident thereto.

23.2. Condemnation of Common Areas and Facilities. With respect to the Common or Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his or her ownership interest in the Common Areas and Facilities. This provision does not prohibit a majority of the Owners from authorizing the Management Committee to use such

damages or awards for replacing or restoring the Common Areas and Facilities so taken on the remaining land or on other acquired land, provided that this Declaration and the Plat are duly amended.

23.3. Condemnation of Units. With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damages or destruction pursuant to ARTICLE 21 above and shall be deposited with the Management Committee as trustee. Even though the damage or awards may be payable to one or more Owners, the Owners shall deposit the damages or awards with the Management Committee as trustee. In the event an Owner refuses to so deposit his or her award with the Management Committee, then at the option of the Management Committee, either a Special Assessment shall be made against the defaulting Owner and his or her Unit in the amount of this award or the amount of such award shall be set off against the sum hereafter made payable to such Owner.

23.4. Removal from the Act. In the event the Project is removed from the provisions of the Act pursuant to ARTICLE 22 above, the proceeds of the damages or awards shall be distributed or used in accordance with the Owners respective undivided interest in the Common Areas and Facilities.

23.5. Result of Condemnation. If one or more Units are taken, in whole or in part, and the Project is not removed from the provisions of the Act, the taking shall have the following effects:

23.5.1. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenantable, the Unit shall be made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit. The balance of the award, if any, shall be distributed to the Mortgagee to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner.

23.5.2. If the taking destroys or so reduces the size of a Unit that it cannot be made tenantable, the award shall be distributed to the Mortgagee of the Unit to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner thereof. The remaining portion of such Unit, if any, shall become a part of the Common Areas and Facilities and shall be placed in condition for use by all Owners in the manner approved by the Management Committee. The ownership interest in the Common Areas and Facilities appurtenant to the Units that continue as part of the Project shall be equitably adjusted to distribute the ownership of the Common Areas and Facilities among the reduced number of Owners.

23.6. Amendment Following Condemnation. Changes in Units, in the Common Areas and Facilities and in the ownership of the Common Areas and Facilities that are affected by the taking referred to in this ARTICLE 23 shall be evidenced by an amendment to this Declaration and the Plat, which need not be approved by the Owners.

ARTICLE 24
MORTGAGEE PROTECTION

24.1. Roster of Eligible Mortgagees. The Management Committee shall maintain a roster containing the name and address of each Eligible Mortgagee of a Unit as such term is defined herein and in Section 1.26 above. To be considered an Eligible Mortgagee, a First Mortgagee shall provide the Management Committee with a copy of its recorded First Mortgage and the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage together with a written request that it receive notice of the matters and actions described below. The Management Committee shall strike the Eligible Mortgagee from the roster upon such Eligible Mortgagee's request or upon the Management Committee's receipt of a copy of a recorded full release or satisfaction of the Eligible Mortgage. The Management Committee shall give notice of such removal to the Eligible Mortgagee unless the Eligible Mortgagee requested the removal. Upon the Management Committee's receipt of such written request, an Eligible Mortgagee shall be entitled to timely written notice of:

24.1.1. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor;

24.1.2. Any notice of delinquency in the payment of Assessments or charges owed by an Owner, whose Unit is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;

24.1.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

24.2. Notice to Eligible Mortgagees. The Management Committee shall give to any Eligible Mortgagee on the roster written notification of any default by the respective mortgagor in the performance of such mortgagor's obligations under this Declaration which is not cured within thirty (30) days following written notice thereof.

24.3. Assessment Lien Subordinate. The lien or claim against a Unit for unpaid Assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before notice of lien of the delinquent Assessment was recorded by or on behalf of the Association, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid Assessment or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No Assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned. All taxes, Assessments and charges that

may become liens prior to the First Mortgage under Utah law relate only to the individual Units and not to the Project as a whole.

24.4. Amendment of Article 25. No amendment to this ARTICLE 24 shall materially adversely affect the rights of an Eligible Mortgagee under Section 24.1 above who has recorded a valid First Mortgage prior to the recordation of any such Amendment.

ARTICLE 25 AMENDMENT

25.1. Amendment by Owners. Except as provided elsewhere in this Declaration, any Amendment to this Declaration or the Plat shall require the affirmative vote of at least sixty-seven percent (67%) of the Total Votes of the Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Notwithstanding the foregoing, any Amendment proposing changes to (a) the undivided interest of each Owner in the Common Areas and Facilities, (b) Unit boundaries, or (c) Owners' voting rights shall require the affirmative vote of one hundred percent (100%) of the Total Votes of the Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by the Owners without a meeting. An Amendment executed by Declarant or the Management Committee pursuant to Section 18.7.5 above shall not require an Owner vote or other approval. Any amendment authorized pursuant to this ARTICLE 25 shall be accomplished through the recordation in the office of the Summit County Recorder of an instrument executed by the Association. In such instrument an officer or member of the Management Committee of the Association shall certify that the vote required by this Section 25.1 for amendment has occurred.

25.2. Amendment by Declarant. The Declarant alone may amend or terminate this Declaration and Plat prior to the closing of a sale of the first Unit. Notwithstanding anything contained in this Declaration to the contrary, this Declaration and Plat may be amended unilaterally at any time and from time to time by Declarant (a) if such Amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) to make technical corrections to fix mistakes or remove/clarify ambiguities; (c) if such Amendment is reasonably necessary to enable a title insurance company to issue title insurance coverage with respect to the Project or any Unit; or (d) in accordance with Section 18.7.5 above. The Declarant may also unilaterally amend Exhibit B to this Declaration to reflect the total square footages of each Unit after the Units have been constructed. Further, prior to the expiration of the Declarant Control Period, Declarant may unilaterally amend this Declaration and the Plat for any other purpose so long as any such Amendment does not materially adversely affect title to any property.

25.3. Amendment at Request of Governmental Agency. Anything in this ARTICLE 25 or the Declaration to the contrary notwithstanding, Declarant also reserves the unilateral right to amend all or any part of this Declaration and the Plat to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA, and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Units, or by any federally

chartered lending institution as a condition precedent to lending funds upon the security of any Unit(s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant, specifying the nature of the qualifying reason for such amendment pursuant to this Section 25.3. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Units and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Article deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control.

25.4. Plat Amendments. Notwithstanding anything contained in this Declaration to the contrary, because the Plat has been recorded prior to the construction of the Units, Declarant reserves the right to unilaterally amend the Plat at any time and from time to time by Declarant if such amendment is necessary to make technical corrections, to satisfy the requirements of the RVMA, the County or any other governmental authority, to correct mistakes, remove/clarify ambiguities or to accurately reflect the "as-built" Units on the Plat.

25.5. Preservation of Developmental Rights and Control. It is the desire of Declarant to preserve its Developmental Rights and retain control of the Association and its activities during the anticipated period of planning and development of the Project. An Amendment pursuant to the provisions of this ARTICLE 25 that diminishes or alters any Developmental Right or such control of the Association shall be deemed null, void, and of no effect whatsoever unless the Declarant has joined in the execution of such Amendment.

ARTICLE 26 ENFORCEMENT

26.1. Compliance with Condominium Documents. All Owners, guests or lessees of an Owner, and persons under Owner's control, shall strictly comply with the provisions of this Declaration, the Bylaws, and the Association Rules and decisions issued pursuant thereto. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with provisions of the Declaration or the decisions of the Association, Owners shall have a similar right or action against the Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; and/or (ii) the Management Committee to impose monetary penalties, temporary suspensions of an Owner's right to the use of the Common Areas and Facilities, or other appropriate discipline so long as the Owner has been given notice and has had an opportunity to request a hearing in accordance with the Bylaws. The Management Committee may delegate to the Association Manager, the power and authority to carry out disciplinary actions duly imposed.

26.2. No Forfeiture; Exceptions. The Association shall not be empowered to cause the absolute forfeiture of an Owner's right, title or interest in the Project on account of the Owner's failure to comply with the provisions of the Declaration or the Association Rules except pursuant to:

26.2.1. The judgment of a court; or

26.2.2. A foreclosure for the failure of an Owner to pay assessments duly levied by the Association.

26.3. Judicial Authority Required. The Association shall only be empowered to cause or require alteration or demolition of any construction to enforce any restrictions contained in this Declaration pursuant to judicial proceedings.

ARTICLE 27

BINDING ARBITRATION AND ENFORCEMENT OF GOVERNING DOCUMENTS

27.1. Opt-Out Right. IF AN OWNER DOES NOT WANT THE FOLLOWING ARBITRATION PROVISION TO APPLY, THE OWNER MUST SEND A LETTER TO DECLARANT, SIGNED BY THE OWNER (AND ANY CO-OWNER OF THE SAME UNIT) AND ADDRESSED TO DECLARANT AT 429 SANTA MONICA BLVD., SUITE 600, SANTA MONICA, CA 90401, ATTN: ARBITRATION OPT-OUT. THE LETTER MUST BE SENT WITHIN THIRTY (30) DAYS AFTER THE DATE OF THE OWNER'S REAL ESTATE PURCHASE CONTRACT, AND MUST STATE THAT THE OWNER DOES NOT WANT ARBITRATION TO APPLY TO THE MATTERS DESCRIBED IN THIS ARTICLE 27. ANY OPT OUT WILL RENDER THIS ARBITRATION PROVISION NULL AND VOID BUT WILL HAVE NO OTHER EFFECT ON THE OWNER'S RIGHTS.

27.2. Arbitration Terms Defined. In the arbitration provision described in this ARTICLE 27 ("Arbitration Provision"), the following capitalized words, phrases or terms have the meanings set forth below:

27.2.1. "Institutional Party" means each Declarant and its affiliates; the Association during the Declarant Control Period; any third party that provides any product or service to a Consumer Party in connection with this Declaration, if and only if such third party is named as a co-party with another Institutional Party in a Claim asserted by a Consumer Party; their successors and assigns; and the agents, representatives, members, employees, officers and/or directors of the foregoing entities.

27.2.2. "Consumer Party" means the Owners; their heirs, successors and assigns; and the Association after the Declarant Control Period.

27.2.3. "Bound Party" means any Institutional Party or Consumer Party who asserts a Claim or has a Claim asserted against such party.

27.2.4. "Claim" means any claim, dispute or controversy between an Institutional Party and a Consumer Party, other than an Exempt Claim, arising out of or relating in any way to this Declaration or any other documents governing the Project, the Property, the Project, or the Units, including any such claim, dispute or controversy regarding or arising over the marketing and sale of Units; the terms of this Declaration or any other documents governing the Project; the design, specifications, surveying, planning, supervision, testing, observation of construction or construction of an improvement to, or survey of, the Property; or the maintenance or use of the Property. This includes, without

limitation, disputes concerning the validity, enforceability, arbitrability or scope of this Arbitration Provision or this Declaration; disputes involving alleged fraud or misrepresentation, breach of contract, negligence or violation of statute, regulation or common law; and disputes involving requests for declaratory relief, injunctions or other equitable relief.

27.2.5. "Exempt Claim" means any of the following Claims, which will not be subject to this Arbitration Provision: (i) any individual action brought by a Consumer Party in small claims court or a relevant state's equivalent court, unless such action is transferred, removed, or appealed to a different court; (ii) any action to effect a judicial or non-judicial foreclosure; (iii) any eviction or other summary proceeding to secure possession of real property or an interest therein; (iv) any action in any bankruptcy proceeding to assert, collect, protect, realize upon or obtain possession of the collateral for any amount owed; (v) any action to quiet title; (vi) any action insofar as it seeks provisional or ancillary remedies in connection with any of the foregoing; (vii) any self-help remedy, such as the refusal of an Institutional Party to allow a Consumer Party to use a Unit, or any individual action in court by one party that is limited to preventing the other party from using a self-help remedy and that does not involve a request for damages or monetary relief of any kind; and (viii) any dispute concerning the validity and effect of Section 27.8 below, the ban on class actions and certain other proceedings (the "Class Action Ban"). Notwithstanding the prior sentence, at the request of a Consumer Party, the Institutional Parties will agree to arbitrate under this Arbitration Provision any matter covered by items (ii)-(vi) above if arbitration will afford the parties substantially the same rights and remedies as a court action. Any dispute regarding the question of whether arbitration will afford the parties substantially the same rights and remedies as a court action is also an Exempt Claim and shall be determined exclusively by the court and not by an arbitrator. If one or more Institutional Parties are allowed to proceed outside arbitration with respect to any of the matters covered by items (ii)-(vi) above, the Consumer Party may assert in court on an individual basis any related defenses or Claims such Consumer Party may have.

27.2.6. "Administrator" means either of the following companies to be selected by the Bound Party initiating the arbitration: National Arbitration Forum ("NAF"), P.O. Box 50191, Minneapolis, MN 55405, <http://www.arb-forum.com>, or the American Arbitration Association ("AAA"), 1633 Broadway, 10th Floor, New York, NY 10019, <http://www.adr.org>. However, neither NAF nor AAA may serve as Administrator, without the consent of all Bound Parties asserting or defending a Claim, if it adopts or has in place any formal or informal policy that is inconsistent with and purports to override the terms of the Class Action Ban.

27.3. Arbitration of Claims. Unless a Consumer Party has opted out of this Arbitration Provision, upon the election of any Consumer Party or Institutional Party asserting or defending a Claim, such Claim shall be resolved by binding individual (and not class) arbitration. Notice of an election to arbitrate a Claim may be given after a lawsuit begins and may be given in papers filed in the lawsuit. Any arbitration will be conducted in accordance with this Arbitration Provision and, to the extent consistent with this Arbitration Provision, the rules of the Administrator in effect at the time the Claim is filed.

27.4. Fees. If a Consumer Party cannot obtain a waiver of any fees of the Administrator or arbitrator, the Institutional Parties will consider in good faith any request for them to pay such fees for the Consumer Party. Each Bound Party shall bear the fees and expenses of that Bound Party's attorneys, experts, and witnesses, provided that the Institutional Parties will bear the reasonable fees and expenses incurred by a Consumer Party if the Consumer Party prevails on a Claim the Consumer Party has asserted against the Institutional Parties. Also, the Institutional Parties will pay any arbitration, attorneys' and/or other fees and expenses they are required to pay by applicable law or they are required to pay in order to enforce this Arbitration Provision. If a participatory arbitration hearing is requested, it will take place in Summit County, Utah or, if the Administrator determines that such location would be unfair to a Consumer Party, at a location reasonably convenient to such Consumer Party and the Institutional Parties.

27.5. Governing Law. This Arbitration Provision shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA") and not state arbitration laws, provided that Utah law shall govern to the extent that state law is relevant under the FAA in determining the enforceability of this Arbitration Provision. The arbitrator shall be obligated to follow applicable substantive laws, statutes of limitations and privilege rules related to any Claim. The arbitrator shall award the remedies, if any, that would be available in an individual court proceeding if arbitration had not been elected. This includes, without limitation, compensatory, statutory and punitive damages (which shall be governed by the constitutional standards applicable in judicial proceedings); declaratory, injunctive and other equitable relief; and attorneys' fees and costs. Upon the timely request of any Bound Party, the arbitrator shall write a brief explanation of the grounds for his or her decision. In addition to the Bound Parties' rights under the Administrator's rules to obtain information prior to the hearing, any Bound Party may ask the arbitrator for more information from the other party. The arbitrator will decide the issue in his or her sole discretion, after allowing the other Bound Party the opportunity to object.

27.6. Appeal of Arbitrator's Decision. Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitrator's decision will be final and binding, except for any appeal right under the FAA. However, for Claims involving more than \$50,000, any Bound Party may appeal the award to a three-arbitrator panel appointed by the Administrator, which will reconsider from the start any aspect of the initial award that is appealed. The panel's decision will be final and binding, except for any appeal right under the FAA. Fees and costs associated with an appeal shall be governed by Section 27.4 above.

27.7. Jury Trial Waiver. IF A BOUND PARTY ELECTS TO ARBITRATE A CLAIM, NO BOUND PARTY WILL HAVE THE RIGHT TO PURSUE THAT CLAIM IN COURT OR HAVE A JURY DECIDE THE CLAIM.

27.8. Class Action Ban. NO BOUND PARTY MAY PARTICIPATE IN A CLASS ACTION IN COURT OR IN CLASS-WIDE ARBITRATION, EITHER AS A REPRESENTATIVE, CLASS MEMBER OR OTHERWISE. NO BOUND PARTY MAY PARTICIPATE IN A PRIVATE ATTORNEY GENERAL PROCEEDING IN COURT OR IN ARBITRATION. NO CLAIMS BY OR AGAINST A BOUND PARTY MAY BE JOINED OR CONSOLIDATED WITH CLAIMS BY OR AGAINST ANY OTHER PERSON (EXCEPT FOR CLAIMS INVOLVING THE HEIRS AND SUCCESSORS OF SUCH CONSUMER

PARTIES). THE ARBITRATOR SHALL HAVE NO AUTHORITY TO CONDUCT A CLASS-WIDE ARBITRATION, PRIVATE ATTORNEY GENERAL ARBITRATION OR MULTI-PARTY ARBITRATION INCONSISTENT WITH THIS SECTION. Notwithstanding any language in this Arbitration Provision to the contrary, any dispute about the validity or effect of the above Class Action Ban shall be resolved by a court and not an arbitrator or the Administrator.

27.9. Severability. If a determination is made that any part of this Arbitration Provision is unenforceable (other than the Class Action Ban) or that this Arbitration Provision is unenforceable as to any party or parties, this provision shall nonetheless remain enforceable in all other respects and as to all other parties. If the Class Action Ban is held to be unenforceable in connection with any Claim subject to the Class Action Ban, this Arbitration Provision (other than this sentence) shall be null and void in such proceeding, provided that the Institutional Party seeking to enforce the Class Action Ban shall have the right to appeal at the earliest possible time any holding that the Class Action Ban is unenforceable.

27.10. Notice of Claim; Right to Address. Prior to asserting a Claim, the Bound Party with the Claim (the "Claimant") shall give the Bound Party that is the subject of the Claim written notice of the Claim and a reasonable opportunity, not less than thirty (30) days, to resolve the Claim. The Claimant's claim notice must include the Claimant's name, address and telephone number. Any claim notice must explain the nature of the Claim and the relief that is demanded. A Consumer Party may only submit a claim notice on his or her own behalf and not on behalf of any other party. The Claimant must reasonably cooperate in providing any information about the Claim that the other Bound Party reasonably requests. If: (i) a Consumer Party submits a claim notice in accordance with this Section on his or her own behalf (and not on behalf of any other party); (ii) the Institutional Party refuses to provide the requested relief; and (iii) an arbitrator subsequently determines that the Consumer Party was entitled to such relief (or greater relief), the arbitrator shall award the Consumer Party at least \$7,500 (not including any arbitration fees and attorneys' fees and costs to which the Consumer Party may be entitled under this Arbitration Provision or applicable law).

ARTICLE 28 ALLEGED DEFECTS

28.1. Intention. It is Declarant's intent that all Buildings and improvements of every type and kind which may be installed by Declarant as part of the Project, including the fixtures in the Units and Common Areas and Facilities within the Project (collectively, the "Declarant Improvements") shall be of a quality that is consistent with construction and development practices for a condominium project of this type. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and Declarant's responsibility therefor. It is Declarant's intent to resolve all disputes and claims regarding "Alleged Defects" (as defined below) amicably, and without the necessity of time consuming and costly litigation. Accordingly, all Owners and the Association, as well as the Management Committee shall be bound by the claim resolution procedure set forth in this ARTICLE 28.

28.2. Declarant's Right to Cure. If the Association, the Management Committee, or any Owner or Owners (collectively, "Claimant") claims, contends, or alleges that any portion of a Unit and/or any Declarant Improvements are defective or incomplete, or that Declarant or its agents, consultants, contractors or subcontractors were negligent in the planning, design, engineering, grading, construction or other development thereof (collectively, an "Alleged Defect"), Declarant hereby reserves the right to inspect, cure, repair and/or replace such Alleged Defect as set forth herein.

28.3. Notice to Declarant. If a Claimant discovers an Alleged Defect, Claimant shall, within a reasonable time after discovery, notify Declarant, in writing, at the address provided in Section 29.1 of this Declaration, or such other address at which Declarant maintains its principal place of business, of the specific nature of such Alleged Defect ("Notice of Alleged Defect").

28.4. Right to Enter; Inspect, Cure and/or Replace. Immediately after the receipt by Declarant of a Notice of Alleged Defect or the independent discovery of an Alleged Defect by Declarant or any governmental agency, and for a reasonable time thereafter, as part of Declarant's reservation of right, Declarant shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, any Unit, the Common Elements, the Shared Components and/or any Declarant Improvements for the purposes of inspecting and, if deemed necessary by Declarant, curing, repairing and/or replacing the Alleged Defect. In conducting such inspection, cure, repairs and/or replacement, Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

28.5. Legal Actions. No Claimant shall initiate any legal action, cause of action, proceeding or arbitration against Declarant alleging damages (a) for the costs of curing, repairing, or replacing any Alleged Defect, (b) for the diminution in value of any real or personal property resulting from such Alleged Defect or (c) for any consequential damages resulting from such Alleged Defect, unless and until Claimant has (i) delivered to Declarant a Notice of Alleged Defect and (ii) Declarant has, within 120 days after its receipt of the Notice of Alleged Defect, either (1) failed to cure, repair or replace the Alleged Defect or (2) if the Alleged Defect cannot reasonably be cured, repaired or replaced within such 120 day period, failed to commence such cure, repair or replacement of the Alleged Defect and, thereafter, failed to pursue diligently such cure, repair or replacement to completion. During any such period while Declarant is diligently pursuing to completion the cure, repair or replacement of the Alleged Defect, Claimant shall not stop, restrict, hinder, interrupt or otherwise interfere with any reasonable action or activity taken by Declarant, its employees, agents, or independent contractors, to inspect, cure, repair or replace the Alleged Defect, whether or not such action or activity is taken, or is proposed to be taken, on property owned by Claimant. In the event Declarant fails and/or refuses to cure an Alleged Defect or commence cure and diligently pursue such cure within the 120-day period provided above, each Claimant agrees and acknowledges that all disputes regarding an Alleged Defect shall be resolved in the manner and under the terms and conditions provided in ARTICLE 27.

28.6. No Additional Obligations; Irrevocability and Waiver of Rights. Nothing set forth in this ARTICLE 28 shall be construed to impose any obligation on Declarant to inspect, cure, repair or replace any item or Alleged Defect for which Declarant is not otherwise obligated to do under applicable law or any limited warranty provided by Declarant in connection with the

sale of the Residential Units and/or the Declarant Improvements constructed thereon, nor shall anything set forth in this ARTICLE 28 constitute an express or implied representation, warranty or guarantee by Declarant concerning any Declarant Improvements or the Project. The right of Declarant to enter, inspect, cure, repair and/or replace reserved hereby shall be irrevocable and may not be waived and/or terminated except by a writing, in recordable form, executed and recorded in the Official Records by Declarant.

**ARTICLE 29
GENERAL PROVISIONS**

29.1. Notices. Except as otherwise provided in this Declaration or required by law, all notices, consents, approvals or other instruments required or permitted to be given by any party pursuant to this Declaration shall be in writing and given by (a) hand delivery; (b) facsimile; (c) express overnight delivery service; or (d) regular United States mail, postage prepaid (or by certified or registered mail, return receipt requested, if concerning default or breach of this Declaration), and shall be deemed to have been delivered upon (i) receipt, if hand delivered; (ii) transmission, if delivered by facsimile; (iii) the next business day, if delivered by express overnight delivery service; or (iv) the third business day following the day of deposit of such notice with the United States Postal Service, if so sent by regular or certified or registered mail. Notices shall be provided to the parties at the addresses (or facsimile numbers, as applicable) specified below or such other address as shall have been provided by said party by proper notice as set forth in this Section:

If to Declarant:

Apex Park City Residences LLC
429 Santa Monica Blvd., Suite 600
Santa Monica, CA 90401
Attention: Apex Project Manager
Facsimile: (310) 395-8455

With a Copy to:

Snell & Wilmer, L.L.P.
Attn: Brian C. Cheney, Esq.
15 W. South Temple, Suite 1200
Salt Lake City, UT 84101
Facsimile: (801) 257-1800

If to the Association:

During the Declarant Control Period, to Declarant at the above address. After the Declarant Control Period, at such address as shall be fixed from time to time by the Management Committee and circulated to all Owners.

If to an Owner:

At the most recent address furnished by such Owner to the Association or if no such address shall have been furnished, to the mailing address of such Owner's Unit.

29.2. No Waiver. The failure of the Management Committee or its agents or designees to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, the Bylaws, and the rules and regulations, to exercise any right or option herein or therein contained or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee or its agents or designees of the payment of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Management Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

29.3. Declarant. The term "Declarant" as used herein shall mean and include Declarant and any person or persons who might acquire title from it to all or some of the unsold Units through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Units in a sale in the nature of a bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Declaration and the Act. Any right or any interest reserved or contained in this Declaration for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more other such rights or interests, to any person, corporation, partnership, Association, or other entity, only by written instrument executed by both Declarant and the transferee or assignee and recorded in the Office of the Recorder of Summit County, Utah. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such instrument.

29.4. Agent for Service of Process. The agent for service of process under the Act until the expiration of the Declarant Control Period under Section 9.3 shall be CT Corporation System whose address is 1108 E. Union Ave., Midvale, Utah 84047. Thereafter, the agent for service of process shall be the Association Manager, or such other persons as the Management Committee may designate.

29.5. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

29.6. Conflict. In case of any conflict between this Declaration and the Plat, or the Articles or the Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles and the Bylaws, the Articles shall control. The foregoing to the contrary notwithstanding, in the event of any inconsistency between this Declaration or the Articles or the

Bylaws, on the one hand, and or any applicable law, including the Act or the Federal Fair Housing Administration Act, on the other, then in all events the applicable law shall control.

29.7. Captions. The captions and section headings in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

29.8. Governing Law. This Declaration and the Plat and all issues and disputes arising out of either, shall be construed and controlled by and under the procedural and substantive laws of the State of Utah.

29.9. Effective Date. This Declaration shall take effect when recorded in the office of the County Recorder for Summit County, State of Utah.

[Remainder of page left intentionally blank.]

CONSENT TO RECORD AND SUBORDINATION

The undersigned Wells Fargo Bank, National Association ("Lender") is the holder of that certain Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing recorded on July 15, 2016, as Entry No. 01049570, in Book 2362, beginning at Page 1367 of the official records of Summit County, Utah, together with all amendments thereto and all related loan documents (collectively, the "Deed of Trust"), which constitutes a lien of record against the Property as more particularly described on Exhibit A. Lender hereby subordinates the lien and encumbrance of the Deed of Trust to this Declaration and Lender also hereby consents to the recordation of this Declaration in the official records of the Summit County, Utah Recorder.

LENDER:

Wells Fargo Bank, National Association

By: _____
Name: Jeffrey P. Johnson
Its: Senior Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF Los Angeles ss.

On July 26, 2016, before me Elsa N. Arce, Notary Public, personally appeared Jeffrey P. Johnson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature _____
[Handwritten Signature]

My commission expires April 22, 2017.

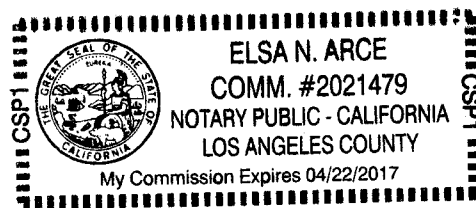


EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

That certain real property located in Summit County, Utah and more particularly described as follows:

PARCEL RC25, RESORT CORE DEVELOPMENT AREA – RC25
SUBDIVISION PLAT; according to the Official Plat thereof, on file and of
record in the official records of the Summit County, Utah Recorder, as Entry No.
01048325, in Book 2359, beginning at Page 0708.

SUMMIT COUNTY PARCEL NUMBER RCDA – RC25

EXHIBIT B
SCHEDULE OF UNITS, SQUARE FOOTAGE,
VOTES AND UNDIVIDED INTERESTS

Unit Identifying Number	Approx. Sq. Footage of Unit ¹	No. of Votes Per Unit	Undivided Interest Per Unit ²
101	2,976	1.90	1.90%
102	2,482	1.58	1.58%
103	2,265	1.45	1.45%
104	1,758	1.12	1.12%
201	2,976	1.90	1.90%
202	2,482	1.58	1.58%
203	2,265	1.45	1.45%
204	1,758	1.12	1.12%
205	2,976	1.90	1.90%
206	2,482	1.58	1.58%
207	1,758	1.12	1.12%
208	2,265	1.45	1.45%
301	2,976	1.90	1.90%
302	2,482	1.58	1.58%
303	2,265	1.45	1.45%
304	1,758	1.12	1.12%
305	2,976	1.90	1.90%
306	2,482	1.58	1.58%
307	1,758	1.12	1.12%
308	2,265	1.45	1.45%
401	2,976	1.90	1.90%
402	2,482	1.58	1.58%
403	2,265	1.45	1.45%
404	1,758	1.12	1.12%
405	2,976	1.90	1.90%
406	2,482	1.58	1.58%
407	1,758	1.12	1.12%
408	2,265	1.45	1.45%
501	2,130	1.36	1.36%
502	2,033	1.30	1.30%
503	2,635	1.68	1.68%
601	2,014	1.29	1.29%
602	1,880	1.20	1.20%
603	2,635	1.68	1.68%
701	2,635	1.68	1.68%
702	2,635	1.68	1.68%

¹ Once the Units are completed, the Declarant has the unilateral right, but not the obligation to amend this Exhibit B to reflect the actual Square Footage of the Units, as constructed.

² May total slightly more or less than 100% due to rounding.

801	2,635	1.68	1.68%
802	1,880	1.20	1.20%
803	2,014	1.29	1.29%
901	2,014	1.29	1.29%
902	1,880	1.20	1.20%
903	2,635	1.68	1.68%
1001	2,014	1.29	1.29%
1002	1,880	1.20	1.20%
1003	2,635	1.68	1.68%
1102	2,635	1.68	1.68%
1103	2,635	1.68	1.68%
1201	3,397	2.17	2.17%
1401	2,775	1.77	1.77%
1402	2,775	1.77	1.77%
1501	2,775	1.77	1.77%
1502	2,775	1.77	1.77%
1601	3,397	2.17	2.17%
1701	2,775	1.77	1.77%
1702	2,775	1.77	1.77%
1801	3,397	2.17	2.17%
1901	2,775	1.77	1.77%
1902	2,775	1.77	1.77%
2001	2,775	1.77	1.77%
2002	2,775	1.77	1.77%
2101	2,775	1.77	1.77%
2102	2,775	1.77	1.77%
2201	3,397	2.17	2.17%
Totals:	156,709	100	100.00%

**EXHIBIT C
ASSOCIATION BYLAWS**

[ATTACHED]

BYLAWS
OF
APEX RESIDENCES PARK CITY
OWNERS ASSOCIATION, INC.

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BYLAWS
of
APEX RESIDENCES PARK CITY OWNERS ASSOCIATION, INC.
(a Utah nonprofit corporation)

ARTICLE 1
NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1 Name. The name of the Association shall be the Apex Residences Park City Owners Association, Inc. ("Association").

1.2 Principal Office. The principal office of the Association shall be located at 429 Santa Monica Blvd., Suite 600, Santa Monica, CA 90401, or at such other place as may be designated by the Management Committee of the Association ("Management Committee") from time to time.

1.3 Definitions. The Association is a nonprofit corporation, organized pursuant to and in accordance with Title 16, Chapter 6a of the Utah Code (the "Nonprofit Act"). The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in Article 1 of the Declaration of Condominium for Apex Residences Park City, Recorded in the Official Records of Summit County, Utah (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2
MEMBERSHIP, VOTING AND MEETINGS OF THE ASSOCIATION

2.1 Membership. The Association shall be a Utah nonprofit corporation charged with the duties and vested with the powers prescribed by law and set forth in the Declaration, these Bylaws and the other Condominium Documents. Every Owner of a Unit shall be a member of the Association ("Member"), and Declarant shall be a Member of the Association so long as it owns any Unit. No persons or entity other than an Owner or Declarant may be a Member of the Association. Membership in the Association shall begin immediately and automatically upon becoming an Owner and shall cease immediately and automatically upon ceasing to be an Owner. Declarant's membership shall cease when Declarant has sold all of the Units.

2.2 Votes in the Association. All Members shall be entitled to the number of votes associated with the Unit owned by such Member as set forth in Exhibit B of the Declaration. Any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of the total votes represented in person or by valid proxy at such meeting.

2.3 Membership Rights. Each Member shall have the respective rights, duties and obligations set forth in the Declaration and these Bylaws and such other rights, duties and obligations as are set forth in the Condominium Documents, as the same may be amended from time to time.

2.4 Annual Association Meetings. There shall be an annual meeting of the Association at the date and time fixed by the Management Committee at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Members as determined by the Management Committee.

2.5 Special Meetings of the Association. Special meetings of the Association may be called by the President (as defined in Section 4.2 below), a majority of the Management Committee, or if the Association receives one or more written demands for a meeting that (a) state the purpose for which the special meeting is to be held and (b) are signed and dated by Members representing at least fifteen percent (15%) or more of the Total Votes of the Association. Special meetings of the Association may be held at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Members as determined by the Management Committee. At any special meeting of the Association, only those matters of business, the general nature of which was given in the notice of the special meeting, may be voted upon by the Members.

2.6 Notice of Meetings of the Association. Notice of the annual meeting of the Association and of any special meetings of the Association shall be hand delivered, sent by facsimile (fax) or electronic (e-mail) transmission, or sent by first-class or certified mail, no fewer than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting to each Member entitled to vote at such meeting at such Member's address as shown in the records of the Association or to any other mailing address designated in writing by the Member. Consent to electronic notice is deemed granted in the event a Member provides a fax number or e-mail address to the Association. Such notice shall specify the place, date and hour of the meeting and a description of any matters that must be approved by the Members for which the Members' approval is sought at such meeting. The notice of a special meeting shall also include a description of the purposes for which the meeting is called. If any annual or special meeting of the Members is adjourned to a different date, time or place, notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. Notwithstanding the foregoing sentence, if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed pursuant to Section 2.6 of these Bylaws or applicable law, notice of the adjourned meeting must be given pursuant to the requirements of this Section 2.16 to Members entitled to vote at the meeting.

2.7 Meetings by Telecommunication. Any or all of the Members may participate in an annual, regular, or special meeting by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

2.8 Recording Meetings. The Management Committee, in its sole and exclusive discretion, may adopt a policy regarding electronic recordation of meetings of the Association. Such policy may include, without limitation, an outright prohibition on any form of electronically recording meetings or outright prohibition on dissemination of any electronic recordings. Absent such a policy, and without the express approval of the Management Committee, no Member may record any meeting of the Association in any electronic format.

2.9 Quorum. The presence in person or by proxy of Members holding fifty-one percent (51%) or more of the Total Votes of the Association at any meeting of the Association held in response to notice to all Members of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall require the presence in person or by proxy of Members holding thirty percent (30%) or more of the Total Votes of the Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings of the Association. Unless otherwise expressly provided in the Nonprofit Act, the Declaration and these Bylaws, any action may be taken at any meeting of the Members upon a majority vote of the Members who are present in person or by proxy.

2.10 Robert's Rules. Robert's Rules of Order Newly Revised (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Condominium Documents, the Nonprofit Act, or any special rules of order the Association may adopt.

2.11 Action by Written Ballot. Any action that may be taken at any annual or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of Directors (as defined in Section 2.11 below); (c) specify the time by which a ballot must be received by the Association in order to be counted; and (d) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter. The written ballot may be distributed electronically, including through an Owner website, and votes may be collected electronically, including by electronic mail or online voting. Approval by written ballot pursuant to this Section 2.11 shall be valid only when:

2.11.1 The time by which all ballots must be received by the Association has passed so that a quorum can be determined; and

2.11.2 The number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

2.12 Action by Written Consent. Other than the election of Directors, any action that may be taken at any annual or special meeting of the Association may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. Such consents shall be signed, dated and delivered to the Association within a sixty (60) day period. Notice must be given to those Members who have not consented at least ten (10) days before the action takes effect.

2.13 Proxies. At each meeting of the Association, each Member entitled to vote shall be entitled to vote in person or by proxy. The right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member or by his, her or its attorney thereunto duly authorized in writing. The instrument authorizing the proxy to act shall be delivered, at the beginning of the meeting, to the Secretary/Treasurer of the Association (as defined in Section 4.4 below), or such other officer or person who may be acting as the secretary at the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting. A Member may revoke a proxy given pursuant to this Section 2.13 only by actual notice of revocation to the Association. A proxy is void if it is not dated or purports to be revocable without notice.

2.14 Designated Member. In the event that a Unit is owned by more than one Owner, then by the majority written designation of all Owners after the initial conveyance of such Unit, one Owner shall be appointed as the designated Member ("Designated Member") for the Unit for the purposes of voting on Association matters and for billing purposes. This Designated Member may be changed at any time by delivering to the Association written notification of such change signed by all the Owners of the Unit. In the absence of such a designation, if only one of several Owners of a Unit is present at a meeting of the Association, that Owner is entitled to cast all the votes allocated to that Unit. If more than one of the Owners of a Unit is present at a meeting of the Unit, the vote allocated to that Unit may be cast only by the Designated Member. Absent a written designation, there shall be deemed to be majority agreement if any one of the Owners casts the votes allocated to the Unit owned without protest made promptly to the person presiding over the meeting by any of the other Owners of such Unit.

2.15 Transfer of Membership. The rights and obligations of any Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit, and then only to the transferee of ownership of the Unit. A transfer of ownership of a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Unit shall operate to transfer the Membership appurtenant to said Unit to the new Owner thereof. Each Purchaser shall notify the Association of his, her or its purchase of a Unit. A change in the ownership of a Unit shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Management Committee shall thereafter be given written notice of such change and provided satisfactory evidence thereof.

2.16 Members of Record. For the purpose of determining Members entitled to notice of or to vote at a meeting of the Association, or in order to make a determination of Members for any other proper purpose, the Management Committee shall fix in advance a date as the record date for any such determination of Members. The record date shall not be more than thirty (30) days prior to the date of the particular meeting of the Association or the date on which the particular action requiring such determination of Members is to be taken, as applicable, unless otherwise extended by the Management Committee. If no record date is fixed, the record date for such determination of Members entitled to vote shall be four o'clock in the afternoon on the day before the day on which notice of the meeting is mailed or delivered. When a determination of Members entitled to vote at any meeting of the Association has been made as provided in this Section 2.16, such determination shall apply to any continuation of such meeting following an adjournment.

ARTICLE 3
MANAGEMENT COMMITTEE

3.1 Administration of Association. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by the Management Committee consisting of three (3) natural persons (“Directors”). For the purposes of this Article 3, the term “Owner” shall include Owners, the spouse of an Owner who is married to and not legally separated from an Owner, and Designated Members.

3.2 Composition. Each Director shall have one equal vote. Except with respect to Directors appointed by the Declarant, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Management Committee at the same time. In the case of a Member that is not a natural person, any officer, director, member, partner or trust officer of such Member shall be eligible to serve as a Director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Management Committee at a time, except in the case of Directors appointed by the Declarant.

3.3 Directors During the Declarant Control Period. Notwithstanding any other provision of these Bylaws, the Directors shall be selected by the Declarant, acting in its sole and subjective discretion and shall serve at the pleasure of the Declarant during the Declarant Control Period. Upon termination of the Declarant Control Period, the Directors appointed by the Declarant shall resign and the Members shall be entitled to elect all successor Directors at a special meeting.

3.4 Election and Term of Office. At the first meeting of the Members after the termination of the Declarant Control Period, the Management Committee shall be elected by the Members. The terms of the Directors shall be staggered so that the terms of one-third of the Directors will expire and successors will be elected each year by the Members as provided by these Bylaws. Thereafter, successors to the Directors whose terms then expire shall be elected by the Members to serve terms of two (2) years. Directors shall serve until their successors have been duly elected and qualified unless removed pursuant to Section 3.7 below. Directors may be elected to serve any number of consecutive terms. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Candidates must be in “good standing,” as determined in the sole discretion of the Management Committee at the time of being nominated by the Management Committee or submitting a petition, as well as at the time of the election. For purposes herein “good standing” means the Owner (a) is current in all Assessments, fees, Personal Charges and contractual and other obligations owed to the Association and with respect to his or her Unit and has demonstrated a historical pattern of being current with such obligations; (b) is in compliance with all of the provisions of the Condominium Documents and has demonstrated a historical pattern of compliance with all of the provisions in the Condominium Documents; and (c) has not engaged in acts and/or assisted or caused others to engage in acts that are (i) detrimental to the Association and/or its members or (ii) inconsistent with that of a member of the Management Committee and a fiduciary of the Association.

3.5 Voting for the Management Committee. Voting for Directors may be by written or oral vote, unless an Owner objects to such procedure, in which case voting shall be by secret

written ballot. At any meeting of the Association, each Member, either in person or by proxy, for each Director position to be filled, shall be entitled to the number of votes set forth in the Declaration for each Unit. When there are multiple positions to be filled, Members may not cumulate votes or cast all votes in favor of a single candidate.

3.6 Resignation. Any Director may resign at any time by giving written notice to the President or to the remaining Directors. Any Director who (a) fails to attend three (3) consecutive Management Committee meetings or fails to attend at least twenty-five percent (25%) of the Management Committee meetings held during any fiscal year, or (b) fails to meet his or her assessment obligations under the Declaration shall be deemed to have tendered his or her resignation, and his or her position shall be vacant following confirmation of the failure to attend meetings or meet assessment obligations by the affirmative vote of the remaining Directors, notwithstanding such remaining Directors may be less than a quorum.

3.7 Removal. The Members, representing at least two-thirds (2/3) of the Total Votes of the Association present in person or by proxy at any meeting of the Members may remove any Director elected by the Members with or without cause. A Director may only be removed by the Members at a meeting called for the purpose of removing such Director and if the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of such Director.

3.8 Vacancies. If vacancies shall occur in the Management Committee by reason of the death or resignation of a Director, the Directors then in office shall continue to act, and such vacancies shall be filled by a vote of the Directors then in office, though less than a quorum. Any vacancy in the Management Committee occurring by reason of removal of a Director by the Association may be filled by election at the meeting at which such Director is removed or any subsequent regular or special meeting of the Association in accordance with the voting procedures described above.

3.9 Compensation. Directors shall receive no compensation for their services unless expressly approved by the vote or written assent of sixty seven percent (67%) of the Total Votes of the Association; provided, however, that Directors shall be reimbursed by the Association for reasonable expenses actually incurred for attendance at regular and special meetings of the Management Committee and any other expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Any Director may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all Directors not including the Director to be employed.

3.10 Powers. The Management Committee, for the benefit of the Project and the Association, shall manage the business, property and affairs of the Project and the Association and enforce the provisions of the Condominium Documents. The Management Committee is authorized to adopt rules and regulations governing the use and operation of the Project, which shall become effective immediately upon adoption by the Management Committee. The Management Committee shall have the powers, duties and responsibilities with respect to the Project as contained in the Condominium Documents and Nonprofit Act.

3.11 Management Committee Meetings. The regular meetings of the Management Committee shall be held at least annually at such times and places within the Project, or some other

reasonable and suitable location in Summit County, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Directors, as the Management Committee shall determine. A majority of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Management Committee. Directors may participate in meetings by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time and by any other means permitted under Utah law. Such participation shall constitute presence in person at the meeting.

3.12 Special Meetings of the Management Committee. Special meetings of the Management Committee may be called by written notice signed by the President or any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Project or some other reasonable location in Summit County unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the Directors. To the extent permitted by Utah law, special meetings of the Management Committee may be held by telephonic conference or other means as described in Section 3.11 above.

3.13 Notices. Notices of all regular Management Committee meetings shall be given in writing, by personal delivery, first-class or certified mail, facsimile (fax) or electronic (e-mail) transmission to each Director not less than thirty (30) days prior to the meeting, provided that this requirement shall not apply to any Director who has signed a waiver of notice or a written consent to the holding of a meeting. Special meetings of the Management Committee must be preceded by two days' notice of the date, time and place of the meeting. The notice need not describe the purpose of the special meeting unless required by Utah law. The giving of notice of any meeting shall be governed by the rules set forth in §16-6a-103 of the Nonprofit Act.

3.14 Waiver of Notice. A Director may waive any notice of a meeting before or after the time and date of the meeting stated in the notice. A Director's attendance at or participation in a meeting waives any required notice to that Director of the meeting unless such Director, at the beginning of the meeting or promptly upon the Director's arrival at the meeting, objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and the objecting Director does not vote for or assent to action taken at the meeting.

3.15 Actions and Open Meetings. Directors shall act only as a Management Committee, and individual Directors shall have no powers as such. Regular and special meetings of the Management Committee shall be open to all Members; provided, however, that the Members who are not on the Management Committee may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Management Committee. The Management Committee may, with the approval of a majority of a quorum of its Directors, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and similar orders of business. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.16 Action Without a Meeting. Any action that is required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting if one or more consents in

writing, setting forth the action so taken, are signed by all Directors and such signed consents are filed with the records of the Association. To take action by written consent, such consent must be signed by each Director indicating either: (a) a vote in favor of the action; or (b) a vote against the action or abstaining from voting on the action as well as a waiver of the right to demand that action not be taken without a meeting. Action may be taken under this Section 3.16 only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting where all Directors were present. The consents of Directors may be sent to the Association by electronically transmitted facsimile or other form of wire or wireless communication providing a complete copy of the document, including a copy of the signature of the Directors.

3.17 Right of Declarant to Disapprove Actions. During the Declarant Control Period, Declarant shall have a right to disapprove any action, policy or program of the Association, the Management Committee and any committee which, in the sole and exclusive judgment of the Declarant, would tend to impair rights of the Declarant or any Declarant Affiliate under the Declaration or these Bylaws, or interfere with development, construction of any portion of the Project, or diminish the level of services being provided by the Association. No such action, policy or program shall become effective or be implemented until and unless:

3.17.1 The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Management Committee or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

3.17.2 The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make their concerns, thoughts, and suggestions known to the Management Committee and/or the members of the subject committee. The Declarant shall have and is hereby granted an exclusive right to disapprove any such action, policy, or program authorized by the Association, the Management Committee or any committee thereof, if the approval of the Management Committee, any committee, or the Association is necessary for such action. This right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provision thereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of the Management Committee, any committee, or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.18 Fiscal Year. The fiscal year shall be set by resolution of the Management Committee. In the absence of a Management Committee resolution, the fiscal year shall be January 1 through December 31.

3.19 Eligibility for Directors. An officer, employee, agent or director of a corporate Owner of a Unit, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, a member of a limited liability company that owns a Unit, a fiduciary of an estate that owns a Unit, and the spouse of an Owner who is married to and not legally separated from an Owner may be considered an Owner for the purpose of determining eligibility for Directors of the Management Committee. Where the person serving or offering to serve as an officer or Director of the Management Committee is not the record Owner, such person shall file proof of authority in the records of the Association.

3.20 Resort Manager. The Management Committee or the officers appointed thereby may delegate to the Resort Manager, or such other persons as it so determines, all of the duties and obligations of the Management Committee set forth herein and in the Declaration to the extent such duties and obligations are properly delegable.

3.21 Special Committees. The Management Committee may designate by resolution such committees and subcommittees as the Management Committee deems appropriate, from time to time, which shall include the Architectural Review Committee as described in the Declaration. Each committee shall exercise those powers granted to it by an enabling resolution of the Management Committee; provided, however that no committee shall exercise any power which is excluded from the delegation of the power of the Management Committee by the laws of the State of Utah or the Condominium Documents.

ARTICLE 4 OFFICERS

4.1 Designation. The officers shall be a President, Vice President, and Secretary/Treasurer and such other officers as may from time to time be appointed by the Management Committee as it may deem necessary. No officer shall be required to be an Owner. No officer shall receive compensation for serving as such; provided, however, that an officer may be reimbursed for expenses incurred in performance of his or her duties as an officer to the extent such expenses are approved by the Management Committee and may be compensated for services rendered to the Association other than in the capacity as an officer. All officers and employees of the Association shall serve at the will of the Management Committee. Officers shall be annually elected by the Management Committee and may be removed and replaced by the Management Committee. Any one person may hold any two or more offices, except that the President may not also be the Secretary/Treasurer.

4.2 President. The President shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the power ordinarily allowable to the presiding officer of an Association, including the appointment of committees. The President shall exercise general supervision over the Project and its affairs. He or she shall sign, and the Secretary/Treasurer shall witness, on behalf of the Association, all conveyances, mortgages and contracts of material importance to its business. He or she shall do and perform all acts which the Management Committee may require.

4.3 Vice President. The Vice President shall perform the functions of the President in his or her absence or inability to serve. He or she shall do and perform all acts which the Management Committee may require.

4.4 Secretary/Treasurer. The Secretary/Treasurer shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Members and the Management Committee. The Secretary/Treasurer shall also be responsible for the fiscal affairs of the Association, and shall have the custody and control of the funds of the Association, but may delegate the daily handling of funds and the keeping of records to the Resort Manager. The Secretary/Treasurer shall, upon the request of the President, report the state of the finances of the Association at any meeting of the Management Committee or the Members. He or she shall do and perform all acts which the Management Committee may require.

4.5 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President or the Management Committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Management Committee at any time, with or without cause. Execution of Amendments. Any officer may prepare, execute, certify and record amendments to the Declaration, the Plat, or these Bylaws on behalf of the Association.

ARTICLE 5 ARCHITECTURAL REVIEW COMMITTEE

5.1 Establishment. In addition to the committees described elsewhere in these Bylaws, the Management Committee shall establish the Architectural Review Committee. The Architectural Review Committee shall have the duties and authority described in Article 15 of the Declaration. The members of the Architectural Review Committee shall be appointed by Declarant during the Declarant Control Period, and thereafter by the Management Committee, and such members need not be Owners. Purpose. The Architectural Review Committee shall be the first to review, study and either approve, reject or request resubmittal of proposed developments and improvements to a Unit or any Common Areas and Facilities, including Limited Common Areas and Facilities.

5.2 Approval of Actions. So long as Declarant owns any Unit, Declarant may require that all actions by the Architectural Review Committee be reviewed and approved by Declarant prior to becoming effective.

5.3 Design Guide. The Architectural Review Committee may adopt, promulgate, enforce and interpret the Design Guide as further described in the Declaration.

5.4 Organization and Operation. Terms of office, qualifications for membership, election, removal, resignation, vacancies, meetings, actions, etc. shall be governed by the same procedures and requirements as set forth in ARTICLE 3 above.

ARTICLE 6
EXPENSES AND ASSESSMENTS

6.1 Assessments. All Assessments, including Common Assessments, shall be levied against Members in accordance with the Declaration and this ARTICLE 6.

6.2 Common Expenses. The Management Committee shall approve or disapprove the estimated Common Expenses for the coming fiscal year. Common Assessments shall be levied against all Owners in accordance with the undivided interest allocated to each Unit as described in Exhibit B to the Declaration and shall be assessed on a monthly, quarterly or annual basis, at the election of the Management Committee, to the Members.

6.3 Billing Statement for Assessments. The Management Committee shall submit a billing statement to each Member of the amount of the Assessments owed by such Member, at least thirty (30) days prior to the date payment of such Assessment is due. Such billing statement shall identify the amount of Assessments due and the due date.

6.4 No Exemption. No Member shall be exempt from liability for any of the expenses described above by waiver of the use or enjoyment of any of the Project or by abandonment of his, her or its Unit.

6.5 Assessment Records. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Members during regular business hours. In accordance with the actions of the Management Committee in assessing Common Expenses against the Units, the Treasurer shall keep an accurate record of such Assessments and of the payments thereof by each Member.

6.6 Statements for Purchasers. Any person who shall have entered into a written agreement to purchase a Unit, by written request directed to the Management Committee, shall be entitled to obtain a written statement from the Treasurer setting forth the amount of the monthly, quarterly, annual or other periodic Assessments and the amount of unpaid Assessments charged against such Unit and its Owner(s), and if such statement does not reveal the full amount of the unpaid Assessments as of the date it is rendered, the purchaser shall not be liable for the payment of an amount in excess of the unpaid Assessments shown thereon, provided that the former Owner shall remain so liable. Any such excess which cannot be promptly collected from the former Owner-grantor shall be reassessed by the Management Committee as a Common Expense to be collected from all Members, including without limitation the purchaser of such Unit and his, her or its successors and assigns. The new Owner shall, and the former Owner shall not, be liable for any Assessments made after the date of transfer of title, even though the expenses incurred or the advances made by the Management Committee for which the Assessment is made relate in whole or in part to any period prior to that date. The Management Committee is authorized to require a reasonable fee not to exceed \$25.00, unless otherwise authorized by the Act, for furnishing such statements. Statements for Members and Mortgagees. In addition to the statements issuable to purchasers, the Management Committee shall, upon ten (10) days prior written request therefor, provide to any Member and to any Mortgagee, a current statement of unpaid Assessments and for

any expenses of and advances by the Management Committee with respect to a Unit. The Management Committee is authorized to require a reasonable fee not to exceed \$25.00, unless otherwise authorized by the Act, for furnishing such statements.

6.7 Collection. All Assessments shall be a separate, distinct and personal liability of the Members at the time each Assessment is made. The Management Committee shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of Assessments. In all cases where all or part of any Assessments for Common Expenses, and for any expenses of and advances by the Management Committee cannot be promptly collected from the persons or entities liable therefor under the Declaration or these Bylaws, the Management Committee shall reassess the same as a Common Expense without prejudice to its right of collection against such persons or entities, or without prejudice to its lien for such Assessments.

6.8 Limitations on Alterations, Additions and Improvements of Common Areas. There shall be no structural alterations, capital addition to, or capital improvements of the Common Areas and Facilities requiring an expenditure in excess of One Hundred Thousand Dollars (\$100,000.00) without prior approval of Members holding a majority of the Total Votes of the Association.

ARTICLE 7 LITIGATION

7.1 Expenses. If any action is brought by a Director on behalf of the Association, the expenses of suit, including reasonable attorneys' fees, shall be a Common Expense. Except as otherwise provided by the Declaration or applicable Utah law, if any action is brought against the Members or against the Management Committee or the Directors, officers, employees or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Members, the expenses of suit, including attorneys' fees, shall be a Common Expense. If any action is brought against one or more, but less than all Members, with the result that the ultimate liability would, if proved, be borne solely by such Members named as defendants, the expenses of suit, including attorneys' fees, shall not be charged to or borne by the other Members, as a Common Expense or otherwise.

7.2 Defense. Except as otherwise provided by applicable Utah law, any action brought against the Association, the Management Committee or the Directors, officers, employees or agents thereof, in their respective capacities as such, or the Project as a whole, shall be directed to the Management Committee, and shall be defended by the Management Committee and the Members and Mortgagees shall have no right to participate in such defense other than through the Management Committee. Actions against one or more, but less than all Members, shall be directed to such Members who are named defendants, which Members shall promptly give written notice thereof to the Management Committee, and such action shall be defended by such Members.

ARTICLE 8 INDEMNIFICATION

8.1 Actions by or in the Right of the Association. The Association shall indemnify each and every Director and officer of the Association, and each and every member of any committee appointed by the Management Committee (including, for purposes of this Section 8.1, former officers and Directors of the Association, and former members of committees appointed

by the Management Committee) (each an “Association Official”) against any and all expenses, including attorneys’ fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Management Committee serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, if he or she acted in good faith; reasonably believed, in the case of conduct in his or her official capacity with the Association, that his or her conduct was in the Association’s best interest, or, in all other cases, that his or her conduct was at least not opposed to the Association’s best interests; and in the case of a criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. So long as the Association Official: (a) acted in good faith; (b) reasonably believed, in the case of conduct in his or her official capacity with the Association, that his or her conduct was in the Association’s best interest, or, in all other cases, that his or conduct was at least not opposed to the Association’s best interests; and (c) in the case of a criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful, then he or she shall not have any personal liability with respect to any contract or other commitment made or action taken on behalf of the Association (except indirectly to the extent that such Association Official may also be a Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Management Committee deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 8.1 or otherwise under the Articles, these Bylaws, the Declaration or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Management Committee so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid. Notwithstanding the foregoing, the Association may not indemnify an Association Official under this ARTICLE 8: (i) in connection with a proceeding by or in the right of the Association in which the Association Official was adjudged liable to the Association; or (ii) in connection with any other proceeding charging improper personal benefit to the Association Official, whether or not involving action in his or her official capacity, in which the Association Official was adjudged liable on the basis that personal benefit was improperly received by the Association Official.

8.2 Successful on the Merits. To the extent that an Association Official has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Section 8.1 above, or in defense of any claim, issue or matter therein, such person shall be indemnified by the Association against expenses (including expert witness fees, attorneys’ fees and costs) actually and reasonably incurred by him or her in connection therewith.

8.3 Determination Required. Any indemnification under Section 8.1 (unless ordered by a court) and as distinguished from Section 8.2, shall be made by the Association only as authorized by the specific case upon a determination that indemnification of the Association Official is proper in the circumstances because such individual has met the applicable standard of conduct set forth in Section 8.1 above. Such determination shall be made by the Management Committee by majority vote of a quorum consisting of those Directors who were not parties to such action, suit or proceeding or, if a majority of disinterested Directors so commands, by independent legal counsel and a written opinion or by Members entitled to vote thereon.

8.4 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by an Association Official who is a party to a proceeding in advance of final disposition of the proceeding if the Association Official furnishes to the Association a written affirmation of the Association Official's good faith belief that he or she has met the standard of conduct described in Section 8.1, the Association Official furnishes to the Association a written understanding, executed personally or on the Association Official's behalf to repay the advance with interest, if any, as set forth in Section 8.1 above if it is ultimately determined that the Association Official did not meet the standard of conduct and a determination is made that the facts then known to those making the determination would not preclude indemnification under this ARTICLE 8. The undertaking required in this Section 8.4 shall be an unlimited general obligation of the Association Official but need not be selected and may be accepted without reference to financial ability to make repayment.

8.5 No Limitation of Rights. The indemnification provided by this ARTICLE 8 shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested Directors, or otherwise, nor by any rights which are granted pursuant to the Nonprofit Act.

8.6 Directors and Officers Insurance. The Association shall purchase and maintain insurance on behalf of any person who is or was a Director or an officer of the Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such individual against such liability under provisions of this Article 8. The Directors and officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Nonprofit Act.

8.7 Notice to Members. If the Association indemnifies or advances expenses to an Association Official pursuant to this ARTICLE 8, the Management Committee shall report the indemnification or advance in writing to the Members with or before the notice of the next meeting of the Members.

ARTICLE 9 ENFORCEMENT

9.1 Abatement and Enjoinment of Violations by Members. The violation of any Association Rules, the breach of any provision contained herein or the breach of any provision of the Declaration shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws:

9.1.1 To enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Member or Members, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass provided that items of construction may not be altered or demolished without proper judicial proceedings; and/or

9.1.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

9.2 Monetary Fines. The Management Committee may assess a fine against a Member for violations of the Condominium Documents provided that the Management Committee shall give notice to the Member of the violation and inform the Member that a fine will be imposed if the violation is not cured within the time designated by the Management Committee, which shall be at least 48 hours. The Management Committee may levy fines in the amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Condominium Documents provided that cumulative fines for a continuing violation may not exceed \$500 per month unless otherwise allowed by law. A Member who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed.

9.3 Cause of Action. The Management Committee shall have a right of action against Members who fail to comply with any provision of the Condominium Documents or the decisions of the Association or Management Committee. Before pursuing such cause of action, the Management Committee shall provide the Member notice of the alleged violation and the opportunity to request an informal hearing.

9.4 Temporary Suspension. The Management Committee may impose a temporary suspension of a Member's right to use the Common Areas or other appropriate discipline against a Member who has failed to comply with any provision of the Condominium Documents. Prior to such suspension or other discipline, the Management Committee shall provide the Member notice of the alleged violation and the opportunity to request an informal hearing.

9.5 Remedies Cumulative. These remedies are cumulative to other remedies provided in the Declaration and these Bylaws, any rules or regulations adopted by the Management Committee, or in any other applicable laws.

ARTICLE 10 ACCOUNTING

10.1 Accounting and Recordkeeping. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Secretary/Treasurer. The Association shall maintain financial records, records of Assessments as required by Section 6.5 above, and such other records as required by the Declaration or by law. The cost of any audit shall be a Common Expense unless otherwise provided in the Declaration.

10.2 Financial Statements. At the close of each fiscal year, the books and records of the Association shall be prepared by an independent public accountant approved by the Management Committee, and financial statements shall be prepared by said accountant and made available at

such location as records of the Association are maintained for inspection by Members during normal business hours.

10.3 Budget. A budget for each fiscal year shall be adopted by the Management Committee and distributed to all Members prior to the beginning of the fiscal year to which the budget applies.

10.4 Maintenance and Inspection of Records. The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Association, of the Management Committee and of committees of the Management Committee and all other records of the Project maintained by the Association, Resort Manager or managing company shall be made available for inspection and copying by any Member or his, her or its duly appointed representative at any reasonable time and for a purpose reasonably related to his, her or its interest as a Member, at the office where the records are maintained, including the Resort Manager's office. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the Management Committee to defray the costs of reproduction, the Resort Manager or other custodian of records of the Association shall prepare and transmit to the Member a copy of any and all records requested. The Association may, as a condition to permitting a Member to inspect the membership register or to its furnishing information from the register, require that the Member agree in writing not to use, or allow the use of, information from the membership register for commercial or other purposes not reasonably related to the Member's interest in the Association. The Management Committee shall establish reasonable rules with respect to:

10.4.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection or obtain copies;

10.4.2 Hours and days of the week when such an inspection may be made; and Payment of the cost of reproducing copies of documents requested by a Member.

10.5 Inspection by Directors. Every Director shall have the absolute right at any time to inspect all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association. This right of inspection shall include the right to make extracts and copies of records, subject only to the right of the Association to require that the Director agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Director's interest in the Association.

ARTICLE 11 RENTAL OR LEASE OF UNITS BY MEMBERS

11.1 Member Responsible. The provisions of these Bylaws shall apply with equal force to all occupants of a Unit. Any Member who rents or leases or otherwise permits any other person to utilize his, her or its Unit shall be responsible for the conduct of his, her or its occupants, and upon written notice from the Management Committee or the Resort Manager, said Member shall be responsible for correcting violations committed by such occupants of the Declaration, these Bylaws or the rules and regulations adopted by the Association.

11.2 Violations. If a Member fails to correct violations by his, her or its occupants within the time designated by the Management Committee, the Management Committee or Resort Manager shall be deemed to be the agent of the Member and empowered to take any enforcement action the Member would be entitled to take, the reasonable costs of such action, including but not limited to fees and costs paid to third parties, to be assessed to the Member and payable within thirty (30) days of assessment. Such costs shall be collected and enforced in the same manner as Common Expenses under the Declaration.

11.3 Remedies. The power of the Management Committee or Resort Manager hereunder over occupants shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Member by the act of renting, leasing or otherwise permitting any other person to utilize his, her or its Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee and the Resort Manager from and against any and all liability therefor. It is expressly understood that the remedies available to the Management Committee or Resort Manager shall include but not be limited to the right to seek eviction of the occupant without any liability to the Member.

ARTICLE 12 AMENDMENT OF BYLAWS

12.1 By Declarant. Prior to the conveyance of the first Unit by Declarant to a person other than a Declarant Affiliate, Declarant may unilaterally amend these Bylaws. After such conveyance, and notwithstanding anything contained in these Bylaws to the contrary, these Bylaws may be amended unilaterally at any time and from time to time by Declarant if such amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units or other improvements subject to the Declaration; provided, however, any such amendment shall not materially adversely affect the title to any Unit unless any such Owner shall consent thereto in writing. Further, during the Declarant Control Period, Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder.

12.2 By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing fifty-one percent (51%) of the Total Votes of the Units, and the consent of the Declarant, so long as Declarant owns a Unit. In addition, the approval requirements set forth in the Declaration shall be met, if applicable. Notwithstanding the above, unless otherwise required under the Nonprofit Act, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Notwithstanding the foregoing, no amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the successor of such right or privilege, which consent may be withheld for any reason or no reason.

ARTICLE 13
MISCELLANEOUS

13.1 Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally sent by United States mail, first class postage prepaid, facsimile (fax) or electronic (e-mail) transmission to:

13.1.1 If to a Member, at the mailing address, fax number or e-mail address which the Member has designated in writing and filed with the Secretary/Treasurer or, if no such address has been designated, at the street address of such Member's Unit; or

13.1.2 If to the Association or the Resort Manager, at the principal office of the Association or the Resort Manager, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section 13.1.

13.2 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

13.3 Conflicts. If there are conflicts between the provisions of Utah law and the Condominium Documents, the provisions of Utah law, the Declaration, the Articles, these Bylaws and the Association Rules (in that order) shall prevail. Should such conflicts arise, the arbitration and dispute resolution provisions provided for in the Declaration are specifically incorporated herein by this reference and made a part of these Bylaws.

13.4 Waiver. The failure of the Management Committee to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of these Bylaws shall be deemed to have been waived unless such waiver is in writing and signed by the Management Committee.

13.5 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

13.6 Effective Date. These Bylaws shall take effect as of the date of recording of the Declaration in the Official Records of Summit County, Utah.

13.7 Counterparts. These Bylaws may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

13.8 Seal. The Management Committee may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the words "Corporate Seal."

[Remainder of Page Intentionally Blank]

The foregoing were adopted as the Bylaws of the Apex Residences Park City Owners Association, Inc., a nonprofit corporation under the laws of the State of Utah, as of the 1st day of August, 2016.

Name: Tony Tyler

Title: Secretary/Treasurer