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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**

**FOR**

**SILVER POINTE CONDOMINIUMS**

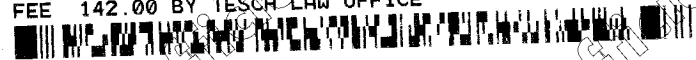
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MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
FOR  
SILVER POINTE CONDOMINIUMS**

This Amended and Restated Declaration of Condominium for Silver Pointe Condominiums ("Amended Declaration") is made and executed by Silver Pointe Owners' Association, Inc. (the "Association") and Unit Owners, for themselves, and their successors and assigns, pursuant to the provisions of Title 57, Chapter 8, Utah Code Annotated, as amended ("Act").

1. RECITALS.

1.1. This Amended and Restated Declaration of Condominiums for the Silver Pointe Condominiums controls the Property set forth on the Condominium Plat attached hereto as Exhibit A. This Amended and Restated Declaration for Silver Pointe Condominiums supersedes in its entirety the Declaration of Covenants, Conditions and Restrictions of Silver Pointe Condominiums recorded on September 20, 1999 in the office of the Summit County Recorder as Entry 00548913 Book 01288 Page 00006-00029

1.2. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land.

1.3. This Amendment incorporates the Plat of the Silver Pointe Condominiums, Amended Survey Plat recorded in the office of the Summit County Recorder as Entry 548912 on September 20, 1999, attached hereto as Exhibit A.

1.4. All capitalized terms used in this Declaration shall have the definitions as set forth herein.

1.5. The Association and the Owners desire to establish for their benefit and for the mutual benefit of all future Owners, Mortgagees, occupants or other holders of an interest in the Property, or any part thereof, certain mutually beneficial covenants, restrictions and obligations with respect to the proper development, use and maintenance of the Property.

1.6. The Association and the Owners desires and intends that the Owners, Mortgagees, lessees and trustees under trust instruments, deeds, occupants, residents and other persons hereafter acquiring any interest in or otherwise utilizing property of the Property shall at all times enjoy the benefits of, and shall hold their interest subject to the rights, privileges, covenants and restrictions set forth in this Declaration, all of which are declared to be in furtherance of a plan to promote and protect the aesthetic and cooperative aspects of the Silver Pointe Condominiums and are established for the purpose of enhancing the value, desirability and attractiveness of Silver Pointe Condominiums. It is the intent that as has historically occurred, that this Declaration be construed to provide the Units and their Owners the greatest amount of ownership customary with non-condominium homes and control consistent with the requirements of law.

1.7. Pursuant to the Bylaws and the Original Declaration, the Association and the

Owners desire to amend and restate the Original Declaration

1.8. In accordance with the Bylaws and the Original Declaration, the Association and the owners have executed and shall record this Amended Declaration.

NOW, THEREFORE, Declarant hereby amends and restates the Original Declaration in its entirety to be as follows:

2. DEFINITIONS.

2.1. 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 paragraph.

2.2. Act shall mean the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code).

2.3. Amendment shall mean any amendment to this Amended Declaration made in accordance with the Amended Declaration and the Act.

2.4. Articles shall mean the Articles of Incorporation of Silver Pointe Owners' Association, Inc.

2.5. Association shall mean Silver Pointe Owners' Association, Inc., a Utah non-profit corporation, organized for the purposes set forth in this Declaration.

2.6. Board or Board of Directors shall mean the Board of the Association, appointed or elected in accordance with this Amended Declaration and the Bylaws. The Board shall be the Management Committee, as described in the Act.

2.7. Bylaws shall mean the Bylaws of the Association, a copy of which is attached hereto as Exhibit B as amended from time to time.

2.8. City shall mean Park City Municipal Corporation.

2.9. Common Area Manager shall mean the person, firm or company which may be designated by the Association to manage, in whole or in part, the affairs of the Association and the Common Areas and Facilities.

2.10. Common Areas and Facilities shall mean all portions of the Project other than the Units as defined in Section 2.27 below. Consequently, the Common Area includes, without limitation, the land within the Project noted as Common Area on the Plat, which is hereby submitted to the provisions of the Act; Certain maintenance and repair of improvements to the Common Areas are further defined below. In the event of a conflict between this Amended Declaration and the Plat or Map, the provisions of this Amended Declaration shall control. The percent of undivided Common Areas and Facilities, the voting rights and the percent of

assessments attributable to each Unit are set forth on Exhibit C attached.

2.11. Common Assessments shall mean those assessments described in Article 11 to fund the Common Expenses, and include Regular Common Assessments, Special Common Assessments and any other assessments levied by the Association.

2.12. Common Expense Fund shall mean a depository where funds from Common Assessments, fines, rents, and all other funds except Reserve Funds are held.

2.13. Common Expenses shall mean all expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities, all premiums for insurance obtained by the Association for the benefit of the Project, and all other expenses denominated as Common Expenses by this Declaration or by the Act.

2.14. County shall mean Summit County, Utah.

2.15. Declaration shall mean this Amended and Restated Declaration of Condominium, and all amendments, modifications and supplements hereto, unless the context of the word clearly shows that it is intended to refer to the original Declaration.

2.16. Dwelling(s) or Unit(s) means the three single-family detached units and eight townhome units which share a common wall on the property.

2.17. Eligible Mortgagee shall mean and refer to a First Mortgagee that has requested notice of certain matters from the Association in accordance with Section 16.1 of this Declaration.

2.18. Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities as shown on the Plat, for the exclusive use of one or more, but fewer than all, of the Units. The driveways identified as Limited Common Areas on the Plat with the same number by which a Unit or Units are identified or is adjacent to a Unit, shall be Limited Common Area for the exclusive use of the Owner or Owners of the Units bearing the same number. The Unit Owners are responsible for the maintenance, repair and replacement of all facilities within each Limited Common Area driveways. No Owner, guest, invitee, or tenant of an Owner, may park a vehicle or equipment of any kind or nature, on a driveway which also services another Owner's Unit and also impedes ingress and egress of the adjoining owner or its invitees, guests and tenants. Units 1-5 shall maintain and repair the limited Common Area adjacent to those Units. However, the retaining wall along the northern edge of the driveway serving Units 1-5, shall be maintained and repaired by the Association. See Exhibit D. Also the retaining walls on the western and southern boundaries of the Limited Common Area adjacent to Unit 6 and the retaining wall in the southern areas of Units 6 and 7 and 8 and 9 and the retaining wall at the southern end of the joint Limited Common Area between Units 7 and 8 shall all be maintained and repaired by the Association. See Exhibit E. Unit 6, 10 and 11 shall maintain and repair the limited Common Area adjacent to them. Units (7, 8) and (9, 10) shall be jointly responsible for maintenance and repair of the Limited Common Areas adjacent to them

respectively and shall share equally in the maintenance and repair thereof. In addition, Unit 11 shall be responsible for the maintenance and repair of the landscaping and boulders located on the Common Area adjacent to it. See Exhibit F.

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

2.20. Plat shall mean the Plat of Silver Pointe Condominiums as recorded in the office of the Summit County Recorder on September 20, 1999 as Entry No. 548912 and attached hereto as Exhibit A.

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

2.22. 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 and other improvements are located.

2.23. Regular Common Assessments shall mean the annual assessments levied by the Association to pay the budgeted Common Expenses, which shall include the cost of snowplowing of all driveways and walkways within the Unit boundaries.

2.24. Special Common 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.

2.25. Total Votes of the Association shall mean the total number of votes appertaining to all Units. Each Unit shall have one (1) equal vote.

2.26. Town Home or Town Home Unit shall mean a Dwelling that shares one or more walls with another Dwelling.

2.27. Unit shall initially mean and refer to an individual Unit as set forth on the Amended Plat including the Private Ownership Property along with the property under and adjacent to said Dwellings as shown by the Plat as Private Ownership regarding each Unit as shown on the Plat, the surrounding ground shown on the Plat as the Unit in Private Ownership and any Dwelling constructed thereon. Unit shall also consist of the actual structural boundaries of the Dwelling and shall include every structure on both the outside and inside of the Dwelling including without limitation the foundation, exterior walls and siding, interior walls, the roof, the driveways and landscaping, balconies, etc.

2.28. Unit Number shall mean the number, letter or combination of numbers and letters that identifies only one Unit in the Project. The Plat contains the Unit Number of each Unit in

the Project.

3. OWNERSHIP AND USE OF COMMON AREAS.

3.1. The undivided interest in the Common Areas and Facilities, as defined in Section 2.10 above, appurtenant to each Unit in the Project shall be allocated equally among 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 one (1) and the denominator of which is eleven (11). That computation results in a conversion to .09 percent per Unit as shown on Exhibit C hereto. Except as otherwise provided in this Declaration, the undivided interest appurtenant to each Unit shall have a permanent character and shall not be altered or subdivided. The sum of the undivided interests in the Common Areas and Facilities allocated to all Units shall at all times equal one hundred percent (100%); provided however, that such total may be slightly more or less than one hundred percent (100%) due to rounding. Except as otherwise provided in this Declaration, any Owner shall be entitled to non-exclusive use of the Common Areas and Facilities (other than Limited Common Areas and Facilities) in any manner that does not hinder or encroach upon the rights of other Owners, and is not contrary to any rules and regulations promulgated by the Association.

4. OWNERSHIP AND USE OF LIMITED COMMON AREAS AND FACILITIES.

4.1. The use and occupancy of designated Limited Common Areas and Facilities shall be reserved to the Units to which they are attached and as shown on the Plat and as shown on the Existing Conditions Survey attached as Exhibits D, E, F and as specified in this Declaration.

5. NATURE AND INCIDENTS OF UNIT OWNERSHIP.

5.1. Each 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.

5.2. Subject to the limitations contained in this Declaration, and subject to any rules and regulations adopted by the Declarant or the Association, each Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use their Unit including the surrounding ground area as shown on the Plat and any Limited Common Areas and Facilities designated for exclusive use by this Declaration and by the Plat.

5.3. Each Owner shall have the exclusive right and obligation to maintain and repair the Unit owned by such Owner. Each Owner of a Unit shall keep the interior of its 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 and is also responsible to maintain the deck(s) appurtenant to their Unit, including without limitation Limited Common Areas driveways, landscaping. Each Owner of a Unit shall also keep the exterior of its Unit,



including all exterior walls, all exteriors surfaces, roof, foundations and floors well maintained and repaired. In the event that any Unit should develop an unsanitary condition or fall into a state of disrepair and in the event that the Owner of such Unit should fail to correct such condition or state of disrepair promptly, within sixty (60) days following written notice from the Board, the Board shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary condition or state of disrepair. No Owner may subdivide their Unit.

5.4. In the event two Units are attached by a common wall, these Units shall be jointly responsible for the maintenance and repair of all elements that have a common use. In the event those two owners cannot agree as to who is responsible for maintenance and repair of elements and/or the maintenance and repair of the Limited Common Area driveways between two Units or the cost sharing of the maintenance and repair of the Limited Area driveway servicing Units 1-5, then the disagreeing parties shall submit their issues to binding arbitration according to the governing statutes of the State of Utah, with the prevailing party being awarded costs and reasonable attorney's fees.

5.5. The Board shall have the right after reasonable notice under the circumstances, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter into any 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. Reasonable notice shall mean at least thirty (30) days unless an emergency occurs in which case it requires no notice before entry but prompt notice after entry.

5.6. Nothing in this Declaration shall limit the rights of Declarant or any other Owner to operate the Unit(s) owned by it for transient rental purposes.

5.7. The Association shall have the power to establish specific rules and regulations governing the use of decks.

5.8. Each Unit Owner is responsible for periodic, and at least yearly, inspection of its furnace/boiler, dryer vent and fire sprinkler inspection and/or maintenance. This is the Unit Owner's sole responsibility.

## 6. TITLE TO UNITS.

6.1. 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.

6.2. 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.

6.3. The Common Areas and Facilities shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

6.4. 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.

6.5. No labor performed or services or materials furnished with the consent of or at the request 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) unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in the Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. In such event, the Owner may remove his or her Unit from a lien against two or more Units or any part thereof 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.

6.6. 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 indicated in this Declaration or 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.

6.7. 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 Board under the Bylaws or the Association rules, vesting the person with the interest required to make him an Owner. At the same time, the Owner will provide the Association with the single name, address, phone number and email address to which the Association will send any notices given pursuant to the governing documents of the Project. In the event of any change in the facts reported in the original written notice, including any change of ownership, the new 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.

7. RESTRICTIONS ON USE.

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 Board, shall be used in accordance with the following restrictions:

7.1. No Unit shall be used for commercial purposes; provided, however any Owner or his or her duly authorized agent from renting or assigning the use of his or her Unit from time to time.

7.2. 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.

7.3. 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.

7.4. No signs, flags (except American Flags in a size approved by the Board) or advertising devices of any nature which are Visible From Neighboring Property, including, without limitation, political, informational or directional signs or devices, shall be erected or maintained on any part of the Project, except (i) as may be necessary temporarily to caution or warn of danger, (ii) as required by law, (iii) for Dwelling identification signs, provided the size, color, content and location of such signs have been approved in writing by the Board.

7.5. No animal, bird, or fish, other than a reasonable number of generally recognized house or yard pets as determined solely by the Board, shall be maintained in any Unit or Dwelling and then only if they are kept and raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept on a leash at all times when outside of a Unit. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. Any pet that endangers the health of any Owner, guest or resident of a Unit, or which creates a nuisance or an unreasonable disturbance, or is not a common household pet, as may be determined in the sole discretion of the Board, must be permanently removed from the Project upon seventy-two (72) hours' written notice by the Board. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute subjective discretion, whether for the purposes of this Section 7.5 a particular animal, fish or bird is a generally recognized house or yard pet, whether such a pet is a nuisance or whether the number of animals, fish or birds on any such property is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein.

7.6. No Owner shall, without the prior written consent of the Board, make or permit to be made any exterior alteration, improvement or addition in or to any Unit. No Owner shall, without the prior written consent of the Board, do any act that would impair the structural soundness or integrity of the Dwellings 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 (including Limited Common Areas and Facilities). Furthermore, no Owner shall 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. See also section 7.12 below.

7.7. There shall be no obstruction of the Common Areas and Facilities and Limited Common Areas and Facilities by any Owner. Owners shall neither store nor leave any of their property in the Common Areas and Facilities, except with the prior consent of the Board.

7.8. 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, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over what the Association but for such activity, would pay, without the prior written consent of the Board. 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.

7.9. No Owner shall violate the rules and regulations for the use of Units and Common Areas and Facilities as adopted from time to time by Declarant or the Association.

7.10. 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 his or her Unit. An Owner shall be responsible and liable for any damage to the Project caused by its tenants and invitees.

7.11. All Owners are given notice that use of their Units and the Common Areas and Facilities is limited by the rules and regulations of the Association as modified from time to time. 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.

7.12. No exterior or structural addition to or change or alteration to a Unit, the Common Areas and Facilities or Limited Common Areas and Facilities (including without limitation the construction of any additional skylight, deck, 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 Board as to harmony of external design and location in relation to surrounding structures and topography. After receiving the approval of the Board, the Owner required to obtain such approval shall thereafter obtain all

other approvals as may be required by the Master Declaration and by any governmental or quasi-governmental body having jurisdiction over the Property.

## 8. ARCHITECTURAL COMMITTEE

8.1. Introduction. It is the intention and purpose of this Declaration to impose Architectural Design Standards of a type and nature that result in Dwellings and Improvements which are compatible with the area landscape. The placement, massing, dimensions, materials, colors, and public view aspects of the Improvements will be guided, but still allow for diversity in style and the vitality in design. All Improvements shall be in accordance with the design criteria set forth in the Plat (the "Architectural Design Standards").

To accomplish this goal, the Declarant hereby establishes the Architectural Committee, which is empowered to oversee and enforce the Architectural Design Standards set forth in this Declaration. This review is in addition to any architectural review required by Park City Municipal Corporation (see 8.8 below).

8.2. Architectural Committee Created. The Committee will consist of three members, who shall be members of the Board or other Unit Owners appointed by the Board. In addition, if the Board cannot find three (3) Unit Owners to serve, it may appoint an architect, paid for by the applying Unit Owner, to make recommendations to the Board, which shall be empowered to decide the issues.

8.3. Approval by Committee. No improvements of any kind, including without limitation the construction of any Dwelling Unit, garage, parking area, driveway, or other hard surfaced area in excess of 100 square feet, swimming pools, outdoor hot tubs or spas, fences, walls, curbs, poles, trampolines, satellite dishes or antenna, solar panels, or any other permanent structure may be constructed, installed, maintained or allowed to stand in the Project without the prior written approval of the Committee. The Owner shall not paint, decorate or alter any portion of the exterior of the building or other common area or any other area contained therein without first obtaining written consent of the Committee. No excavation, grading, filling, draining, landscaping, or installation or removal of existing vegetation shall be made without the prior written approval of the Committee. Approval of the Committee will be sought in the following manner:

8.3.1. Plans submitted. Plans for any Dwelling Unit must be submitted to the Committee for review. It is recommended that preliminary plans be submitted before the expense of final construction drawings is incurred. The plan must be in sufficient detail to show the location on the Unit of the exterior walls of the Dwelling Unit and all other structures to be built with it; detailed drawings of all elevations of all buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior siding and roofing materials and/or a sample, including color samples; and a landscape plan showing the location of driveways, walkways, patios, decks and other hard surfaced or irrigated areas and the areas to be disturbed by construction and the means of restoring those areas. In the case of an addition or modification to an

existing Dwelling, the Committee may waive any of the foregoing requirements.

8.3.2. Review Fee. With the exception of the appointment and cost of an architect or for extraordinary costs noted in Section 8.5 below, no review fees shall be required.

8.3.3. Review. Within 15 days from receipt of a complete submission, the Committee will review plans and make an initial determination whether or not the plans comply with the conditions imposed by this Declaration. If they do not, the plans will be rejected. If they are in compliance, the Committee will approve the plans. The Committee may also approve the plans subject to specific modifications or conditions. Owners may desire to submit preliminary plans for review. The Committee will review preliminary plans, without fee, and make its comments known to the Owner, provided, however, that no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission. Upon approval, the Committee and the Owner will each sign a copy of the plans, which shall be left to the Committee. Any construction that is not in strict compliance with the approved plans is prohibited.

8.3.4. Written Record. The Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years.

8.3.5. Failure to Act. If the Committee has not approved or rejected any submission within 30 days of submission of complete plans, the submission is deemed to have been approved.

8.4. Variances. Variances to the Architectural Design Standards contained in this Declaration, or modifications to the size or shape or location of the Limits of Disturbance Area on any Unit, may be granted when strict application would create an unforeseen or unreasonable hardship to the Owner of any Unit. No such variance may be granted without the unanimous consent of the Committee.

8.5. Extraordinary Costs. Whenever it deems appropriate, and with the consent of the Board of Trustees, the Committee may engage the services of an architect, or civil or structural engineer to assist in its review of any proposed Improvements. All costs of such additional review will be paid by the Applicant, provided however that no architect or engineer will be hired without advance notice to the Applicant of the intention to hire a review architect or engineer, and the aspects of the proposal that caused the Committee to believe that professional review was required, and the estimated cost of that review. If the applicant does not withdraw the proposal within five days after receipt of that notice, he is deemed to have consented to the Committee retaining such professional assistance. Whenever the Committee retains outside professional services in its review, the reviewing architect or engineer is acting only in an advisory capacity, and the applicant, for himself and his successors and assigns, waives any and all claims against the Committee in the event that advice from, or conditions imposed by, the

reviewing professional prove ineffective, unnecessary, or inappropriate to the circumstances. The costs of such review will be billed directly to the applicant.

8.6. General Design Review. The Committee will use its best efforts to provide a consistent pattern of enforcement, and consistent application of the Architectural Design Standards of this Declaration. These Standards are, of necessity, general in nature, and the Committee shall apply them in a manner that results in a high quality, attractive, and well-designed community.

8.7. The Members of the Management Committee are not liable. To the fullest extent permissible by law and the statutes of the State of Utah, the members of the Management Committee and all members of any Committee appointed by it shall not be liable to the applicant for any damages, or to the Owners of Units within the Subdivision for their actions or inactions. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Members of the Management Committee as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has the right to enforce this Declaration against another Owner, and may seek independent redress if he believes the Management Committee has acted improperly.

8.8. Limitations on Review. The Committee's review is limited to those matters expressly described in this Declaration. The Committee shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of the Property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes to plans as may be subsequently required to bring them into conformity with any applicable codes must be reviewed and approved by the Committee prior to construction. The Committee has no authority to resolve financial issues among Unit Owners.

8.9. Approval to Proceed. The Committee shall promptly issue as Certificate of Approval to the Owner once the plans have been approved and the pre-construction conference has been held, and all other conditions of construction set forth in this Declaration have been satisfied.

## 9. ASSOCIATION AND BOARD.

9.1. The persons or entities who are at the time of reference Owners shall, together with all other Owners, be members of the Association, the characteristics and nature of which are determined by the Act, the Declaration, the Bylaws, the Articles and other applicable Utah law. The Association shall be governed by the following provisions:

9.1.1. The management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Board of Directors, consisting of three (3) natural persons who are Owners and as provided in the Bylaws. The Board shall be elected as provided in this Declaration and in the Bylaws.

9.1.2. Except as otherwise provided herein, the Board shall have all the



powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

9.1.2.1. To make and enforce all rules and regulations covering the operation and maintenance of the Project and the Units.

9.1.2.2. To engage the services of the Common Area Manager, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

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

9.1.2.4. To determine and pay the Common Expenses.

9.1.2.5. To assess and collect the proportionate share of Common Expenses from the Owners, as provided in Article 11 hereinafter.

9.1.2.6. 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.

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

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

9.1.2.9. To hire attorneys to bring, prosecute and settle litigation (with Board consent) for itself, the Association and the Project, in accordance with the provisions of Section 23 of this Declaration.

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

9.1.2.11. 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.

9.1.2.12. 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 Board and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office



supplies.

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

9.1.2.14. 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. The Association or the Board shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of the Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

9.1.2.15. 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.

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

9.1.2.17. To lease, improve, grant easements and rights-of-way over the Common Areas and Facilities and to approve signage for the Project.

9.1.2.18. Subject to the limitations of Section 9.1.4, the Act and any other applicable law, the Board may delegate to a Common Area Manager by written agreement all of the foregoing powers, duties and responsibilities referred to in this Section 9.1.

9.1.2.19. The Board may convey or subject to a Mortgage all or portions of the Common Areas and Facilities of the Project if Owners entitled to cast the number of votes required by the Act of the Total Votes of the Association agree to that action at a meeting or by written ballot distributed to Owners by mail. Any such agreement shall comply with all other applicable provisions of the Act.

9.1.2.20. Trustees and Committee not Liable. To the fullest extent permissible by law and the statutes of the State of Utah, the Trustees and the Committee and its members and the members of all committees appointed by the Board shall not be liable to the applicant for any damages, or to the Owners of Units within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted to the Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Committee as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has the right to enforce this Declaration

against another Owner, and may seek independent redress if he believes the Committee has acted improperly.

9.1.2.21. When a member of the Board is sued for liability for actions undertaken in his or her role as a member of the Board, the Association shall 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 willfully. After such proof the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Board who so acted. Members of the Board 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 persons whose activity gave rise to the damages.

9.1.3. Neither the Board nor the Common Area Manager shall sell any property of the Association except as permitted by the Act and this Declaration.

9.1.4. The Association acting through the Board may enter into a contract with a Common Area Manager for the management of the Project which complies with the requirements of Section 9.1.2 hereof as applicable to the Project. The Common Area Manager so engaged shall be responsible for managing the Project 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.

9.2. 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 11, 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.

#### 10. MAINTENANCE, ALTERATION AND IMPROVEMENT AND DUTIES OF ASSOCIATION.

10.1. The Association shall not be responsible for, or obligated to perform those items of maintenance, repair or improvement that are the responsibility of the Owners as provided in Paragraph 10.2 below. However, in the event an Owner fails to maintain his Dwelling, or fails to provide other maintenance or repair as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Project, the Board may notify the Owner of the work required and request it to be done, subject to reasonable constraints caused by inclement weather, within sixty (60) days from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, lien his Unit for

the amount thereof. 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. 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 as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association.

10.2. The responsibility of Owners for the maintenance, repair and improvement of the Unit is as follows:

10.2.1. Each Unit Owner shall, at his sole cost and expense, maintain and repair the entire exterior of the Residence, including, exterior surfaces, landscaping roofs, walls, foundations, snow removal from roofs, hot tubs, driveways, etc., keeping the same in good condition, and shall repair all damage to the Common Areas and Facilities caused by the Owner.

10.3. 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 Board, shall have the right to enter upon 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 Article 11 of this Declaration.

10.4. No labor performed or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Owner of the Unit or the Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Areas and Facilities except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials shall have been furnished. 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.

10.5. 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 10.4 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 10.5, 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 Article 11 below.

#### 11. ASSESSMENT OF UNITS BY THE ASSOCIATION.

11.1. The making and collection of Common Assessments by the Association from Owners of Units for their share of Common Expenses shall subject to the following provisions, and as further addressed in the Bylaws:

11.1.1. Each Owner of constructed Units, commencing at the time he purchases his Unit, for each Unit which it owns, shall be liable for a one eleventh (1/11) proportionate share of the Common Expenses

11.1.2.

11.1.3. 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 a majority of Owners, cast at a meeting of the Association at which a quorum is present in person, by telephone or by proxy. The Association shall provide notice, by first class mail, email or personal delivery 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.

11.1.4. In addition to the Regular Common Assessments, the Association may levy in any calendar year, Special Common 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 Common Assessments from the Owners. The portion of any Special Common 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 Common Assessments shall not apply when the special assessment against an Owner is a remedy utilized by the

Board 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, or to repair or replace any improvements to the Deck Areas or other Limited Common Areas and Facilities appurtenant to a Unit. The Board shall provide notice by first class mail, email or personal delivery to all Owners of any Special Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

11.1.5. All Common Assessments shall be due as determined pursuant to the Bylaws. Common Assessments and any installments thereof not paid on or before thirty (30) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum unless and until a lower rate of interest is set by the Board, from the date when due until paid. Furthermore, Owners who do not pay their Common Assessments when due shall be subject to a reasonable late fee, established by the Board from time to time. All payments of Common Assessments shall be first applied to accrued interest and late fees, costs of collection, and then to the Common Assessment payment first due. 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).

11.1.6. There shall be a lien upon the applicable Unit for all unpaid Common Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to the Declaration and the Act. The lien for unpaid Common Assessments and related charges shall be effective upon recordation in the Office of the Summit County Recorder of a written notice of lien by the Board or the Common Area Manager. The written notice of lien shall set forth the amount of the Common 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 Common Assessment. Such lien may be enforced by sale or foreclosure 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 mechanic's lien which has been established in accordance with the provisions of the Act, as amended from time to time. 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 Common Assessments against the Unit which shall become due during the period of foreclosure, and all such Common Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power in behalf of the Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Unit in the name of the Association. In addition to or as an alternative to foreclosure proceedings, 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 Association and each Owner hereby appoint Coalition Title Company (located at 2200 Park Avenue, Building C-100, Park City, Utah 84060) as trustee for the purpose of exercising the power of sale in connection with any non-judicial foreclosures

as provided in the Act; provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in the Act. 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 Common Assessments. The Association may, through its duly authorized agents, bid on the Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The lien of the Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a First Mortgage on a Unit as provided for in Section 16.5 hereof and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on 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.

11.1.7. 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 Common 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 Board, 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 and is binding on the Association, the Board, the Common Area 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 11.1.7.

11.1.8. The amount of any Common 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.

11.1.9. 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 Common 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.

11.2. RESERVE FUND. The Association 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 and shall also be governed by the Act as amended from time to time. Said amounts shall be dedicated for the uses provided in this Section 11.2. 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 Ten Thousand Dollars (\$10,000) (as measured in year 2016 dollars and thereafter adjusted by the Cost of Living Index) made by the Board 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 13 hereof or to such structural alterations or capital additions or capital improvements to the Common Areas and Facilities as are necessary in the Board's reasonable judgment to preserve or maintain the integrity of the Common Areas and Facilities.

11.3. The Board 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. Nevertheless, the Board 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 one (1) year of the date of the initial transfer; provided, however, the Board 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 Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Common Assessment shall not be subject to the limitations set forth in Section 11.1.4 hereof. At least once every six (6) years the Board shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall, thereafter, at least once every three (3) years review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

11.3.1. Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of thirty (30) years or less.

11.3.2. Identification of the probable remaining useful life the components identified in Section 11.3.1 above, as of the date of the study.

11.3.3. An estimate of the cost of repair, replacement, restoration or



maintenance of each major component identified in Section 11.3.1 above, during and at the end of its useful life.

11.3.4. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain.

11.4. If an Owner shall at any time lease his or her Unit and shall default in the payment of Common and Special Assessments, the Board may, at its option and to the fullest extent permitted by law, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Board shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount so paid. This Section 11.4 shall be incorporated by reference into every lease agreement entered into by and between an Owner and his or her tenant, whether or not this Section 11.4 is expressly referenced therein. Each Owner, through the act of purchasing its Unit irrevocably consents to the Association collecting Common and Special Assessments in this manner.

## 12. INSURANCE.

12.1. The Association shall at all times maintain in force insurance meeting the requirements of Utah Statute 57-8-43 as it may be amended from time to time, and with these specific requirements:

12.1.1. The insurance shall cover all of the individual Units, whether or not deemed common area or limited common areas or private ownership for 100% of their replacement value by the master insurance policy with no more than a \$10,000 deductible, which deductible is the responsibility of each Unit Owner. The costs associated with obtaining and maintaining insurance coverage on the Common Areas and Facilities; Limited Common Areas and Facilities; fixtures, machinery, building service equipment, personal property and supplies comprising a part of the Common Areas and Facilities maintained for the service of the Project or owned by the Association.

12.1.2. 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, Dwelling exteriors of the Units, 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



Two Million Dollars (\$2,000,000) 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, Dwelling exteriors of the Units, and legal liability arising out of lawsuits related to employment contracts of the Association, 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.

12.1.3. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and 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 Common Area Manager, the Common Area Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Common Area Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of the Association. In addition, the Common Area Manager shall, within a reasonable time period, submit evidence to the Association that he or she has secured such fidelity insurance. The total amount of fidelity bond 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 Common Area Manager, as the case may be, at any given time during the term of each bond.

12.1.4. The name of the insured under each policy required to be maintained by Section 12.1.2 and 12.1.314.1 shall be the Association for the use and benefit of the individual Owners. (Said Owners shall be designated by name if required by law.) Requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association. Loss 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.

12.1.5. Each policy required to be maintained by Section 12.1 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 ten (10) days' prior written notice to the Association and to each

Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

12.1.6. Each policy required to be maintained by Section 12.1 shall provide, if available, 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.

12.1.7. 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.

12.1.8. Each insurance policy maintained pursuant to the foregoing Sections 12.1.1, 12.1.2, and 12.1.3 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a B general policyholder's rating or a financial performance index of 6 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 Board, 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, 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 Board, the Association, or Owner) from collecting insurance proceeds. The provisions of this Article 12 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.

12.1.9. All insurance policies shall be reviewed at least annually by the Board 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.

12.2. Notwithstanding anything in this Article 12 to the contrary, it shall be the responsibility of each Owner, at such Owner's expense, to maintain physical damage insurance on such Owner's personal property and furnishings. 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.

12.3. This Section 12 and all of its subsections are intended to implement Utah Code Annotated §57-8-43 as it currently exists or may hereafter be amended and it authorizes the Management Committee to purchase insurance consistent with said statute. In the event there are inconsistencies between these terms and the statutory terms, the terms of the statute shall supersede.

### 13. DESTRUCTION OR DAMAGE.

13.1. 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 Common Areas of 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.

13.2. Repair and reconstruction of the improvements as used herein means restoring the Common Areas of 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.

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

13.3.1. 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 or Facilities or a Unit subject to such First Mortgage.

13.3.2. 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.

13.3.3. 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.

13.3.4. 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 Common 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 Common Assessment shall be allocated and collected as provided in Section 11.1.4 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.

13.3.5. 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 of no more than 67% 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:

13.3.5.1. The Project Common Areas and Facilities shall be deemed to be owned in common by the Owners;

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

13.3.5.3. 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

13.3.5.4. 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.

13.3.6. 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.

13.4. 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 the Declaration and the original architectural plans and specifications.

13.5. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from Common Assessments made pursuant to Section 11.1.4 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.

13.6. This Article 13 shall not be amended unless Owners entitled to vote at least seven Units (63%) of the Total Votes of the Association consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Association and recorded in accordance with the provisions of this Declaration.

14. TERMINATION.

14.1. Except as otherwise provided in Article 11 and Article 13, the Project may be terminated only by agreement of Owners entitled to vote all of the votes of all Units and as set forth in Utah Code Annotated §57-8-20 as it may be amended from time to time.

14.2. 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.

15. EMINENT DOMAIN.

15.1. 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 Board and each Owner shall be entitled to notice thereof and the Board shall, and the Owners at their respective expense may, participate in the proceedings incident thereto.

15.2. 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 Board 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.

15.3. 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 13 above and shall be deposited with the Board 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 Board as trustee. In the event an Owner refuses to so deposit his or her award with the Board, then at the option of the Board, either a Special Common 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.

15.4. In the event the Project is removed from the provisions of the Act pursuant to Article 14 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.

15.5. 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:

15.5.1. If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenable, the Unit shall be made tenable. 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.

15.5.2. If the taking destroys or so reduces the size of a Unit that it cannot be made tenable, 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 Board. 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.

15.6. 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 15 shall be evidenced by an amendment to this Declaration and the Plat, which need not be approved by the Owners.

## 16. MORTGAGEE PROTECTION.

16.1. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage, which written request shall identify the name and address of such First Mortgagee, insurer or governmental guarantor and Unit Number, any such First Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

16.1.1. 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;

16.1.2. Any delinquency in the payment of Common 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;

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

16.1.4. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 16.2 below or elsewhere



herein; and

16.1.5. Any judgment rendered against the Association.

16.2. Except as provided elsewhere in this Declaration, or except as provided by the Act, the vote or prior written consent of Owners entitled to vote of no more than 7 of the 11 Unit Owners Total Votes of the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding First Mortgages on Units having at least fifty-one percent (51%) of the votes of the Units subject to First Mortgages held by Eligible Mortgagees shall be required to:

16.2.1. Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs.

16.2.2. Amend any material provision of the Declaration, Articles, Bylaws or Plat. "Material provisions" include any provision affecting the following (an amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors, to comply with applicable law, or for clarification only):

16.2.2.1. Voting rights;

16.2.2.2. Changes in the method of calculating the Common Assessments, obligations, maintenance fees, or other charges which may be levied against an Owner;

16.2.2.3. Reductions in reserves for maintenance, repair, and replacement of Common Areas and Facilities;

16.2.2.4. Responsibility for maintenance and repairs;

16.2.2.5. Reallocation of interests in the Common Areas and Facilities, except where otherwise specifically permitted by this Declaration, or rights to their use;

16.2.2.6. Convertibility of Units into Common Areas and Facilities or vice versa, except as otherwise permitted by this Declaration;

16.2.2.7. Substantial reduction in hazard or fidelity insurance requirements;

16.2.2.8. Imposition of any restrictions on the leasing of Units;

16.2.2.9. Imposition of any restrictions on Owner's right to sell or transfer his or her Unit;



16.2.2.10. Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the Declaration; or

16.2.2.11. The benefits of Eligible Mortgagees.

Any Mortgagee, insurer or governmental guarantor who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

16.3. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Units in the Project. Generally, these documents shall be available during normal business hours.

16.4. 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 the delinquent assessment was due, 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, Common 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.

16.5. In the event any taxes or other charges which may or have become a lien on the Common Areas and Facilities are not timely paid, or in the event the required hazard insurance described in Section 12.1.1 lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

16.6. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas and Facilities.

17. AMENDMENT.

17.1. Except as provided elsewhere in this Declaration, any amendment to this Declaration or the Plat shall require the affirmative vote of no more than 7 of the 11 Unit Owners 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. Any amendment authorized pursuant to this Section 17.1 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 trustee of the Association shall certify that the vote required by this Section 17.1 for amendment has occurred.

17.2. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by the Association without a vote of the Owners for: (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; or (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.

17.3. The Association may also make the following amendments without a vote of the Owners: the right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA, and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of 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 the Association of an Amendment duly signed by the Board, specifying the nature of the qualifying reason for such amendment pursuant to this Section 17.3. 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.

17.4. Notwithstanding anything contained in this Amended Declaration to the contrary, because the initial plat was recorded prior to the construction of the Units, the Association reserves the right to unilaterally amend the Plat at any time, and from time to time, if such amendment is necessary to make technical corrections, to satisfy the requirements of Park City or any other governmental authority, to correct mistakes, remove/clarify ambiguities or to accurately reflect the "as-built" Units on the Plat.

## 18. VOTING.

18.1. At any meeting of the Association, each Owner of a Unit, either in person or by proxy, shall be entitled to vote the number of votes appurtenant to each respective Unit. Voting rights shall be as set forth in Exhibit B hereto and in the Bylaws. An Owner may attend any meeting in person, be telephone or by proxy and may vote verbally or by email.

19. EASEMENTS.

19.1. 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. Improvements, including Units, Common Areas and Facilities and Limited Common Areas and Facilities, constructed as subsequent phases of the Project may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and the activities necessary to repair, maintain and operate such improvements is hereby granted.

19.3. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to the Unit he or she is occupying and to any Limited Common Areas and Facilities appurtenant to his or her Unit, and shall have the right to the horizontal, vertical and lateral support of his or her Unit.

19.4. 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 in the Common Areas and Facilities for use by the Owners and the Association.

19.5. Each Unit Owner 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 future phases of the Project including all future buildings and other physical improvements as well as all Units and Common Areas and Facilities. The Owners of Units which have been constructed in prior phases do hereby acknowledge and agree that there will be construction activities, traffic, noises, 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. The Association's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the restrictions set forth in Article 7 hereof.

19.6. Any Owner, for itself and its successors and assigns, including Owners, retains a right and easement in and about the Common Areas 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, matter shall be submitted to binding arbitration between or among the disputing parties.

19.7. All conveyances of Units within the Project hereafter made, 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. The Association and Owner has a non-exclusive easement for itself and its assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities within the Project; and, the further right of access to such facilities over, across, and through all other Common Areas and Facilities of the Project in order to access the telecommunications facilities to exercise the rights established herein.

19.9. 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, and cable 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 and the Association; 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, an Owner or the Board 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 19.9 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

19.10. 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.

## 20. NOTICES.

Any notice permitted or required to be delivered as provided herein may be delivered either personally, by email (delivery receipt confirmed), by first class mail, by express mail or overnight courier service providing proof of delivery, or by facsimile transmission. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Board for the purpose of service of such notice or to the Unit of such Owner if no such address has been

given to the Board. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid. Such address may be changed from time to time by notice in writing to the Board addressed to:

Board  
Silver Pointe Owners' Association, Inc.  
CJD Tesch Law Offices PC  
PO Box 3390  
Park City, UT 84060

With a Copy To:  
Joseph E. Tesch  
TESCH LAW OFFICES, P.C.  
314 Main Street, Suite 200  
P.O. Box 3390  
Park City, UT 84060-3390

The above addresses for the Board and the attorney may be changed at any time at the direction of the Board.

## 21. NO WAIVER.

The failure of the Board 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 Board 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 Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

## 22. ENFORCEMENT.

22.1. All Owners, guests or lessees of an Owner, and persons under Owner's control, shall strictly comply with the provisions of the Declaration, the Bylaws, and the rules and regulations 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 except in those instances when binding arbitration is required. 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 Board, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; and/or (ii) the Board to impose monetary penalties, temporary suspensions of an Owner's right to the use of a Unit or the Common Areas and Facilities, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Board shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Board. The Board may delegate to the Common Area Manager, the power and authority to carry out disciplinary actions duly imposed.

22.2. 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 rules and regulations for the Project except pursuant to:

22.2.1. The judgment of a court; or as permitted by the Act.

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

22.3. 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.

22.4. The Association is hereby empowered to levy reasonable fines and assessments against Owners for damage to any Common Areas and Facilities and/or Limited Common Areas and Facilities caused by any act or omission of such Owner or such Owner's guests, occupants, invitees or licensees. Such finds and assessments shall be in accordance with the requirements of Section 57-8-37 of the Act.

## 23. DISPUTE RESOLUTION

23.1. The Association, acting through the Board, shall have the power and the duty to reasonably defend the Association (and, in connection therewith, to raise counterclaims) in any pending or potential lawsuit, arbitration, mediation or governmental proceeding (collectively hereinafter referred to as a "Proceeding"). The Association, acting through the Board, shall have the power, but not the duty, to reasonably institute, prosecute, maintain and/or intervene in a Proceeding, in its own name, but only on matters affecting or pertaining to this Declaration or the Common Areas and Facilities as to which the Association is a proper party in interest, and any exercise of such power shall be subject to full compliance with the following provisions:

23.1.1. Any Proceeding commenced by the Association: (a) to enforce the payment of a Common Assessment or a Common Assessment lien or other lien against an Owner as provided for in this Declaration, or (b) to otherwise enforce compliance with the governing documents by, or to obtain other relief from, any Owner who has violated any provision thereof, or (c) to protect against any matter which imminently and

substantially threatens all of the health, safety and welfare of the Owners, or (d) against a supplier, vendor, contractor or provider of services, pursuant to a contract or purchase order with the Association and in the ordinary course or business, of (e) for money damages wherein the total amount in controversy for all matters arising in connection with the action is not likely to exceed Twenty-Five Thousand Dollars (\$25,000.00) in the aggregate; shall be referred to herein as an "Operational Proceeding." The Board from time to time may cause an Operational Proceeding to be reasonably commenced and prosecuted, without the need for further authorization.

23.1.2. Any and all pending or potential Proceedings other than Operational Proceedings shall be referred to herein as a "Non-Operational Controversy" or "Non-Operational Controversies." To protect the Association and the Owners from being subjected to potentially costly or prolonged Non-Operational Controversies without full disclosure, analysis and consent; to protect the Board and individual Directors from any charges of negligence, breach of fiduciary duty, conflict of interest or acting in excess of their authority or in a manner not in the best interests of the Association and the Owners; and to ensure voluntary and well-informed consent and clear and express authorization by the Owners, strict compliance with all of the following provisions of this Article 23 shall be mandatory with regard to any and all Non-Operational Controversies commenced, instituted or maintained by the Board:

23.1.2.1. The Board shall first endeavor to resolve any Non-Operational Controversy by good faith negotiations with the adverse party or parties. In the event that such good faith negotiations fail to reasonably resolve the Non-Operational Controversy, the Board shall then endeavor in good faith to resolve such Non-Operational Controversy by mediation, provided that the Board shall not incur liability for or spend more than Five Thousand Dollars (\$5,000.00) in connection therewith (provided that, if more than said sum is reasonably required in connection with such mediation, then the Board shall be required first to reasonably seek approval of a majority of the voting power of the members for such additional amount for mediation before proceeding to arbitration or litigation). In the event that the adverse party or parties refuse mediation, or if such good faith mediation still fails to reasonably resolve the Non-Operational Controversy, the Board shall not be authorized to commence, institute or maintain any arbitration or litigation of such Non-Operational Controversy until the Board has fully complied with the following procedures:

(a) In the event of any bona fide settlement offer from the adverse party or parties in the Non-Operational Controversy, if the Association's attorney advises the Board that acceptance of the settlement offer would be reasonable under the circumstances, or would be in the best interests of the Association, or that said attorney no longer believes that the Association is assured of a substantial likelihood of prevailing on the merits without prospect of material liability on any counterclaim, then the Board shall have the authority to accept such settlement offer. In all other cases, the Board shall submit any settlement offer to the Owners, who shall have the right to accept any such settlement offer



upon a majority vote of all of the members of the Association.

23.1.3. In no event shall any reserve fund be used as the source of funds to institute, prosecute, maintain and/or intervene in any Proceeding (including, but not limited to, any Non-Operational Controversy). Reserve funds are to be used only pursuant to Section 11.3.

24. AGENT FOR SERVICE OF PROCESS.

The initial agent for service of process under the Act for the Association shall be Joseph E. Tesch, Esq., whose address is 314 Main Street, Suite 200, P.O. Box 3390, Park City, UT 84060-3390.

25. 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.

26. CONFLICT.

In case of any conflict between this Declaration and 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.

27. CAPTIONS.

The captions 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.

28. LAW CONTROLLING.

This Amended Declaration and the Amended Plat and all issues and disputes arising out of either, shall be construed and controlled by and under the laws of the State of Utah.

29. EFFECTIVE DATE.

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

[Remainder of left intentionally blank]



IN WITNESS WHEREOF, the undersigned has executed this instrument this 14 day of February, 2016.

Silver Pointe Owners' Association, Inc.

Ed Campo

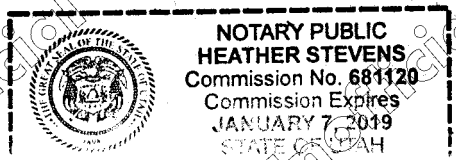
By: \_\_\_\_\_  
Its: President

State of VT )  
                                      ) : ss.  
County of Summit )

The foregoing instrument was acknowledged before me this 14 day of February, 2016, by Ed Campo as the President of Silver Pointe Owners' Association, Inc.

Heather Stevens  
NOTARY PUBLIC

My Commission Expires: 1/7/19  
Residing at: Park City, VT



**EXHIBIT A**  
The Silver Pointe Condominium Plat  
recorded September 20, 1999

Unofficial Copy

OWNER'S DECLARATION

ACKNOWLEDGEMENT

BOUNDARY DESCRIPTION

PARCEL 1

PARCEL 2

UNIT DEVELOPMENT STANDARDS

GENERAL NOTES

PLANNING COMMISSION ENGINEERS CERTIFICATE

APPROVAL AS TO FORM

CERTIFICATE OF ATTEST

RECORDED

OWNER'S DECLARATION

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PARCEL 2

UNIT DEVELOPMENT STANDARDS

GENERAL NOTES

PLANNING COMMISSION ENGINEERS CERTIFICATE

APPROVAL AS TO FORM

CERTIFICATE OF ATTEST

RECORDED



UNIT DEVELOPMENT STANDARDS table with columns: UNIT #, MAXIMUM HEIGHT (FEET), MAXIMUM AREA (SQ. FT.), MAXIMUM NUMBER OF UNITS PER ACRE, and DESIGN CRITERIA.

GENERAL NOTES: 1. A Declaration of Condominium is recorded concurrently herewith... 2. All buildings constructed in the Silver Pointe Condominiums must... 3. The setbacks, lot coverages, orientations, setbacks, and driveway location... 4. All common and limited common areas are delineated as a... 5. The plat shows the location of the proposed utility lines... 6. The plat shows the location of the proposed utility lines... 7. All units are required to include... 8. No unit sides or building depths may occur... 9. Lots 600-1 and 600-2 are hereby dedicated to Park City Municipal Corporation.

PLANNING COMMISSION ENGINEERS CERTIFICATE: I, ENGINEER, do hereby certify that the plat is in accordance with the provisions of the Utah Condominium Act... APPROVAL AS TO FORM: I, PARK CITY ENGINEER, do hereby certify that the plat is in accordance with the provisions of the Utah Condominium Act... CERTIFICATE OF ATTEST: I, PARK CITY ENGINEER, do hereby certify that the plat is in accordance with the provisions of the Utah Condominium Act... RECORDED: I, PARK CITY ENGINEER, do hereby certify that the plat is in accordance with the provisions of the Utah Condominium Act.

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**TAX PARCEL NUMBERS:**

<b>Unit Number</b>	<b>Tax Parcel Number</b>
1	SLVRPT-1
2	SLVRPT-2
3	SLVRPT-3
4	SLVRPT-4
5	SLVRPT-5
6	SLVRPT-6
7	SLVRPT-7
8	SLVRPT-8
9	SLVRPT-9
10	SLVRPT-10
11	SLVRPT-11
	SLVRPT-ROS-1-X
	SLVRPT-ROS-2-X

**EXHIBIT B**

**BYLAWS OF THE ASSOCIATION**

**BYLAWS  
OF  
SILVER POINT OWNERS' ASSOCIATION, INC.  
A UTAH NONPROFIT CORPORATION**

Pursuant to the provisions of Sections 57-8-15 and 57-8-16 of the Utah Code, the following Bylaws are hereby adopted in connection with the Declaration of Condominium of Silver Pointe Condominiums, a Utah Condominium project.

**ARTICLE I  
PRINCIPAL OFFICE OF UNIT OWNERS' ASSOCIATION**

The initial principal office of Silver Pointe Owners' Association, Inc., a Utah nonprofit corporation, shall be at 314 Main Street, Suite 200, PO Box 3390, Park City, Utah 84060.

**ARTICLE II  
DEFINITIONS**

Except as otherwise provided herein or as may be required by the context, all terms defined in Section 2 of the Declaration of Condominium for Silver Pointe Condominiums, a Utah condominium project (the "Declaration"), shall have such defined meanings when used in these Bylaws.

**ARTICLE III  
MEETINGS OF UNIT OWNERS' ASSOCIATION**

3.01 Annual Meeting. The annual meeting of Unit Owners who form the Association shall be held annually on a date, time and place to be determined to be held during the month of September or at such other time at the direction of the Board of Trustees, for the purpose of electing the Management Committee also known as the Board of Trustees and transacting such other business as may come before the Association. If the election of the Board of Trustees is not held on the date designated herein for the annual meeting of the Unit Owners, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date, time and place for the annual meeting of the Members

3.02 Special Meetings. Special meetings of the Unit Owners may be called by the Board of Trustees, the President of the Association (the "President"), or upon the written request of Members holding not less than twenty-five percent (25%) of the undivided interests in the Common Areas and Facilities according to the Declaration as it may be from time to time amended. Such written request shall be delivered to the Board of Trustees or the President.

3.03 Place of Meetings. Meetings of the Unit Owners shall be held at any Member Unit or the principal office of the Association or at such other suitable place in Summit County, State of Utah, as may be designated by the Board of Trustees and stated in the notice of the meeting. Attendance at any meeting may be in person, by written proxy or by telephonic means.

3.04 Notice of Meetings. The Board of Trustees shall cause written or printed notice of the time, place and purposes of all meetings of the Unit Owners (whether annual or special) to be delivered personally, by email or mail, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each Unit Owner of record entitled to vote at such meeting. If requested to be mailed, such notice shall be deemed delivered when deposited in the U.S. mail addressed to the Unit Owner at his requested address provided to the Board of Trustees, with first class postage thereon prepaid. Each Unit Owner shall provide the Board of Trustees such Unit Owner's current email address or mailing address for purposes of notice hereunder. Such address may be changed from time to time by notice in writing to the Board of Trustees.

3.05 Unit Owners of Record. Upon purchasing a Condominium in the Project, each Unit Owner shall promptly furnish to the Board of Trustees notice of its purchase and an email and/or other address for delivery of notices, etc. For the purpose of determining Unit Owners entitled to notice of or to vote at any meeting of the Unit Owners, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting, for determining Unit Owners entitled to notice of or to vote at any meeting of the Unit Owners. If no record date is designated, the date on which notice of the meeting is delivered shall be deemed to be the record date for determining Unit Owners entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the Owners of record of Condominiums in the Project shall be deemed to be the Unit Owners of record entitled to notice of and to vote at the meeting of the Unit Owners.

3.06 Quorum. At any meeting of the Unit Owners, the presence in person, by written proxy or by telephone means of Unit Owners holding, and holders of proxies entitled to cast, more than fifty-one percent (51%) of the total votes of the Association shall constitute a quorum for the transaction of business. In the event a quorum is not present at a meeting, the Unit Owners present (whether represented in person or by proxy), though less than a quorum, may adjourn the meeting to a date no later than thirty (30) days from the date of the originally scheduled meeting. Notice thereof shall be delivered to the Unit Owners prior to adjourning the original meeting by oral notification. At the reconvened meeting, the Unit Owners and proxy holders present shall constitute a quorum for the transaction of business.

3.07 Proxies. At each meeting of the Unit Owners, each Unit Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Unit Owner himself or by his attorney thereunto duly authorized in writing. A proxy shall meet the requirements Utah Code Annotated §16-6a-712 and shall be valid for eleven (11) months. If a Condominium Unit is jointly owned, the instrument authorizing a proxy to act must have been executed by all owners of such Condominium Unit or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

3.08 Votes. With respect to each matter submitted to a vote of the Unit Owners, each Unit Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, telephonic or by email the number of votes assigned to his Unit in the Declaration. The affirmative vote of a

majority of the votes entitled to be cast by the Unit Owners present in person, by proxy or by telephonic means or email at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Unit Owners, unless a greater proportion is required by the Declaration, these Bylaws, the Articles, or Utah law. The election of the Board of Trustees shall be by ballot and cumulative voting shall not be permitted. If a Condominium Unit is jointly owned, all or any owners thereof may attend each meeting of the Unit Holders. Where a Condominium Unit is jointly held by two individuals, such holders must act unanimously to cast the votes relating to such Condominium Unit. Where three or more individuals jointly own the Condominium Unit, such holders shall cast the votes relating to such Condominium Unit unanimously or as the said holders shall agree among themselves.

3.09 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, and method of ascertaining Unit Owners present shall be deemed waived if no objection thereto is made at the meeting and prior to any vote taken.

3.10 Informal Action by Unit Owners. Any action that is required or permitted to be taken at a meeting of the Unit Owners may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed or approved by email by seven (7) of the Unit Owners entitled to vote with respect to the subject matter thereof.

#### ARTICLE IV BOARD OF TRUSTEES

4.01 General Powers. The property, affairs and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association whether derived by law or from the Articles, except such powers as are by law, by the Articles, by these Bylaws, or by the Declaration vested solely in the Unit Owners. The Board of Trustees may by written contract delegate, in whole or in part, to a professional management organization or person such of its duties, responsibilities, functions, and powers as are properly delegable. In addition to other limitations on its powers as they may be set out by law, the Articles, these Bylaws or the Declaration, the Board of Trustees is specifically denied the power to delegate to a manager or management company the power to enter into any contract involving more than Five Thousand Dollars (\$5,000). The Board of Trustees is also denied the power to settle litigation resulting in a liability against the Board of Trustees, the Association or the Project in excess of Twenty-Five Thousand Dollars (\$25,000) without prior approval of a majority of Unit Owners.

4.02 Number, Tenure and Qualifications. The number of Board of Trustees members shall be three (3). The current Unit Owner approved Board of Trustees shall serve until a new election occurs. At the annual meeting of the Unit Owners, three (3) Board of Trustees members shall be elected or appointed to replace all of those then serving, and to serve for the following respecting terms: two (2) Board of Trustees members to serve for a term of two (2) years each, and one (1) Board of Trustees member to serve for a term of one (1) year. All members of the Board of Trustees shall be Unit Owners of record.

4.03 Regular Meetings. The regular annual meeting of the Board of Trustees shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting



of the Unit Owners. At this meeting, the Officers of this corporation shall be elected and other matters, such as appointing committee members, Board of Trustees may be decided. The Board of Trustees may hold additional regular meetings by mutual consent of the Three Board members. These meetings may be in person or telephonic means including email and may be held at any convenient location.

**4.04 Special Meetings.** Special meetings of the Board of Trustees may be called by or at the request of any member of the Board of Trustees. The person or persons authorized to call special meetings of the Board of Trustees may fix any place within Summit County, State of Utah, or such other place as a majority of the Board of Trustees shall designate, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Any Board of Trustees Member may attend by telephone means. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, emailed, or mailed to each Board of Trustees member at his designated address. If mailed, such notice shall be deemed to be delivered when deposited in the U S mail so addressed, with first class postage thereon prepaid. If notice is given by email, such notice shall be deemed to have been delivered when receipt. Any member of the Board of Trustees may waive notice of a meeting.

**4.05 Quorum and Manner of Acting.** A majority of the members of the Board of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the members of the Board of Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The committee members shall act only as a Committee, and individual committee members shall have no powers as such.

**4.06 Compensation.** No Board of Trustees member shall receive compensation for any services that he may render to the Association as a committee member; provided, however, that a member of the committee may be reimbursed for expenses (other than travel expenses) incurred in performance of his duties as a committee member to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a Board of Trustees member.

**4.07 Resignation and Removal.** A Board of Trustees member may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board of Trustees member, may be removed at any time, for or without cause, by the affirmative vote of fifty-one percent (51%) of the total votes of the Association at a special meeting of the Unit Owners duly called for such purpose.

**4.08 Vacancies and Newly Created Committee Positions.** If vacancies shall occur in the Board of Trustees by reason of the death, resignation or disqualification of a committee member, the members then in office shall continue to act, and such vacancies shall be filled by a vote of the committee members then in office, though less than a quorum, in any way approved by such committee members at the meeting. Any vacancy in the Board of Trustees occurring by reason of removal of a committee member by the Unit Owners may be filled by election at the meeting at which such person is removed. If the authorized number of committee members shall be increased, such newly created positions shall be filled by election of the Unit Owners at a special meeting or annual meeting of the Unit Owners. Any committee member elected or appointed hereunder to fill

a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created committee position, as the case may be.

4.09 Informal Action by the Board of Trustees. Any action that is required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the committee members which may be delivered personally, by email and my mail.

## ARTICLE V OFFICERS

5.01 Officers. The officers of the Association shall be a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be appointed by the Board of Trustees. The offices of the Secretary and Treasurer may be combined under one Trustee.

5.02 Election, Tenure and Qualifications. The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees. In the event of failure to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officers (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board of Trustees and until his successor shall have been chosen and qualified, or until his death, or his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, Secretary and Treasurer shall be and remain Board of Trustees members of the Association during the entire term of their respective offices. No other officer need be a committee member.

5.03 Subordinate Officers. The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time determine. The Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Unit Owners or Board of Trustees members.

5.04 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

5.05 Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other reason, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

5.06 The President. The President shall preside at meetings of the Board of Trustees and at meetings of the Unit Owners. He shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board of Trustees may require of him.

5.07 The Vice President. The Vice President shall act in the place and stead of the President in the event of the President's absence or inability to act, and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

5.08 The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board of Trustees may require him to keep. The Secretary shall also act in the place and stead of the President in the event of the absence of both President and Vice President or their inability to act. He shall perform such other duties as the Board of Trustees may require of him.

5.09 The Treasurer. The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Unit Owners and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

5.10 Compensation. No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

## ARTICLE VI SUBORDINATE COMMITTEES

6.01 Designation of Committees. The Board of Trustees may from time to time by resolution designate such subordinate committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall include at least one (1) Board of Trustees member. No subordinate committee member shall receive compensation for services that he may render to the Association as a committee member; provided; however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

6.02 Proceedings of Committees. Each subordinate committee designated hereunder by the Board of Trustees may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees

6.03 Quorum and Manner of Acting. At each meeting of any subordinate committee designated hereunder by the Board of Trustees, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

6.04 Resignation and Removal. Any member of any subordinate committee designated hereunder by the Board of Trustees may resign at any time by delivering a written resignation to the President, the Board of Trustees, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.05 Vacancies. If any vacancy shall occur in any subordinate committee designated by the Board of Trustees hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

## ARTICLE VII INDEMNIFICATIONS

7.01 Indemnification for Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that such person is or was a Board of Trustees member or officer of the Association, or a subordinate committee member, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, so long as it is not the result of his willful misconduct or bad faith. The termination of any act, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption of such willful misconduct or bad faith.

7.02 Indemnification for Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that such person is or was a Board of Trustees member or officer or subordinate committee member of the Association, or is or was serving at the request of the Association as a director, trustee or officer of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit so long as it is not the result of his willful misconduct or bad faith.

7.03 Determinations. To the extent that a person has been successful on the merits or

otherwise in defense of any act, suit, or proceeding referred to in Section 7.01 or 7.02 hereof, or in defense of any claim, issue, or matter therein, such person shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 7.01 or 7.02 hereof shall be made by the Association only upon a determination that indemnification of such person is proper in the circumstances because the person has met the applicable standard of conduct set forth respectively in Sections 7.01 or 7.02 hereof. Such determination shall be made either (i) by the Board of Trustees by a majority vote of disinterested Board of Trustees members or (ii) by independent legal counsel in a written opinion, or (iii) by the Unit Owners by the affirmative vote of at least fifty percent (50%) of the total votes of the Association present at any meeting duly called for such purpose.

7.04 Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article or otherwise.

7.05 Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, Declaration, agreements, vote of disinterested Unit Owners or Board of Trustees members, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Board of Trustees members, officers, subordinate committee members, employees, and agents of the Association and shall continue as to such persons who cease to be Board of Trustees members, officers, subordinate committee members, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

7.06 Insurance. The Association shall purchase and maintain such insurance on behalf of any person who was or is a Board of Trustees member, officer, employee, or agent of the Association, or who was or is serving at the request of the Association as a committee member, director, officer, employee, or agent of another corporation.

7.07 Payments and Premiums. All indemnification payments made and all insurance premiums for insurance maintained pursuant to this Article shall constitute common expenses of the Association and the Unit Owners shall be liable for assessment therefor in proportion to their respective percentages of undivided interest in the Common Areas and Facilities

#### ARTICLE VIII FISCAL YEAR AND SEAL

8.01 Fiscal Year. The fiscal year of the Association shall begin on the first day of January each year and end on the 31st day of December next following, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE IX  
ASSESSMENTS

9.01 Annual Assessments. After October 1 but before December 31 of each fiscal year, the Board of Trustees shall meet to estimate and project, based on the best information available to them at the time, the total common expenses for the Project to be incurred during the following fiscal year. To this projected amount may be added ten percent (10%) to be held in a reserve account to be used in the event that the projected amount proves to be inadequate. The total projected common expenses and the reserve amount, if any, shall be allocated among the Unit Owners by assessment against such Unit Owners and against such Units in proportion to the undivided ownership of the Common Areas and Facilities as indicated in Appendix A to the Declaration, as it may be from time to time amended, that such Unit corresponds with the respective ownership interests of all such Condominium Units. The amount allocated to each Unit Owner under this section shall constitute the annual assessment of common expenses for his Condominium Unit, and when received by the Association, shall be placed in a common expense account or in the reserve account, as appropriate.

9.02 Special Assessments. When from time to time it appears that the common expense account and the reserve account will not together be sufficient to pay the common expenses of the Project for the remainder of any current fiscal year, the Board of Trustees shall estimate and project the shortfall and shall assess each Unit Owner for his proportionate share thereof according to the same formula used for computing his annual assessment.

9.03 Notice of Assessment. No later than the first business day following November 30 of each fiscal year, in the case of annual assessments or as soon as practicable in the case of special assessments, the Board of Trustees shall cause to be delivered by email or mailed in the United States mails, first class, postage prepaid, a notice of assessment for each Condominium Unit to the Unit Owner of record, according to the records of the Association, of that Condominium Unit stating the amount of the assessment and the due dates for the next ensuing fiscal year for each portion thereof. Notices of assessment shall be sent to the last known address of each Unit Owner according to the records of the Association.

9.04 Due Dates. Until changed by the Board of Trustees, each annual assessment shall be due thirty (30) days after delivery of the assessment notice or by equal semi-annual payments, the second payment due one hundred and eighty (180) days after the original assessment notice. Each special assessment shall be due no later than thirty (30) days following the delivery thereof. All assessments shall be deemed timely received by the Association if postmarked on or before the due date thereof or by personal delivery or by email.

9.05 Late Fees; Liens. A late fee of the greater of the Fifteen Dollars (\$15.00) or five percent (5%) of the amount due, plus interest at the rate of twelve percent (12%) per annum or higher as prescribed by the Board of Trustees from the date due until paid in full, shall be required from any Unit Owner who has not paid an assessment when due.

ARTICLE X  
RULES AND REGULATIONS

The Board of Trustees may from time to time adopt, amend, repeal, and enforce

reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Unit Owners shall be provided with copies of all rules and regulations adopted by the Board of Trustees, and with copies of all amendments and revisions thereof.

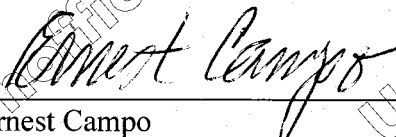
ARTICLE XI  
INSPECTION OF BOOKS AND RECORDS

Every Unit Owner and Mortgagee of record with the Association, and their authorized officers or agents, shall have the right, upon written request, to inspect the books and records of the Association at the Association's principal office during normal business hours.


ARTICLE XII  
AMENDMENTS

Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration, or by these Bylaws, these Bylaws may be amended, altered, or repealed, and new Bylaws may be made and adopted by the Unit Owners upon the affirmative vote of at least seven (7) out of eleven (11) of the total votes of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed, or new bylaw, (ii) the number of votes cast in favor of such action, and (iii) the total votes of the Association, shall have been executed and verified by the current President of the Association and recorded in the office of the County Recorder of Summit County, State of Utah.

IN WITNESS WHEREOF, the undersigned, constituting all of the members of the Board of Trustees of Silver Pointe Owners' Association, have executed these Bylaws on the 14th day of February, 2017.

  
Ernest Campo

  
Mitchell Bryars

  
Angelo Intile

**EXHIBIT C**

**Schedule of Units, Votes,  
Undivided Interests in Common Areas and Facilities,  
and Percent of Assessments**

Unit Identifying Number	No. of Votes Per Unit	Undivided Interest in the Common Areas and Facilities	Percent of Assessments
1	1	.09	.09
2	1	.09	.09
3	1	.09	.09
4	1	.09	.09
5	1	.09	.09
6	1	.09	.09
7	1	.09	.09
8	1	.09	.09
9	1	.09	.09
10	1	.09	.09
11	1	.09	.09



**EXHIBIT D**

**EXISTING CONDITIONS SURVEY**

Unofficial Copy

**NOTES**

1. Site Benchmark: Surveying bench mark, Elevation=7176.02'
2. The architect is responsible for verifying building setbacks, zoning requirements and building heights.
3. This topographic map is based on a TBM survey completed on June 27, 2016.
4. The northeast property corner of Unit 10 and the northwest property corner of Unit 11 was found.

LINE	BEARING	DISTANCE
L1	S 89°22'00" W	0.97'

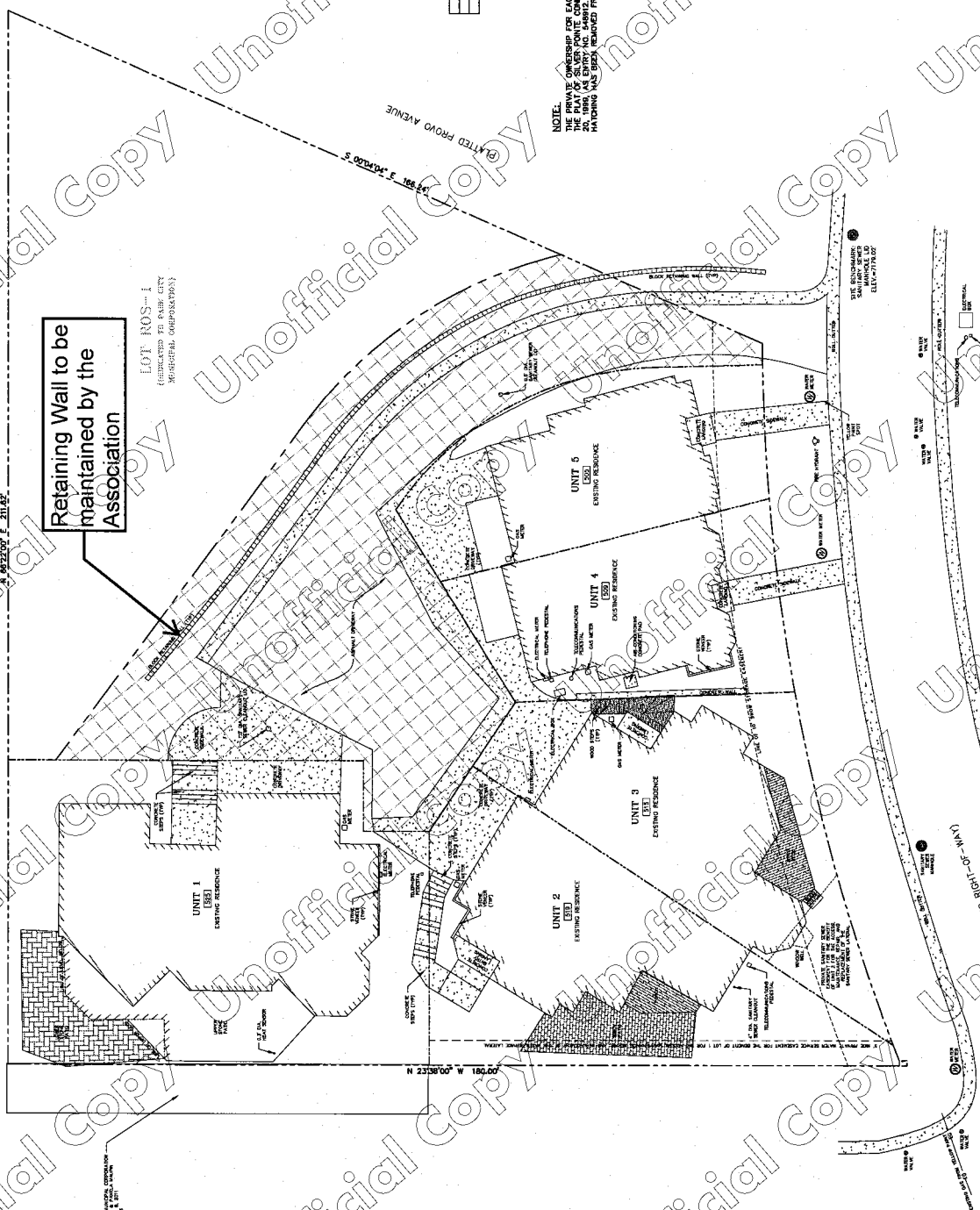
**NOTE:**  
 THE PROPERTY OF THIS UNIT IS SHOWN AS SHOWN ON THE PLAT OF SILVER POINTE CONDOMINIUMS RECORDED SEPTEMBER 20, 1999 AS ENTRY NO. 999912. THE PRIVATE OWNERSHIP HATCHING HAS BEEN REMOVED FROM THIS EXISTING FOR CLARITY.



**Retaining Wall to be maintained by the Association**

**LOT 105-1**  
 (ASSOCIATION FOR BLAIR CITY  
 361-567-5818 / 448-231-7903)

N 92°22'00" E 211.42'



**STAFF:**  
 MASSIMO ARNO  
 JESSE ARNONE

**DATE:** 8/19/16

**EXISTING CONDITIONS**  
 SILVER POINTE CONDOMINIUMS  
 FOR: SILVER POINTE 10A  
 JOB NO. 15-4-16  
 FILE: C:\Users\Arno\Desktop\160416.dwg

**Mapco**  
 (415) 442-1447  
 323 East Street, Suite 204, San Jose, CA 95131

**LEGEND**

- UNIT 1-5 LIMITED COMMON OWNERSHIP
- ADDRESS ON ROSSE HILL DRIVE
- LOT LINES
- RIGHT-OF-WAY LINE

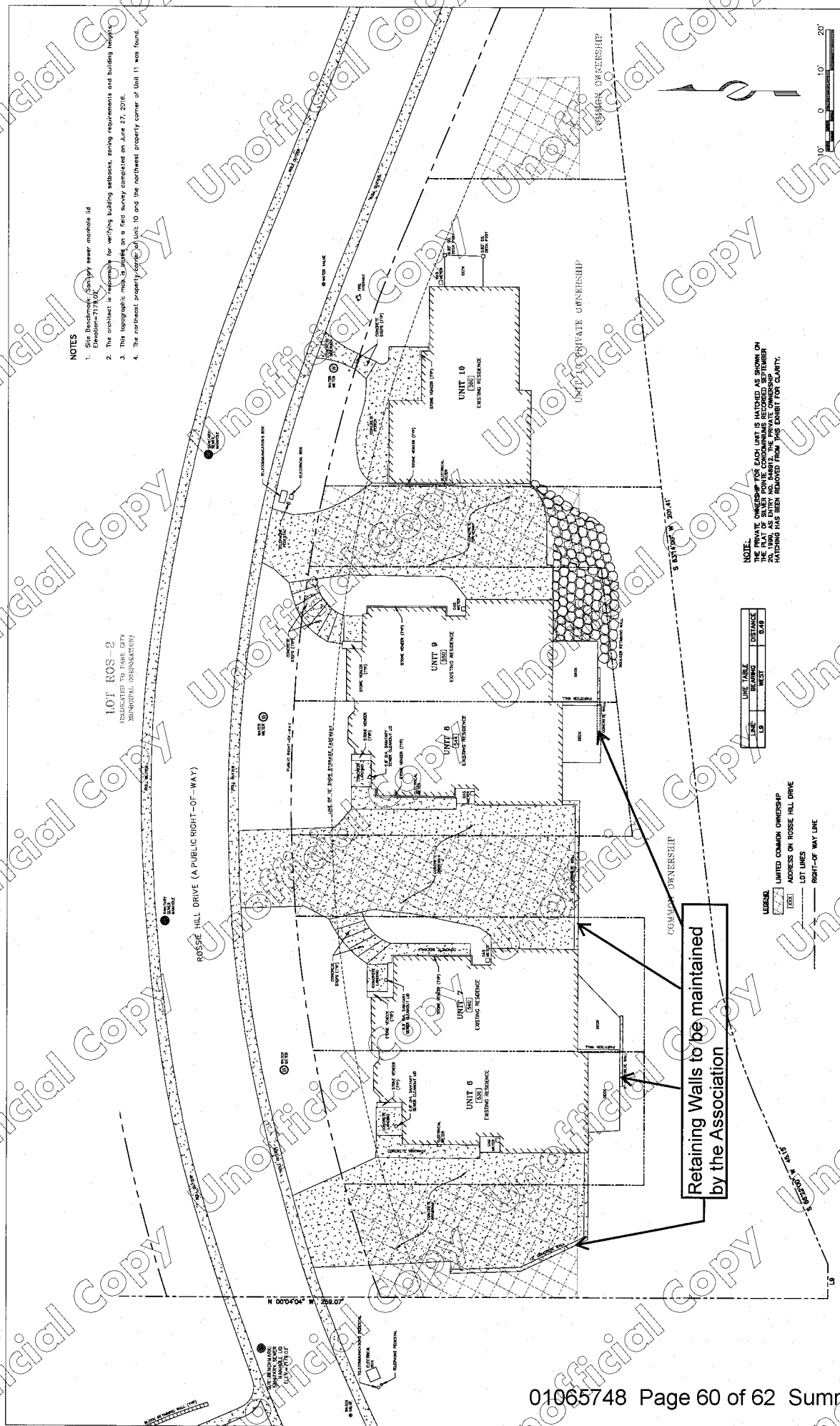
**EXHIBIT E**

**EXISTING CONDITIONS SURVEY**

Unofficial Copy

- NOTES**
1. Site Benchmark: Surveyed sewer, multiple id Elevations=7173.02
  2. The architect is responsible for verifying building setbacks, zoning requirements and building height.
  3. This topographic map is based on a field survey completed on June 27, 2016.
  4. The northeast property corner of Unit 10 was found.

**LOT ROS-2**  
 INDICATED TO PARK CITY  
 MUNICIPAL ORDINANCE(S)



**NOTE:**  
 PRIVATE OWNERSHIP FOR EACH UNIT IS HATCHED AS SHOWN ON THE SUBDIVISION MAP. THE PRIVATE OWNERSHIP FOR EACH UNIT IS IDENTIFIED BY THE UNIT NUMBER AND ENTRY NO. AS SHOWN ON THE SUBDIVISION MAP. HATCHING HAS BEEN REMOVED FROM THIS EXHIBIT FOR CLARITY.

LINE	TABLE	BEARING	DISTANCE
1-2	1.0	S 89° 15' 00" W	15.00
2-3	1.0	S 89° 15' 00" W	15.00
3-4	1.0	S 89° 15' 00" W	15.00
4-5	1.0	S 89° 15' 00" W	15.00

- LEGEND**
- UNITED COMMON OWNERSHIP
  - ADDRESS ON ROSSE HILL DRIVE
  - LOT LINES
  - RIGHT-OF-WAY LINE

**EXISTING CONDITIONS**  
**SILVER POINTE CONDOMINIUMS**  
 FOR SILVER POINTE 10A  
 JOB NO. 1111  
 FILE: C:\Users\libra\Desktop\180418.dwg  
 DATE: 6/15/16

STAFF: JAMES MARSHALL, JESSIE MARSHALL, JESSIE MARSHALL  
 (435) 442-2442

**MAYNE**  
 COMMERCIAL ENGINEERS, ARCHITECTS, PLANNERS  
 22 West Street, P.O. Box 244, Park City, Utah 84302-0244

**SHEET 3 OF 4**

**EXHIBIT F**

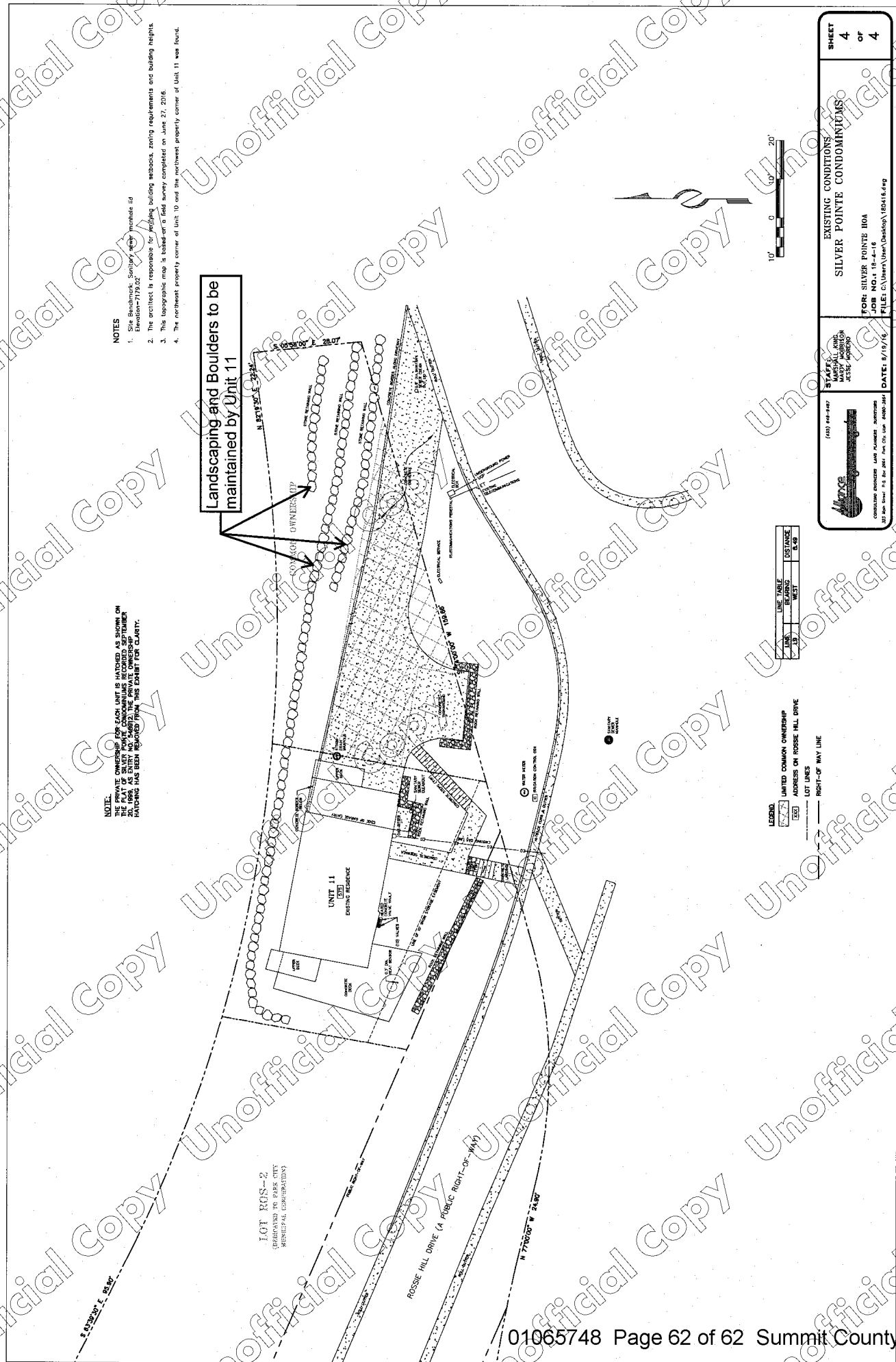
**EXISTING CONDITIONS SURVEY**

NOTE:  
 THE PRIVATE OWNERSHIP FOR EACH UNIT IS HATCHED AS SHOWN ON THE PLAN. THE PRIVATE COMMONS ARE HATCHED WITH THE HATCH PATTERN AS SHOWN IN THE EXHIBIT FOR CLARITY.  
 THE PRIVATE COMMONS ARE HATCHED WITH THE HATCH PATTERN AS SHOWN IN THE EXHIBIT FOR CLARITY.

NOTES

1. Site Benchmark: Southern Cross Monument Id Elevation=7179.92'
2. The architect is responsible for providing building setbacks, zoning requirements and building heights.
3. This topographic map is based on a field survey completed on June 27, 2016.
4. The northeast property corner of Unit 10 and the northwest property corner of Unit 11 was found.

Landscaping and Boulders to be maintained by Unit 11



LINE	TABLE	BEARING	DISTANCE
13		WEST	0.10

LEGEND:  
 [Hatched Pattern] UNITED COMMON OWNERSHIP  
 [Hatched Pattern] ADDRESS ON ROSSE HILL DRIVE  
 [Dashed Line] LOT LINES  
 [Solid Line] RIGHT-OF-WAY LINE



STATE OF COLORADO  
 DEPARTMENT OF NATURAL RESOURCES  
 DIVISION OF LAND AND WATER USE  
 DATE: 8/19/16

EXISTING CONDITIONS  
 SILVER POINTE CONDOMINIUMS  
 SHEET 4 OF 4  
 FOR SILVER POINTE IIOA  
 FILE: C:\Users\lbr\OneDrive\160416.dwg