

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
AND RESERVATION OF EASEMENTS
FOR
EAST TOWN VILLAGE TOWN HOMES,
an Expandable Utah Planned Unit Development Project**

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BY: ELF, DEPUTY - WI 72 P.

**SUCCESSOR DECLARANT
EAST TOWN VILLAGE, L.C.
A Utah limited liability company**

**WHEN RECORDED RETURN TO:
EAST TOWN VILLAGE, L.C.
758 South 400 East
Orem, Utah 84097
(801) 661-8205**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
AND RESERVATION OF EASEMENTS
FOR
EAST TOWN VILLAGE TOWN HOMES
(an Expandable Utah Planned Unit Development Project)**

This Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for East Town Village Town Homes, an Expandable Utah Planned Unit Development (the "Declaration"), is made and executed by EAST TOWN VILLAGE, L.C., a Utah limited liability company, of 758 South 400 East, Orem, Utah 84097 (the "Successor Declarant").

RECITALS:

A. It is the intent of the Successor Declarant that East Town Village when completed shall consist of:

- A Condominium Neighborhood;
- A Town Home Neighborhood; and
- Shared Recreational Amenities; and
- A Commercial Neighborhood

East Town Village Condominium, East Town Village Town Homes and the Recreational Amenities may be referred to collectively as "East Town Village" or the "East Town Village Properties" or the "Combined Properties".

B. The Declaration of Condominium for East Town Village Condominium was recorded on March 5, 2007 as Entry No. 10023015 in Book 9430 at Pages 7885-7979 of the official records of Salt Lake County, Utah (the "Original Declaration").

C. The Final Plats for residential Lots in Phases 1-17 were submitted concurrent with the Original Declaration.

D. The First Supplement to Declaration of Condominium for East Town Village Condominium was recorded on July 10, 2007 as Entry No. 10158040 in Book 9488 at Pages 9625-9661 of the official records of Salt Lake County, Utah (the "First Supplement").

E. The Final Plats for residential Lots in Phases 18-30 and one (1) commercial lot were submitted concurrent with the First Supplement.

F. The First Amendment to Declaration of Condominium for East Town Village Condominium was recorded on September 27, 2007 as Entry No. 10234005 in Book 9519 at Pages 8413-8442 of the official records of Salt Lake County, Utah (the "First Amendment").

G. The Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for East Town Village Recreation Amenities (the "Recreation Declaration") was recorded in the office of the Salt Lake County Recorder on June 21, 2010 as Entry No. 10974341 in Book 9834 at Pages 2787-2827 of the official records.

H. Financing options have changed.

I. Successor Declarant desires to take advantage of the changes in financing options for the benefit of the Owners and their successors in interest by dividing the development as originally contemplated into three parts: (1) a Condominium Neighborhood, (2) a Town Home Neighborhood, and (3) Recreational Amenities to be shared, used and enjoyed by both Neighborhoods.

J. This Declaration affects that certain real property located in Salt Lake County, Utah described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

K. The Property is an area of unique natural beauty, featuring distinctive terrain;

L. By subjecting the Property to this Declaration and the design scheme of East Town Village, it is the desire, intent and purpose of Successor Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.

M. All of the requirements to amend the Original Declaration set forth in Article III, Section 32 (c), (d) and (e) of the Original Declaration have been satisfied.

N. Successor Declarant has constructed, is in the process of constructing, or will construct upon this Property a residential town home project which shall include certain privately owned residential Lots, Common Area and Facilities, the non-exclusive right to use and enjoy certain recreational amenities, and other improvements of a less significant nature. The construction on this development has been, or is to be, performed in accordance with the plans contained in the Final Plat to be recorded concurrently herewith.

O. Successor Declarant intends to sell to various purchasers the fee title to the individual Lots contained in this Property, together with an appurtenant undivided ownership interest in the Common Area and a corresponding membership interest in the Association of Lot Owners and an appurtenant non-exclusive easement of enjoyment and right to use the Recreational Amenities, subject to the covenants, conditions and restrictions set forth herein, the Recreation Declaration and the Final Plat.

P. Since the completion of this Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.

Q. Successor Declarant intends to record concurrently a Recreation Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for East Town Village which shall burden and benefit the Property (the "Recreation Declaration").

R. The Recreation Declaration will create a Recreation Association to administer the maintenance, operation and use of the Recreational Amenities by the owners of Lots in the Condominium Neighborhood and Lots in the Town Home Neighborhood.

S. The affairs of the Recreation Association will be directed by a Board of Delegates representing the interests of the owners of Units in the Condominium Neighborhood and Lots in the Town Home Neighborhood.

T. Successor Declarant desires, by filing this Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements and Final Plat to submit this Property and all improvements now or hereafter constructed thereon to the provisions of the Utah Community Association Act, Utah Code Ann., Sections 57-8a-1 et seq. (1963), as it may be amended, supplemented or replaced (the "Act"), as well as the provisions hereof.

U. This Project is to be known as "East Town Village Town Homes" or the "Town Home Neighborhood".

AGREEMENT

NOW, THEREFORE, Successor Declarant hereby declares that the Property is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following uniform covenants, conditions, restrictions and equitable servitudes. The said covenants, conditions, restrictions and equitable servitudes are in furtherance of, and the same shall constitute a general plan for the ownership, improvement, sale, use and occupancy of the Property and in furtherance of and designed to accomplish the desires, intentions, and purposes set forth above in the Recitals.

I. DEFINITIONS

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

1. Additional Land shall mean and refer to additional real property annexed to the Project.

2. Area of Common Responsibility shall mean and refer to the area for which the Association is responsible.

3. Area of Personal Responsibility shall mean and refer to the area for which each Owner is responsible.

2. Articles of Incorporation shall mean and refer to the Articles of Incorporation for the Association.

3. Assessment shall mean and refer to any amount imposed upon, assessed or charged a Owner or Resident at the Project.

4. Association shall mean and refer to all of the Owners at East Town Village Town Homes taken as or acting as a group in accordance with the Declaration.

5. Board of Directors shall mean and refer to the governing board of the Association.

6. Building shall mean and refer to any of the structures constructed in the Project.

7. Business Use and Trade shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefore.

8. By Laws shall mean and refer to the code of rules governing the administration of the Association, a copy of which is attached to and incorporated in this Declaration by reference as Exhibit "B".

9. Capital Improvement shall mean and refer to all new improvements intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.

10. City shall mean and refer to the City of Sandy, Utah or if the context requires the City of Midvale, Utah. A portion of the Property is located in each city.

11. Class B Control Period shall mean and refer to the period of time during which the Class B Member is entitled to appoint all of the members of the Board of Directors and is also sometimes referred to as the Period of Successor Declarant's Control. The Class B Control Period shall commence on the date this Declaration is recorded and shall terminate on the occurrence of the earliest of the following events: (a) five (5) years from the effective date of this Declaration, (b) not less than 120 days after all of the Additional Land has been added and seventy-five percent (75%) of the Lots in this Project have been conveyed, or (c) the Successor Declarant executes and records a written Waiver of his right to control.

12. Board of Directors shall mean and refer to the governing board of the Association.

13. Common Area shall mean and refer to all real property in the Project owned in common by the Lot Owners including but not limited to the following items:

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

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

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

(d) The Project's outdoor grounds;

(e) All portions of the Project not specifically included within the individual Lots;

(f) All real property subject to the Recreation Declaration; and

(g) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property for the common benefit of its Members.

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

14. Common Expense shall mean and refer to:

a) The expense of all irrigation water;

b) All sums lawfully assessed against the Owners;

c) Expenses of administration, maintenance, repair or replacement of the Project;

d) Expenses allocated by the Association among the Owners;

e) Expenses agreed upon as common expenses by the Association;

f) Recreation Assessments; and

g) Expenses declared common expenses by the Declaration.

15. Community shall mean and refer to the Project.

16. Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the entire East Town Village Community, as determined by the Board of Directors from time to time.

17. County Recorder shall mean and refer to the Salt Lake County Recorder in the State of Utah.

18. Declarant shall mean and refer to East Town Village Town Homes, LC, a Utah limited liability company

19. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for East Town Village Town Homes.

20. Design Guidelines shall mean and refer to the architectural and engineering plans and specifications and guidelines prepared by the Successor Declarant for the construction of the Buildings, Lots, and other physical improvements in the Project, including by way of illustration but not limitation all structural components and Exterior Materials.

21. Dwelling or Dwelling Unit shall mean and refer to a town home. Mechanical equipment and appurtenances located within any one Dwelling or located without the Dwelling but designated and designed to serve only that town home, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Dwelling. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Dwelling or serving only the Dwelling, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within the Dwelling, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Dwelling is located shall be deemed to be part of the Dwelling. Exterior maintenance/repair, including but limited to, roof, stucco, fiber-cement siding, exterior paint, soffit/fascia and so forth shall be the responsibility of the East Town Village Recreation Association.

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

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

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

25. Exterior Materials shall mean and refer to stone, rock, stucco, wood, finished lumber, brick, or other similar materials but shall not mean cinder block or concrete block or

aluminum or vinyl siding. Exterior residence materials shall be of a noncombustible material. The determination whether any specific material constitutes an acceptable Exterior Material shall be made by Successor Declarant or its designee.

26. Family shall mean "family" as that term is defined by City ordinance. In the absence of a City ordinance, then the term "family" shall mean one of the following: (1) a single person living alone; (2) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption; or (3) a group of not more than three unrelated persons living and cooking together as a single housekeeping Lot and maintaining a common household, but not as a boarding or rooming house. An additional resident as "domestic help" or as a "caretaker" may be permitted by the Board of Directors.

27. Guest shall mean and refer to a guest, visitor, invitee, or any other person whose temporary presence within the Project is approved by or is at the request of a particular Owner.

28. Individual Charges shall mean and refer to a charge levied by the Board of Directors against an Owner for all expenses resulting from the act or omission of such Owner, excepting the Owner's failure to pay any Assessment. Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner;

a) The cost to repair any damage to any portion of this Project on account of loss or damage caused by such Owner or Guest; or

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

c) Any transient occupancy tax, sales tax, use tax or other tax levied pursuant to the laws of the State of Utah and payable by any Owner or Guest which the Association is or shall be required or entitled to collect on behalf of the levying authority, although this subsection is not considered an acknowledgment that any such tax may be levied;

d) Administrative costs and expenses incurred by the Board of Directors in enforcing this Project Documents;

e) Any other fine, charge, fee, due, expense, or cost designated as an Individual Charge in this Project Documents or by the Board of Directors;

f) Attorney fees, interest, and other charges relating thereto as provided in this Declaration; and

g) Individual services.

Individual Charges may be secured by a lien against the Owner's interest in the Property.

29. Land shall mean and refer to all of the real property subject to this Declaration.
30. Lot shall mean a subdivided lot as shown on the Final Plat intended for private ownership and use.
31. Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot.
32. Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50.01%) percent of the total eligible number.
33. Manager shall mean and refer to the individual or management company appointed or hired by the Association to manage and operate this Project and/or assist in the administration of the Association.
34. Map shall mean and refer to the Final Plat.
35. Member shall mean and refer to a member of the Association unless the context clearly requires otherwise.
36. Mortgage shall mean and refer to both a first mortgage or first deed of trust on any Lot, but shall not mean or refer to an executory contract of sale.
37. Mortgagee shall mean and refer to a mortgagee under a first mortgage or a beneficiary under a first deed of trust on any Lot, but shall not mean or refer to a seller under an executory contract of sale.
38. Neighborhood shall mean and refer to an area within East Town Village designated as such by the Declarant, such as the Condominium Neighborhood or the Town Home Neighborhood.
39. Owner shall mean and refer to the person who is the Owner shown of record in the office of the County Recorder of Salt Lake County, Utah of a fee or an undivided fee interest in a Lot. The term Owner does not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
40. Permanent Resident shall mean and refer to anyone who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) total weeks in any calendar year.
41. Permittee shall mean and refer to a Guest and in addition any tenant, renter, lessee, or non-Owner occupant.

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

43. Phase shall mean and refer to a particular stage or area of development within the Project so designated by the Successor Declarant.

44. Final Plat shall mean and refer to the "Final Plat of the East Town Village Town Homes" on file in the office of the County Recorder of Salt Lake County, as amended or supplemented from time to time.

45. Project shall mean and refer to this the East Town Village Town Homes Project.

46. Project Documents shall mean and refer to this Declaration and the ByLaws, Rules and Regulations, and Articles of Incorporation.

47. Property shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to this Declaration.

48. Recreational, Oversized or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, off road vehicle, four-wheeler, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, eighteen wheeler, or any other recreational or commercial transportation device of any kind. All types of vehicles shall be stored or parked in Owner's garage only. No onsite storage of such vehicles is provided or allowed.

49. Recreational Amenities shall mean and refer to the recreational amenities and facilities subject to the Recreation Declaration.

50. Recreation Assessment shall mean and refer to an Assessment assessed by the Recreation Association for the management and maintenance of the Recreational Amenities.

51. Recreation Association shall mean and refer to the members acting as a group in accordance with the Recreation Declaration.

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

53. Resident shall mean and refer to any person living or staying at the Project.

54. Single Family shall mean a single family unit.

55. Single Family Residence shall mean and refer to both the architectural style of a Lot and the nature of the residential use permitted.

56. Successor Declarant shall mean and refer to East Town Village, LC, a Utah limited liability company, and any Person or Persons who might acquire title from it to all or some of the unsold Lots through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Lots in a sale in the nature of a bulk sale. The person acquiring any of such property from the Successor Declarant shall be considered a Successor Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Declaration and any Supplemental Declaration applicable to the property; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Successor Declarant, or its successor in interest, and the Successor Declarant, or its successor in interest, with respect to such property.

57. Total Votes of the Association shall mean the total number of Eligible Votes appertaining to all Lots.

58. Use Restrictions shall mean and refer to the rules, regulations and use restrictions described with particularity below, as they may be modified, amended, repealed, canceled, limited, withdrawn or expanded from time to time.

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

II. SUBMISSION

The Land described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference is hereby submitted to the Act and the Declaration.

The Land is hereby made subject to, and shall be governed by the Act, and the covenants, conditions and restrictions set forth herein. The Land is also subject to the right of the City to access the roads within the Project for emergency vehicles, service vehicles, and to all of the utility installations up to the residential meters.

The Land is SUBJECT TO the described easements and rights of way. Easements and rights-of-way in favor of the City include any dedicated roadways and public utility easements and are depicted on the Final Plat.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, including by way of illustration and not limitation all easements and rights-of-way in and to the detention basin, entry way, monument, and park.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Final Plat or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon, under and subject to the following covenants, conditions, and restrictions:

1. It is intended that the Town Home Project will consist of Common Area and Facilities, Recreational Amenities, 26 Buildings and 118 Lots if all of the intended improvements are made. Each Lot will have a patio, balcony or deck and a garage. The Buildings will be constructed principally of concrete foundations with exterior walls of stucco veneer, fiber-cement siding, tile roofing, interior walls of wood studs, plywood, and dry wall plaster. The Common Area and Facilities will include landscaping and open space, roads, sidewalks and walkways, an entry and entry monument, recreational amenities, and other improvements of a less significant nature. Limited Common backyard areas will include 6' vinyl fence in earth tone color. The location and configuration of the improvements referred to in the foregoing sentence are depicted on the Final Plats.

2. Description and Legal Status of the Property.

a) The Final Plat shows the Lot Number of each Lot, its location, and the Common Area and Facilities to which it has immediate access.

b) All Lots shall be capable of being independently owned, encumbered and conveyed; and shall have an appurtenant ownership interest in the Association, subject to the rights of Successor Declarant and City, and all easements of record.

c) The Association shall own the Common Area. Title to the Common Area is hereby granted, transferred and conveyed to the Association for and in behalf of the Owners.

3. Association - Mandatory Membership - Registration.

(a) Membership in the Association is mandatory for each Owner. Membership may not be partitioned from the ownership of a Lot.

(b) The Association shall register with the Utah Department of Commerce and pay the Registration Fee.¹ The registration will include: (a) the name and address of the Association; (b) the name, address, telephone number, and, if applicable, e-mail address of the President of the Association; (c) the name and address of each member of the Management Committee; (d) the name, address, telephone number, and, if the contact person wishes to use e-mail or facsimile transmission for communicating payoff information, the e-mail address or facsimile number, as applicable, of a primary contact person who will provide Association Payoff information.

(1) The Registration shall be updated within ninety (90) days after a change in any of the information provided.

(2) If the Association has failed to register or update its registration with the State of Utah may not record a notice of lien against a Lot or enforce a previous lien.

4. Allocation of Profits, Losses and Voting Rights. Voting rights shall be distributed among the Owners equally, except for the Class B owners as set forth in Section 5 below. The ownership interest of each Lot and Owner in the Association shall have a permanent character and shall not be altered without the express affirmative consent of at least two-thirds (2/3) of the Total Vote memorialized in an amendment to the Declaration duly recorded.

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

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

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

¹ Currently \$37.00

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

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

(c) When more than one person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one person or entity seeks to exercise it.

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

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

(a) The Class B Member shall originally be entitled to three (3) votes per Lot owned.

(b) The Class B membership and the Class B Control Period shall terminate, and Class B membership shall convert to Class A membership upon the happening of the earlier of the following (which is hereinafter referred to as the "Event" or "Events"):

(1) Four months after sixty-seven percent (67%) of the Lots have been sold; or

(2) Three years from the effective date of this Declaration; or

(3) When, in its sole discretion, Successor Declarant so determines and records a written "Notice of Termination of Class B Control Period."

From and after the happening of these Events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Successor Declarant shall call a meeting, in the manner described in the By Laws of the Association for special meetings, to advise the membership of the termination of Class B status and, if it has not already occurred, to schedule transition of the operation and management of the entire Project to the Association.

6. Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Lot shall describe the interest or estate involved substantially as follows:

All of Lot No.____ in Building No. ____ contained within Phase _____, East Town Village Town Homes, as the same is identified in the Final Plat recorded in Salt Lake County, Utah as Entry No. in Book_____ at Page _____ of the official records of the County Recorder of Salt Lake County, Utah (as said Final Plat may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions and Restrictions for East Town Village Town Homes recorded in Salt Lake County, Utah as Entry No. in Book_____ at Page ____ of the official records of the County Recorder of Salt Lake County, Utah (as said Declaration may have heretofore been supplemented), together with an ownership interest in the Association.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Membership in the Association and the right to use the Common Area and Facilities, including the non-exclusive easement of enjoyment and right to use the Recreational Amenities, shall NOT be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of use shall automatically accompany the transfer of the Lot to which they relate.

7. Architectural and Design Guidelines. The Successor Declarant has prepared Design Guidelines for the Project. The approved Design Guidelines shall apply to all construction activities within the Project. The Successor Declarant shall have sole and full authority to change, amend, and supplement the Design Guidelines as long as it owns any of the Property. The Successor Declarant or, after transition of the Project, the Association must stamp all proposed plans and specifications to construct or remodel a Building or Lot "approved and in compliance with the Declaration and Design Guidelines" before the Owner may present such plans and specifications to the City for the issuance of a building permit.

8. Ownership and Use Restrictions. The use of the Property is subject to the following restrictions:

a) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple ownership of his Lot. There shall be no requirements concerning who may own a Lot, it being intended that they may and shall be owned as any other property rights by persons. The Common Area shall only be used in a manner consistent with the residential nature of the Project.

b) Title to the Common Area. Title to the Common Area and Facilities located within this Project shall be vested in the name of the Association. Title to the Recreational Amenities shall be vested in the name of the Recreation Association.

c) Mandatory Association. By virtue of accepting a deed or other document of conveyance to a Lot each Owner shall automatically become and remain, for as long as he owns the Lot, a member of the Association.

d) Member's Easements and Rights of Way. Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area and Facilities. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions:

(1) The right of the Association to limit the number of Guests, and to adopt administrative rules and regulations from time to time governing the use and enjoyment of the Common Area;

(2) The right of the Association to suspend the voting rights of and/or the privilege to use the recreational amenities by a member for violation of the Project Documents, including the failure to pay Assessments;

(3) Subject to the prior written consent of Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA) (where appropriate), the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purpose of providing utilities and similar or related purposes. During the Successor Declarant's Period of Control, any such dedication or transfer shall be effective only if approved in writing by the Successor Declarant; and

(4) The right of the Association to charge a reasonable admission or other user fee for the use of any recreational facility situated upon the Common Area.

e) Rules and Regulations. The Board of Directors may adopt, amend, modify, create, expand, or enforce rules and regulations as well as architecture and landscape design criteria. The rules, however, are subject to:

(1) Any express provisions, restrictions and limitations in the Declaration;

- (2) The Business judgment rule²; and
- (3) The right of Owners to notice and to disapprove.

Before it adopts or changes a rule or regulation, the Board of Directors must provide the Owners within fifteen (15) days of its meeting advance notice of its intention. Notice is not required in an emergency.³ The governing board must provide an open forum at a board meeting and provide Owners with a chance to be heard. The Owners may, within sixty (60) days, and by a vote of at least a majority of the total ownership at a special meeting called for this purpose disapprove the proposed rule or regulation.⁴

f) Equal Treatment; Rule Limitations.

(1) The rules must treat similarly situated people the same, although the rules may vary according to the type of service provided.

(2) The rules may not violate the right of Owners to display religious and holiday signs inside their dwelling, although the rules may define the time, place, and manner of displays visible from outside the Dwelling, Unit or Lot.

(3) The rules may not regulate the content of political signs, although the Rules may define the time, place, and manner of displays visible from outside the Dwelling, Unit or Lot.

(4) The rules may not interfere with an Owner's determination of the composition of his or her household, although they may legally require the occupants to be members of a single housekeeping unit and may limit the total number of occupants permitted in a Dwelling, Unit based its size, configuration and a fair use of the common areas.

(5) The rules may not interfere with activities within a Lot or Dwelling Unit if the activity is legal. Limits may be made if the activities are not considered typical for a residential neighborhood, or if the activities create an additional expense for the association, or if the activities are dangerous or pose a health concern, or if the activities constitute a nuisance, create unreasonable noise or traffic, or are unsightly or annoying, or create secondary smoke issues.

² The business judgment rule is a presumption of the law that the governing board is acting in best interest of the association and, as a result, the decisions it makes are protected from judicial review in the event there is a loss or the decision turns out to be wrong, so long as the board did not violate its fiduciary duty to act in good faith and not commit a fraud, self-deal or have a conflict of interest, essentially, not to be guilty of intentional misconduct.

³ Imminent risk of immediate and substantial harm to person or property.

⁴ Note: The Board of Directors is NOT required to call a special meeting unless a petition is submitted to it in accordance with the requirements of the Bylaws for a petition to require a special meeting.

(6) If federal, state or local law permits, rules may be adopted regulating use or behavior inside a Dwelling, Unit or Lot, including by way of illustration but not limitation smoking, rentals, noise, traffic and nuisance.

(7) The rules may address a variety of matters such as user fees, the availability of the Common Area and Facilities, the denial of access and use of recreational amenities to trespassers, violators, misusers or abusers, the transfer of lots, rental terms, the disposal of personal property, etc.

(8) The rules may regulate the maintenance and use of the Common Area and Facilities, late fees, accruing interest, indemnity, etc.

(9) No rule may be in conflict, inconsistent or incongruent with the Declaration and Bylaws. If any provision of this subsection is held to be illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This subsection will be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions of this subsection will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this subsection. Furthermore, in lieu of each such illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this subsection, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

g) Nuisance. It shall be the responsibility of each Owner to prevent the creation or maintenance of a nuisance in, on or about the Project. The term "nuisance" includes but is not limited to the following:

(1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his Lot or the Common Area;

(2) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property by other residents, their guests or invitees;

(3) Unreasonable amounts of noise or traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m. during the week and midnight and 8:00 a.m. during weekends; and

(4) Drug houses and drug dealing; the unlawful sale, manufacture, service, storage, distribution, dispensing or acquisition occurs of any controlled substance; gambling; criminal activity; parties which occur frequently which bother, annoy or disturb other reasonable residents or interfere with their quiet and peaceful enjoyment of the

premises; prostitution; or other violation of U.C.A., Section 78-38-9 (1999) as amended or supplemented.

h) Use Restrictions - Initial List.

(1) Removing Garbage, Dust and Debris. All rubbish, trash, refuse, waste, dust, debris and garbage shall be deposited in sealed plastic bags or other authorized containers, shall be regularly removed from the Lot, not being allowed to accumulate therein so as to create a sanitation, health or safety hazard, and shall be disposed of within dumpsters provided by the Association.

(2) Subdivision of a Lot. No Lot may be subdivided.

(3) No Severance. The elements of a Lot and other rights appurtenant to the ownership of a Lot, including any interest in Common Area and Facilities, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Lot and such appurtenances. Any conveyance made in contravention of this Subsection, including under any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) shall be void.

(4) Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting or graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

(5) Temporary Structures. No Owner or occupant shall place upon any part of the Project any temporary structures, including but not limited to dog runs, storage units, tents, trailers and sheds or their equivalent, without the prior written consent of the Board of Directors.

(6) Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or Resident in, on or about the Common Area without the prior written consent of the Board of Directors. The Board of Directors may alter or remove any objects planted or placed in violation of this subsection and shall not be guilty of a trespass.

(7) Energy Conservation Equipment. Solar or alternative energy systems, collector panels, energy conservation equipment or attendant hardware shall be permitted and encouraged in accordance with local, state and federal law.

(8) Business Use. No Business Use and Trade may be conducted in or from any Lot unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (b) the business activity conforms to all home occupation ordinances and zoning requirements for the Project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Board of Directors. Anything to the contrary notwithstanding, the leasing of a Dwelling shall not be considered a trade or business within the meaning of this subsection.

(9) Motor Vehicles. Motor Vehicles shall be subject to and bound by all Parking Rules and Regulations adopted by the Board of Directors. The Association is hereby granted the authority to immobilize, tow and impound motor vehicles in violation of said Rules.

(10) Aerials, Antennas, and Satellite Systems. Aerials, antennas and satellite dishes are only permitted in accordance with FCC Guidelines.

(11) Window Coverings, Awnings and Sun Shades. No-aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any residential structure on a Lot. Sun shades are not allowed on the exterior of any Building, unless the color, style, construction material and uniformity of appearance is approved by the Board of Directors.

(12) Windows. All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality so as not to detract from uniformity in appearance and quality of construction.

(13) Pets. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two (2) domestic pets per Lot are allowed. All pets must be properly licensed and registered with the appropriate governmental agency, abide by all pet rules and regulations adopted by the Board of Directors from time to time. Pets may not create a nuisance. The following acts or omissions shall be considered a nuisance: (a) the pet causes damage to the property of anyone other than the pet's Owner; (b) the pet causes unreasonable fouling of the air by odors; (c) the pet causes unsanitary conditions; (d) the pet defecates on any common area and the feces are not immediately cleaned up by the responsible party; (e) the pet barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion; (f) the pet molests or harasses passersby by lunging at them or chasing passing vehicles; or (g) the pet violates local ordinance. Pets may not be tied or tethered in the Common Area. The Board of Directors may require a pet deposit or a pet registration fee.

(14) Chimes and Musical Sound Makers. Chimes, dream catchers, bells, tubes or other objects hung vertically outside the Dwelling Unit which ring, strike or otherwise produce musical sounds or harmony heard by other residents are prohibited.

(15) Flags, Signs, Religious and Holiday Displays. The Association may not prohibit the display of a U.S. flag inside a Dwelling, Unit, Lot or Limited Common Area, if the care of the flag and display is consistent with federal law. The Association may control and restrict the display of a flag in the Common Area. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Lot.

(16) View Impairment. Neither the Successor Declarant nor the Association guarantees or represents that any view over and across any property, including any Lot or Building will be preserved without impairment. Neither the Successor Declarant nor the Association shall have the obligation to prune or thin trees or other landscaping except as set forth herein. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

(17) Structural Alterations. Except in the case of an emergency repair, no structural alterations, plumbing, electrical or similar work within the Common Area shall be done or permitted by any Owner without the prior written consent of the Board of Directors.

(18) Insurance. Nothing shall be done or kept in, on or about any Lot or in the Common Area which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Property, over what the Board of Directors, but for such activity, would pay.

(19) Laws. Nothing shall be done or kept in, on or about any Lot or Common Area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

(20) Damage or Waste. No damage to, or waste of, the Common Area or Facilities shall be committed by any Owner or Resident or their Permittees; and each Owner and Resident shall indemnify and hold the Association, Board of Directors and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or Residents or their Permittees; provided, however, that any invitee of the Successor Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

9. Leases. Any agreement for the leasing, rental, or occupancy of a Lot (the "Lease") shall be in writing and a copy thereof shall be delivered to the Board of Directors upon request. By virtue of taking possession of a Lot, each lessee agrees to be subject to and abide by these restrictive covenants, and that any covenant violation shall be deemed to constitute a

default under the lease. No Owner shall be permitted to lease his Lot for transient, vacation, hotel, seasonal, or short-term purposes, which by way of illustration and not limitation includes any rental with an initial term of less than one (1) year. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Lot without the express written consent of the Board of Directors. Within ten (10) days after delivery of written notice of the creation of a nuisance or material violation of these restrictive covenants, the Owner shall proceed promptly to abate the nuisance or cure the default, and notify the Board of Directors in writing of his intentions. This may require the preparation and service of an eviction notice and the prosecution of an unlawful detainer action in accordance with state law. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Lot.

10. Easements. Easements are hereby reserved throughout the Property as may be required for utility and other services.

(a) The Declarant hereby reserves for itself and its affiliates and assignees a temporary construction easement over the Property, including the Common Area, for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project. The Owners do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their property until all improvements are complete. The Owners do hereby waive any right to object to such construction activity. Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.

(b) Declarant hereby reserves for itself and its affiliates and assignees a non-exclusive easement for itself and its affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities, including but not limited to roof antennas, within suitable locations for such facilities (the "Locations of Facilities") within the Project. Declarant further reserves a right of access to the Locations of Facilities over, across, and through all other Common Area and Facilities of the Project in order to access the Locations of Facilities to exercise the rights established herein. Declarant reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Declarant may exercise all of such rights unilaterally and without the consent of any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by Declarant documenting the rights hereunder, in form satisfactory to the Declarant, and any assignee of its rights hereunder.

(c) Declarant hereby reserves for itself and its affiliates and assignees easements for the Entry and Entry Monument, and corresponding easements for the utility, drainage and irrigation systems and facilities. No Owner or resident may do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the installation and maintenance of such improvements, or which may change the direction of flow of drainage channels in, on or

about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. If a drainage channel is altered by an Owner, the Declarant and/or the Association expressly reserve the right to enter onto the property to restore the area at the cost of the Owner, and without being guilty of a trespass.

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

11. Liability For Damages and Waste. Each Owner or Resident shall be liable to the Association or other Owners or Residents for damages to person or property and waste within the Property caused by his negligence.

12. Encroachments. If any portion of Common Area or a Lot encroaches or comes to encroach upon other Common Area or another Lot as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.

13. Corporate Status of the Association. The Association shall have a corporate status. This provision allows the Board of Directors to unilaterally re-file the articles of incorporation of the Association if its status has been suspended or dissolved, and to adopt the prior ByLaws.

14. Governing Board. The Association shall be managed by the Board of Directors.

15. Meetings. The Association and Board of Directors shall meet regularly in accordance with the Bylaws.

16. Status and General Authority of Board of Directors. Any instrument executed by the Board of Directors that recites facts which, if true, would establish the Board of Directors's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated in the following subparagraphs constitute a legal entity capable of dealing in its Board of Directors name. The Board of Directors shall have, and is hereby granted, the following authority and powers:

a) Access. The right, power and authority to have access to each Lot: (1) from time to time during reasonable hours and after reasonable notice to the occupant of the Lot being entered, as may be necessary for the maintenance, repair or replacement of any of the Common Area and Facilities; or (2) for making emergency repairs necessary to prevent damage to the Common Area and Facilities or to another Lot or Lots, provided that a reasonable effort is made to provide notice to the occupant of the Lot prior to entry.

b) Grant Easements. The authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Area for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

c) Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Final Plat which has been approved by the vote or consent necessary to authorize such amendment.

d) Standing. The power to sue and be sued.

e) Enter Into Contracts. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

f) Transfer Interests in Real Property. The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least sixty-seven percent (67%) of the Association Members.

g) Purchase Property. The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least seventy five (75%) percent of the Association Members.

h) Add Property. The power and authority to add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Project, so long as it has been approved by at least sixty-seven percent (67%) of the Association Members.

i) Borrow Money and Pledge Collateral. The power and authority to borrow money and pledge collateral so long as it has been approved by at least seventy-five percent (75%) of the Association Members.

j) Promulgate Rules. The authority to promulgate such reasonable administrative guidelines, rules, regulations, policies and procedures as may be necessary or desirable to aid the Board of Directors in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the Act and this Declaration.

k) Reciprocal Use Agreements. The power and authority to enter into reciprocal use agreements, cross-easements, and covenants to share costs.

l) Delegate. The power and authority to delegate its responsibilities, in whole or in part.

m) All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Board of Directors to perform its functions on behalf of the Owners.

Anything to the contrary notwithstanding, while Successor Declarant controls the Association and before the end of the Class B Control Period, any amendments to the Declaration or mergers must (where appropriate) be approved in writing and in advance by Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA).

17. Delegation of Management Responsibilities. The Association shall employ a professional manager or professional management company to assist in the management of the Project (the "Manager"), subject to the right, power and authority to control and oversee the administration thereof. The Association may not self-manage. The professional manager or management company shall be the same Person or Company employed to manage the Recreation Association and the Town Homes Association. In the event of a conflict or disagreement, the selection of a professional manager or management company by the Recreation Association shall be conclusive, final and binding. The Manager shall prepare and send to the Owners all billing statements and/or invoices for their share of the Common Expenses which shall include all Assessments due, including by way of illustration but not limitation any and all Assessments unique to this Project, the Recreation Assessment, and any Individual Charges. The termination provision of any such management contract must not require a termination penalty or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than one (1) year. In addition and anything to the contrary notwithstanding, any management contract may be terminated for cause on thirty (30) days notice in accordance with Title 38, Code of Federal Regulations, Section 36.4360a (f), as it may be amended from time to time.

18. General Labor. The Board of Directors may employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical personnel as necessary to perform its management responsibilities.

19. Lists of Owners, Renters, Eligible Mortgagees, Insurers and Guarantors. The Board of Directors shall maintain up to date lists of the name, address and phone number of all Owners, Renters, Eligible Mortgagees, Insurers and Guarantors. The Owners, Mortgagees, Insurers and Guarantors have a duty to provide this information to the Board of Directors upon request.

20. Operation, Maintenance and Alterations. The Property shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:

a) Clean, Safe, Sanitary and Attractive Condition. The Property shall be maintained in a usable, clean, functional, safe, sanitary, attractive and good condition, consistent with Community Standards.

b) Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Successor Declarant and in accordance with any City landscaping maintenance plans or ordinances. Specific additional written guidelines, standards, controls, and restrictions on landscaping may be adopted or amended by the Board of Directors from time to time. All landscaping shall be maintained in a safe, sanitary, aesthetic and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. All landscaping shall be tasteful, so as not to affect adversely the value or use of any other Lot, or to detract from the uniform design and appearance of the Project. Anything to the contrary notwithstanding, all landscaping must abide by and strictly comply with all soils report recommendations and City requirements.

c) Area of Common Responsibility. The Association shall maintain the Common Area and Facilities. This includes the removal of ice and snow accumulations from the Common Area located within this Project.

d) Area of Personal Responsibility. Each Owner shall maintain his Lot and utility systems serving only his Lot, and repair and replace physical improvements to his Lot as required. This includes the removal of ice and snow accumulations from his Lot. No Owner shall allow his Lot or the adjacent Common Area to detract from the health, safety or uniform appearance or design of the Project.

e) Default Provisions. If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of the real property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the Association, or Board of Directors may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible party's sole cost and expense (the "Default Maintenance Cost"). The term "emergency" as used here means a situation or condition in which there is a threat of imminent and substantial harm to person or property. The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such.

f) Alterations to the Common Area. The Successor Declarant may make changes to the design and construction of the improvements located in or on the Common Area without additional approval required, including without limitation the consent of the Board of Directors or Members of the Association; provided, however, no Owner may make any structural

alterations to the Common Area, without the express prior written consent of the Board of Directors.

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

22. Common Expenses. Each Owner shall pay his or her share of the Common Expenses, which shall include all Assessments unique to this Project and the Recreation Assessments, subject to and in accordance with the provisions set forth below.

(a) Manager. The Manager shall prepare all billing statements and/or invoices for the Association. It is the desire of the Declarant that each Owner receive only one billing statement or invoice for each billing cycle and that the statement or invoice include all Assessments on his or her property.

(b) Successor Declarant. Anything to the contrary notwithstanding, the Successor Declarant shall not be obligated to pay Assessments on any Lots owned by it.

(c) Purpose of Common Area Expenses. The purpose of the Assessments provided for herein, including the Recreation Assessment portion, is to provide for the general operation of this Project and to promote the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents.

(d) Creation of Assessments. The Assessments shall pay for the Common Expenses of the Association as shall be determined by the Board of Directors from time to time. Each Owner, by acceptance of a deed to a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association in a timely manner all Assessments assessed by the Board of Directors.

(e) Budget. At least thirty (30) days prior to the Annual Homeowners Meeting, the Board shall prepare and deliver to the Owners a proposed Budget:

(1) Itemization. The Budget shall set forth an itemization of the anticipated Common Expenses (including that portion earmarked for the reserve account(s) and the Association's proportionate share of the cost of maintaining the Recreation Amenity) for the twelve (12) month calendar year, commencing with the following January 1.

(2) Basis. The Budget shall be based upon advance estimates of cash requirements by the Board to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, including the Recreation Amenity, and regulation of the Association, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special assessments,

premiums for all insurance which the Board is required or permitted to maintain, common lighting and heating, common water charges, trash collection, storm drain fees, common sewer charges, sewer maintenance costs, carpeting, painting, repairs and maintenance of the Common Areas, including the Recreation Amenity, and replacement of those elements of the Common Areas, including the Recreation Amenity, that must be replaced on a periodic basis, wages for Board employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, Capital Improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

(3) The Owners may call a special meeting within forty-five (45) days of the meeting providing the proposed Budget to vote to disapprove the Budget, although to set it aside and to reject a proposed Budget requires the affirmative written consent of at least a majority of total ownership to reject. If the new budget is disapproved, then the prior year's budget continues.

(f) Apportionment. The common profits, losses and voting rights of this Project shall be distributed among and the common expenses shall be charged equally to the Lot Owners.

(g) Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved at the Annual Homeowner Meeting by a vote of at least a majority of the percentage of ownership interest. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Board of Directors fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time as a new budget and new Assessment schedule shall have been established, the Budget and the Assessments in affect for the then current year shall continue for the succeeding year.

(h) Additional Services. The Board of Directors may but is not obligated to add to the Assessment of any particular Lot or Lot Owner additional charges for individual services offered or provided, not a Common Expense.

(i) Personal Obligation of Owner. Owners are liable to pay all Assessments assessed and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Lot; (2) the owner of record in the offices of the County Recorder of Salt Lake County, Utah; and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.

(j) Equitable Changes. If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Board of Directors may from time to time effect an equitable change in the amount of said payments, but, without the prior approval of a majority of the percentage of ownership interest in the Common Area, not greater than fifteen (15%) percent of the Assessment in any calendar year. Owners shall be given at least thirty (30) days written notice of any changes.

(k) Corrective Assessment. If because of foreclosure, bankruptcy or other good cause, Lots are fail or are unable to pay their Assessments, the Board of Directors may to recoup the shortage upon thirty (30) days prior notice charge a Corrective Assessment, which shall be divided among all of the Lots based upon their percentages of ownership.

(l) Reserve Analysis -- Reserve Fund.

(1) As used in this section, the term "reserve analysis" means an analysis to determine: (a) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring common areas and facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the association of Lot owners; and (b) the appropriate amount of any reserve fund.

(2) After the expiration of the Declarant's Period of Control, the Management Committee shall cause a reserve analysis to be conducted no less frequently than every five (5) years; and review and, if necessary, update a previously conducted reserve analysis no less frequently than every two (2) years.

(3) The Management Committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Management Committee, to conduct the reserve analysis.

(4) The Management Committee may not use money in a reserve fund: (i) for daily maintenance expenses, unless a majority of the members of the Association vote to approve the use of reserve fund money for that purpose; or (ii) for any purpose other than the purpose for which the reserve fund was established.

(5) The Management Committee shall maintain a reserve fund separate from other funds of the Association.

(6) This Subsection (4) may not be construed to limit the Management Committee from prudently investing money in a reserve fund provided it is government insured.

(7) The Association shall: (a) annually, at the annual meeting of the Association or at a special meeting of the Association: (i) present the reserve study; and (ii) provide an opportunity for Lot Owners to discuss reserves and to vote on whether to fund a

reserve fund and, if so, how to fund it and in what amount; (b) prepare and keep minutes of each meeting so held and indicate in the minutes any decision relating to funding a reserve fund; provided, however, and anything to the contrary notwithstanding, the Association shall fund and maintain a reserve account sufficient to satisfy the requirements for certification by the US Department of Housing and Urban Development.⁵

(8) Anything to the contrary notwithstanding, this subsection (l) does not apply to an Association during the Period of Declarant's Control.

(m) Acceleration. Assessments shall be paid in the manner and on dates fixed by the Board of Directors who may, at its option and in its sole discretion, elect to accelerate the entire annual Assessment for delinquent Owners. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Board of Directors otherwise decides acceleration is not in its best interest, the Board of Directors, at its option and in its sole discretion, may elect to decelerate the obligation.

(n) Statement of Assessments Due. Upon written request, the Board of Directors shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within ten (10) days after a written request is received by the Secretary, shall be deemed conclusive evidence that all Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

(o) Providing Payoff Information.

(1) The Association may charge a fee for providing Association payoff information needed in connection with the closing of a Lot Owner's financing, refinancing, or sale of the Owner's Lot (the "Payoff Fee").

(2) The Association may not require that the Payoff Fee be paid before closing and the Payoff Fee may not exceed \$50 without a change in the statute.

(3) If the Association fails to provide the payoff information requested within five (5) business days after the closing agent requests the information may not enforce a lien against that Lot for money due to the association at closing; provided, however, a request shall not be considered effective unless the request is conveyed in writing to the designated contact person for the Association on record with the State of Utah and contains: (1) the name, telephone number, and address of the person making the request; and (2) the facsimile number or email address for delivery of the payoff information; and (3) is accompanied by a written consent for the release of the payoff information: (a) identifying the person requesting the information as

⁵ Currently HUD requires a 10% reserve fund and a 10% contribution from annual assessments as they accrue.

a person to whom the payoff information may be released; and (b) signed and dated by an Owner of the Lot for which the payoff information is requested.

(p) Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled which insofar as it adversely affects the Association's lien for unpaid Assessments each Owner by accepting a deed or other document of conveyance to a Lot hereby waives.

(q) Suspension of Right to Use Amenities for Non-Payment. At the discretion of the Board of Directors, the right to use any amenities in this Project may be suspended if the Owner is in arrears on his obligation to pay Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

(r) Suspension of Right to Vote for Non-Payment. At the discretion of the Board of Directors, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

24. Special Assessments. In addition to the other Assessments authorized herein, the Association may levy special assessments in any year, subject to the following:

a) Board of Directors Based Assessment. So long as the special assessment does not exceed the sum of Five Hundred and 00/100th Dollars (\$500.00) per Lot in any one fiscal year (the "Special Assessment Limit"), the Board of Directors may impose the special assessment without any additional approval.

b) Association Approval. Any special assessment which would exceed the Special Assessment Limit shall be effective only if approved by a majority of the members of the Association. The Board of Directors in its discretion may allow any special assessment to be paid in installments.

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

a) Board of Directors Discretion/Expenditure Limit. Any capital improvement to the Project which costs ten percent (10%) or less of the Total Annual Budget, and does not alter the nature of the Project, may be authorized by the Board of Directors alone (the "Capital Improvement Ceiling").

b) Owner Approval/Expenditure Limit. Any capital improvement, the cost of which will exceed the Capital Improvement Ceiling, must, prior to the commencement of construction, be authorized by at least a majority of the Owners.

c) Owner Approval/Changing the Nature of the Project. Any capital improvement which would materially alter the nature of the Project (e.g., changing the roofing materials, the construction of the external Building surfaces, color scheme, etc.) must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the Owners.

25. Benefit Assessments. If an Owner has the choice to accept or reject the benefit, then the Board of Directors shall have the power and authority to assess an Owner in a particular area as follows:

(a) Benefit only To Specific Lot. If the expense benefits less than all of the Lots, then those Lots benefitted may be specifically assessed, and the specific assessment shall be equitably apportioned among those Lots according to the benefit received.

(b) Unequal or Disproportionate Benefit. If the expense benefits all Lots, but does not provide an equal benefit to all Lots, then all Lots shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Lots according to the benefit received.

Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Directors's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this Section.

25. Individual Charges. Individual Charges may be charged by the Board of Directors against a Lot and its Owner and shall be due not earlier than thirty (30) days after written notice.

26. Collection of Assessments. The Owners must pay their Assessments in a timely manner. Payments are due in advance on the first of the month. Payments are late if received after the 10th day of the month in which they were due.

(a) Delinquent Assessments. Any Assessment not paid when due shall be deemed delinquent and a lien securing the obligation shall automatically attach to the Lot, regardless of whether a written notice is recorded.

(b) Late Fees. The Board of Directors may charge a reasonable late fee. A payment received by the Board of Directors ten (10) days or more after its due date shall be considered late for purposes of this subsection.

(c) Default Interest. The Board of Directors may charge interest on all delinquent accounts. A delinquent account is an account that is thirty (30) days or more in arrears.

(d) Lien. If any Owner fails or refuses to make any payment of any Assessment or his portion of the Common Expenses when due, that amount shall constitute a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the Manager, Board of Directors or their designee it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (1) tax and special assessment liens on the Lot in favor of any assessing Lot or special improvement district; and (2) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

(e) Foreclosure of Lien and/or Collection Action. If the Assessments remain unpaid, the Association may, as determined by the Board of Directors, institute suit to collect the amounts due and/or to foreclose the lien judicially or non-judicially.

(f) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

(g) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Area or the abandonment of his Lot.

(h) Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board of Directors to take some action or perform some function required to be taken or performed by the Association or Board of Directors under this Declaration or the ByLaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

(i) Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Assessments and Current Assessments unless otherwise determined by the Board of Directors.

(j) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the

Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

(1) A Lot may be auctioned publically and sold through either a non-judicial foreclosure (like a bank foreclosing a deed of trust) or through judicial foreclosure. A court order of sale is required for a judicial foreclosure which includes a 6-month redemption period.

(2) For purposes of a non-judicial foreclosure, when a person accepts a deed or other document of conveyance to a Lot, it is considered the same, like a bank and a deed of trust, as conveying the Lot in trust to as trustee⁶ appointed by the Association to secure payment of all assessments and costs of collection.

(3) The Association must appoint a qualified trustee, by signing and recording in the office of the county recorder a written substitution of trustee form in order to foreclose upon a Lot non-judicially.⁷

(4) At least thirty (30) days prior to starting its non-judicial foreclosure, the Association must send written notice to the Owner informing him or her of the Association's intent to foreclose non-judicially and the Owner's right to demand judicial foreclosure. The notice must be in the form provided by the statute and sent by certified mail.⁸

⁶ Bank, Title Company or Utah attorney

⁷ No redemption period. A notice of default is prepared and recorded. The Owner has 90 days to cure the default or the Unit may be sold by the Trustee. The notice of sale usually takes 30+ days. A non-judicial foreclosure takes approximately 120 days.

⁸ **Error! Main Document Only.**NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The (insert the name of the association of unit owners), the association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that "I demand a judicial foreclosure proceeding upon my unit", or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within fifteen (15) days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is (insert the address of the association of unit owners for receipt of a demand).

The Owner may object to the non-judicial foreclosure by sending a written demand for judicial foreclosure. The Owner's objection and written demand must be sent within fifteen (15) days. The Owner's objection and written demand must also be sent by certified mail.

(5) The Association may not use a non-judicial foreclosure to enforce a lien if the Owner mails the Association a written demand for judicial foreclosure: (a) by U.S. mail, certified with a return receipt requested; (b) to the address stated in the Association's Notice of Non-judicial Foreclosure and Right to Demand Judicial Foreclosure under Subsection (4); and (c) within fifteen (15) days after the date of the postmark on the envelope of the Association's Notice of Non-judicial Foreclosure and Right to Demand Judicial Foreclosure.

(6) The Association must follow the provisions of the law applicable to the non-judicial foreclosure of deeds of trust.

(k) Appointment of Trustee. If the Board of Directors elects to foreclose the lien nonjudicially in the same manner as nonjudicial foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the Association, provided s/he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. The Association shall record a written "Notice of Appointment of Trustee". In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

(l) Attorney in Fact. Each Owner by accepting a deed to a Lot hereby irrevocably appoints the Association as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and Owner is delinquent in his Assessments. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association.

(m) Lenders, Foreclosures and Unpaid Assessments. Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Lot for its share of the Common Expenses up to the time of

the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

(n) Termination of Utilities and Right to Use Amenities for Non-Payment of Assessments. If an Owner fails or refuses to pay any assessment when due, the Board of Directors may (a) terminate the Owner's right to receive utility services paid as a common expense; and (b) terminate the Owner's right of access and use of recreational facilities., after giving notice and an opportunity to be heard. Before terminating utility services or right of access and use of recreational facilities, the manager or Board of Directors shall give written notice to the Owner. Upon payment of the assessment due, including any interest or late payment fee, the manager or Board of Directors shall immediately take action to reinstate the terminated utility services to the Lot and right to use of recreational facilities.

(o) Assignment of Rents. If the Owner of a Lot who is leasing the Lot fails to pay any Assessment for a period of more than sixty (60) days after it is due and payable, the Board of Directors may demand the tenant to pay to the association all future lease payments due the Owner, commencing with the next monthly or other periodic payment, until the amount due to the association is paid; provided, however, the manager or Board of Directors must give the Owner written notice. When the account is current the Association shall notify the tenant in writing that future lease payments are no longer due to the Association. A copy of this notice must be mailed to the Owner. The terms "lease" or "leasing" shall mean and refer to regular, exclusive occupancy of a Lot by any person or persons, other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

27. Liability of Board of Directors. The Association shall indemnify every officer and member of the Board of Directors against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Board of Directors in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or member of the Board of Directors. The officers and members of the Board of Directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Board of Directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Board of Directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Board of Directors free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or member of the Board of Directors, or former officer or member of the Board of Directors, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

28. Insurance. This section applies to all insurance policies for the Association and Owners issued or renewed after **July 1, 2011**, regardless of when the Association was formed.⁹

(a) Property and Liability Insurance Required.

(1) The Association must maintain, to the extent reasonably available, property insurance on physical structures of all attached dwellings, Limited Common Area and Common Area.

(2) The Association must maintain to the extent reasonably available adequate Liability Insurance for the Common Areas and Facilities.

(3) If property or liability insurance is not available, then the Association must notify Owners within seven (7) days.

(4) The Association may but is not required to carry other types of insurance.

(5) An Owner's act or omission may not void a policy.

(b) Property Insurance. The Property Insurance, which shall include all Common Areas and Facilities, must be provided by blanket coverage (as opposed to a schedule listing each Building separately) and may not be less than 100% of the full replacement cost, which must be reviewed at each renewal.

(1) The Property Insurance shall include coverage for any and all fixtures, improvements, or betterments installed by an Owner, floor coverings, cabinets, heating and plumbing fixtures, paint, wall coverings, windows, and any item permanently attached to a dwelling.

(2) The Association is not required to insure a Unit if the Lot is not physically attached to another Unit.

(3) When the Association has a master policy of Property Insurance and the Owner also has Property Insurance, the Association's insurance shall be considered **primary**; provided, however, the Owner's insurance applies and the Owner's insurance policy is considered the primary coverage up to the amount of the master policy deductible. If the Owner has no insurance, the he or she is personally responsible for the loss up to the amount of the deductible.

⁹ If this project includes detached single family dwellings, then the lot owner of each said dwelling/structure shall be required to insure his or her home.

(4) If two (2) or more Owners suffer loss in a single event, they are each responsible for payment of a portion of the Association's deductible based on the percentage of the loss they each suffered.

(5) If an Owner does not pay his or her share of the loss, the Association may levy an Assessment against the Owner and his or her Lot in a sum equal to his or her share of the loss.

(6) The Association must set aside in escrow an amount equal to the amount of the master policy deductible or \$10,000, whichever is less.

(7) The Association must give notice to all Owners of their obligation to pay the Association's deductible. The Association shall also give notice of any change in the amount of the deductible. Failure to give such notice may require the Association to be responsible to pay what could have been assessed to the Owner.

(8) The Association is not required to submit a claim to the Association's insurance carrier if the Management Committee determines that the amount of the claim is likely not to exceed the amount of the Association's insurance deductible.

(9) The insurer for the master policy shall adjust with the Association a loss covered under the association's policy.

(10) The Association receives insurance payments in trust for the owners and insurance proceeds received by the Association must first be disbursed for the repair or restoration of the damaged property.

(c) **Liability Insurance.** The Association shall obtain a public liability policy covering the Common Area and Facilities, sewer laterals, including the backup of sewer laterals, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have coverage limits common to this area for this kind of project in the opinion of an independent insurance agent but not less than a One Million (\$1,000,000) Dollar single person limit as respects bodily injury and property damage, a Two Million (\$2,000,000) Dollar limit per occurrence, if reasonably available, and a One Million (\$1,000,000) Dollar minimum property damage limit. If possible, the policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection. The Association may insure for more than this but not less. Each Owner is an insured person under the Association's liability policy that insures an owner's interest against liability arising from the Common Area or membership in the Association.

(d) **Damage to a Portion of the Project- Insurance Proceeds.** Repairs must be done within a reasonable amount of time. If the associated expenses to repair are in excess of the insurance proceeds, such costs will be considered a Common Expense.

(e) Miscellaneous.

(1) The Association may but is not obligated to purchase additional endorsements or coverage, including by way of illustration but not limitation, directors and officers insurance, a fidelity bond, earthquake insurance.

(2) For those rare situations that may occur; such as dealing with a project that is terminated and distributions to lien holders and Owners if the Project is destroyed, the provisions of the Utah Community Association Act shall in all instances govern and control.

(3) If any provision of this Section is held to be (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Utah Community Association Act or (b) illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This Section will be construed and enforced as if the (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions of this Section will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Section. Furthermore, in lieu of each such (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this Section, a provision as similar in terms to such (a) inconsistent, incongruent or in conflict with the insurance requirements as set forth in the Act or (b) illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

(4) THE ASSOCIATION IS NOT OBLIGATED TO SUBMIT A CLAIM TO ITS PROPERTY INSURANCE CARRIER IF THE GOVERNING BOARD DETERMINES THAT IN ITS REASONABLE BUSINESS JUDGMENT THE AMOUNT OF THE CLAIM IS UNLIKELY TO EXCEED THE INSURANCE DEDUCTIBLE AND, IF SO, THE LOT OWNER'S INSURANCE POLICY PROVIDES THE PRIMARY COVERAGE, OR IF THE LOT OWNER IS UNINSURED, THEN HE OR SHE WILL BE LIABLE FOR THE LOSS UP TO THE AMOUNT OF THE DEDUCTIBLE.

29. Casualty Damage or Destruction

(a) Appointment of Agent. All of the Owners irrevocably constitute and appoint the Board of Directors their true and lawful agent in their name, place and stead for the purpose of dealing with the Property upon its damage or destruction. Acceptance of a deed from the Developer or from any Owner shall constitute appointment of the Board of Directors as attorney in fact for the limited purposes as herein provided.

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

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

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

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

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

(g) Termination of Legal Status. Any action to terminate the legal status of the Project after Substantial Destruction or Condemnation occurs shall be agreed to by Owners who represent at least sixty-seven (67%) percent of the total allocated votes in the Association and by Eligible Mortgage holders who represent at least fifty-one (51%) percent of the votes of the Lots that are subject to mortgages held by eligible holders. The termination of the legal status of the Project for reasons other than Substantial Destruction or Condemnation of the property shall be agreed to by Eligible Mortgage holders that represent at least sixty-seven (67%) percent of the votes of the mortgaged Lots. However, implied approval may be assumed when an Eligible Mortgage holder (except (where appropriate) the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA)) fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

(h) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees. If proper notice is given to a Mortgagee or other creditor, then a legal presumption is created that the Mortgagee and/or creditor consented, absent the delivery of a written objection.

30. Consent in Lieu of Vote. In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required ownership interests in the Association, subject to the following conditions:

(a) Sixty-Day Limit. All necessary consents must be obtained prior to the expiration of sixty (60) days from the time the first written consent is obtained; and

(b) Change In Ownership. Any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose; and

(c) Notice. If approved, written notice of the approval must be given to all Owners at least ten (10) days before any action is required by them.

31. Mortgagee Protection. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value. Mortgagees are excluded from any leasing or rental restrictions when obtaining or after obtaining a Lot in foreclosure. The lien or claim against a Lot for unpaid Assessments levied by the Board of Directors or by the Association pursuant to this Declaration shall be subordinate to any Mortgage recorded on or before the date such Assessments become due. In addition:

(a) Effects of Voluntary and Involuntary Sale. The lien or claim against a Lot for such unpaid Assessments shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Lot or the exercise of a power of sale available there under shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot the lien of any Assessments becoming due thereafter.

(b) Books and Records Available for Inspection. The Board of Directors or the Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, ByLaws, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Board of Directors and the Association. The term "Available," as used in the Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

(c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

(d) Management Contracts. Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Board of Directors shall provide, or be deemed to provide hereby, that:

(1) Either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party; and

(2) No contract may be for an initial term greater than one (1) year.

(e) Eligible Mortgagee Designation. Upon written request to the Board of Directors or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot Number or

address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(1) Condemnation Loss or Award. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

(2) Delinquency. Any delinquency in the payment of Assessments owed by an Owner of a Lot subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency remains uncured for a period of sixty (60) days.

(3) Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Board of Directors or the Association.

(4) Consent Required. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

(f) Approval of Proposed Action or Transaction. Any Mortgagee who receives, by certified or registered mail, a written request, with a return receipt requested, to approve any act, transaction or amendment to the Declaration, and who does not return a negative response within thirty (30) days shall be deemed to have approved such request; provided, however and anything to the contrary notwithstanding, so long as Successor Declarant is in control of the Owner's association, such action or transaction must be approved in writing by the Department of Veterans Affairs (VA) pursuant to CFR, Title 38, Section 36.4357(b)(4) and, if any financing or the guaranty of any financing of a Lot is provided by the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), by such agencies.

32. Amendment. This Declaration may be amended as follows:

(a) General. Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the addition or annexation of any land, any amendment to this Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the total ownership interest in the Association cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting.

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

(c) Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Successor Declarant if such Amendment is (1) necessary to correct typographical errors or inadvertent omissions; (2) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (3) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; provided, however, any such amendment shall not materially adversely affect the title to any Lot unless the Owner of said Lot shall consent thereto in writing.

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

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

(f) Rights of Successor Declarant and Successor Declarant. No provision of this Declaration reserving or granting to Successor Declarant and/or Successor Declarant any unexpired rights, including by way of illustration but not limitation any and all developmental rights, may be amended, including by way of illustration but not limitation a modification which

would terminate or decrease any such rights, without the prior express written consent of Successor Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Successor Declarant's sole and exclusive discretion.

(g) Execution of Amendments.

(1) An amendment or revocation which only requires the execution of an instrument by Successor Declarant as hereinabove provided shall be effective when executed by Successor Declarant and when recorded in the office of the County Recorder.

(2) An amendment which requires the affirmative written assent or vote of the Owners as hereinabove provided shall be effective when executed by the President and Secretary of the Association, who shall certify that all of the voting requirements have been satisfied, and the Successor Declarant, if the Successor Declarant's consent is also required, and recorded in the office of the County Recorder.

(h) Consent of Eligible Mortgagee to Terminate Legal Status of Project. The consent of at least sixty-seven percent (67%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project.

(i) Consent of Eligible Mortgagees to Add or Amend Any Material Provision. The consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the ownership interest in the Association shall be required to add to or amend any material provision of this Declaration or the Final Plat which establishes, provides for, governs, or regulates any of the following:

- Voting rights;
- Increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens;
- Reductions in reserves for maintenance, repair, and replacement of Common Area, Facilities and Elements;
- Responsibility for maintenance and repairs;
- Reallocation of interests in the Common Area and general or limited common elements, or rights to their use;
- Redefinition of any Lot boundaries;
- Convertibility of Lots into Common Area or Elements, or vice versa;
- Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- Hazard or fidelity insurance requirements;
- Imposition of any restrictions on the leasing of Lots;
- Imposition of any restrictions on a Owner's right to sell or transfer his Lot;
- A decision by the Association (if the Project consists of more than 50 Lots) to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;

- Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the documents; and
- Any provisions that expressly benefit Mortgage holders, insurers or guarantors.

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

33. Due Process Requirements; Notice of Hearing; Opportunity to be Heard. In the event of a claimed violation of the Project Documents or the Act, no citation or suspension shall be imposed without the Board of Directors first giving the alleged violator written notice of the violation and an opportunity to be heard by the Board of Directors. Provided, however, nothing herein shall be construed to prevent the Board of Directors from (a) immobilizing, towing or impounding a motor vehicle in violation of the parking rules and regulations for which no additional notice is required, or (b) making any emergency repairs or taking any other emergency action it deems necessary and subsequently providing notice to the Owner or resident and giving them an opportunity to be heard.

34. Successor Declarant's Sales Program. Anything to the contrary notwithstanding, until Successor Declarant has sold all Lots owned by it, or the expiration of five (5) years following the date on which the Declaration is filed for record in the Office of the County Recorder, whichever first occurs, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Successor Declarant from any obligations of an Owner to pay his portion of the Common Expenses or other Assessments, except as herein otherwise provided. Neither the Owners, the Association, nor the Board of Directors shall interfere with the completion of improvements and sale of Successor Declarant's Lots, and Successor Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots owned by Successor Declarant:

(a) Sales Office and Model Lots. Successor Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots at any one time. Such office and/or models may be one or more of the Lots owned by the Successor Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Successor Declarant's sales effort, or any combination of the foregoing;

(b) Promotional. Successor Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property in accordance with city ordinances.

(c) Common Area Use. Successor Declarant shall have the right to use the Common Area of the Project including but not limited to the right to use the Clubhouse as a sales office and in any other way necessary to facilitate sales.

(d) Relocation and Removal. Successor Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the Event, Successor Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Successor Declarant's sales effort.

(e) Restrictions in Favor of the Successor Declarant. The recreational amenities or facilities at the Project may not be subject to any restriction or reservation in favor of the Successor Declarant or any of its affiliates.

f) Subsidy Agreement. If the Declarant elects to subsidize the Association and maintenance of the Project during the Class B Control Period, either in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these, then the Association, and the Owners by virtue of their acceptance of a deed or other document of conveyance, hereby agree to and shall repay the Declarant upon demand (the "Subsidy Agreement"). The term subsidize shall mean the payment of the reasonable cash needs of the Association for ordinary and necessary maintenance expenses and a reasonable contribution to reserves. The Declarant shall not be subject to Special, Corrective or Individual Assessments

35. Limitation on Improvements by Association. Until such time as the earlier of the following events occur: (a) all of the Additional Land has been added and the Successor Declarant has sold or rented all of the Lots, or (b) five (5) years after the date of the sale of the first Lot in Phase I, or (c) such time as Successor Declarant chooses, neither the Association nor the Board of Directors shall, without the written consent of Successor Declarant, make any improvement to or alteration in any of the Common Area and Facilities created or constructed by Successor Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Area as originally created or constructed by Successor Declarant.

36. Completion Obligation. Successor Declarant hereby covenants in favor of each Owner that within two (2) years from the date of any contract of sale:

(a) Lots. Each Lot which an Owner has contracted to purchase, the Building within which such Lot is contained or is to be contained, and the adjacent Common Area shall be substantially constructed, and ready for use or occupancy (as the case may be); and

(b) Common Area. There shall be substantially completed and usable as part of the Common Area all planned landscaping, green space, sidewalks, parking facilities, roads, fences, outdoor lighting, and utility lines and conduits adjacent to the Lot or Building in which a Lot is located, and necessary for its use.

37. Rights Assignable. All of the rights of Successor Declarant and/or Successor Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots or Buildings in the Project title to which is vested in the name of Successor Declarant and/or Successor Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Successor Declarant (in its capacity as Successor Declarant) or Successor Declarant (in its capacity as Successor Declarant) herein.

38. Mortgagee Approval. Until the termination of the Period of Successor Declarant's Control, the Successor Declarant shall not annex additional properties or amend the Declaration without the prior written consent (where appropriate) of the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA).

39. Transfer of Management. Successor Declarant may at any time relinquish its reserved right to select the Directors and may elect to transfer the management of the Project to a Board of Directors elected by the Owners. Upon the termination of the Period of Successor Declarant's Control, or sooner if the Successor Declarant so elects, Successor Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date"). The Owners shall call a meeting to elect the Directors to take office as of the Transfer Date. Successor Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Successor Declarant shall cause all obligations for Common Expenses of the Association prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Association funds to the newly elected Board of Directors.

40. Working Capital Fund. A working capital fund shall be established by the Successor Declarant equal to or greater than two (2) months' Assessments for each Lot. Each Lot's share of the working capital fund shall be collected and transferred to the Board of Directors at the time of closing of the sale of each Lot by Successor Declarant. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Lot shall be paid to the Board of Directors at the time such Lot is first occupied for residential purposes or a

certificate of permanent occupancy is issued, whichever first occurs. With respect to each Lot for which the Successor Declarant pays the contribution to the working capital fund, the Successor Declarant shall be reimbursed for such contribution by the buyer of such Lot at the time of closing. The purpose of the working capital fund is to insure that the Board of Directors will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of the Project. Sums paid into the working capital fund are not to be considered as advance payments or regular monthly payments of Common Expenses. Thereafter, the Board of Directors may continue the working capital fund by charging a reasonable transfer or impact fee when Lots are sold or rented.

41. Separate Taxation. Each Lot and its appurtenant ownership interest in the Association shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing Lot and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. Neither the Building or Buildings, the property nor any of the Common Area and Facilities may be considered a parcel for tax purposes.

42. Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

43. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Association, all other signatories hereto, all parties who hereafter acquire any interest in a Lot or in the Project, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

44. Enforcement and Right to Recover Attorneys Fees. Enforcement. The Management Committee may exercise its business judgment in deciding whether to impose sanctions or pursue legal action against violators and shall consider common concerns when taking or deciding not to take formal action, such as a weak legal position, conflict with current law, technical violations, minor or collateral issue, and whether or not it is in Association's best interests to pursue the matter and, if so, to what extent. Should the Association or Board of Directors be required to take action to enforce the Declaration, ByLaws or any administrative

rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorneys fee, which may arise or accrue.

45. Agent for Service of Process. The President of the Association is the person to receive service of process in the cases authorized by the Act and the office. The initial Registered Agent is Gary Petersen and the initial office of the Registered Agent is 758 South 400 East, Orem, Utah 84097.

46. Expansion of the Project.

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

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

(c) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots after such expansion shall be effective to transfer rights in the Project, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the office of the County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Lots in the Project as it existed before such expansion the respective ownership interests in the Association as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Lot in the Project as it existed, a corresponding ownership interest in the Association as a result of such expansion.

(d) Declaration Operative on New Lots. The new Lots shall be subject to all the terms and conditions of this Declaration and of a Supplemental Declaration, and the Lots therein shall be subject to a scheme of common ownership with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Map and Supplemental Declaration in the said office of the County Recorder.

(e) Right of Successor Declarant to Adjust Ownership Interests in Association. Each deed of a Lot shall be deemed to irrevocably reserve to the Successor Declarant the power to appoint to Owners, from time to time, a corresponding ownership interest in the Association. The ownership interest of each Owner in the Association after any expansion of the Project shall be an ownership interest in the Association as the Project has been expanded. A power coupled with an interest is hereby granted to the Successor Declarant, its successors and assigns, as attorney in fact to shift ownership interests in the Association in accordance with Supplemental or Declarations recorded pursuant hereto and each deed of a Lot in the Project shall be deemed a grant of such power to the Successor Declarant. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the ownership interest in the Association. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the ownership interest in the Association can be accomplished. Notwithstanding anything to the contrary herein, no change in the ownership interest in the Association may be effected more than five (5) years after the effective date of the Declaration without the express prior written consent of at least two-thirds (2/3) of the Owners.

Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of ownership interests in the Association shall automatically become effective for all purposes and shall fully supersede any previous schedule associated with any prior phase.

(f) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

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

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

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

(4) No assurances are made concerning:

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

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

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

d. Whether any private yard or limited common area will be added to the Project.

(5) Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Successor Declarant any obligation respecting, or to restrict Successor Declarant in any way with regard to: (a) the submission of any portion of the Additional Land to the provisions of the Act as Land under this Declaration; (b) the creation, construction, or addition to the Project of any additional property; (c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or (d) the taking of any particular action with respect to the Property.

(6) Assuming that only Construction Phase 1 Plats 31-35 of the Town Home Project is completed, there would be 4 Buildings and the minimum number of Lots would be 22 and the maximum ownership interest of each Lot in the Association would be 1/22 or 4.5454%. Assuming all Phases in the Town Home Project are completed and all of the Additional Land is added to the Town Home Project (a) the maximum number of Buildings would be 26; (b) the maximum number of Lots would be 118; (c) there would be approximately 8.51 acres; (d) the maximum number of Lots per net acre would be about 13.86 and (e) the minimum ownership interest of each Lot in the Town Home portion of the Association would be 1/118 or 0.0084745%. Provided, however, the number of Lots actually constructed and the actual ownership interest of each Lot in the Association may actually be somewhere in between the numbers and percentages set forth above.

g) General Liability Insurance Policy for Expansion of Project. If this Project qualifies for government financing, then pursuant to Title 38, CFR Section 36.4360 (a) (5), which is incorporated herein by this reference, the Successor Declarant shall purchase at its own expense and maintain a general liability insurance policy in the sum of not less than \$1

million to cover any liability which Owners of previously sold Lots are exposed to as a consequence of further and future expansion of the project pursuant hereto.

47. Combination of Lots. An Owner of two or more adjoining Lots shall have the right upon approval of the Board of Directors and the mortgagees of said Lots, to combine one or more adjoining Lots or portions thereof and to alter or amend the Declaration and Map to reflect such combination.

a) Such amendments may be accomplished by the Owner recording an amendment or amendments to this Declaration, together with an amended Map or Maps containing the same information with respect to the altered Lots as required in the initial Declaration and Map with respect to the initial Lots. All costs and expenses required in such amendments shall be borne by the Owner desiring such combination.

b) All such amendments to the Declaration and Map must be approved by attorneys employed by the Board of Directors to insure the continuing legality of the Declaration and the Map. The cost of such review by the attorneys shall be borne by the person wishing to combine the Lots.

c) Any amendments of the Declaration or Map pursuant to this paragraph shall reflect the changes occasioned by the alteration. Such changes shall include a change in the ownership interest in the Association which are appurtenant to the Lots involved in the alterations. The remaining combined Lot, if two or more Lots are totally combined, will acquire the total ownership interest in the Association appurtenant to the Lots that are combined. If a portion of one Lot is combined with another, the resulting Lots shall acquire a proportionate ownership interest in the Association involved in the combination on the basis of area remaining in the respective, combined Lots. The ownership interest in the Association appurtenant to all other Lots shall not be changed. All such amendments must, in all instances, be consented to by the Board of Directors and also all other persons holding interest in the Lots affected. The consent of other Owners need not be obtained to make such amendments or alterations valid, providing the ownership interest in the Association of the other Owners remain unchanged.

48. Fines. The Association shall have the power and authority to charge fines or levy other sanctions for violations of the Project Documents.

49. Security. Neither the Successor Declarant, Successor Declarant nor Association shall in any way be considered insurers or guarantors of security within the Project. Neither the Successor Declarant, Successor Declarant nor Association shall be held liable for any loss or damage, including malfunction, by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and Permittees acknowledge that neither the Successor Declarant, Successor Declarant, Association, Board of Directors nor Manager, or their employees, agents or representatives represent or warrant that any fire protection system or burglar alarm system designated by or installed in the Project may not be compromised or circumvented, that any fire protection or burglar alarm systems will prevent loss

by fire, smoke, burglary, theft, hold-up, or otherwise nor that the gate, fire protection or burglary alarm systems will in all cases provide the detection or protection for which the system is designed or intended. Each Owner for himself and his Guests and Permittees acknowledges and understands that the Successor Declarant, Successor Declarant, Association, Board of Directors and Manager, and their employees, agents or representatives are not insurers and that each Owner and his Permittees expressly, by accepting a deed or other document of conveyance or taking possession of a Lot or entering the Project, assume all risks for loss or damage to persons or property within the Project and further acknowledges that Successor Declarant, Successor Declarant, Association, Board of Directors and Manager, and their employees, agents or representatives have made no representations or warranties nor has any Owner or his Permittees relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems recommended or installed or any security measures undertaken within the Project.

50. Party Walls.

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

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

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

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

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

51. Duration. This Declaration shall continue for a period of forty (40) years. Then, it shall automatically be renewed for ten (10) year periods, unless sooner terminated by the affirmative vote of at least sixty-seven percent (67%) of the Total Vote.

52. Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Final Plat shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

Dated this 8th day of June, 2011.

EAST TOWN VILLAGE, L.C.,
a Utah limited liability company

By: Gary A. Petersen
Name: Gary A. Petersen
Title: Manager

EXHIBIT "A"
LEGAL DESCRIPTION OF TRACT

The Land described in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION Phase 32

BEGINNING AT A POINT S89°15'05"E 121.06 FEET AND S00°21'25"W 633.79 FEET AND EAST 203.96 FEET FROM THE WEST QUARTER CORNER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE POINT OF BEGINNING;

THENCE EAST 126.53 FEET; THENCE SOUTH 48.97 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 23.56 FEET. (THE CHORD BEARS S45°00'00"W 21.21 FEET); THENCE WEST 111.53 FEET; THENCE NORTH 63.97 FEET TO THE POINT OF BEGINNING. CONTAINING 0.18 ACRES, 6 UNITS.

Boundary Description – Phase 33

BEGINNING AT A POINT S89°15'05"E 121.06 FEET AND S00°21'25"W 755.76 FEET AND EAST 206.97 FEET FROM THE WEST QUARTER CORNER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE POINT OF BEGINNING;

THENCE EAST 114.81 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 22.61 FEET, (THE CHORD BEARS S46°49'32"E 20.53 FEET); THENCE ALONG THE ARC OF A 271.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 17.27 FEET, (THE CHORD BEARS S01°49'32"E 17.27 FEET); THENCE SOUTH 18.75 FEET; THENCE WEST 130.33 FEET; THENCE NORTH 50.06 FEET TO THE POINT OF BEGINNING. CONTAINING 0.15 ACRES, 6 UNITS.

BOUNDARY DESCRIPTION Phase 34

BEGINNING AT A POINT S89°15'05"E 121.06 FEET AND S00°21'25"W 829.82 FEET AND EAST 207.43 FEET FROM THE WEST QUARTER CORNER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE POINT OF BEGINNING:

THENCE EAST 130.33 FEET; THENCE SOUTH 18.80 FEET; THENCE ALONG THE ARC OF A 271.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 32.40 FEET, (THE CHORD BEARS S03°25'31"W 32.38 FEET); THENCE ALONG THE ARC OF A 329.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 7.26 FEET, (THE CHORD BEARS S06°13'06"W 7.26 FEET); THENCE WEST 127.61 FEET; THENCE NORTH 58.35 FEET TO THE POINT OF BEGINNING. CONTAINING 0.17 ACRES, 6 UNITS.

BOUNDARY DESCRIPTION Phase 35

BEGINNING AT A POINT S89°15'05"E 121.06 FEET AND S00°21'25"W 836.79 FEET AND EAST 395.80 FEET FROM THE WEST QUARTER CORNER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE POINT OF BEGINNING:

THENCE S87°05'40"E 70.56 FEET; THENCE S02°54'21"W 93.74 FEET; THENCE SOUTH 12.20'; THENCE N87°05'43"W 28.13 FEET; THENCE N81°29'21"W 42.37 FEET; THENCE NORTH 18.31 FEET; THENCE ALONG THE ARC OF A 271.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 32.40 FEET, (THE CHORD BEARS N03°25'31"E 32.38 FEET); THENCE ALONG THE ARC OF A 329.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 39.34 FEET, (THE CHORD BEARS N03°25'31"E 39.31 FEET); THENCE NORTH 11.82 FEET TO THE POINT OF BEGINNING. CONTAINING 0.17 ACRES, 4 UNITS.

EXHIBIT "B"
LEGAL DESCRIPTION OF ADDITIONAL LAND

{New legal description from Atlas 6.14 acres}

BOUNDARY DESCRIPTION

BEGINNING AT A POINT S89°15'05"E 121.06 FEET AND S00°21'25"W 840.37 FEET AND EAST 466.29 FEET FROM THE WEST QUARTER CORNER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE POINT OF BEGINNING.

THENCE S87°25'44"E 68.31 FEET; THENCE WEST 42.26 FEET; THENCE S00°03'11"E 27.33 FEET; THENCE ALONG THE ARC OF A 74.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT 81.23 FEET (CHORD BEARS S31°26'52"W 77.21 FEET); THENCE SOUTH 160.09'; THENCE EAST 474.96 FEET; THENCE S01°09'42"W 35.68 FEET; THENCE S88°50'19"E 15.67 FEET; THENCE S01°09'41"W 118.49 FEET; THENCE ALONG THE ARC OF A 271.00 FOOT RADIUS CURVE TO THE RIGHT 19.02 FEET (CHORD BEARS S03°10'19"W 19.02 FEET); THENCE S84°45'22"E 111.66 FEET; THENCE S88°50'19"E 15.28 FEET; THENCE S01°09'41"W 131.89 FEET; THENCE N88°50'19"W 119.34 FEET; THENCE N00°21'25"E 5.56 FEET; THENCE N89°38'35"W 228.03 FEET; THENCE N01°35'36"E 106.48 FEET; THENCE N88°50'19"W 557.71 FEET; THENCE N01°09'42"E 69.03 FEET; THENCE ALONG THE ARC OF A 121.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT 12.92 FEET (CHORD BEARING S80°50'28"W 12.92 FEET); THENCE S77°46'53"W 6.69 FEET; THENCE ALONG THE ARC OF A 229.00 FOOT RADIUS TANGENT CURVE TO THE RIGHT 48.84 FEET (CHORD BEARS S83°53'27"W 48.74 FEET); THENCE EAST 131.38 FEET; THENCE N00°21'25"E 58.00 FEET; THENCE EAST 131.02 FEET; THENCE NORTH 228.07 FEET; THENCE EAST 184.05 FEET; THENCE S81°29'21"E 42.37 FEET; THENCE S87°05'43"E 28.13 FEET; THENCE N02°34'16"E 105.93 FEET TO THE POINT OF BEGINNING. CONTAINING 6.14 ACRES.

EXHIBIT "C"
BYLAWS
EAST TOWN VILLAGE TOWN HOMES OWNERS ASSOCIATION

ARTICLE I
REGISTERED AGENT AND OFFICE

1. Initial Office and Registered Agent. The initial Registered Agent shall be Gary Petersen of 758 South 400 East, Orem, Utah 84097.

2. Subsequent Office and Registered Agents. After the termination of the Period of Successor Declarant's Control, the Registered Agent shall be the President of the Association and the Registered Office shall be the home of the President or such other place as shall be designated by him.

ARTICLE II
ASSOCIATION

1. Composition. The Association is a mandatory association consisting of all Owners who by virtue of their acceptance of a deed or other document of conveyance to a Lot shall be considered a member of the Association. Membership may not be separated from the ownership of the Lot.

2. Meetings. The Association shall meet as often as is necessary but at least once annually.

3. Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board of Directors from time to time and stated in the notice of meeting.

4. Notice of Meeting. It shall be the duty of the Secretary to hand deliver or mail to each owner at his last known address, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting of the Association not less than ten (10) and not more than thirty (30) days in advance of such meeting. The notice shall state the purpose, day, date, time and place of the meetings. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

5. Qualified Voters. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he is in full compliance with all of the terms, covenants, and conditions of this Project Documents, and shall have fully paid his share of the Common Expenses and all Assessments and/or Additional Charges due.

6. Proxies. The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Lot Owner, or in cases where the Owner is more than one

person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Association prior to the meeting. Only individual Owners or the legal representative of an institutional Owner may be proxies.

7. Quorum Voting. Those Owners present in person or by proxy at a meeting of the Association shall constitute a quorum for all purposes. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association in person or by proxy, shall decide any question brought before the meeting. If the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

8. Order of Business. The order of business at all meetings of the Association shall be as follows:

- a. roll call;
- b. proof of notice of meeting;
- c. reading of minutes of preceding meeting;
- d. reports of officers;
- e. report of special Board of Directors, if any;
- f. election of inspectors of election, if applicable;
- g. election of Board of Directors Members, if applicable;
- h. unfinished business; and
- i. new business.

8. Conduct of Meeting. The President shall, or in his absence the Vice-President, preside over all meetings of the Association; and the Secretary shall keep the minutes of the meeting as well as record of all transactions occurring thereat.

9. Action May Be Taken Without A Meeting. Any action to be taken at the meeting of the Board of Directors or any action that be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the members of the Board of Directors. An explanation of the action taken shall be posted at a prominent place or places within the Common Area with three (3) days after the written consents of all of the members of the Board of Directors have been obtained.

ARTICLE III BOARD OF DIRECTORS

1. Powers and Duties. The affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration and may do all such acts and things necessary to operate and maintain this Project. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed proper for the exercise of its management powers. The Board of Directors may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Board of Directors shall be responsible for at least the following:

- a) Preparing an annual budget;
- b) Allocating the Common Expenses;
- c) Maintaining the Property;
- d) Collecting and depositing the Assessments;
- e) Adopting Rules and Regulations;
- f) Purchasing insurance;
- g) Enforcing by legal means the Project Documents;
- h) Keeping books and records;
- i) Immobilizing, towing or impounding vehicles;
- j) Assigning parking;
- k) Accommodating the handicapped;
- l) Charging fines;
- m) Incorporating (or reincorporating the Association should the corporate status lapse, be suspended or expire) the Association; and
- n) Doing such other things and acts necessary to accomplish the foregoing and not inconsistent with the Declaration or Bylaws, or to do anything required by a proper resolution of the Board of Delegates or Recreation Association.

2. Composition of Board of Directors. The Board of Directors shall be composed of three (3) individuals (the "Directors").

3. Election and Term of Office of the Board of Directors. The term of office of membership on the Board of Directors shall be two (2) years. At the expiration of the member's term, a successor shall be elected. At the first annual meeting after the end of the Period of Successor Declarant's Control, the even number of Members shall be elected for a 2 year term and the odd number of members for a 1-year term. Thereafter all terms shall be 2 years (e.g. at the initial meeting, if there are 3 members, 2 shall be elected for a 2-year term and 1 shall be elected for a one year term).

4. First Meeting. The first meeting of the members of the Board of Directors shall be immediately following the annual meeting of the Association or at such other time and place designated by the Board of Directors.

5. Regular Meetings. Regular meetings of the Board of Directors shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Board of Directors, but no less often than monthly.

6. Special Meetings. Special meetings of the Board of Directors may be called by the President, Vice President or a majority of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U.S. Mail postage prepaid, or by telephone, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Board of Directors shall be valid for any and all purposes.

7. Waiver of Notice. Before or at any meeting of the Board of Directors, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Board of Directors shall constitute a waiver of notice. If all the members are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

8. Quorum. At all meetings of the Board of Directors, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Board of Directors members present at a meeting at which a quorum is present shall be deemed to be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than two days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

9. Vacancies. Vacancies in the Board of Directors caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board of Directors at a special meeting of the Board of Directors held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Board of Directors; and each person so elected shall be a member for the remainder of the term of the member so replaced. A

vacancy created by the removal of a member by a vote of the Association shall be filled by the election and vote of the Association.

10. Removal of Board of Directors Member. A member of the Board of Directors may be removed with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Board of Directors Member who misses twenty-five percent (25%) or more of the Board of Directors Meetings or who misses three (3) consecutive meetings, in any calendar year, shall be automatically removed from the Board of Directors.

11. Presiding Authority. The President shall preside over all meetings of the Board of Directors and in his absence, the Vice-President shall preside.

12. Minutes. The Secretary shall keep a Minute Book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

13. Report of Board of Directors. The Board of Directors shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

14. Delegates for Recreation Association. The Chair Person of the Board of Directors or his designee shall serve as the Delegate for the Town Homes Association on the Recreation Association.

ARTICLE IV OFFICERS

1. Designation. The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint assistant secretaries and such other officers as in its judgment may be necessary. The President, Secretary and Treasurer must be members of the Board of Directors. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of each Board of Directors immediately following the annual meeting of the Association and shall hold office at the pleasure of the Board of Directors. Any vacancy in an office shall be filled by the Board of Directors at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors, and his successor may be elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purposes.

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board of Directors shall be an ex officio member of all Board of Directors; he shall have general and active management of the business of the Board of Directors and shall see that all orders and resolutions of the Board of Directors are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the use of president of a corporation organized under the laws of the State of Utah.

5. Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board of Directors or the President shall prescribe. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint a member of the Board of Directors to do so on an interim basis.

6. Secretary. The secretary shall attend all meetings of the Board of Directors and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform like duties for Board of Directors when required. He shall give, or cause to be given, notices for all meetings of the Association and the Board of Directors and shall perform such other duties as may be prescribed by the Board of Directors. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Board of Directors including resolutions.

7. Treasurer. The Treasurer shall have custody of all funds and securities that are not under the control of the Managing Agent, and with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Board of Directors. He shall disburse funds as ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Board of Directors, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of this Project.

**ARTICLE V
FISCAL YEAR**

The fiscal year of the Association shall be the calendar year consisting of the twelve (12) month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Board of Directors should it be deemed advisable or in the best interests of the Association.

**ARTICLE VI
INVESTMENT OF COMMON FUNDS**

Common funds may only be deposited into institutions and accounts which are federally insured.

**ARTICLE VII
AMENDMENT TO BYLAWS**

1. Amendment. These Bylaws may be amended as follows:

a) General. Except as provided elsewhere in this Bylaws, including by way of illustration but not limitation to sections pertaining to the addition or annexation of any land, any amendment to this Bylaws shall require the affirmative written vote or consent of at least a majority of the total undivided ownership interest in the Common Area and Facilities cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting.

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

c) Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Bylaws to the contrary, this Bylaws may be amended unilaterally at any time and from time to time by Successor Declarant if such Amendment is (1) necessary to correct typographical errors or inadvertent omissions; (2) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (3) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Bylaws; provided, however, any such amendment shall not materially adversely affect the title to any Lot unless the Owner of said Lot shall consent thereto in writing.

d) Successor Declarant's Right to Amend Unilaterally Prior to Termination of Successor Declarant's Right to Control. Prior to the expiration of the Period of Successor Declarant's Control, Successor Declarant may unilaterally amend this Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the

substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the express written consent of said Lot Owner.

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

f) Successor Declarant's Rights. No provision of this Bylaws reserving or granting to Successor Declarant any unexpired developmental rights may be amended, including by way of illustration but not limitation a modification which would terminate or decrease any developmental right, without the prior express written consent of Successor Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Successor Declarant's sole and exclusive discretion.

g) Execution of Amendments.

1) An amendment or revocation which only requires the execution of an instrument by Successor Declarant as hereinabove provided shall be effective when executed by Successor Declarant and when recorded in the office of the County Recorder.

2) An amendment which requires the affirmative written assent or vote of the Owners as hereinabove provided shall be effective when executed by the President and Secretary of the Association, who shall certify that all of the voting requirements have been satisfied, and the Successor Declarant, if the Successor Declarant's consent is also required, and recorded in the office of the County Recorder.

2. Effective Upon Recording. An amendment to these Bylaws shall become effective immediately upon recordation in the Office of the County Recorder.

ARTICLE VIII NOTICE

1. Manner of Notice. All notices, demands, bills, statements, or other communications provided for or required under these Bylaws (except as to notices of Association meetings which were previously addressed in Article II of these Bylaws) shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. Mail postage pre-paid, a) if to an Owner, at the address of his Lot and at such other address as the Owner may have designated by notice in writing to the Secretary; or b) if to the Board of Directors or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Fair and Reasonable Notice - Presumptions. Notice given in accordance with Subsection (1) above or the provisions of the Revised Nonprofit Corporations Act) shall be considered fair and reasonable notice. The Association may give notice by text message, e-mail, text message, the Association website, or other electronic notice; provided, however an Owner may by making a written demand to the Association require written notice.

3. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration.

ARTICLE IX BOOKS AND RECORDS

1. Books and Records. All books and records shall be kept in accordance with generally accepted accounting practices.

2. Checks. The Board of Directors shall designate who must sign checks for the Association.

3. Limitation of Liability. Neither the Association nor any director, officer, employee or agent of the Association shall be liable to the member or anyone to whom the member discloses the financial statement or any information contained therein for any error or omission therein, whether caused without fault, by negligence or by gross negligence, unless (1) the error or omission is material, (2) the director, officer, employee or agent in question knew of the error or omission and intended for the member or other person to rely thereon to his detriment, (3) the member or other persons did reasonably rely thereon, and, in addition, (4) he is otherwise liable under applicable law.

4. Independent Compilation, Review or Audit. The Board of Directors may provide either a Compilation Report, Reviewed Financial Statement, or an Audited Financial Statement¹⁰, prepared by an independent CPA.¹¹ Whenever requested in writing by a majority of members of the Board of Directors or Lot Owners, the Board of Directors shall provide an Audited Financial Statement. The cost of the Compilation Report, Reviewed Financial Statement, or an Audited Financial Statement shall be a common expense.

5. Production of Records. The Association shall: (a) keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred; and (b) make those records available for examination by any Lot Owners at a convenient hour during the regular work week no later than fourteen (14) days after the Lot Owner makes a written request to examine the records.

¹⁰ The Board of Directors should be sensitive to the legal requirements for, and the costs involved in, preparing financial reports. The Board of Directors may require preparation of anything from merely compiled financial statements to a full audit. With compiled financial statements, the accountant simply takes information supplied by the Board of Directors of the association and puts it in proper financial statement form, without attempting to verify the information supplied. The accountant expresses no assurances regarding the financial statements. Reviewed financial statements involve certain inquiries and analytical procedures by the accountant concerning the association's accounting methods. A review should provide the accountant with a reasonable basis for expressing limited assurances to home owners that no material modification need be made to the financial statements. Audited financial statements require detailed examination, tests of accounting records and methods, and direct verification of assets and liabilities with banks, attorneys, creditors, and others. Generally, the accountant will give the association an unqualified opinion that the financial statements fairly represent the financial position of the association. Although audited financial statements may be the most thorough, they are also the most expensive financial report and may be unnecessary for the average association. A compilation is generally the least expensive type of report, but it gives the homeowners no assurances that the Board of Directors is accounting for association monies in accordance with generally accepted accounting principles. For this reason, the Board of Directors may wish to require only a review, which should be adequate to fulfill the Board of Directors's fiduciary duty to account to the home owners.

¹¹ The CPA may not own or reside in a Unit, serve on the Board of Directors, be an officer, agent, representative or employee of the Association, or otherwise have a conflict of interest, real or apparent.

ARTICLE X
COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Conflict.

a. These Bylaws are subordinate and subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Bylaws and the Declaration, the provision of the Declaration shall control.

b. In the event of any conflict between the provisions hereof and the provisions of the Utah Revised Nonprofit Corporation Act, the latter shall in all respects control.

2. Waiver. No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

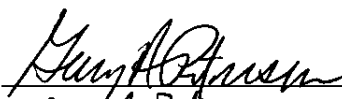
3. Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

4. Interpretation. Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine; and the term "shall" is mandatory while the term "may" is permissive.

5. Severability. The invalidity of any one or more phrases, sentences, subparagraphs, subsections or sections hereof shall not affect the remaining portions of this instrument or any part thereof, and in the event that any portion or portions of this document should be invalid or should operate to render this document invalid, this document shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, subsection or subsections, or section or sections had not been inserted.

Dated the 8th day of June, 2011.

EAST TOWN VILLAGE, L.C.,
a Utah limited liability company

By: 
Name: Gary A. Peterson
Title: Manager

STATE OF UTAH)
 Utah-4B ss:
COUNTY OF ~~SALT LAKE~~)

On the 8 day of June, 2011, personally appeared before me Gary Peterson, who by me being duly sworn, did say that he is the Manager of EAST TOWN VILLAGE, L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of its Articles of Organization or a resolution of its Members, and said Gary Peterson duly acknowledged to me that said Company executed the same.



NOTARY PUBLIC



EXHIBIT "C-1"
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST

Sandy Side

Bldg. No.	Lot No.	Percentage of Ownership
Phase 32		
18	1	4.5454%
18	2	4.5454%
18	3	4.5454%
18	4	4.5454%
18	5	4.5454%
18	6	4.5454%
Phase 33		
19	1	4.5454%
19	2	4.5454%
19	3	4.5454%
19	4	4.5454%
19	5	4.5454%
19	6	4.5454%
Phase 34		
43	1	4.5454%
43	2	4.5454%
43	3	4.5454%
43	4	4.5454%
43	5	4.5454%
43	6	4.5454%
Phase 35		
20	1	4.5454%
20	2	4.5454%
20	3	4.5454%
20	4	4.5454%
		100%