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BACKMAN TITLE SERVICES
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**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS**

FOR

WESTCOVE

A PLANNED UNIT DEVELOPMENT

IN

SALT LAKE COUNTY, UTAH

COURTESY RECORDING

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

FOR

WESTCOVE

THIS AMENDED AND RESTATED DECLARATION is adopted this 11th day of October, 2012 by the Westcove Association, and is effective as of the date it is recorded in the Salt Lake County Recorder's Office.

RECITALS

1. Defined Terms. Capitalized terms in this Declaration are defined in Article 1 or in other sections of this Declaration.
2. Description of Affected Property. This Declaration affects the real property located in Salt Lake County, Utah, described with particularity on Exhibit A, attached hereto and incorporated here by reference ("the Property").
3. Original Declaration. On September 11, 1974, a Declaration of Covenants, Conditions and Restrictions was recorded in the office of the Salt Lake County Recorder as Entry No. 2659345 in Book 3977, beginning at page 288, by the Breitling Alliance, as developer, and Richards-Woodbury Mortgage Corp., as declarant.
4. Original Plat. On April 8, 1974, a Subdivision Plat of Westcove entitled "Westcove Phase I, A planned Unit Development" was recorded in the official records of Salt Lake County, State of Utah as Entry No. 2611711, in Book 74-4 at Page 60.
5. Amended Plat. On January 28, 1975, a Subdivision Plat of Westcove entitled "Westcove Amended Phase 1" was recorded in the official records of Salt Lake County, State of Utah, as Entry No. 2681009, in Book 75-1, at Page 15.
6. Second Amended Plat. On October 26, 1984, a Subdivision Plat of Westcove entitled "Westcove Amended and Extended Phase I" was recorded in the official records of Salt Lake County, State of Utah as Entry No. 4008905, in Book 84-10, at Page 164.
7. Third Amended Plat. On March 9, 1988, a Subdivision Plat of Westcove entitled "Westcove Amended & Extended Phase I, Amended" was recorded in the official records of Salt Lake County, State of Utah as Entry No. 4504906, in Book 88-3, at Page 16.
8. Amended Declaration. On March 24, 1988, an Amendment to Declaration of Covenants, Conditions and Restrictions for Westcove was recorded in the office of the Salt Lake County Recorder as Entry No. 4601411 in Book 6013, beginning at page 2699.

9. Second Amended Declaration. On November 14, 1989, a Second Amendment to Declaration of Covenants, Conditions and Restrictions for Westcove was recorded in the office of the Salt Lake County Recorder as Entry No. 4848117 in Book 6176, beginning at page 75.
10. Third Amended Declaration. On July 25, 1995, a Third Amended to Declaration of Covenants, Conditions and Restrictions of Westcove was recorded in the office of the Salt Lake County Recorder as Entry No. 6125935 in Book 7191, beginning at Page 2521.
11. Fourth Amended Plat. On November 2, 1995, a Subdivision Plat of Westcove entitled "Westcove Amended & Extended Phase 1, Amended, Amendment of Lots 7, 8, 9, 15, 39 and 29, 30, 31, 32, 34, 35, 36, 42, 43, 45, 46, 48, 49" was recorded in the official records of Salt Lake County, State of Utah as Entry No. 6204850 in Book 95-11P, Page 300.
12. The Association, through the Owners, desires to update the previous declaration and amendments thereto in order to adopt recent changes in applicable state law, to eliminate ambiguity, to clarify the rights of the Association and Owners, to eliminate provisions related to Declarant rights which have now expired, to provide for a general plan for managing the Project and Property, and in furtherance of the Association's efforts to efficiently and economically provide a quality living environment and protect and enhance the value of the Lots and the Project.
13. The Association, through its Owners, hereby desires to establish the Terms and Conditions for the mutual benefit and burden of the Association and all current and future Owners, Occupants, Lenders, and others acquiring any interest in the Project and/or Property.
14. As certified below, and as shown by the attached signatures, this Declaration and the attached Bylaws were consented to by the Owners of not less than sixty percent of the Lots, as required by Article VII, Section 5 of the original declaration.

NOW, THEREFORE, for the reasons recited above and subject to the Terms and Conditions set forth below, the Association, through the Owners, hereby amends and replaces the prior declaration and any amendments thereto with the following:

ARTICLE 1

DEFINITIONS

As used herein, unless the context otherwise requires:

- 1.1. "Act" shall mean the Utah Community Association Act codified beginning at Section 57-8a-101, Utah Code Annotated, as in effect on the date this Declaration is recorded.
- 1.2. "Allocated Interest" shall mean the interest of that Owner (expressed as a percentage in Exhibit C to this Declaration) in the Common Expense liability and for the purposes of

voting in the Association.

- 1.3. "Articles" shall mean the Articles of Incorporation or the chartering document of any other legal entity, if any shall be formed for the Association.
- 1.4. "Assessments" shall mean any monetary charge imposed or levied on an Owner by the Association as provided for in this Declaration.
- 1.5. "Association" shall refer to the WESTCOVE ASSOCIATION, the membership of which shall include each Owner in the Project. The Association is currently incorporated as a nonprofit corporation. If the Owners are ever organized as another type of entity or if the Owners act as a group without legal organization, "Association" as used in this Declaration shall refer to that entity or group.
- 1.6. "Board of Directors" shall mean the entity with primary authority to manage the affairs of the Association.
- 1.7. "Bylaws" shall mean the bylaws of the Association attached as Exhibit B, and all valid amendments and supplements thereto. No amendment to the Bylaws shall be effective until it is recorded.
- 1.8. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area shall consist of all parts of the Project that are not within the individually owned Lots.
- 1.9. "Common Expenses" shall mean the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Common Area that is maintained by the Association; (b) maintenance, repair, and replacement of those aspects of the Lots that are maintained by the Association; (c) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, consultants, and employees; (d) utilities (other than utilities that are separately metered and charged to the Lots), extermination, security, gardening and other related services; (e) insurance and bonds required or allowed by this Declaration; (f) the establishment of reserves; (g) other miscellaneous charges incurred by the Association as provided for or allowed in the Act or the Governing Documents; and (h) any other expenses of the Association arising from the operation of the Association and not otherwise precluded by the Governing Documents or any applicable law.
- 1.10. "Declaration" shall mean this Declaration, including all attached exhibits that are incorporated by reference, and any and all amendments to this Declaration.
- 1.11. "Director" shall mean a member of the Board of Directors.
- 1.12. "Dwelling Unit" shall mean and refer to a structure on a Lot that is designed and intended for use and occupancy as a single-family residence, together with all improvements

located on or with respect to the Lot concerned that are used in connection with such residence.

- 1.13. "Governing Documents" shall refer to this Declaration, the Plat, the Bylaws, the Rules, any Articles, and any other documents or agreements binding upon all of the Owners.
- 1.14. "Lender" shall mean a holder of a mortgage or deed of trust on a Lot.
- 1.15. "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Project.
- 1.16. "Occupant" shall mean a Person or Persons, other than an Owner, in possession of, using, entering into, or living in a Dwelling Unit or the Project, including, without limitation, family members, tenants, guests, and invitees of an Owner or an Occupant. Occupants shall include any trespassers or previously lawful occupants if the Owner fails to secure the Dwelling Unit against trespass, fails to take action necessary and appropriate to remove trespassers or previously lawful occupants immediately upon notice of the trespass or occupancy, or fails to take reasonable measures to become aware of any unauthorized Occupants in the Dwelling Unit or of any unauthorized entry and use of the Lot and Dwelling Unit (which shall include the duty to verify the physical condition and occupancy of the Dwelling Unit at least monthly if it is left unoccupied).
- 1.17. "Owner" shall mean the Person or Persons who are vested with record title to a Lot, and whose interest in the Lot is held (in whole or in part) in fee simple, according to the records of the County Recorder of Salt Lake County, Utah; however, Owner shall not include a trustee for a deed of trust.
- 1.18. "Person" shall mean a natural individual, corporation, estate, partnership, trustee, association, joint venture, government, governmental subdivision or agency, or any other legal entity with the legal capacity to hold title to real property.
- 1.19. "Plat" shall mean the record of survey map or maps of the Project recorded in the records of the County Recorder of Salt Lake County, Utah and all amendments and supplements thereto.
- 1.20. "Project" shall mean the Property and all structures and improvements thereon including the Lots and the Common Area. The Project is named "Westcove" and is located entirely in West Valley City, Salt Lake County.
- 1.21. "Property" shall mean the property legally described in Exhibit A and all easements and rights appurtenant thereto.
- 1.22. "Reserve Analysis" shall mean an analysis to determine (a) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Area that has a useful life of three years or more, but excluding any cost that can reasonably be funded from the general budget or other funds of the Association; and (ii) the appropriate

amount of any reserve fund.

- 1.23. "Rules" shall mean and refer to the rules and regulations adopted by the Association.
- 1.24. "Terms and Conditions" shall mean any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.

ARTICLE 2

THE PROJECT AND REQUIRED REGISTRATION

- 2.1. Binding Effect of Governing Documents. The Association hereby confirms that the Property is part of the Project and declares and agrees that the Project and all of the Lots shall be held, transferred, mortgaged, encumbered, occupied, used, and improved subject to the Terms and Conditions, which Terms and Conditions shall, to the extent they are included in recorded documents, constitute equitable servitudes and covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association and each Owner, including their respective heirs, executors, administrators, personal representatives, successors and assigns. By acquiring any interest in a Lot such Owner consents to, and agrees to be bound by, each and every Term and Condition in the Governing Documents.
- 2.2. Nature of the Project. The Project is a planned unit community with 77 lots containing 66 detached homes and eight townhouse-style homes. Three lots are unimproved as of the date of the recording of this Declaration. The Project includes roadways, open space, parks, a playground, a tennis court, and a recreational vehicle parking area, as shown on the Plat. The Project is not a cooperative or a condominium.
- 2.3. Project Name. The Project shall be named, identified, and known as Westcove, unless otherwise changed as provided for in this Declaration.
- 2.4. Identification of Lots. All of the Lots are referenced specifically and identified by location on the Plat by numbers 1 through 49 and 56 through 83.
- 2.5. Registered Agent. The registered agent of the Association shall be as provided for in entity filings of the Association.
- 2.6. Registration with the State. In compliance with Utah Code Ann. § 57-8a-105, the Association shall be registered with the state Department of Commerce and shall update its registration with any changes to: (a) the name or address of the Association; (b) the name, address, telephone number, and e-mail address of the president of the Association; (c) contact information for the Manager; and (d) the name, address, telephone number, and e-mail or facsimile number of a primary contact person who has Association payoff information that a closing agent needs in connection with the closing of an Owner's financing, refinancing, or sale of the Owner's Lot.

ARTICLE 3

MAINTENANCE, REMODELING, AND UTILITIES

- 3.1. Owner Responsibility for Maintenance. Unless otherwise agreed to in writing by the Association, each Owner's responsibility to care for his or her Lot shall include, but not be limited to, the following:
- (a) Maintenance of Dwelling Units. Each Owner shall have the obligation to provide exterior maintenance of his Dwelling Unit and all porches, patios, and decks associated with an Owner's Dwelling Unit including but not limited to painting, repair, replacement, and care of roofs, gutters, down spouts, window wells, exterior building surfaces, and landscaping installed by an Owner or his predecessor in title. Each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Dwelling Unit and shall maintain all mechanical devices, including but not limited to, appurtenant electrical, plumbing and heating, ventilating and air conditioning systems. The Owner shall be responsible for maintaining all utility lines serving the Owner's Lot from the Dwelling Unit to the point that such lines serve multiple Dwelling Units. The Dwelling Units shall be maintained in such a manner as to preserve and achieve structural integrity, an attractive appearance, and a good condition.
 - (b) Maintenance of Lots. Each Owner shall be responsible for keeping the Lot in a clean, sanitary, good, and uncluttered condition. Each Owner shall be responsible for installing all landscaping on the Owner's Lot, including at a minimum, lawns on all areas not otherwise landscaped. Weeds shall be removed and controlled and plants and trees shall be trimmed and properly maintained on all areas of the Lot not otherwise maintained by the Association as allowed or required pursuant to this Declaration and the Rules. The Board of Directors may set forth in the Rules landscaping and yard guidelines that may include: (1) the allowance or prohibition of, or limitations on xeriscaping; (2) a minimum number of trees, and limitations on the types, height, or maintenance of plants and trees, and (3) any limits, restrictions, or guidelines on what may or may not be left, stored, or installed on any porch, patio, or yards (front yards and back yards) which may include a prohibition on leaving, installing, or storing any items in such places.
 - (c) Fencing. Subject to section 9.16 of this Declaration, Owners may cause the backyard portion of their Lots (areas to the rear of the front-most facing surface of the home) to be fenced in. Fences shall follow Lot lines and shall not encroach upon Common Area. The Board of Directors is authorized to establish a policy, by Rule or resolution, for enforcing this section with respect to any fences that are not compliant at the time this Declaration becomes effective, which may allow an extended period of time (years) for non-compliant fences to be brought into compliance. Owners shall be responsible for maintaining, repairing, and replacing fences appurtenant to their Lots, to the extent the fences are not on the boundary of the Project.

- (d) Snow Removal. Owners shall be responsible for removing snow from any sidewalk, path, walkway, and steps that serve only their Lot and Dwelling Unit, whether located on the Lot or Common Area.

3.2. Association Responsibility for Maintenance. The Board of Directors shall determine, in its sole discretion, the appropriate maintenance standard for the Common Area and the portions of the Lots for which the Association has maintenance responsibility, so long as those areas are maintained in the best interests of the Owners. The Association's responsibility shall include the following:

- (a) Common Area Improvements. Except as provided herein, the Association shall maintain, repair, and replace all improvements in the Common Areas, including all private roads, carports, and light fixtures serving multiple Lots.
- (b) Landscaping. The Association shall maintain, repair, and replace all landscaping in the Common Area and shall provide mowing and trimming of all lawn in unfenced front and rear yards on Lots.
- (c) Maintenance of Fences. The Association shall be responsible for maintaining, repairing, and replacing those fences on the border of the Project.
- (d) Snow Removal. The Association shall provide snow removal within the Project on all Common Areas intended for vehicular traffic. In addition, the Association shall provide snow removal from any sidewalk running parallel to any road, as well as any sidewalk located in the Common Area and serving multiple Lots.
- (e) Common Utility Lines. The Association shall maintain all plumbing and other utility lines to the extent that the lines serve more than one Lot or Dwelling Unit.

3.3. Owner's Failure to Maintain. In addition to any other action allowed by this Declaration, if an Owner fails to: (a) maintain a Lot or Dwelling Unit as required in the Governing Documents, or (b) make repairs otherwise required of the Owner in such a manner as may be deemed reasonably necessary in the judgment of the Board of Directors to preserve and protect the structural integrity, attractive appearance, good condition, and value of the Project, then the Association may give written notice to such Owner stating with particularity the nature of the default and the corrective action that the Board of Directors determines to be required and requesting that the same be carried out within a period of at least fourteen (14) days. If the Owner fails to carry out such action within the period specified by the notice then the Association may cause corrective action to be taken (which may include completing the repairs and replacements) and may assess the Owner for all costs associated therewith.

3.4. Owner's Damage to Common Area. In the event that the need for maintenance or repair of Common Area or any improvement thereon is caused through the willful or negligent acts of an Owner, the Board of Directors may cause such maintenance or repairs

to be made by the Association, and may assess the Owner for all costs associated therewith.

3.5. Construction of and Modifications to Dwelling Units and Lots.

- (a) Without prior written permission of the Board of Directors, all construction of and modifications to Dwelling Units and Lots, including any remodeling, upgrades, landscaping, or repairs, shall be completed compliant with the other requirements of the Governing Documents, in addition to the following requirements: (i) no use of the Common Area for staging, storage, assembly, or construction, (ii) no nuisance shall be created as established by law or by the Governing Documents, (iii) no blocking of the Common Area or roadways by vehicles, materials, or persons, (iv) no use of the Association's garbage and disposal facilities for the disposal of debris, materials, or other items, and (v) all construction debris and trash shall be cleaned up and removed daily.
- (b) All construction, remodeling, and other repairs and modifications to Dwelling Units must be completed in compliance with all applicable building codes, laws, and the manufacturer's specifications for any materials, equipment, and fixtures.
- (c) The Board of Directors may impose further restrictions on construction, modification, and remodeling of Dwelling Units and Lots in the Rules, including but not limited to architectural guidelines, specifications for materials including colors and styles, hours of work limitations, requirements for licensed contractors, and parking requirements for construction vehicles.

3.6. Capital Improvements. Capital improvements shall be governed by and subject to the following conditions, limitations, and restrictions:

- (a) Any capital improvement to the Project that does not materially alter the nature of the Project may be authorized by the Board of Directors alone. A material alteration to the Project is, for example, the installation of a previously non-existent and materially significant fixture or permanent removal of materially significant fixture such as a swimming pool, tennis court, carport, or parking area. Landscaping alterations and the addition or removal of signs or small structures are not material unless they cause other material changes such as those listed above.
- (b) Any capital improvement that would materially alter the nature of the Project must, regardless of its cost and prior to being constructed or accomplished, be authorized by the written consent of Owners holding at least thirty (30%) of the undivided ownership interest in the Common Areas and must be approved by the Board of Directors. Notwithstanding anything to the contrary, no material alteration that changes the size, shape, or location of any Lot shall be permitted without (1) the written consent of all directly affected Owners and the written consent of Owners holding 50% of the Allocated Interest in the Association, and

(2) proper recorded modifications to the plat to reflect the changes.

- 3.7. Utilities. All utilities for individual Lots (except any utility costs that are metered collectively and paid by the Association as a Common Expense item) will be metered separately to each Lot and such utility charges shall be the responsibility of the Lot Owner. The Association may, with the consent of Owners holding 50% of the Allocated Interest in the Association, impose submetering of any utilities (including water) that are used by Lot Owners, that were previously paid for by the Association. Upon receiving the necessary Owner approval, the Board of Directors may provide specific rules, guidelines, and procedures for the submetering in the Rules.
- 3.8. Solar Panels, Charging Stations, and Future Technology. The Association may install in the Common Area and Owners may install on Lots solar panels, electric vehicle charging stations, and other fixtures, equipment, and modifications utilizing new technology. The Board of Directors shall have authority to impose rules related to any such fixtures, equipment, and modifications so as to preserve and maintain the overall aesthetics of the Project and to minimize any disruption of the peaceful enjoyment of the Project by all Owners.
- 3.9. Recycling. The Board of Directors shall have authority to establish and require Owner participation in recycling programs. The Board of Directors may establish Rules related to any such program and may install necessary fixtures and equipment in the Common Area to facilitate any such program.

ARTICLE 4

ORGANIZATION AND GOVERNANCE OF THE ASSOCIATION

- 4.1. Organization of Association. The Association shall serve as the organizational body for all Owners.
- 4.2. Modifying or Changing the Name of the Project. The name of the Project may be modified or changed pursuant to a lawful amendment to this Declaration.
- 4.3. Legal Organization. The Association, in the discretion of the Board of Directors, shall be entitled to organize as a non-profit corporation or other legal entity that may be selected by the Board of Directors. The Board of Directors may select the name for this entity, which shall, to the extent reasonably possible, be consistent with the name as identified in this Declaration. In the Board of Directors' sole discretion, the Bylaws of the Association, may be adopted, in part or in whole, as the Bylaws of any corporation or legal organization of the Association, or the Association may adopt additional Bylaws or other necessary documents related to the legal organization of the Association which must be consistent with then existing Declaration and Bylaws, unless they are amended pursuant to their terms. In the organization, reorganization, or amendment of any documents related to the legal organization of the Association, the terms in all such documents pertaining to the entity shall, to the extent possible under the applicable law,

be consistent with the terms in the Declaration and the Bylaws. If the legal entity should ever expire or be dissolved for any reason as required or permitted by law, in any reorganization or reinstatement of the entity, the Association shall, to the extent possible and subject to any then existing legal requirements, adopt documents with terms substantially similar to the documents related to the expired or dissolved entity.

- 4.4. Membership. Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Lot and such membership shall automatically terminate when the Owner ceases to have an ownership interest in a Lot. Upon the transfer of an ownership interest in a Lot, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Lot is held.
- 4.5. Voting Rights. Members of the Association have equal Allocated Interest in the Association, as shown on Exhibit C, and are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as they among themselves determine and shall be exercised as provided for in the Bylaws, but in no event shall more than one vote be cast with respect to any Lot.
- 4.6. Availability of Documents. The Association shall make available to the Owners, Lenders and insurers of any Lender, current copies of the Governing Documents and other minutes, books, records and financial statements related to the operations of the Association. The term "available" as used in this section shall mean available for inspection and copying within thirty (30) days after receiving a proper request, during normal business hours and under other reasonable conditions. The Association shall have the right to refuse to disclose information that the Board of Directors determines, in good faith, would reveal sensitive personal or financial information of another Owner or of an employee or agent of the Association, such as bank account numbers, birth dates, or social security numbers. The Association may require that the Owner comply with any statutory provision or other legal requirement applicable to providing this information before providing it.
- 4.7. Board of Directors. The governing body of the Association shall be the Board of Directors elected pursuant to the Bylaws. The Board of Directors shall consist of three (3) members. Except as otherwise provided in this Declaration, the Act, or the Bylaws, the Board of Directors shall act, in all instances, on behalf of the Association. Any reference to an act, right, or obligation of the Association in the Governing Documents may only be exerted or complied with through an action of the Board of Directors. Except as may be specifically provided in the Declaration, Bylaws, or by applicable law, no Owner or group of Owners other than the Board of Directors may direct the actions of the Association.
- 4.8. Directors.

- (a) Qualification. The Board of Directors shall consist of three natural persons who must reside in the Project and must be Owners or officers, directors, trustees, trustors, or beneficiaries of an Owner that is a business entity or trust .
- (b) Reasonable Ongoing Requirements for Directors. The Bylaws may place reasonable obligations and requirements on existing Directors to retain their membership on the Board of Directors, such as a requirement that a Director attend a specified number of meetings. The Bylaws may further provide for a procedure for removal of any Director who fails to comply with the reasonable requirements, which may include some action of the remaining Directors. Any Bylaw requirements adopted pursuant to this section shall not apply to any Directors on the Board of Directors during the term of the Director being served when they are adopted.

4.9. Limitation on Authority of Owners, Directors, Officers, and the Board of Directors.

- (a) Except as provided herein or in the Bylaws, the Board of Directors, any individual Owner, and any individual Director or Officer shall have no authority to and may not act on behalf of the Association or the Board of Directors to:
 - (1) amend or terminate any Governing Document,
 - (2) elect or remove members of the Board of Directors,
 - (3) establish or change the qualifications, powers and duties, requirements, or terms of Directors or of the Board of Directors; or
 - (4) authorize or agree to any deviation or exception from the Terms and Conditions, except as provided in this Declaration.

4.10. No Estoppel or Reliance on Actions or Authorizations Contrary to Governing Documents. No one may rely upon any authorization (from the Board of Directors or otherwise) contrary to the terms of the Governing Documents regardless of the circumstances under which it is given, and no claim or defense of estoppel or waiver or similar equitable or legal claim or defense may be raised by anyone related to any alleged reliance. It is the responsibility of anyone interacting with, visiting, occupying, or purchasing a Lot in the Association to verify that anything that the Association does, does not do, or authorizes related to the Project or the Association is in compliance with the terms of the Governing Documents.

ARTICLE 5

GENERAL RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

- 5.1. Rights and Responsibilities of the Association. The Association shall have the following rights and responsibilities in addition to any others set forth in the Governing Documents or provided by law:
- (a) Maintenance. The Association shall make provisions for completing all maintenance, repair, and replacement requirements of the Association.

- (b) **Paying Expenses.** The Association shall provide for the payment of Association expenses.
- (c) **Setting and Collecting Assessments.** The Association shall establish, collect, and account for Assessments as necessary to operate the Project consistent with the requirements of the Governing Documents.
- (d) **Entering Lots.** After having given the appropriate notice as required by this Declaration, the Association shall have the right at all times upon reasonable notice (and at any time in case of an emergency) to enter into any Lot to abate any infractions, to make repairs or correct any violation of any of the Terms and Conditions, or to abate any condition that threatens the health or property of any Owner or Occupant.
- (e) **Adopting and Enforcing Rules.** The Association may adopt Rules for the regulation and operation of the Project. If they are adopted, they shall be consistently and uniformly enforced. The Rules may address any issues including those addressed in any other Governing Document. The Rules may supplement, clarify, and add detail to issues addressed in the other Governing Documents so long as they do not contradict the same. The Board of Directors' determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive, subject to a judicial determination if any is timely sought. The standard for adoption of Rules is one of reasonableness. All Rules must be reasonable in light of all the circumstances pertaining to the situation or issue addressed by the Rules.
- (f) **Hiring Managers and Delegating Responsibilities.** The Association may hire a Manager to assist the Board of Directors in the management and operation of the Project and may delegate its powers and obligations in the Governing Documents to the manager, employees, or other agents as it deems appropriate; provided, however, that only the Board of Directors shall have the right to approve Association budgets, fines to Owners, and General and Special Assessments. Any powers and duties delegated to any Manager or other person may be revoked by the Board of Directors at any time, with or without cause. Any management agreement must be terminable without penalty and with or without cause upon thirty (30) days' notice. **THE BOARD OF DIRECTORS HAS NO AUTHORITY TO ENTER INTO ANY MANAGEMENT AGREEMENT OR CONTRACT INCONSISTENT WITH THE TERMS OF THESE GOVERNING DOCUMENTS OR THAT PROVIDES FOR ANY TERMINATION FEE OR REQUIREMENT FOR TERMINATION FOR CAUSE.**
- (g) **Other Necessary Rights.** The Association shall have any other right that is reasonably necessary to carry out the terms of the Governing Documents.
- (h) **Enforcement Rights.** In addition to any other remedies allowed or provided in the

Governing Documents for any violation of the Governing Documents, the Association may: (1) impose fines; (2) terminate Owners' rights to receive utility services paid as a common expense; (3) collect rents directly from tenants if Owners fail to pay Assessments, and (4) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.

(i) Discretion in Enforcement.

(1) Subject to the discretion afforded in this section, the Board of Directors shall uniformly and consistently enforce and implement the Terms and Conditions in the Governing Documents.

(2) The Board of Directors shall use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, and may include in this analysis:

- (i) whether to compromise a claim made by or against the Board of Directors or the Association; and
- (ii) whether to pursue a claim for an unpaid Assessment.

(3) The Association may not be required to take enforcement action if the Board of Directors determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances:

- (i) the Association's legal position does not justify taking any or further enforcement action;
- (ii) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law;
- (iii) (A) a technical violation has or may have occurred; and
(B) the violation is not material as to a reasonable person or does not justify expending the Association's resources; or
- (iv) it is not in the Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.

(4) Subject to subsection (5), if the Board of Directors decides under subsection (2)(ii) to forego enforcement, the Association is not prevented from later taking enforcement action.

(5) The Board of Directors shall not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.

(j) Reserve Fund. The Association shall maintain a reserve fund and obtain and update a Reserve Analysis as required in this Declaration.

(k) Preventing Conflicts with Service Providers and Vendors. The Association shall not permit any paid services or materials obtained by the Association to be performed or provided by: (1) any relative of any Director, Manager, or of any officer, employee, or owner of the Manager, or (2) any business or entity in which

any Director, Manager, or employee, officer, or owner of any Manager or any relative of the same has more than a 1% ownership or beneficial interest. A relative is any person known to be related by blood or marriage. The provision of services and materials for purpose of this provision shall include managers, insurance brokers, investment or financial advisors, accountants, landscapers, contractors, and all other companies and persons providing services to the Association.

- (i) **Establishing Hearing Procedures.** The Board of Directors shall have the authority to create a reasonable hearing process applicable in case the Association shall take adverse action related to any particular Owner or group of Owners. The Board of Directors shall not be under any obligation to offer a hearing process, except as required by law or by the Governing Documents, and in any such process, shall have the authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process. The Board of Directors may establish the hearing process on an as-needed basis for particular matters as they arise or may set forth a process in the Rules applicable generally to such matters that it designates. Any such hearing process shall provide, at a minimum, for: (1) at least two weeks notice of the hearing to the Owners, and (2) a reasonable time period under the circumstances for the Owners to present their own testimony, the testimony of others, argument, authority, evidence, and other information the Owners deem relevant to the disputed issue.
- (m) **Annual Meeting.** The Association shall arrange for and conduct an annual meeting at least once a year as provided for in the Bylaws and shall arrange for and conduct such other meetings of the Association as shall be properly requested pursuant to the Governing Documents or the law.
- (n) **Payoff Information Fees.** The Association is specifically authorized to establish a fee of \$50.00 to provide payoff information related to the transfer, refinance, or closing of a Lot. The Board of Directors may increase or decrease the amount charged if the new amount is identified in the Rules and is consistent with Utah law.
- (o) **Reinvestment Covenant Upon Sale or Transfer of Lot.** The Board of Directors may require the seller or buyer to pay a Reinvestment Fee as provided for in Utah Code Ann. § 57-1-46, in an amount of .5% (or a lesser amount established by the Board of Directors in the Rules) of the value of the property. Unless otherwise established by an appraisal of the Lot within 180 days prior to the transfer, the value shall be as reported by the tax assessor at the time of the transfer. All or a portion of the Reinvestment Fee shall be used to pay the Association's costs directly related to the transfer of the Lot, not to exceed \$250. The Reinvestment Fee may not be enforced against: (a) an involuntary transfer; (b) a transfer that results from a court order; (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate

proof of consanguinity; (d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest association's costs directly related to the transfer of the burdened property, not to exceed \$250. The Association shall have authority to record any notice required by law to effectuate this provision.

ARTICLE 6

BUDGETS & ASSESSMENTS

- 6.1. Purpose of Assessments. Money collected by the Association shall be used for the purposes of promoting the health, safety and welfare of the Owners; the management, maintenance, care, preservation, operation, and protection of the Project; enhancing the quality of life of the Owners in the Project; enhancing and preserving the value of the Project; and in the furtherance of carrying out or satisfying any other duty or power of the Association.
- 6.2. Budget and Regular Assessment.
- (a) The Board of Directors is authorized and required to adopt a budget for the following fiscal year not later than thirty (30) days prior to the beginning of each fiscal year. The Board of Directors may revise that budget from time to time as it deems appropriate.
 - (b) The budget shall cover the period of the next fiscal year. The budget shall estimate the total Common Expenses to be incurred for the next fiscal year (or that fiscal year for a revised budget), which shall be broken down into reasonably detailed expense categories. The budget may include reserves, contingencies, and estimates as the Board of Directors deems appropriate.
 - (c) The Board of Directors shall provide a written copy of the budget to all Owners no later than thirty (30) days after the adoption of the proposed budget or any revised budget.
 - (d) The Board of Directors shall determine the amount of the regular Assessments to be paid by the Owners of each Lot by multiplying the total budgeted amount by the Allocated Interest for each Lot.
- 6.3. Payment of Regular Assessments. Unless otherwise established by the Board of Directors and communicated to each Owner, each Owner shall pay to the Association the Owner's regular Assessment in equal monthly installments.
- 6.4. Adjustments to Regular Assessments. In the event the Board of Directors determines that the estimate of total charges for the current year is, or will become, inadequate to

meet all Common Expenses for any reason, it may then revise the budget and each Owner's share of the new budget total based on the Owner's Allocated Interest. Upon notice of the adjustment, and unless modified by the Board of Directors, each Owner shall thereafter pay to the Association the Owner's adjusted regular Assessment in equal monthly installments.

- 6.5. Personal Obligation for Assessment. Each Owner of any Lot, by acceptance of a deed or other instrument creating in such Owner the interest required to be an Owner, whether or not it shall be so expressed in any such deed or other instrument and regardless of any lien rights or lack thereof, hereby personally covenants and agrees with each other Owner and with the Association to pay to the Association any Assessments as provided for in the Governing Documents, including any assessments assessed and unpaid prior to the date the Owner became an Owner. Each such Assessment, together with interest, collection charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time the Assessment becomes due.
- 6.6. Capital Improvements. Expenses for capital improvements may be included in the budget, paid for through special assessments, or paid for in any other manner as determined by the Board of Directors.
- 6.7. Percentage Assessments. Except as otherwise provided herein, all Assessments (other than special assessments to individual Lots) shall be allocated to all Owners based on the Allocated Interest of each Lot.
- 6.8. Procedures Regarding Billing and Collection Procedures. The Board of Directors shall have the right and responsibility to adopt procedures applicable to Assessments provided for in this Declaration and for the billing and collection of all Assessments, provided that such procedures are not inconsistent with the provisions herein. Such procedures and policies may include, but are not limited to, the establishment of due dates, late fees and collection charges, and interest (per annum or compounded) that may be charged on unpaid balances. The failure of the Association to send a statement to an Owner or an error in any such statement or notice (other than a Certificate of Payment) shall not relieve any Owner of liability for any Assessment or charge under the Governing Documents.
- 6.9. Certificate of Payment. The Association shall, within ten (10) business days after written demand, furnish to any Owner liable for Assessments or such other person for whom an Owner has given written permission in a form acceptable to the Association, a written statement or certificate signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Lot have been paid and the amount of delinquency, if any. A reasonable charge of fifty dollars (\$50.00) or such other amount allowed by law and provided for in the Rules may be collected by the Board of Directors for the issuance of each such certificate. Each certificate is conclusive in favor of a person who relies on the written statement in good faith.
- 6.10. Special Assessments. Subject to any limitations in this Declaration for the particular type

of expense, the Association is expressly authorized to assess and collect special assessments payable and to be assessed as may be determined by the Association (in lump sums or over a period of time) to pay for any Common Expenses.

- 6.11. Special Assessments to Individual Lots. Special assessments may be levied by the Association against a particular Lot and its Owner for:
- (a) Costs incurred in bringing an Owner or the Owner's Lot into compliance with the provisions of the Governing Documents;
 - (b) Any other charge designated as pertaining to an individual Lot or Lot Owner in the Governing Documents;
 - (c) Fines, late fees, collection charges, and interest; and
 - (d) Attorneys' fees, costs, and other expenses relating to any of the above.
- 6.12. Acceptance of Materials or Services. In the event the Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Project, which benefit individual Lots, and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof may be a special Assessment pertaining to that Lot, at the discretion of the Board of Directors.
- 6.13. Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board of Directors in its discretion may apply the excess to reserves, keep the excess in general accounts of the Association, or refund the excess to the Owners in proportion to the Allocated Interests of each Lot in the Common Expenses of the Project, as the Board of Directors deems appropriate. The decision of the Board of Directors shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.
- 6.14. No Offsets. All Assessments shall be payable at the time and in the amount specified by the Association and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Board of Directors is not properly exercising its duties and power, a claim in the nature of offset or that the Association owes the Owner money, or that the Association is not complying with its obligations as provided for in the Governing Documents.
- 6.15. How Payments Applied. Payments on assessments and related charges shall be applied to the oldest charges first.

ARTICLE 7

NONPAYMENT OF ASSESSMENTS & JOINT AND SEVERAL LIABILITY OF OWNERS FOR ALL PAST UNPAID ASSESSMENTS

- 7.1. Delinquency. Assessments not paid within the time required shall be delinquent. Whenever an Assessment is delinquent, the Board of Directors may, at its option, invoke any or all of the remedies granted in this Article 7.
- 7.2. Collection Charges and Interest. If the Association does not otherwise adopt or establish billing and collection procedures in the Rules of the Association, the following shall apply. Monthly assessments (if they are due and assessed monthly) shall be due and payable on the first of the month and late if not received by the 10th of that month. Late fees shall be \$25.00 for each month that an Owner's account has an unpaid balance after the due date. In addition to Late Fees, interest shall accrue on all unpaid balances, including unpaid prior attorney fees, interest (compound interest), late fees, and assessments, at 1.5% per month. The Association may also impose and assess to the Owner a collection charge, late fee, and any other reasonable charge imposed by a Manager related to collections, as the Board of Directors may establish in the Rules.
- 7.3. Joint and Several Liability of Owner and future Owners for All Past and Presently Accruing Unpaid Assessments. The Owner and any future Owners of a Lot are jointly and severally liable for all assessments accruing related to that Lot prior to and during the time that an Owner is an Owner. An Owner is not liable for any Assessments accruing after an Owner has lawfully transferred the Lot to another Owner. The recording of a deed to someone or some company that has not agreed to take ownership of the Lot shall not be considered a legal conveyance of title. This obligation is separate and distinct from any lien rights associated with the Lot.
- 7.4. Lien. The Association has a lien on each Lot for all Assessments, which include but are not limited to interest, collection charges, late fees, fines, attorneys' fees, court costs, and other costs of collection (which shall include all costs and not be limited by those costs that may be awarded under the Utah Rules of Civil Procedure). This lien shall arise and be perfected as of the date of the recording of this Declaration and shall have priority over all encumbrances recorded after this Declaration is recorded, except as otherwise required by law. If an assessment is payable in installments, the lien is for the full amount of the assessment from the time the first installment is due, unless the Association provides otherwise in the notice of Assessment. The Association's lien shall have priority over each other lien and encumbrance on a Lot except only: (1) a lien or encumbrance recorded before this Declaration is recorded, (2) a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Association; and (3) a lien for real estate taxes or governmental assessments or charges against the Lot. The Association may, but need not, record a notice of lien on a Lot. The Association or its duly authorized representative is authorized to record a notice of lien to protect its priority.

- 7.5. Action at Law. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay the same or by foreclosure of the Assessment lien. In addition, the Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise any other remedy. Any attorneys' fees and costs incurred in this effort shall be assessed against the delinquent Owner and the Owner's Lot, and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest and collection charges, if appropriate). Each Owner vests in the Association or its assigns the right and power to bring actions at law or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.
- 7.6. Foreclosure Sale. The Association shall have all rights of foreclosure granted by the Act, both judicially and nonjudicially. Pursuant to Utah Code Ann. Sections 57-1-20 and 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lots in trust, with power of sale, to John D. Morris or his successor, as trustee, for the benefit of the Westcove Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a successor qualified trustee by executing and recording a substitution of trustee form.
- 7.7. Homestead Waiver. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.
- 7.8. Termination of Delinquent Owner's Rights. The Association shall have the right to terminate a delinquent Owner's: (1) right to receive a utility service which the Owner pays as a Common Expense, and (2) access to recreational facilities.
- 7.9. Requiring Tenant to Pay Rent to Association. The Association shall have the right to demand and collect rent from any tenant in a Lot for which an assessment is more than 60 days late.
- 7.10. Attorney Fees Incurred as a Result of a Default. In addition to any attorney fees and costs provided for herein, the Association shall be entitled to assess an Owner for all reasonable attorney fees and costs incurred as a result of an Owner's failure to timely pay assessments, including but not limited to attorneys fees incurred to: (1) obtain advice about a default, (2) collect unpaid payments, (3) file lawsuits or other legal proceedings related to a default in an effort to collect unpaid assessments, (4) file pleadings, notices, objections, and proofs of claim in any bankruptcy proceeding, (5) examine the debtor or others or to monitor any bankruptcy proceedings including but not limited to regular monitoring of an Owner's progress in a chapter 13 plan for the duration of the plan, (6) litigate, seek and respond to discovery, take depositions, introduce evidence, hire and pay expert witnesses, file motions and other pleadings, attend trials, hearings, or other court proceedings for any other reason related to the ultimate attempt to collect unpaid

assessments, and (7) foreclose a lien, secure lien rights, or provide for any notice of lien. This provision is to be construed broadly to permit an Association to recover any reasonable fees and costs in any way related to an Owner's default in the payment of assessments and the ultimate collection of those assessments.

ARTICLE 8

PROPERTY RIGHTS IN LOTS AND COMMON AREA

8.1. General Easements to Common Area and Lots.

- (a) Subject to all other terms of the Governing Documents, each Owner shall have an equal undivided interest, right, and easement of use and enjoyment in and to the Common Area. Each Owner shall have an unrestricted and non-exclusive right of ingress or egress to and from the Owner's Lot over and across such Common Area. Such rights and easements shall be appurtenant to and shall pass with title to each Lot and in no event shall such appurtenant rights be separated therefrom. Authorized Occupants shall have the same access and use rights to the Common Area as an Owner. All such rights shall be subject to any Rules established by the Board of Directors.
- (b) The Association shall have nonexclusive easements with the right of access to each Lot to make inspections, to prevent or mitigate damage or disrepair to Lots, Dwelling Units, and Common Area, and to maintain, repair, replace or effectuate the restoration of the Common Area and those portions of the Lot that the Association is responsible for maintaining. Such rights shall be exercised only after the notice required in this Declaration. The Association shall have a right to grant permits, licenses, and easements upon, across, over, under, and through the Common Area, including allowing attachments to the Association's sewer, water, or other utility systems by non-owners or property owners of neighboring parcels, under such circumstances and upon such terms as: (1) the Board of Directors determine is in the best interests of the Association; (2) fully compensate the Association for any additional usage, wear and tear, and other financial effects of such connection.

8.2. Public Utilities. Easements and rights-of-way over the Project for the installation and maintenance of electricity lines, telephone lines, cable television, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Project are hereby reserved to the Association, together with the right to grant and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use of the Common Area and the Lots by the Owners or Occupants. The Association shall have the power to grant and convey, in the name of all of the Owners as their attorney-in-fact, to any other person easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, wireless transmission or reception equipment, conduits, or other devices for electricity, cable television, power,

telecommunications, internet, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes and any other public, quasi public, or private improvements or facilities, and each Owner in accepting the deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. Such Owner and those claiming by, through or under an Owner agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Association. However, no such easement can be granted if it would permanently and materially interfere with the use, occupancy or enjoyment by any Owner of such Owner's Lot.

- 8.3. Easements for Encroachments. If any portion of a Dwelling Unit, as originally constructed and exclusive of patios, porches, and decks, encroaches upon the Common Area or any Lot other than the Lot upon which the Dwelling Unit is built, then the Owner of said Dwelling Unit shall have a valid easement for encroachment, and maintenance of such encroachment, for the life of the Dwelling Unit. If any other portion of a Lot (other than the Dwelling Unit), including yard, fencing, driveway, patio, porch, or deck, encroaches on the Common Area or another Lot, then the Owner of said Lot shall have a valid easement for encroachment only to the extent that the encroachment is minor, or less than one foot. The Board of Directors is authorized to establish a policy, by Rule or resolution, for dealing with any encroachments that do not qualify as minor. If any portion of a structure, fixtures, or fence that is otherwise the Association's obligation to maintain or replace, encroaches upon any Lot, a valid easement for encroachment, and maintenance of such structure, shall exist.
- 8.4. Limitation on Easement - Suspension of Owner's Rights. An Owner's equal undivided interest, right and easement of use and enjoyment concerning the Common Area shall be subject to the following:
- (a) The right of the Association to suspend the Owner's right to the use of any recreational facilities included in the Common Area: (i) for any period during which an assessment on such Owner's Lot remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Declaration or any Association Rule; and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period;
 - (b) The right of the Association to impose reasonable limitations on the number of Occupants per Owner who at any given time are permitted to use the Common Area; and
 - (c) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access and to have rights of ingress and egress over and across any street, parking areas, walkway or open areas contained within the Common Area for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal services.

- 8.5. Views. Views from a Lot and the Project are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Project and each Owner and Occupant in such Owner's Lot acknowledges and agrees that there are no view easements or view rights appurtenant to the Lot or the Project.

ARTICLE 9

USE LIMITATIONS AND CONDITIONS

- 9.1. Rules. The Association shall have authority to promulgate and enforce such reasonable Rules and procedures as may aid the Association in carrying out any of its functions and to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners.
- 9.2. Signs. The Association may regulate and restrict signs in the Project, to the extent permitted by law, in the Rules. "Signs" shall include any type of object (including but not limited to flags, billboards, banners, plaques, a-frames, easel signs, poly-bag signs, corrugated plastic signs, lawn signs, window signs) used to convey a message, symbol, idea, identification, or for any other purpose that signs are typically used, that is placed in, on, or outside of a Lot with the apparent purpose, in whole or in part, of making it visible to people outside of the Lot.
- 9.3. Nuisance. No noxious or offensive activity shall be carried on upon the Project, nor shall any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Lots. No Owner or Occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body.
- 9.4. Smoking. It shall be a nuisance and prohibited under section 9.3 to permit or cause any smoke to drift or otherwise enter into another Lot. Neither an Owner complaining of smoke or the Association responding to that Complaint shall be required to close windows or doors, make repairs, or otherwise make any physical alteration to the Project or to any Lot to prevent drifting smoke from entering into that Lot. It shall be the sole responsibility of the Owner causing the smoke to prevent or stop smoke from entering any other Lot, which may require, if other attempts to stop it are unsuccessful, the termination of smoking.
- 9.5. Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Project or used therein unless it is approved by the Board of Directors.
- 9.6. Parking. Unless otherwise permitted by the Association in the Rules, and except for "customary parking" and "temporary parking," as permitted by this section 9.6, no

automobiles or other vehicles of any type (including, without limitation, motorcycles, trailers, campers, vans, recreational vehicles, or boats) shall be parked, stored, or located within any portion of the Project, including in any Lot or Common Area, except in the Recreational Vehicle Parking Lot. "Customary parking" shall mean the parking of operable automobiles, motorcycles, noncommercial trucks, and vans (a) within the parking garage, driveway, or carport for each respective Lot, (b) on a public, dedicated street, or (c) on a private street between the hours of 6:00 a.m. and 11:00 p.m..

"Temporary parking" shall mean the parking of operable vehicles such as delivery trucks, service vehicles, and other commercial vehicles for the purpose of furnishing goods and services to the Owners and Occupants. Recreational vehicles, such as trailers, campers, vans, and boats, shall be parked in the Recreational Vehicle Parking Lot. The Association may adopt Rules relating to the parking of vehicles within the Project including, without limitation, (a) the right to remove or cause to be removed any vehicles that are improperly parked, and (b) the assessment of fines to Owners and Occupants who violate such Rules.

- 9.7. External Fixtures. Unless otherwise provided in the Rules, and to the extent permissible by applicable law, Owners may construct, erect, or maintain external items and fixtures such as television and radio antennas, satellite dishes, flag poles, clotheslines, and lighting fixtures within their Lots without the prior written approval of the Board of Directors.
- 9.8. Window Covers. The Board of Directors may adopt Rules regulating the type, color, and design of window covers and requiring prior approval before installation. Absent Rules permitting otherwise, only curtains, drapes, shades, shutters, and blinds may be installed as window covers. No window shall be covered by paint, foil, sheets, or similar items.
- 9.9. External Laundering. Unless otherwise permitted by the Board of Directors in the Rules, external laundering and drying of clothing and other items is prohibited.
- 9.10. Outside Speakers and Amplifiers. Except as permitted in the Rules and subject to any regulations in the Rules, no radio, stereo, broadcast, loudspeaker, or projection of sound or music on or directed to the outside of any Lot shall be permitted.
- 9.11. Repairs. No repairs of any detached machinery, equipment, or fixtures, including without limitation, motor vehicles, shall be made in the Project except as may be permitted by the Board of Directors in Rules.
- 9.12. Unsightly Items. All rubbish, debris, unsightly materials, or similar objects of any kind shall be regularly removed from Lots and shall not be allowed to accumulate therein or thereon. Machinery and equipment not a part of the Lots, shall be prohibited in any Lot unless obscured from view of adjoining Lots and Common Area. Trash and garbage shall be properly disposed in accordance with the Rules applicable thereto adopted by the Board of Directors.

- 9.13. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept in the Project, except that animals of a type generally kept in households such as dogs, cats, birds, fish, and hamsters, may be kept in the Project subject to the Rules and the requirements of this Declaration. Notwithstanding the foregoing, no animal may be kept within a Lot which: (a) is raised, bred, kept, or maintained for any commercial purposes, (b) causes a nuisance, or (c) in the good faith judgment of the Board of Directors, results in an annoyance or threat of injury, or is obnoxious to or unreasonably causes anxiety to other Owners or Occupants within the Project. The Board of Directors may exercise its judgment for specific animals even though others of the same breed or type are permitted to remain. All fecal matter shall be immediately cleaned up in the Project. The Board of Directors may adopt Rules adding further Terms and Conditions related to animals in the Association not inconsistent with this Declaration including but not limited to requirements for registration, specific fees or deposits to Owners of Lots that have animals, the use of leashes, noise and barking limitations, and limitations on the overall number of animals. In an effort to minimize anxiety and fear of the Owners generally, the Association may ban dogs of certain breeds (pure or partial) believed generally to be aggressive.
- 9.14. Residential Occupancy. Except as provided in Article 18 and this section, no Lot may be used for any purpose other than a residential purpose. No trade or business 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 Lot;
 - (b) the business activity conforms to all zoning and legal requirements for the Project and the business activity;
 - (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 Occupants of the Project;
 - (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 Occupants of the Project;
 - (e) the business activity is disclosed to the Board of Directors before business is commenced along with a description of the business activity and any impact on the Project;
 - (f) the business activity will not result in the increase of any insurance of the Association;
 - (g) the Owner of the Lot resides in the Lot in which the business activity is proposed for the entire time any business activity is conducted; and

- (h) the Board of Directors' requests for information related to the business are responded to fully and completely.

- 9.15. No Subdivision or Timeshare of Lots or Recording by Owners of Terms and Conditions. No Lot shall be split, subdivided, separated or timeshared into two or more Lots or property interests (whether temporally or spatially), and no Owner of a Lot shall sell or lease part of a Lot. No subdivision plat or covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any one Lot. No subdivision plat or covenants, conditions, or restrictions related to any Lot or the Project shall be recorded on the Project unless the Board of Directors and/or Owners (as required in this Declaration) have first approved, in writing, the plat or the proposed covenants, conditions, or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this section shall be null, void, and of no legal effect.
- 9.16. Lighting. Exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Board of Directors.
- 9.17. Variances. The Board of Directors may, at its option and in extenuating circumstances, grant variances from the Terms and Conditions set forth in this Article 9 if the Board of Directors determines in its discretion (by unanimous vote): (a) either (i) that the Term and Condition would create an unreasonable hardship or burden on an Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such Term and Condition obsolete and unreasonable to enforce; and (b) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board of Directors. No variance may be granted that is inconsistent with the Act. No variance may be granted that relates to the payment of Assessments unless it clearly appears after reasonable investigation under the circumstances that the Owner is incapable of paying the assessment and the Lot is being or has been transferred to a new Owner either voluntarily or involuntarily through foreclosure.
- 9.18. Hazardous Substances.
 - (a) The Owners shall comply with applicable Environmental Laws (as defined below), and shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances (as defined below), on or within the Project, that are not properly controlled, safeguarded, and disposed of. The Owners shall not do, nor allow anyone else to do, anything affecting the Project that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Project of small quantities of Hazardous Substances that are held for, and are generally recognized to be appropriate for, the maintenance of a Lot, the Project, or a Dwelling Unit.

- (b) Each Owner shall indemnify, defend and hold the Association and each and every other Owner harmless from and against any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment, or any other injury or damage resulting from or relating to any Hazardous Substances located under or upon or migrating into, under, from or through the Project, which the Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity shall apply: (i) when the release of the Hazardous Substances was caused by an indemnifying Owner or an Occupant; and (ii) whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of Hazardous Substances on the Project. The obligations of each Owner under this section 9.18 shall survive any subsequent sale by an indemnifying Owner.
- (c) As used in this section 9.18, "Hazardous Substances" are those substances defined as a toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this section 9.18, "Environmental Law" means federal laws and laws of the jurisdiction where the Project is located that relate to health, safety or environmental protection.

ARTICLE 10

INSURANCE

- 10.1. Owner Insurance Requirement. Owners are required to obtain their own property insurance for their Lots and Dwelling Units.
- 10.2. Association Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by applicable law. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies. Premiums for all Association insurance shall be a Common Expense. The Association's policies may contain a reasonable deductible, which shall also be a Common Expense in the event of an insured loss.
- 10.3. Property Insurance. The Association shall obtain property insurance covering all Common Area structures. At a minimum, the policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage. The policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be

determined by using methods generally accepted in the insurance industry.

- 10.4. Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than two million dollars (\$2,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage that would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.
- 10.5. Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (a) include coverage for volunteers and employees, (b) include coverage for monetary and non-monetary claims, (c) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (d) provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.
- 10.6. Insurance Coverage for Theft and Embezzlement of Association Funds. The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (a) provide coverage for an amount of not less than the sum of three months regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (b) provide coverage for theft or embezzlement of funds by: (1) Officers and Directors of the Association, (2) employees and volunteers of the Association, (3) any manager of the Association, and (4) officers, directors, and employees of any manager of the Association.
- 10.7. Workers' Compensation Insurance. The Board of Directors shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board of Directors deems appropriate.
- 10.8. Certificates. Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association and upon written request, to any Owner or Lender.
- 10.9. Named Insured. The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all CGL insurance policies.

- 10.10. Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy: (a) shall be payable to an Insurance Trustee if one is designated, or to the Association; and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and appropriate disposition of all insurance proceeds, the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.
- 10.11. Insurance Trustee. In the discretion of the Board of Directors or upon written request executed by Owners holding 50% of the Allocated Interest in the Association, the Board of Directors shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board of Directors (as the case may be) shall require.
- 10.12. Owner Act Cannot Void Coverage Under Any Policy. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.
- 10.13. Waiver of Subrogation Against Owners and Association. All CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

ARTICLE 11

EMINENT DOMAIN

- 11.1. Total Taking of a Lot. If a Lot is taken by eminent domain, or sold under threat thereof, or if part of a Lot is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Lot and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Lot's Allocated Interest in the Common Area shall automatically be reallocated to the remaining Lots in proportion to their respective interests immediately before the taking. Upon such a taking, the Association shall prepare, execute and record an amendment to the Declaration that accomplishes the adjustment required for this section. Any remnant of a Lot remaining after part of a Lot is taken shall become part of the Common Area.

- 11.2. Partial Taking of a Lot. Except as provided in section 11.1, if part of a Lot is taken by eminent domain, or sold under threat thereof, so that such Lot may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of the Owner's Lot and Allocated Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Lot's Allocated Interest in the Common Area shall remain the same, but if the decree provides for a reduction of the Allocated Interest for such Lot, the reduced amount shall automatically be reallocated to that Lot and the remaining Lots in proportion to their respective Allocated Interests immediately before the taking, with the partially acquired Lot participating in the reallocation on the basis of its reduced Allocated Interest.
- 11.3. Taking of Common Area. If the portion of the Project taken by eminent domain, or sold under threat thereof, is not comprised of or includes any Lot, the Board of Directors shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Association.
- 11.4. Taking of Entire Project. In the event the Project, in its entirety, is taken by eminent domain, or sold under threat thereof, the Project is terminated and the provisions related thereto in this Declaration shall apply.
- 11.5. Priority and Power of Attorney. Nothing contained in this Article 11 shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Lot as to any portion of any condemnation award allocated to such Lot. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area, or any part thereof. In the event the taking involves the Common Area, the award or proceeds shall be payable to the Association for the use and benefit of the Owners. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

ARTICLE 12

TERMINATION

- 12.1. Required Vote. Except as otherwise provided in Article 11, the Project may be terminated only by the approval of Owners holding 90% of the Allocated Interests.
- 12.2. Termination Agreement. An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in the records

of the County Recorder in Salt Lake County, Utah and is effective only on recordation.

ARTICLE 13

AMENDMENTS

- 13.1. General Amendment Requirements. Except as otherwise provided herein, this Declaration may be amended only by an instrument in writing to which Owners holding Allocated Interests totaling not less than sixty percent (60%) of the total Allocated Interests have approved and consented, as evidenced by a vote at a meeting duly called for that purpose.
- 13.2. Scope of Amendments. This Declaration may be amended to add new rights and obligations, remove existing rights and obligations, or modify existing rights and obligations. The right to amend shall be broadly construed to permit any change to the rights, obligations, and terms in the Declaration.
- 13.3. Execution and Effective Date of Amendments. An amendment that has been adopted as provided herein shall be executed by the Board of Directors, through its agent, who shall certify that the amendment has been approved and adopted and that the procedures and requirements necessary to amend the Declaration have been complied with. The amendment shall be effective when it is recorded in the office of the County Recorder of Salt Lake County, Utah.
- 13.4. Changes to Plat or Boundaries of the Association. The Association may adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Project, including any boundary to any Lot or Lots upon the approval of the number of Owners required to amend this Declaration. Any such Plat may make material changes to the existing or prior Plat including adding or removing amenities, increasing the size of Lots and Dwelling Units, deleting, adding, or modifying Common Area, or making other changes in the layout of the Project. If any such document or action is approved by the consent of at least 60% of the Owners obtained in the manner required to amend this Declaration and so long as any Owner of any Lot that is subjected to boundary changes to that Lot consents, each and every other Owner shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of or consented to the change in the Plat.
- 13.5. Amendment To Conform to Law. The Board of Directors may, without the approval of the Owners, amend this Declaration to conform the Declaration to any applicable legal requirements otherwise applicable to the Association, but only to the extent necessary to eliminate any conflict with the law, to add provisions required by law, or to add provisions that embody rights or obligations otherwise binding on the applicable parties as a matter of law. This procedure may also be used to change the Declaration to comply with any directive of any federal, state, or local government agency. The following

procedures and requirements must be complied with for any such amendment:

- (a) The Association must obtain from an attorney who has a significant experience and a regular practice in area of Community Association law, a written opinion explaining in detail and opining that the proposed amendment may be sought pursuant to this section;
- (b) The members of the Board of Directors must unanimously agree to the Amendment at the time it is recorded; and
- (c) The Board of Directors must provide to the Owners (1) the proposed amendment instrument, (2) the language of this section of the Declaration, (3) the law that conflicts with the existing Declaration language or the provisions that must be complied with to permit owners to obtain financing, (4) the attorney opinion letter required for the amendment, and (5) a notice in which the Association (i) notifies the Owner that it intends to amend the Declaration pursuant to this section, (ii) provides the Owner a right to object to the amendment within 30 days, and (iii) provides instructions on how, when, and where to properly return the objection. The Board of Directors may include further explanation, information, and recommendations regarding the proposed amendment in the information provided to the Owners.
- (d) Within 45 days of providing the information to the Owners required by this section, no more than 40% of the owners may have objected to the amendment.
- (e) Having otherwise complied with all of the requirements of this section, the Board of Directors members shall each sign the amendment instrument verifying that this section has been complied with to the best of their knowledge and that no more than 40% of the Owners objected after having received proper notice. The amendment shall be effective upon the recording of the instrument in the office of the recorder of Salt Lake County.

ARTICLE 14

INTERPRETATION, CONSTRUCTION, AND APPLICATION OF DECLARATION

- 14.1. No Waiver. Failure by the Association or by any Owner to enforce any Term and Condition in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to that breach and any such future breach of the same or any other Term and Condition.
- 14.2. Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Plat, the Declaration, the Articles, the Bylaws, and then the Rules.

- 14.3. Interpretation of Declaration and Applicability of the Act. The Association intends that the Project shall be governed by the Act, except where (in compliance with the Act) the Association has included specific provisions in this Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Declaration that are contrary to the Act shall govern the Project to the extent allowed by the Act. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow this Declaration to contain provisions contrary to the Act, the Act shall control and this Declaration shall be deemed modified accordingly, but only to the extent necessary to come into compliance with the Act.
- 14.4. Cumulative Remedies. All rights, options, and remedies of the Association and the Owners in the Governing Documents are cumulative, and none shall be exclusive of any other, and the Association and the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief that may be provided by law; simultaneously, consecutively, or alternatively.
- 14.5. Severability. Invalidation of any one or a portion of the Terms and Conditions by judgment or court order shall in no way affect any other Terms and Conditions, all of which shall remain in full force and effect.
- 14.6. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential community and for the maintenance of the Project. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. References in this Declaration to article and section numbers, unless otherwise expressly provided, are to the article and section in this Declaration. To the extent permitted by law, the provisions of the Governing Documents shall not be interpreted for or against or strictly for or against the Association, any Owner, or any other person subject to their terms.
- 14.7. Applicable Law. This Association is specifically made subject to the Act and the law as it is constituted and exists at the time this Declaration is recorded. Amendments to the Act after the date of recording of this Declaration shall not be applicable to the Association or the Project unless they are applicable as a matter of law or unless the Association makes those amendments applicable by amendment to the Declaration.
- 14.8. Gender and Number. Whenever the context of the Governing Documents require, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.
- 14.9. Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration, and the Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. The Association shall have no

liability whatsoever if any Term and Condition is determined to be unenforceable in whole or in part for any reason.

ARTICLE 15

NOTICE

15.1. Notices. Any notice to be given to an Owner, a Lender, or the Association under the provisions of the Governing Documents shall be in writing and shall be delivered as follows:

(a) Notice to an Owner from the Association.

(1) Notice to an Owner shall be effective upon the satisfaction of any of the following delivery methods:

(i) by a written notice delivered personally to the Owner, which shall be effective upon delivery,

(ii) by a written notice placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit,

(iii) by written e-mail correspondence to an Owner: (1) that is sent to an e-mail address provided by the Owner for the purpose of Association communications, or (2) that is emailed to an e-mail address from which the Owner has communicated related to Association matters, and so long as no indication is received that the e-mail may not have been delivered. Any notice sent by e-mail shall be deemed delivered seventy-two (72) hours after it is sent,

(iv) by facsimile (whether to a machine or to an electronic receiving unit) to an Owner that is sent to a facsimile number provided by the Owner for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent, or

(v) by any other method that is fair and reasonable as provided for in the Act or otherwise provided for by law.

(2) Notwithstanding subsection (1) of this section, the Association shall send all notices by U.S. Mail if an Owner, by written demand, demands that the Association send all notices by mail.

(3) In the case of co-owners, notice to one of the co-owners is effective as notice to all such co-owners. The Association shall not be required to give more than one notice per Lot, whether electronic or not. In case any two co-owners send

conflicting notice demands, notice shall be proper if mailed by first class mail to the Lot.

(4) In case posting of a notice on the Dwelling Unit is permitted, such posting is effective when posted on the front or primary access door to the Dwelling Unit and any such posting may be removed by the Association after the event has occurred for which posting was made or ten days after the posting.

(b) Notice to a Lender. Notice to a Lender shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender. Any address for a Lender that is found on a document recorded on the title of a Unit shall be deemed an office of the Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

(c) Notice to Association from an Owner. An Owner's Notice to the Association shall be effective upon the satisfaction of any of the following delivery methods:

(1) by a written notice delivered personally to the managing agent, which shall be effective upon delivery;

(2) by a written notice placed in the first class United States mail, postage prepaid, to the current registered business address of the Association. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit;

(3) by written e-mail correspondence to the Association: (i) that is sent to an e-mail address provided by the Association in the prior 12 months for the purpose of Association communications, or (ii) that is emailed to an e-mail address from which the Manager or the President of the Association has communicated related to Association matters, and so long as no indication is received that the e-mail may not have been delivered or received. Any notice sent by e-mail shall be deemed delivered seventy-two (72) hours after it is sent; or

(4) by facsimile (whether to a machine or to an electronic receiving unit) to the Association that is sent to a facsimile number provided by the Association for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered or received. Any notice sent by facsimile shall be deemed delivered seventy-two (72) hours after it is sent.

ARTICLE 16

ATTORNEY FEES AND COSTS

16.1. Legal Costs Associated with Disputes with Owners.

(a) Owners Liable for Fees Incurred in Dispute. If the Association utilizes legal counsel to enforce any Term and Condition after notice to the Owner that it

intends to enforce the Term and Condition or after the Owner communicates or demonstrates an intent not to comply with the Term and Condition, the Association may assess all reasonable attorney fees and costs associated with such enforcement to the Owner, regardless of whether a lawsuit is initiated or not.

- (b) Costs. The term “costs” as used in this section shall include all costs including copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. “Costs” is specifically defined in this Declaration to be broader and to include costs that are not included in costs, as the term is used in the Utah Rules of Civil Procedure.
- (c) Exception to Owner’s Liability for Fees and Costs. If, related to (1) any dispute with an Owner, (2) any challenge by an Owner to a position of the Association on a Term and Condition, or (3) a request of an Owner for direction on the application of a Term and Condition, the Association incurs legal fees or costs related to the interpretation and application of a Term and Condition that: (1) the association could not establish an initial position on without having incurred the fees and costs, or (2) results in a substantial modification to a prior position taken by the Association; then those fees or costs shall not be assessed to any Owner and shall be paid by the Association. This exception shall not apply if a lawsuit is currently pending with regard to the Owner and the issues arise as part of the lawsuit.

ARTICLE 17

RESERVES

- 17.1. Requirement for Reserves. The Association shall maintain a reasonable reserve fund for the maintenance, repair, and replacement of the Common Area as determined by the Owners annually. Reserve funds may be collected as part of the monthly Assessments.
- 17.2. Surplus Monies Applied to Reserves. The Association may retain surplus Association money as additional reserves rather than refund it to the Owners or credit it to future Assessments.
- 17.3. Segregation of Reserves. The Association shall segregate money held for reserves from regular operating and other accounts.
- 17.4. Reserve Analysis. The Association shall cause a Reserve Analysis to be conducted not less than once every six years, which shall be regularly updated a minimum of once every three years. The Reserve Analysis report shall be prepared by a person or persons with (a) experience in current building technologies, (b) a solid working knowledge of building cost estimating and life cycle costing for facilities, and (c) the tools and knowledge to prepare a report. Preferably, but subject to the discretion of the Board of Directors in determining that the qualifications have otherwise been met by one person, two people shall prepare the Reserve Analysis—an architectural consultant who will

perform a property condition assessment and a reserve study professional who will utilize the property condition assessment and prepare the Reserve Study. The Reserve Analysis shall, at a minimum, determine the need for and appropriate amounts of a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring common areas that have a useful life of three years or more. The Reserve Analysis and updates shall project a minimum of 30 years into the future.

17.5. Disclosure and Approval at Annual Meeting. The Association shall:

- (a) annually, at the annual meeting of Owners or at a special meeting of Owners:
 - (1) present the most recent Reserve Analysis;
 - (2) provide an opportunity for 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; and
- (b) prepare and keep minutes of each meeting held under this section and indicate in the minutes any decision relating to funding a reserve fund.

ARTICLE 18

LEASING AND NON-OWNER OCCUPANCY

18.1. Declaration and Rules Govern Non-Owner Occupancy. Notwithstanding anything to the contrary in this Declaration or in the Bylaws, any leasing and non-owner occupancy of a Lot and Dwelling Unit shall be governed by this section, the Rules, and procedures adopted as allowed in this section.

18.2. Definitions. For the purpose of this section:

- (a) "Non-Owner Occupied Unit" means:
 - (1) For a Lot and Dwelling Unit owned in whole or in part by an individual or individuals, the Dwelling Unit is occupied by someone but no individual Owner occupies the Dwelling Unit as the individual Owner's primary residence; or
 - (2) For a Lot and Dwelling Unit owned entirely by one or more entities or trusts, the Dwelling Unit is occupied by anyone.
- (b) "Family Member" means:
 - (1) the parent, sibling, or child of an Owner, or
 - (2) in the case of a Lot and Dwelling Unit owned by a trust or other entity created for estate planning purposes, a person occupying the Dwelling Unit if the trust or other estate planning entity that owns the Dwelling Unit was created for the estate of (i) a current occupant of the Dwelling Unit; or (ii) the parent, child, or sibling of the current occupant of the Dwelling Unit.

18.3. Restriction. Except as provided in subsection 18.4(c), no more than 19 of the Lots are permitted to be Non-Owner Occupied at any one time.

- 18.4. Exceptions. The following Lots may be Non-Owner Occupied notwithstanding the restriction in Section 18.3, but they shall count in calculating the percentage of Non-Owner Occupied.
- (a) Lots that are Non-Owner Occupied when this Declaration became effective. These Lots may be Non-Owner Occupied under this exception until the Lot Owner (or an officer, owner, member, trustee, beneficiary, director, or other person in control of an Owner entity or trust) occupies the Lot or transfers the Lot, whichever first occurs. Upon this occurrence, the Lot's qualification for this exception irrevocably terminates.
 - (b) a Lot owned by a person in the military for the period of the Owner's deployment;
 - (c) a Lot occupied by a Family Member; and
 - (d) a Lot whose Owner was relocated by the Owner's employer for a period of not less than two years.
- 18.5. Rules. The Board of Directors may adopt Rules regarding:
- (a) reporting and procedures related to Non-Owner Occupied Units and the occupants of those Units for the purpose of determining and tracking the number of Non-Owner Occupied Units and to ensure consistent administration and enforcement of the restriction above, which may include requirements that informational forms be filled out by Owners and/or residents identifying Non-Owner Occupants, vehicles, phone numbers, etc.;
 - (b) reasonable fees related to the administration of leased and Non-Owner Occupied Units, and
 - (c) other reasonable administrative provisions consistent with and as it deems appropriate to enforce the requirements of this Declaration.
- 18.6. Requirements for Leasing and Non-Owner Occupancy. The Owners of all Lots must comply with the following provisions:
- (a) Any lease or agreement for otherwise allowable Non-Owner Occupancy must be in writing, must be for an initial term of at least twelve (12) months, and shall provide as a term of the agreement that the Resident shall comply with the Declaration, the Bylaws, and the Rules, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for Non-Owner Occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the Resident;
 - (b) If required in the Rules of the Association or requested by the Board of Directors, a copy of any lease or other agreement for Non-Owner Occupancy shall be

delivered to the Association within the time period provided for in the Rules or by the Board of Directors;

- (c) A Non-Owner Occupant may not occupy any Lot and Dwelling Unit for transient, short-term (less than twelve months), hotel, resort, vacation, or seasonal use (whether for pay or not);
- (d) Daily and weekly occupation by Non-Owner Occupants is prohibited (whether for pay or not); and
- (e) The Owner(s) of a Lot shall be responsible for the Occupant's or any guest's compliance with the Declaration, Bylaws, and Rules. In addition to any other remedy for noncompliance with this Declaration, the Association shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending Non-Owner Occupant. The Association, the Board of Directors, and the Manager shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board of Directors, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph.

18.7. Exceptions for Family Members. If only Family Members occupy a Lot and Dwelling Unit, then notwithstanding anything to the contrary herein:

- (a) subsections 18.5(a), 18.5(c), & 18.5(d) of section 18.5 shall not apply to that occupancy;
- (b) no written agreement regarding occupancy needs to be created between the family member and the Owner; and
- (c) any written agreement regarding occupancy, to the extent it exists, may not be requested by the Board of Directors until an occupant has violated a provision of the Governing Documents and if requested, may only be requested related to remedying or taking action as a result of such a violation.

ARTICLE 19

GENERAL PROVISIONS

- 19.1. Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Terms and Conditions, including the right to prevent the violation of any such Terms and Conditions and the right to recover damages and other sums for such violation.
- 19.2. Nonliability of Officials. To the fullest extent permitted by applicable law, neither the Board of Directors nor any officer of the Association shall be liable to any Owner or the

Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error or negligence.

- 19.3. Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by the Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Association in managing, maintaining, caring for and preserving the Common Area and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for and preserving the Common Area and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).
- 19.4. Notification of Sale or Transfer and Reinvestment Fee. Except as otherwise limited by law, the Board of Directors may establish a reinvestment fee Assessment, from time to time, which shall be no more than 0.5% of the value of the Lot and which shall be due and payable immediately after any sale or other transfer of any Lot. The Board of Directors shall have authority to set forth in the Rules the date, time for payment, amount, the requirements for any information that is required from any transferee of any Lot upon any sale or transfer, and any other procedures or requirements related to the reinvestment fee Assessment. The reinvestment fee Assessment shall be due after the transfer.
- 19.5. Owner Liability and Indemnification. Each Owner shall be liable to the remaining Owners and to the Association for any damage to the Common Area that may be sustained by reason of the negligent or intentional act that Owner or any intentional or negligent act of any Occupant of that Owner's Lot and Dwelling Unit, to the extent such losses and damages are either under the deductible of the Association or not covered by the Association's insurance. Each Owner, by acceptance of a deed to a Lot, agrees personally to indemnify each and every other Owner and Occupant in such other Owner's Lot and Dwelling Unit, and to hold such other persons harmless from, and to defend such persons against, any claim of any person for personal injury or property damage occurring within the Lot of that particular Owner, except to the extent that: (a) such injury or damage is covered by liability insurance in favor of the Association or any other Owner; or (b) the injury or damage occurred by reason of the intentional act of the Association.
- 19.6. Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in a Lot, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and the Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of

such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

- 19.7. Security. The Association shall in no way be considered an insurer, guarantor, or provider of security from criminal conduct within or relating to the Project, including any Common Area that the Association may have an obligation to maintain. The Association shall not be held liable for any loss or damage by reason of criminal conduct arising for any reason including any failure to provide security or any ineffectiveness of security measures undertaken. Each and every Owner or person entering the Project acknowledges that the Association has no duty to any Owner or Occupant related to security or criminal conduct and expressly acknowledges that no duty is owed to anyone such as that of a landlord or retail business. By purchasing a Lot in this Association and/or residing in this Association, Owners and Occupants agree that the Association and the Board of Directors are not insurers of the safety or well being of Owners or Occupants or of their personal property as it relates to criminal conduct, and that each Owner or Occupant specifically waives any such claim and assumes all risks for loss or damage to persons or property resulting from criminal conduct, to the extent any such damages are not covered by insurance.
- 19.8. Reasonable Accommodations. Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) and/or the Utah Fair Housing Act, as amended, to accommodate a person with a disability (as defined by Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Dwelling Unit, Lot, the Common Area, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else.
- 19.9. No Representations and Warranties. **EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE PROJECT THAT THE ASSOCIATION AND THE BOARD OF DIRECTORS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE PROJECT AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.**

EXECUTED the day and year first above written.

WESTCOVE ASSOCIATION

By: Anne P. Sampson
Its: board member/director

STATE OF UTAH)
)SS:
COUNTY OF SALT LAKE)

On the 4th day of October, 2012, personally appeared before me
Anne P. Sampson, who by me being
duly sworn, did say that he/she is the board member/director of the Westcove Association.

Tamra Kaye Stapley
NOTARY PUBLIC

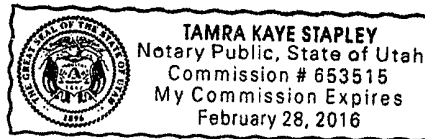


Exhibit A

BEGINNING at a Point which is North 00°08'10" West 1275.26 feet along the Section line and North 89°51'30" East 33.00 feet from the Southwest Corner of Section 4, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running thence North 00°08'10" West 101.93 feet; thence North 89°5'38" East 107.00 feet; thence North 00°08'10" West 111.82 feet; thence North 89°51'44" East 93.91 feet; thence North 89°51'51" East 162.17 feet; thence North 00°08'10" West 85.97 feet; thence North 89°51'51" East 131.92 feet; thence North 00°08'10" West 217.00 feet; thence East 120.00 feet; thence South 35.00 feet; thence East 640.79 feet; thence South 484.75 feet; thence North 89°51'30" East 30.08 feet; thence South 00°03'43" East 262.10 feet; thence South 89°51'30" West 968.14 feet; thence North 00°08'10" West 267.05 feet; thence South 89°51'30" West 316.15 feet to the point of beginning.

Exhibit B

**BYLAWS OF
WESTCOVE ASSOCIATION**

**BYLAWS
OF
WESTCOVE ASSOCIATION
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BYLAWS
OF
WESTCOVE ASSOCIATION

These bylaws are hereby adapted and established as the Bylaws of the Westcove Association (“the Association”) and shall apply to the Association and bind all present or future Owners, tenants, and other persons who might use the facilities or enter the Project.

ARTICLE I
DEFINITIONS

- 1.1 Definitions. Except as otherwise provided herein or as may be required by the context, all terms defined in Article I of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Westcove (“the Declaration”) shall have such defined meanings when used in these Bylaws.

ARTICLE II
OWNERS

- 2.1 Annual Meetings. Unless changed by the Board of Directors, the annual meeting of Owners shall be held on the first Wednesday in February of each year for the purpose of electing Directors and transacting such other business as may come before the meeting. If the election of Directors cannot be held on the day designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board of Directors shall cause the election to be held either at a special meeting of the Owners to be convened as soon thereafter as may be convenient. The Board of Directors may from time to time change the date and time for the annual meeting of the Owners.
- 2.2 Special Meetings. Special meetings of the Owners may be called by the Board of Directors, the President, or upon the written request of Owners holding not less than twenty-five percent (25%) of the Allocated Interest of the Association. Any written request for a special meeting shall include the original signature of each Owner affirmatively supporting such request along with a statement of the purpose of the meeting on each page containing signatures. Such written request is to state the purpose or purposes of the meeting and shall be delivered to the Board of Directors or the President, who shall then call, provide notice of, and conduct a special meeting within 30 days of receipt of the request.
- 2.3 Place of Meetings. The Board of Directors may designate any place in Salt Lake County as the place of meeting for any annual or special meeting.

- 2.4 Notice of Meetings. The Board of Directors shall cause written or printed notice of the time and place, and in the case of a special meeting, the purpose or purposes, for all meetings of the Owners (whether annual or special) to be delivered, not more than sixty (60) nor less than ten (10) days prior to the meeting, to each Owner of record entitled to vote at such meeting. Notices may be personally delivered, mailed, or emailed. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the Owner at the Owner's registered address, with first-class postage thereon prepaid. If emailed, such notice shall be deemed to be delivered when sent. Each Owner shall register with the Association such Owner's current mailing and email addresses for purposes of notice hereunder. Such registered addresses may be changed from time to time by notice in writing to the Association. If no addresses are registered with the Association, an Owner's Lot address shall be deemed to be the Owner's registered mailing address for purposes of notice in this section.
- 2.5 Owners of Record. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, or any adjournment thereof, the Board of Directors may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the Owners of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of and to vote at the meeting of the Owners.
- 2.6 Quorum. At any meeting of the Owners, the presence of Owners holding, or holders of proxies entitled to cast more than twenty percent (20%) of the Allocated Interest of the Association shall constitute a quorum for the transaction of business.
- 2.7 Proxies. At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by the Owner's attorney when duly authorized in writing. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) owner of such Lot or the Owners' attorneys when duly authorized in writing. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Such instrument shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting.

- 2.8 Votes. With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Lot of such Owner, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by the Articles, these Bylaws, the Declaration, or the Act. The election of Directors shall be by secret ballot. When more than one (1) Person owns an interest in a Lot, any Person who is the owner may exercise the vote for such Lot on behalf of all Co-Owners of the Lot. In the event of two (2) conflicting votes by Co-Owners of one (1) Lot, no vote shall be counted for that Lot but it shall be counted for the purposes of establishing a quorum. In no event shall fractional votes be exercised in respect to any Lot.
- 2.9 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of ascertaining Owners present, or in the decision and votes of the Board of Directors shall be deemed waived if no written objection is made either at the meeting or within thirty (30) days of the date of the meeting, or within 30 days of notice of any decision by the Board of Directors.

ARTICLE III BOARD OF DIRECTORS

- 3.1 General Powers. The property, affairs, and business of the Association shall be managed by the Board of Directors. The Board of Directors may exercise all of the powers of the Association, whether derived from the Act or the Declaration, except such powers that the Articles, these Bylaws, the Declaration, or the Act vest solely in the Owners.
- 3.2 Number, Tenure, Qualifications, and Election. The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of three (3) persons, who must be Members of the Association and must have their principal residence within the Association. The term of each Director shall be three years. The terms of the Directors shall overlap so that one Director position shall be up for election each year. At the annual meeting or any subsequent meeting at which the election is held, any Owner may submit his own name or the name of any other willing and otherwise qualified person to be added to the ballot for election of Directors and such person shall be added to the names of candidates. If the name of a person is submitted who is not in attendance at the meeting, it must be submitted with a written statement from that person indicating that the person is willing to serve.

- 3.3 Regular Meetings. The Board of Directors shall hold regular meetings at least quarterly, and more often at the discretion of the Board of Directors. The Board of Directors may designate any place in Salt Lake County as the place of meeting for any regular meeting called by the Board of Directors.
- 3.4 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of any two Directors or the President of the Association. The person or persons authorized to call special meetings of the Board of Directors may fix any place in Salt Lake County as the place for holding any special meeting of the Board of Directors called by such person or persons. Notice of any special meeting shall be given at least five days prior thereto by written notice delivered personally, mailed, or emailed to each Director at such Director's registered address. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail so addressed, with first-class postage thereon prepaid. If emailed, such notice shall be deemed to be delivered when sent. Any Director may waive notice of a meeting.
- 3.5 Quorum and Manner of Acting. A majority of the then-authorized number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The act of a majority of the Directors present at any meeting at which a quorum is present and for which proper notice was provided to the Directors shall be the act of the Board of Directors. The Directors shall act only as a Board, and individual members shall have no powers as such.
- 3.6 Compensation. No Director shall receive compensation for any services that he may render to the Association as a Director; provided, however, that a Director may be reimbursed for expenses incurred in the performance of his duties as a Director to the extent such expenses are approved by the Board of Directors.
- 3.7 Resignation and Removal. A Director may resign at any time by delivering a written resignation to either the President or the Board of Directors. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director who fails to attend four regular meetings of the Board of Directors in a row may be removed by the Board of Directors within 60 days of the last missed meeting. Any Director may be removed at any time, with or without cause, by the affirmative vote of at least fifty-one percent (51%) of the Allocated Interest of the Association at a special meeting of the Owners duly called for such purpose.
- 3.8 Vacancies. If vacancies shall occur in the Board of Directors by reason of the death, resignation, removal for failure to attend meetings, or disqualification of a Director, the Directors then in office shall continue to act, and such vacancies shall be filled by a vote of the Directors then in office, even though less than a quorum may be available. Where

a vacancy in the Board of Directors occurs by reason of Owner removal of a Director, such vacancy may be filled by election by the Owners at the meeting at which the Director is removed. Any Director elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor.

- 3.9 Informal Action by Directors. Any action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

ARTICLE IV OFFICERS

- 4.1 Officers. The officers of the Association shall be a President, Secretary, and Treasurer.
- 4.2 Election, Tenure and Qualifications. The officers of the Association shall be chosen by the Board of Directors annually at the first meeting of the Board of Directors following the annual meeting. Each such officer shall hold such office until a successor has been elected or until such officer's death, resignation, disqualification, or removal, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office. The President, Secretary, and Treasurer must be and remain Directors of the Association during the entire term of their respective offices.
- 4.3 Subordinate Officers. The Board of Directors may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine. Subordinate officers need not be Directors of the Association.
- 4.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Director or to any Managing Agent. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Directors at any time, with or without cause.
- 4.5 Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Directors at any regular or special meeting.

- 4.6 The President. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, and (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board of Directors.
- 4.7 The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution the Board of Directors may require such person to keep. The Secretary shall also act in the place and stead of the President in the event of the President's absence or inability or refusal to act. The Secretary shall perform such other duties as required by the Board of Directors.
- 4.8 The Treasurer. The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Directors, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board of Directors. The Treasurer shall perform such other duties as required by the Board of Directors.
- 4.9 Compensation. No officer shall receive compensation for any services rendered to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board of Directors.

ARTICLE V COMMITTEES

- 5.1 Designation of Committees. The Board of Directors may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall include at least one Director. A Committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board of Directors in a written resolution. The Board of Directors may terminate any committee at any time.
- 5.2 Proceedings of Committees. Each committee designated hereunder by the Board of Directors may appoint its own presiding and recording officers and may meet at such

places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Directors.

- 5.3 Quorum and Manner of Acting. At each meeting of any committee designated hereunder by the Board of Directors, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Directors hereunder shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Board of Directors.
- 5.4 Resignation and Removal. Any member of any committee designated hereunder by the Board of Directors may resign at any time by delivering a written resignation to the President, the Board of Directors, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Directors may at any time, with or without cause, remove any member of any committee designated by it thereunder.
- 5.5 Vacancies. If any vacancy shall occur in any committee designated by the Board of Directors due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board of Directors, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Directors.

ARTICLE VI INDEMNIFICATION

- 6.1 Indemnification. No Director or officer shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Director or officer performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Director or officer of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Director or officer of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Director or

officer, and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Association shall have the power to defend such person from all suits or claims; provided further, however, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Directors, officers, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

- 6.2 Other Indemnification. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be provided under any Bylaw, statute, agreement, vote of disinterested Directors, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all Directors and officers be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah, the Utah Revised Nonprofit Corporation Act (if the association is a nonprofit corporation), and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a Director, officer, or employee, and shall inure to the benefit of the heirs, executors, and administrators of any such person.
- 6.3 Settlement by Association. The right of any person to be indemnified shall be subject always to the right of the Association by the Board of Directors, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VII AMENDMENTS

- 7.1 Amendments. Except as permitted specifically herein or required by the Act, these Bylaws may be amended only by written consent of Owners of Lots holding at least fifty-one (51%) of the percentage interest in the Association. No meeting or vote of the Owners shall be required.

7.2 Execution of Amendments. Upon obtaining the required written consent, an amendment shall be signed by the President and Secretary of the Association, who shall certify that the amendment has been properly consented to as required by these Bylaws. An amendment complying with the requirements of these Bylaws and the declaration shall be effective when the amendment has been recorded in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned, constituting all of the Directors of the WESTCOVE ASSOCIATION, hereby execute these Bylaws this 4 day of October, 2012.

Debra L Walker

[print name] Debra L Walker

Erik

[print name] Erik McHenry

Anne P. Sampson

[print name] Anne P. Sampson

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

On the 4th day of October, 2012, personally appeared before me Debra L Walker, Anne P Sampson, and Erik McHenry the signers of the foregoing BYLAWS OF WESTCOVE ASSOCIATION, who duly acknowledged to me that they executed the same.

Tamra Kaye Stapley
Notary Public

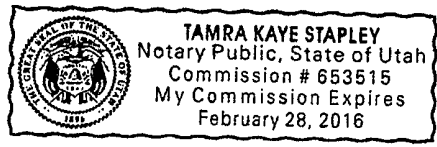


Exhibit C
List of Lots, Votes, and Allocated Interest

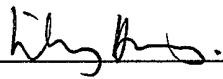
Lot	Votes	Allocated Interest
1	1	1.2987%
2	1	1.2987%
3	1	1.2987%
4	1	1.2987%
5	1	1.2987%
6	1	1.2987%
7	1	1.2987%
8	1	1.2987%
9	1	1.2987%
10	1	1.2987%
11	1	1.2987%
12	1	1.2987%
13	1	1.2987%
14	1	1.2987%
15	1	1.2987%
16	1	1.2987%
17	1	1.2987%
18	1	1.2987%
19	1	1.2987%
20	1	1.2987%
21	1	1.2987%
22	1	1.2987%
23	1	1.2987%
24	1	1.2987%
25	1	1.2987%
26	1	1.2987%
27	1	1.2987%
28	1	1.2987%
29	1	1.2987%
30	1	1.2987%
31	1	1.2987%
32	1	1.2987%
33	1	1.2987%
34	1	1.2987%
35	1	1.2987%
36	1	1.2987%
37	1	1.2987%
38	1	1.2987%
39	1	1.2987%
40	1	1.2987%
41	1	1.2987%

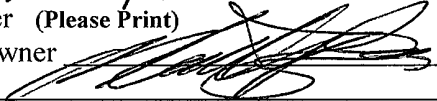
42	1	1.2987%
43	1	1.2987%
44	1	1.2987%
45	1	1.2987%
46	1	1.2987%
47	1	1.2987%
48	1	1.2987%
49	1	1.2987%
56	1	1.2987%
57	1	1.2987%
58	1	1.2987%
59	1	1.2987%
60	1	1.2987%
61	1	1.2987%
62	1	1.2987%
63	1	1.2987%
64	1	1.2987%
65	1	1.2987%
66	1	1.2987%
67	1	1.2987%
68	1	1.2987%
69	1	1.2987%
70	1	1.2987%
71	1	1.2987%
72	1	1.2987%
73	1	1.2987%
74	1	1.2987%
75	1	1.2987%
76	1	1.2987%
77	1	1.2987%
78	1	1.2987%
79	1	1.2987%
80	1	1.2987%
81	1	1.2987%
82	1	1.2987%
83	1	1.2987%
TOTAL	77	100%

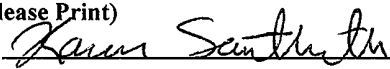
INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 1 ~~1001~~
Name of Owner (Please Print) _____
Date _____ Signature of Owner _____

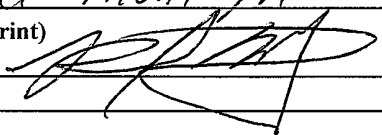
Lot No. 2 LINDSEY HARRIS
Name of Owner (Please Print) _____
Date Sept 11 2012. Signature of Owner 

Lot No. 3 MARTIN ROGERS
Name of Owner (Please Print) _____
Date 9-11-12 Signature of Owner 

Lot No. 4 Karen Southworth
Name of Owner (Please Print) _____
Date 09/11/12 Signature of Owner 

Lot No. 5 _____
Name of Owner (Please Print) _____
Date _____ Signature of Owner _____

Lot No. 6 _____
Name of Owner (Please Print) _____
Date _____ Signature of Owner _____

Lot No. 7 Richard Montoya
Name of Owner (Please Print) _____
Date 9/15/12 Signature of Owner 

INDIVIDUAL HOME OWNER SIGNATURES

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Lot No. 8 Greg Barber
Name of Owner (Please Print)
Date 9/11/12 Signature of Owner [Signature]

Lot No. 9 N. LaRue Linderman
Name of Owner (Please Print)
Date 9/11/12 Signature of Owner [Signature]

Lot No. 10 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

X Lot No. 11 Kenneth W. Childs
Name of Owner (Please Print)
Date 9-11-2012 Signature of Owner [Signature]

Lot No. 12 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 13 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 14 Spencer Millburn
Name of Owner (Please Print)
Date 9/11/2012 Signature of Owner [Signature]

Lot No. 15 GERALDINE - CAMP BELL
Name of Owner (Please Print)
Date 9-15-12 Signature of Owner [Signature]

INDIVIDUAL HOME OWNER SIGNATURES

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Lot No. 16 Erivetta Herndon
Date 9/26/12 Name of Owner (Please Print)
Signature of Owner Erivetta Herndon

Lot No. 17 Scott Butler
Date 9-13-12 Name of Owner (Please Print)
Signature of Owner Scott Butts

Lot No. 18 Ann Evans
Date 10-1-12 Name of Owner (Please Print)
Signature of Owner _____

Lot No. 19 Kristine Griffiths
Date 9-26-12 Name of Owner (Please Print)
Signature of Owner Kristine Griffiths

Lot No. 20 BRENDEN ELLISON
Date 9-23-12 Name of Owner (Please Print)
Signature of Owner Brenden Ellison

Lot No. 21 Justin Whitney
Date 9-13-12 Name of Owner (Please Print)
Signature of Owner Justin Whitney

Lot No. 22 _____
Date _____ Name of Owner (Please Print)
Signature of Owner _____

Lot No. 23 Dalu R Allgier Dalu R Allgier
Date 9-13-12 Name of Owner (Please Print)
Signature of Owner Dalu R Allgier

INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 32 Billie Sarvello
Name of Owner (Please Print)
Date Sept. 14, 2012 Signature of Owner Billie Sarvello

Lot No. 33 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 34 Jose Cenedo
Name of Owner (Please Print)
Date 9/29/12 Signature of Owner [Signature]

Lot No. 35 ADELHINA HUIZAR
Name of Owner (Please Print)
Date _____ Signature of Owner Adelinda Huizar

Lot No. 36 Servacs VanZyverden
Name of Owner (Please Print)
Date _____ Signature of Owner [Signature]

Lot No. 37 Brook Mann
Name of Owner (Please Print)
Date 9/29/12 Signature of Owner Brook Mann

Lot No. 38 Michael Deschner
Name of Owner (Please Print)
Date 9/11/2012 Signature of Owner [Signature]

Lot No. 39 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 40 Debra Walker
Name of Owner (Please Print)
Date 9/11/12 Signature of Owner Debra Walker

Lot No. 41 VANESSA ELLIOTT
Name of Owner (Please Print)
Date 9-28-12 Signature of Owner [Signature]

Lot No. 42 Stephen B Rose
Name of Owner (Please Print)
Date 9-28-12 Signature of Owner Stephen B Rose

Lot No. 43 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 44 Christopher Taylor
Name of Owner (Please Print)
Date 9-29-12 Signature of Owner [Signature]

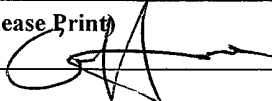
Lot No. 45 Maria A Rodriguez
Name of Owner (Please Print)
Date 9-29-12 Signature of Owner Maria Angeles Rodriguez

Lot No. 46 Bonnie Clift
Name of Owner (Please Print)
Date 9/11/12 Signature of Owner Bonnie Clift

Lot No. 47 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 48 LESTER HERNANDO
Name of Owner (Please Print)
Date 9/15/12 Signature of Owner 

Lot No. 49 Miranda Goodman
Name of Owner (Please Print)
Date 9.15.12 Signature of Owner Miranda M Goodman

Lot No. 56 Donald Ball
Name of Owner (Please Print)
Date 10/1/12 Signature of Owner Donald Ball

Lot No. 57 _____
Name of Owner (Please Print)
Date 9/29/12 Signature of Owner _____

Lot No. 58 Paul Tooman
Name of Owner (Please Print)
Date 9/29/12 Signature of Owner Paul Tooman

Lot No. 59 Erik McHenry
Name of Owner (Please Print)
Date 9-11-12 Signature of Owner Erik McHenry

Lot No. 60 Richard Jones
Name of Owner (Please Print)
Date 9-11-12 Signature of Owner Richard Jones

Lot No. 61 Steve Voyer / Kristen Bulluck
Name of Owner (Please Print)
Date 9/11/12 Signature of Owner Steve Voyer

INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 62 _____
Name of Owner (Please Print) Jennifer Poole
Date 9/11/12 _____
Signature of Owner Jennifer Poole

Lot No. 63 _____
Name of Owner (Please Print) Janet Neely
Date 9-28-12 _____
Signature of Owner Janet Neely

Lot No. 64 _____
Name of Owner (Please Print) BOBBY CHACTON
Date 9-28-12 _____
Signature of Owner Bobby Chan

Lot No. 65 _____
Name of Owner (Please Print) Marianne Maguire
Date 10/11/12 _____
Signature of Owner [Signature]

Lot No. 66 _____
Name of Owner (Please Print) Aimee Griffiths
Date _____
Signature of Owner [Signature]

Lot No. 67 _____
Name of Owner (Please Print) Pamela Rae Tupa
Date 9/11/12 _____
Signature of Owner Pamela Rae Tupa

Lot No. 68 _____
Name of Owner (Please Print) _____
Date _____
Signature of Owner _____

Lot No. 69 _____
Name of Owner (Please Print) Roy M Schoenherr
Date 9-13-12 _____
Signature of Owner Roy M Schoenherr

INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 70 GEORGE SHPONAR
Name of Owner (Please Print)
Date _____ Signature of Owner George Shponar

Lot No. 71 DAVID MOORE
Name of Owner (Please Print)
Date 9-20-12 Signature of Owner David Moore

Lot No. 72 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 73 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 74 Stacey Nordin
Name of Owner (Please Print)
Date 9-13-12 Signature of Owner Stacey Nordin

Lot No. 75 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

Lot No. 76 _____
Name of Owner (Please Print)
Date 9-13-12 Signature of Owner Robert A. McKay
Robert A. McKay

Lot No. 77 _____
Name of Owner (Please Print)
Date _____ Signature of Owner _____

INDIVIDUAL HOME OWNER SIGNATURES

By signing this document, I hereby certify that my name is as follows, that I am the Owner of the Unit identified below and a member of the West Cove Association, that I am authorized to sign on behalf of my co-owners, if any, and that I approve of the proposed amended documents as set forth above.

Lot No. 78 _____
Date Sept/11 _____
Name of Owner (Please Print) Rohat S. Debrah Barrow / G. G. Selwa
Signature of Owner _____

Lot No. 79 _____
Date _____
Name of Owner (Please Print) _____
Signature of Owner _____

Lot No. 80 _____
Date _____
Name of Owner (Please Print) _____
Signature of Owner _____

Lot No. 81 _____
Date 10/1/2012 _____
Name of Owner (Please Print) Ana M Coronado
Signature of Owner _____

Lot No. 82 _____
Date 10/1/2012 _____
Name of Owner (Please Print) MARC RAMIREZ
Signature of Owner _____

Lot No. 83 _____
Date _____
Name of Owner (Please Print) _____
Signature of Owner _____