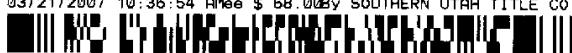


WHEN RECORDED, MAIL TO:

Brad Jacobsen, Esq.
Holme Roberts & Owen LLP
299 South Main Street, Suite 1800
Salt Lake City, Utah 84111

DOC # 20070014114

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**DECLARATION OF
MILLCREEK SPRINGS TOWNHOMES**

This Declaration of MILLCREEK SPRINGS TOWNHOMES (the "Declaration") is made and entered into this 6th day of March, 2007, by JTKR, L.L.C., a Utah limited liability company ("Declarant"), whose address is 2107 E 2620 S Circle, Saint George, Utah 84790.

RECITALS

This Declaration is made and executed upon the basis of the following facts, understandings and intentions of the Declarant;

A. Declarant is the fee owner of those certain parcels of real property with townhomes built (or being built) thereon located in Washington City, State of Utah, with the legal descriptions as set forth on Exhibit "A," attached hereto and made a part hereof (each townhome being referred to herein as a "Unit" and collectively as the "Project"), as shown on Exhibit "C," attached hereto and made a part hereof (the "Record of Survey Map").

B. To effectuate the common use and operation of the Project, Declarant intends that the Units shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which shall run with the Units and be binding upon all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

NOW THEREFORE, Declarant makes the following grants, covenants, conditions, restrictions, submissions and declarations:

ARTICLE I

DEFINITIONS

When used in the Declaration and in the Bylaws, which are made a part of this Declaration and are attached hereto as Exhibit "B," the following terms shall have the meaning indicated. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context requires.

1. "**Association**" shall mean and refer to all of the Unit Owners acting as a group in accordance with the Declaration and Bylaws (Exhibit "B").

2. **Common Areas and Facilities** and **Common Areas** shall mean and refer to, and include:

- a. All common areas and facilities designated as such on the Record of Survey Map.
- b. All Limited Common Areas and Facilities.
- c. All access roads, pedestrian sidewalks, and other common facilities as designated in the Record of Survey Map.
- d. All apparatus, installations, and facilities included within the Project and existing for common use, including, without limitation, parking areas, storm water detention ponds, if any, common water lines, common sewage lines.
- e. All portions of the Project not specifically included within individual Units.

3. **Common Expenses** shall mean and refer to all sums which are expended on the behalf of all the Unit Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties or rights under Utah law, this Declaration, any management agreement for the operation of the Project, and such Rules and Regulations as the Management Committee may, from time to time, make and adopt. By the way of illustration but not limitation, Common Expenses shall include:

- a. Expense of administration, maintenance, operation, repair, or replacement of those elements of the Common Areas that must be replaced on a periodic basis, and to other reserves as may, from time to time, be established pursuant to the Declaration;
- b. Expenses agreed upon by the Association and lawfully assessed against the Owners in accordance with the Declaration;
- c. Expenses declared Common Expenses by Utah law, this Declaration or the Bylaws; and
- d. Any valid charge against the Project as a whole.

4. **Common Profits** shall mean and refer to the balance of all income, rents, profits, and revenues from the Common Areas remaining after deduction of the Common Expenses.

5. **Declarant** shall mean and refer to JTKR, L.L.C., a Utah limited liability company, its successors, and assigns. The Declarant is authorized and permitted hereby to assign all of its rights, title, interests, obligations, duties as Declarant to any third party (whether such third party is an Owner or not).

6. **Declaration** shall mean and refer to this instrument, as the same may be amended from time to time.

7. **Limited Common Area and Facilities** and **Limited Common Areas** shall mean and refer to those Common Areas designated herein, or in the Record of Survey Map, as reserved for the use of a certain Unit or Units, to the exclusion of other Units.

8. "**Management Committee**" shall mean and refer to the Management Committee of MILLCREEK SPRINGS TOWNHOME Project as it exists at any given time.

9. "**Majority of Owners**" shall mean and refer to the Owners of the Units to which more than fifty percent (50%) of the votes in the Association appertain.

10. "**Mortgage**" shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered. First Mortgage shall refer to a Mortgage which has a lien position prior to any other Mortgage.

11. "**Mortgagee**" shall mean and refer to any person named as a mortgagee or beneficiary under (or holder of) a Mortgage.

12. "**Percentage Interest**" means and refers to the percentage of undivided interest of each Unit in the Common Areas as set forth in Article II, Paragraph 4.

13. "**Project**" and "**Projects**" shall mean and refer to the MILLCREEK SPRINGS TOWNHOME Project.

14. "**Property**" shall mean and refer to the land in Exhibit "A", the buildings, all improvements and the structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

15. "**Record of Survey Map**" shall mean and refer to the MILLCREEK SPRINGS TOWNHOME Record of Survey Map attached hereto as Exhibit "C."

16. "**Rules and Regulations**" means those rules and regulations as initially established by the Declarant and as adopted and amended from time to time by the Management Committee that are deemed necessary for the enjoyment of the Project, provided they are not in conflict with Utah law or this Declaration.

17. "**townhome**" means single-family house that is connected to three or more similar dwellings by common sidewalls.

18. "**Tract**" shall mean and refer to the real property hereby submitted to the Project. The Property which Exhibit "A" of this Declaration describes constitutes a Tract.

19. "**Unit**" or "**Units**" means and refers to a separate physical part of the Property intended for independent use, and an individual interest in the Common Areas and Facilities appertaining to that Unit. Units are identified in the Record of Survey Map by Unit Number. Each Unit shall be attached to another Unit in the Project. Each Unit shall share a common wall with another Unit in the Project. Each Unit shall include all space up to the centerline of the common wall, mechanical equipment, and appurtenances.

20. "**Unit Number**" shall mean the number, letter, or combination of numbers or letters designating the Unit in the Declaration and in the Record of Survey Map.

21. "**Unit Owner**" or "**Owners**" shall mean the person(s) owning a Unit in fee simple and an undivided interest in the fee simple estate of the Common Areas and Facilities in the percentage specified or established in the Declaration, or, in the case of a leasehold project, the person(s) whose leasehold interest(s) in the Unit extend for the entire balance of the unexpired term(s). In the event a Unit is the

subject of an executory contract of sale, the contract purchaser shall, upon notice to the Management Committee by the purchaser (unless the seller and purchaser have otherwise agreed and have informed the Management Committee in writing of such agreement), be considered the Unit Owner for purposes of voting and Management Committee membership.

ARTICLE II

COVENANTS, CONDITIONS, AND RESTRICTIONS

The submission of the Tract is made upon and under the following covenants, conditions, and restrictions.

1. Descriptions of Improvements. The improvements included in the Project will be located on the Property described in Exhibit "A" annexed hereto in the manner set forth on the Record of Survey Map. The Project consists of one-hundred ninety seven (197) Units.

2. Description of Legal Status of Units. The Record of Survey Map shows each Unit, its location and dimensions from which the area may be determined, those Limited Common Areas which are reserved for its use, if any, and the Common Areas to which it has immediate independently owned, encumbered, and conveyed.

3. Common and Limited Common Areas.

- a. The Common Areas contained in the Project are described and identified on the Record of Survey Map. Neither the Percentage Interest nor the right of exclusive use of Limited Common Areas shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of transfer, the Percentage Interest and such right of exclusive use shall automatically accompany transfer of the Unit to which they related. Each Unit Owner shall, at its own cost, keep the Limited Common Areas designed from exclusive use in connection with his Unit in a clean, sanitary, and attractive condition at all times.
- b. The use of the Common Areas shall be limited to Owners in residence and to their tenants in residence, and to Owners' guests, invitees, and licensees. The use of the Common Areas or Limited Common Areas shall be governed by the Declaration and the Rules and Regulations.

4. Computation of Percentage Interests. Each Unit shall include an undivided one-hundred ninety seventh (197th) interest in the Common Area and Facilities which shall be appurtenant to each such Unit in the Project. The proportionate ownership in the Common Areas shall be for all purposes including, but not limited to, voting, participation in Common Profits, and assessments for Common Expenses.

5. Maintenance and Obligations of Owners. Subject only to the duty of the Association to provide for maintenance as provided in Paragraph 6 of this Article, it shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration regarding Management Committee approval, to maintain, including but not limited to, the interiors and exteriors of the Unit and the appurtenant patio, fences, and utility laterals. In the event that any Owner shall permit any improvement which is the responsibility of such Owner to maintain, to fall into disrepair or not to be so maintained as to create a dangerous, unsafe, unsightly, or unattractive condition, or to otherwise violate this Declaration, the

Management Committee shall have the right, but not the duty, upon fifteen (15) days prior written notice to the Owner of such Unit to correct such condition and to enter upon such Owner's Unit to make such repairs or to perform such maintenance and the cost thereof shall be charged to the Owner. Said cost shall be a special assessment and shall create a lien enforceable in the manner provided as other assessments as set forth in this Declaration. The Owner shall promptly pay all amounts due for such work and the costs and expenses of collection may be added, at the option of the Management Committee to the amounts payable by each Owner as assessments.

6. Maintenance Obligation of Association. Subject to the provisions of Paragraph 5 of this Article, the Association shall maintain or provide for the maintenance of all Common Areas and all improvements thereon, including boundary fences, entrance gates, streets, sidewalks, Common Area, landscaping, landscaping equipment, lighting and utility mains, and any and all utility laterals to the Unit lines.

7. Association Membership. Association membership shall be mandatory, shall be appurtenant to the Unit in which the Owner has the necessary interest, and shall not be separated from the Unit to which it appertains. The property, business, and affairs of the Association shall be governed by the Management Committee as agent of the Association.

8. Easement on Encroachment. If any part of the Common Areas encroaches, or hereafter encroaches, upon a Unit or Units, an easement for such encroachment and for the maintenance for the same shall and does exist. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the Tract, by error in the Record of Survey Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

9. Access for Repair of Common Areas. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by the Management Committee as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Area or to another Unit or Units. The Management Committee shall also have such rights to the Common Areas without the prior written consent of the Unit Owners, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas except on the prior written consent of the Management Committee.

10. Certain Common Area Restrictions. Nothing shall be done or kept in any Unit or in the Common Areas, or any part thereof, which may result in the cancellation of the insurance of the Project, or any part thereof, or increase the rate of insurance on the Project, or any part thereof, over what the Management Committee, but for such activity, would pay without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any government body. No damage to, or waste of the Common Areas, or any part thereof, shall be committed by any Owner, or any invitee of any Owner, and each Owner shall identify and hold the Management Committee and the Owners harmless against a loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not, under any circumstances, be deemed to be an invitee of any other Owner. No noxious, destructive, or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be, or may become, any annoyance or nuisance to any other Owner, or to any person at any time lawfully residing in the Project.

11. Compliance with Rules and Regulations. No Owner shall violate the Rules and Regulations for the use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

12. Alterations and Repairs. No structural alterations to any Unit shall be made by the Owner without the prior written consent of the Management Committee. No maintenance, repairs, or replacement of exterior elements of any Unit shall be made by an Owner without the prior written consent of the Management Committee. The Management Committee may adopt architectural standards which each Owner agrees to abide by in order to maintain uniformity in style, quality, colors, and appearances throughout the Project.

13. Recreational Vehicles and Signage. No recreational vehicles (boats, campers, trailers, motor homes, or similar items) shall be parked on any portion of the Common Areas except for temporary parking. Additionally, no signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Management Committee, except for the following:

- a. such signs as may be required by legal proceedings, and
- b. such signs as Declarant or licensed general contractors may erect or maintain incident to the sale of Units.

14. Declarant Exclusions. Until the Declarant has completed and sold all the Units, neither the Unit Owners who have purchased Units from the Declarant, licensed contractors, nor the Management Committee shall interfere with the completion of improvements and sale of the remaining Units. Declarant may use any Unit(s) owned by management offices or sale offices until such time as all Units are completed and sold to Unit Owners. Declarant may relocate models, management offices, or sale offices from time to time within the Project. Declarant shall also have the right to maintain equipment on the Project which may be relocated or removed at its discretion.

15. Status and General Authority of Management Committee. Notwithstanding anything herein contained to the contrary, MILLCREEK SPRINGS TOWNHOME Project shall be managed, operated, and maintained by the Management Committee exclusively as agent of the Association. Any act performed by the Management Committee pursuant to this Declaration or the Bylaws, as the same may be amended from time to time, shall be deemed to be performed by the Association. The Management Committee shall have, and is hereby granted the following authority and powers:

- a. The authority, without the vote or consent of the Owners, to transfer or convey utility easements and other similar easements, over, under, across, and through the Common Areas and Facilities.
- b. The authority to execute and record, on the behalf of all Unit Owners, any amendment to the Declaration or Record of Survey Map which has been approved by the consent necessary to authorize such amendment.
- c. The power to sue and be sued.
- d. The authority to enter into contracts or agreements which in any way concern the Project, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the contract or agreement has been obtained.

- e. The power and authority to convey or transfer any interest in tangible or intangible personal property and real property authorized by the Owners having an interest herein.
- f. The power and authority to purchase, otherwise acquire, and accept title to any interest in real property, so long as such action has been authorized by any vote or consent necessary under the circumstances.
- g. The authority to license persons not otherwise entitled to use any of the Common Areas and Facilities to use the same from time to time as the Management Committee deems appropriate upon the payment of fees prescribed by it to help defray the cost of maintenance thereof.
- h. The power and authority to borrow money, provided no indebtedness for borrowed funds shall exceed at any given time the sum of Five Thousand Dollars (\$5,000.00), without the prior approval of the Majority of Owners.
- i. The power and authority to perform any other acts and to enter into any other transactions and agreements which may be reasonably necessary for the Management Committee to perform its functions as agent for the Association.
- j. Any instrument executed by the Management Committee that recites facts which, if true, would establish the Management Committee's power and authority to accomplish its functions. Through such instrument, what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

16. Manager. The Management Committee may carry out any of its functions which are capable of delegation through a project manager (the "Manager"). Any Manager retained for such purpose must be an individual or entity experienced and qualified in the field of property management. The Manager shall be responsible for managing the Project for the benefit of the Unit Owners and shall, to the extent permitted by law and the terms of the agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

17. Composition of Management Committee and Initial Selection. Until the election of the Management Committee takes place at the first annual meeting of the Association as provided in Article II Section 1 of the Bylaws, the Management Committee shall consist of such persons as shall have been designated by the Declarant. From and after the first annual meeting of the Association, the owners, designees of Owners, spouses of Owners, Mortgagees, or designees of Mortgagees of Units shall elect the Management Committee members in accordance with the Bylaws. The Declarant shall have the right in its sole discretion to terminate any member of the Management Committee. As a result of such vacancy, the remaining Management Committee members shall elect a replacement to sit on the Management Committee until the expiration date of the term for which the member being replaced was elected. Declarant may, by a written instrument duly recorded, waive its right to select the members of the Management Committee at any time prior to the termination of the right to select Management Committee members reserved hereunder.

18. Agreement to Pay Assessment. Each Owner of any Unit by the acceptance of a deed therefore, whether or not it be expressed in the deed, or by entering into a sale and/or purchase contract, shall be deemed to covenant and agree with each other and with the Management Committee to pay to the

Management Committee annual assessments made by the Management Committee for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided for in this Declaration. Such assessments shall be fixed, established, and collected from time to time in the manner hereinafter provided.

- a. **Amount of Total Annual Assessments.** The total annual assessments against all Units shall be based upon advance estimates determined by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates may include, among other things: expenses of management; grounds maintenance; taxes and special assessments (until the Units are separately assessed as provided herein); premiums for all insurance which the Management Committee is required or permitted to maintain pursuant hereto; common lighting and heating; water charges; trash collection; sewer charges; repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis; wages for Management Committee employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus, and/or sinking fund; and any other expenses or liabilities which may be incurred by the Association for the benefit of the Owner under or by reason of this Declaration.
- b. **Apportionment of Annual Assessment.** Expenses attributed to the Common Areas and to the Project as a whole shall be apportioned among all the Owners in proportion to their respective Percentage Interests.
- c. **Notice of Annual Assessment and Time for Payment Thereof.** An annual assessment shall be made on a calendar year basis. The Management Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit no less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. Such assessments shall be for the balance of the calendar year remaining after the date filed by the Management Committee as the date of commencement of the Project. Such assessment shall be due and payable within thirty (30) days after written notice of the amount thereof shall have been given to the respective Owner of a Unit. Each monthly assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Failure of the Management Committee to give timely notice of any assessment as provided herein and shall not affect the liability the Owner of a Unit for such assessment as provided herein shall not effect the liability of the Owner of a Unit for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall be given.
- d. **Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Management Committee may, in any assessment year, levy a special assessment, payable over such a period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or

reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Management Committee to incur expenses, but shall be authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective Percentage Interests. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of twelve percent (12) per annum from the date it becomes due and payable. Additions or capital improvements to the Project which costs no more than One Thousand Dollars (\$1,000.00) may be authorized by the Management Committee alone. Additions or capital improvements, the cost of which will exceed such amount must, prior to being constructed, be authorized by the Majority of Owners. Any addition or capital improvement which would materially alter the nature of the Project must, regardless of its cost and prior of being constructed, be authorized by vote of Unit Owners in person or by proxy of not less than sixty-seven percent (67%) of the Percentage Interest at a meeting of the Association, special or annual, at which a quorum is present.

- e. Lien for Assessments. All sums to any Unit pursuant to this Declaration, together with interest thereon, shall be secured by a lien on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit, except for valid tax and Mortgage liens duly recorded in the Official Records of Washington County, Utah, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by a lien thereof in accordance with the terms of such instrument. All other lienors acquiring liens shall be deemed to consent that such liens shall be inferior to future liens for assessments as provided herein whether or not such consent be specifically set forth in the instruments creating such liens.
 - (i) To evidence a lien for sums assessed hereunder, the Management Committee may prepare a written notice of the lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such notice shall be signed by the Management Committee and may be recorded in the Office of the County Recorder of Washington County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Management Committee in the same manner in which Mortgages on real property may be foreclosed in Utah. In any such foreclosures the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of the filing of the notice of lien, and all reasonable attorney's fees. All such costs, expenses, and fees shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the

Management Committee any assessments against the Unit which shall become due during the period of foreclosure.

- (ii) In event of foreclosure, after the institution of the action, the Unit Owner shall pay a reasonable rental for his use of the Unit and the Management Committee shall, without regard to the value of the Unit, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person. The Management Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the Owner hereof.
 - (iii) A release of notice of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Washington County, Utah upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien. Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created hereunder, and upon such payment such encumbrancer shall be surrogated to all rights of the Management Committee with respect to such lien, including priority.
 - (iv) The Management Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for thirty (30) days after the same shall become due; provided, however, that such encumbrancer first shall have furnished the Management Committee written notice of such encumbrance.
- f. **Law Suits.** The Management Committee may initiate any required suit on behalf of the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Management Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any Common Areas or by abandonment of his Unit.
- g. **Statement of Account.** Upon payment of a reasonable fee, and upon written request of any Owner or Mortgagee, prospective Mortgagee or prospective purchaser of a Unit, the Management Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the date that such assessment becomes or has become due; credit for advanced payments of prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Management Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien for such unpaid

assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day period provided therein, and thereafter, an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

- h. **Personal Liability of Purchaser for Assessment.** Subject to the provision of subparagraph (g), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount unpaid by the purchaser for such assessment.
- i. **Unimprovement Unit Exception.** Notwithstanding any other provision herein, Unimproved Unit(s) shall not be assessed any annual assessments or special assessments without the prior written consent of the Owner(s) of such Unimproved Unit(s). For purposes of this Paragraph, the term "**Unimproved Unit(s)**" shall refer to Unit(s) upon which no dwelling has been approved for occupancy by Washington City.

19. **Transition of Management.** Notwithstanding anything to the contrary contained in Paragraph 17 above, Declarant may, at any time, relinquish its reserved right to select members of the Management Committee and to transfer the management of the Project to the Management Committee elected by Unit Owners (45) days prior thereto (the "**Transfer Date**"). Thereupon, Unit Owners shall call a meeting to elect the members of Management Committee to take office as of the Transfer Date. Declarant covenants to cooperate with Unit Owners in effecting orderly transition of management. Moreover, Declarant shall cause all Management Committee Common Expense obligations, prior to the Transfer Date, to be paid in full on or before such date. Accordingly, it is intended that the cash position of the Management Committee as of the Transfer Date be zero (0).

20. **Insurance.** The Management Committee shall secure, and at all times maintain, the following insurance coverage:

- a. Multi-peril policies of fire and casualty insurance, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional Mortgage investors for projects similar in construction, location, and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement costs). Each such policy shall contain the standard Mortgage clause which must be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of Mortgagees as their interests may appear. The insured shall be the Association.
- b. A comprehensive policy of public liability insurance insuring the Association, the Management Committee, the Manager, and the Unit Owners against any liability incident to ownership, use, or operation of the Common Areas and public ways of the Project, or any Unit which may arise among themselves, to the public, or to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall be not less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence, for personal property injury and/or property damage. Such insurance policy shall contain a "severability of

interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of any negligent act of the Association of other Unit Owners. The scope of the coverage must include all other coverage in the kinds and amounts required by private institutional Mortgage investors for similar projects in location, construction and use.

- c. The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Management Committee members, Manager, employees, or volunteers responsible for handling funds belonging to or administered by the insured and shall be written in the amount sufficient to provide protection which in no event shall be less than one-half times the insured's estimated annual operating expenses and revenues. In connection with such coverage an appropriate endorsement to the policy to cover any person who the following additional provisions shall apply with respect to insurance:
 - (i) In addition to the insurance and bond coverage described above, the Management Committee shall secure and at all times maintain insurance against such risks as are, or hereafter may be, customarily insured against in connection with all projects similar to the Project in construction nature or use.
 - (ii) The Management Committee shall have the authority to adjust losses.
 - (iii) Insurance secured and maintained by the Management Committee shall not be brought into contribution with insurance held by individual Unit Owners or their Mortgagee.
 - (iv) Each policy of insurance obtained by the Management Committee shall provide:
 - (a) a standard mortgagee clause commonly accepted by private institutional Mortgage investors in the area in which the Project is located;
 - (b) a waiver (if available) of the insurer's subrogation rights with respect to the Management Committee, the Manager, the Unit Owners, and their respective servants, agents and guests;
 - (c) that cannot be cancelled, suspended, or invalidated due to the conduct of any particular Unit Owner or Owners;
 - (d) that cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Management Committee, or the Manager without a prior written demand that the defect be cured;
 - (e) that any "no other insurance clause" therein shall not apply with respect to insurance held individually by the Unit Owners; and
 - (f) that a Mortgage clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in, or cancellation of, the policy.

- d. Any Unit Owner may obtain additional insurance at his own expense, as long as such additional insurance does not have the effect of overriding or canceling insurance purchased by the Management Committee.
- e. The Project is not located in an area identified by the Secretary of Housing and Urban Development as an area having specialized flood hazards. In the event that at some future time the Project should be declared to be in such flood area, a blanket policy of flood insurance on the Project shall be maintained in the amount of the aggregate of the outstanding principle balance of the Mortgage loans on the Units compromising the Project, or of the maximum coverage limit available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be, at any given time, in the form and substance required by the Federal Home Loan Mortgage Corporation.

21. Damage to Project. In the event of damage of, or destruction of, part or all the improvements in the MILLCREEK SPRINGS TOWNHOME Project, the following procedures shall apply:

- a. If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvements, such repair or reconstruction shall be carried out.
- b. If less than seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least seventy-five percent (75%), elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Washington County Recorder a notice setting forth such facts. Upon the recording of such notice, the provisions of Subsections one (1) through four (4) of Utah Code Annotated section 57-8-31, shall apply and shall govern the rights of all parties having an interest in the Project and any of the Units.
- c. Any reconstruction or repair which is required to be carried out by this Paragraph 21 regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. A decision by any two such appraisers shall be conclusive.

22. Certain Provisions Applicable to Declarant. Notwithstanding any other provision contained herein or the Bylaws, for so long as Declarant continues to own any of the Units, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations as a Unit Owner to pay assessments, except as herein otherwise provided, as to each Unit owned by Declarant in accordance with the Declaration:

- a. Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration, except as specifically set forth herein or in any agreement for sale of a Unit, and

no person shall rely upon any warranty or representation not so specifically made therein.

- b. No amendment may be made to the Declaration or the Bylaws without the written consent of Declarant so long as Declarant retains the ownership of one (1) or more Units; provided, however, that the obligation to acquire written consent of Declarant shall cease on the date two (2) years from the date of this Declaration.

23. Amendment. Except as provided below, the vote of at least sixty-seven percent (67%) of the Percentage Interest of the Unit Owners in person, or represented by proxy, at a meeting of the Association at which a quorum is present shall be required to amend the Declaration or the Record of Survey Map. Any amendments so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument, the Management Committee shall certify that the vote required by this Paragraph for amendment has occurred. The foregoing right of amendment shall be subject to the following: Notwithstanding anything to the contrary contained in the Declaration, neither the insurance provisions of Paragraph 20, the Mortgage protection provisions of Paragraph 27, nor the maximum/minimum Percentage Interest provision of Paragraph 4, shall be amended without the written approval of all institutional first Mortgagees.

24. Consent Equivalent to Vote. In those cases in which Utah law or this Declaration requires the vote of a stated Percentage Interest for the authorization or approval of a transaction, such requirements may be fully satisfied by obtaining with or without a meeting, consents in writing to such transactions from Unit Owners who collectively hold at least the necessary Percentage Interest.

25. Eminent Domain. Whenever all or part of the Common Areas shall be taken, injured, or destroyed as a result of the exercise of eminent domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceeding for the determination of damages, such damages shall be determined for such taking, injury, or destruction as a whole and not for each Unit Owner's interest therein. After such determination each Unit Owner shall be entitled to a share in the damages in the same portion as his Percentage Interest.

26. Services of Process. Dee A. Randall is the agent for service of process. The Management Committee shall, however have the right to appoint a successor substitute process agent. Such successors shall be appointed with a 67% vote of the owners.

27. Mortgage Protection. Notwithstanding anything to the contrary contained in the Declaration or the Bylaws:

- a. An adequate reserve fund for repair, maintenance, and replacement of those elements of the Common Areas that must be replaced on a periodic basis must be established and funded by regular monthly payments rather than by special assessments.
- b. There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two months' estimated Common Areas charge for each Unit.
- c. Any Mortgage holder which comes in possession of a Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal" or other provisions which may exist relating to sale

or lease of the Units in the Project, and no "right of first refusal" shall impair the rights of any first Mortgagee to:

- (i) foreclosure or take title to a Unit pursuant to the remedies provided in the Mortgage,
 - (ii) accept deed (or assignment) in lieu of foreclosure in the event of default by a mortgagee, or
 - (iii) interfere with a subsequent sale or lease of the Mortgage.
- d. Any agreement for professional management of the Project, or any other contract provided for service by the Declarant, must provide for termination by either party without cause or payment of a termination fee on ninety (90) days or less written notice and a maximum contract term of no more than three (3) years.
- e. In the event of damage or destruction of any Unit, which loss exceeds One Thousand Dollars (\$1,000.00), or any part of the Common Areas, which loss exceeds Ten Thousand Dollars (\$10,000.00), the institutional holder of any first Mortgage on a Unit shall be entitled to timely written notice of any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit Owner of any insurance proceeds, regardless of the amount of loss. Upon request of any first Mortgagee, the Association must provide a letter to said first Mortgagee wherein the Association agrees to notify the first Mortgagee or any organization it designates at the address indicated by the Mortgagee whenever:
 - (i) damage to the Unit covered by the first Mortgagee's Mortgage exceeds One Thousand Dollars (\$1,000.00), or
 - (ii) damage to the Common Areas and Facilities exceeds Ten Thousand Dollars (\$10,000.00).
- f. If any Unit, or portion thereof, or the Common Areas, or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by a condemning authority, the institutional holder of any first Mortgage of a Unit shall be entitled to a timely written notice of any such proceeding or proposed acquisition. No Unit Owner or other party shall have priority over such institutional holder regardless of the amount of the condemnation award with respect to the distribution to such Unit Owner of the proceeds of any award or settlement.
- g. With the exception of a lender in possession of a Unit following default in a first Mortgage, a foreclosure proceeding of any deed, or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his Unit for transient or hotel purposes. No Unit Owner may lease less than the entire Unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be at default under the lease. All leases shall be in writing. A lessee and a renter shall be treated the same.

- h. Each holder of a first Mortgage lien on a Unit who obtains title to a Unit by virtue of remedies provided in the Mortgage including, but not limited to, foreclosure of the Mortgage, or by deed of assignment in lieu of foreclosure, shall take the Unit free of unpaid charges and shall not be liable for any unpaid claims or assessments and charges against the Unit which accrue prior to the acquisition of title of such Unit by Mortgage.
- i. Any holder of a Mortgage is entitled to written notification from the Management Committee or any default by the mortgagor of such Unit in the performance of such mortgagor's obligation under the Declaration which is not cured within sixty (60) days.
- j. Unless at least seventy-five percent (75%) of the first Mortgagees (based on one vote for each Mortgage owner) of Units have given their prior written approval, neither the Management Committee, Declarant, nor Association shall:
 - (i) by act or omission, seek to abandon or terminate the Project;
 - (ii) change the pro-rata interest or obligations of any Unit for:
 - (a) purposes of levying assessments, changes, allocating distributions of hazard insurance proceeds, or condemnation awards, or for
 - (b) determining the pro-rata share of ownership of each Unit in the appurtenant Common Areas;
 - (iii) partition or sub-divide any Unit;
 - (iv) make any material amendment to the Declaration or to the Bylaws of the Association including, but not limited to, any amendment which would change the Percentage Interests of the Unit Owners in the Common Areas;
 - (v) by act or omission, seek to amend, partition, subdivide, encumber, sell, abandon, or transfer the Common Areas (the granting of easements for public utilities or for other public purposes consistent with the intended use for the Common Areas of the Project shall not be deemed a transfer within the meaning of this subparagraph);
 - (vi) use hazard insurance proceeds for losses to any property (whether to Units or to the Common Areas) for purposes other than repair, replacement, or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.
- k. The holders of the first Mortgages shall have the right to examine the books and records of the Project.
- l. Whenever there is a change of ownership of a Unit, the Management Committee shall require that the new Unit Owner furnish the Management Committee with the name of the holder of the first

Mortgage affecting the Unit. The Management Committee or Manager shall maintain a current roster of the Unit Owners and of the holders of the first Mortgages affecting the Units in the Project.

28. Duty of Owner to Pay Taxes on the Unit. It is understood that each Unit (and its Percentage Interest) in the Project is subject to a separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Unit Owner will pay and discharge any tax obligation incurred.

29. Covenant to Run with Land Compliance. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Declarant; all parties who hereafter acquire any interest in a Unit, in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a Unit shall comply with, and all interest in all Units shall be subject to Utah law, terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of Unit Owners, or, in a proper case, by an aggrieved Unit Owner. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to and agrees to be bound by, each and every provision of this Declaration.

30. Information Regarding Transferee of Unit. Any Unit Owner who sells, leases, or otherwise disposes of his Unit shall submit to the Management Committee pertinent information regarding the transferee or new occupant within one week of any transfer of title or possession on a form furnished by the Management Committee.

31. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and fees reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Management Committee.

32. Invalidity. The invalidity of any provisions of the Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability, or effect the remainder of the Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

33. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

34. No Merger. The easements, covenants, restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that all or a part of the Property may be owned by the same person from time to time, it being the intention of the undersigned to create a common scheme for the development, improvement and operation of the Project which will not be terminated by the doctrine of merger or otherwise.

35. Headings. The headings appearing at the beginning of the Paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, limit, extend, or otherwise affect the content, meaning, or intent of this Declaration.

36. Approvals. Unless otherwise herein provided, whenever approval is required of any Owner, it shall not be unreasonably withheld. Unless provision is made for a specific time period, approval shall be deemed given within thirty days of the receipt of the request for approval, and if any Owner shall neither approve nor disapprove within said thirty-day period, the Owner shall be deemed to have given its approval. If an Owner shall disapprove, the reasons therefor shall be stated.

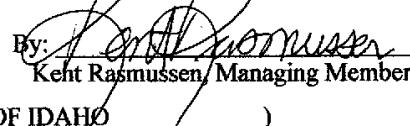
37. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property or of any Unit or portion thereof to the general public or for the general public or for any public use or purpose whatsoever, it being the intention and understanding of the Owners that this Declaration shall be strictly limited to and for the purposes herein expressed solely for the benefit of the Owners and Declarant.

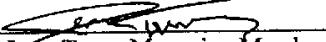
38. Effective Date. This Declaration shall take effect upon recording in the Office of the County Recorder of Washington County, Utah.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

JTKR, L.L.C., a Utah Limited liability company

By: 
Kent Rasmussen, Managing Member

By: 
Jerre Tews, Managing Member

STATE OF IDAHO)
: ss.

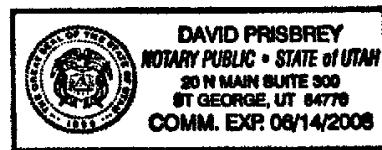
COUNTY OF Franklin)
On the 1 day of March, A. D. 2007, personally appeared before me Jerre Tews, who being by me duly sworn, says that he is a Managing Member of JTKR, L.L.C., a Utah Limited Liability Company, the Limited Liability Company that executed the herein instrument and acknowledged the instrument to be the free and voluntary act and deed of the Limited Liability Company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes herein mentioned, and on oath stated that he is authorized to execute this instrument on behalf of the Limited Liability Company.

KAREN RAWLINGS
NOTARY PUBLIC
STATE OF IDAHO


Karen Rawlings
Notary Public Comm. exp. 12-18-09

STATE OF UTAH)
: ss.

COUNTY OF Washington)
On the 22 day of March, A. D. 2007, personally appeared before me Kent Rasmussen, who being by me duly sworn, says that he is a Managing Member of JTKR, L.L.C., a Utah Limited Liability Company, the Limited Liability Company that executed the herein instrument and acknowledged the instrument to be the free and voluntary act and deed of the Limited Liability Company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes herein mentioned, and on oath stated that he is authorized to execute this instrument on behalf of the Limited Liability Company.



Notary Public

EXHIBIT "A"

Beginning at the Northeast Corner of Section 15, Township 42 South, Range 15 West, Salt Lake Base and Meridian running thence South 01°06'09" West, along the East line of said Section 15, 255.83 feet to a point on an 840.00 foot radius non-tangent curve to the left on the Northwesterly right of way line of Buena Vista Boulevard, the radius point of which bears South 48°04'26" East; thence along said right of way and the arc of said curve 59.74 feet through a central angle of 4°04'30" to the point of tangency; thence South 37°51'04" West along said right of way 973.07 feet to the point of a 20.00 foot radius non tangent curve to the left, the radius point of which bears North 52°08'56" West; thence leaving said right of way along the arc of said curve 36.22 feet through a central angle of 103°45'02" to the point of a 134.00 foot radius compound curve to the left; thence along the arc of said curve 109.95 feet through a central angle of 47°00'46"; thence North 30°48'42" 112.58 feet; thence South 59°15'07" West, 92.65 feet; thence North 74°22'40" West, 68.05 feet; thence North 43°27'55" West, 93.61 feet; thence North 24°12'55" West, 32.80 feet; thence North 28°20'07" West, 282.18 feet to the point of a 316.00 foot radius non-tangent curve to the left, the radius point of which bears North 40°00'06" West, thence along the arc of said curve 30.27 feet through a central angle of 5°29'22" to the point of a 284.00 foot radius reverse curve to the right; thence along the arc of said curve 13.61 feet through a central angle of 2°44'46"; thence North 42°44'42" West, 32.00 feet to the point of a 316.00 foot radius non-tangent curve to the right; the radius point of which bears South 42°44'42" East; thence along the arc of said curve 49.35 feet through a central angle of 8°56'51" to the point of tangency; thence North 56°12'09" East, 177.88 feet to the point of a 350.00 foot radius curve to the right; thence along the arc of said curve 34.25 feet through a central angle of 5°36'23" to the point of a 134.00 foot radius reverse curve to the left; thence along the arc of said curve 181.35 feet through a central angle of 77°32'27" to the point of tangency; thence North 15°43'55" West, 9.97 feet; thence North 74°16'05" East, 112.00 feet; thence North 15°56'28" West, 42.28 feet; thence South 89°45'51" East, 131.34 feet; thence North 54°45'15" East, 47.75 feet to the point of a 280.00 foot non-tangent curve to the right, the radius point of which bears North 54°45'15" East; thence along the arc of said curve 173.40 feet through a central angle of 35°28'54" to the point of tangency; thence North 00°14'09" East, 1.91 feet to a point on the North line of said Section 15; thence South 89°45'58" East along said North line 665.36 feet to the point of beginning.

EXHIBIT B
to:
DECLARATION OF
MILLCREEK SPRINGS TOWNHOMES

BYLAWS GOVERNING THE
MILLCREEK SPRINGS TOWNHOMES

ARTICLE I
MANAGEMENT COMMITTEE

Section 1. General Responsibility. The business and property compromising of MILLCREEK SPRINGS TOWNHOME shall be managed by a management committee consisting of three (3) unit owners to be selected by the unit owners as hereinafter provided. Such management committee shall have all the powers, duties, and responsibilities as are now or may hereafter be provided by law, the Declaration filed contemporaneously herewith (the "Declaration"), and/or any amendments subsequently filed thereto, and these Bylaws as the same may from time to time be altered or amended; provided, however, the management committee may delegate its duties to a management firm and fix and pay reasonable fees or compensation therefore; provided further, that until the earlier to occur of (a) JTKR, L.L.C., a Utah limited liability company (the "Declarant") selling all of the units in the project owned by it or (b) two years from the filing of the Declaration, the management committee irrevocably consents that Declarant may act as the project manager and shall have all the rights, powers, duties and responsibilities conferred upon the management committee and/or the managers under Utah law, the Declaration and these Bylaws. The engagement of a property manager shall be a financial decision and subject to a vote of the unit owners.

Section 2. Operation and Maintenance. The committee shall be responsible for the control, operation and management of the project, in accordance with Utah law, the Declaration, these Bylaws, and such administrative, management and operational rules and regulations as the committee or owners association may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the committee. The committee shall, in this connection, provide for the proper and reasonable control, operation and management of the project and of the maintenance and repair of the common areas and facilities appurtenant thereto. The operation of the project shall be conducted for the benefit of all the owners.

Section 3. Committee Vacancies. In case of any vacancy in the management committee, the remaining members thereof may elect a successor to hold office until the next meeting of the unit owners.

Section 4. Officers. The management committee shall appoint or elect from among its membership a chairman, a vice chairman, secretary, and a treasurer, who shall hold office at the pleasure of the committee. The chairman of the committee, or in his absence, the vice-chairman, shall preside at all meetings of the committee and at all meetings of the unit owners. The secretary shall take and keep minutes of all meetings. He shall perform such other services as the committee may impose upon him, and shall receive such compensation as the committee may fix or approve. The treasurer shall have the custody and control of the funds of the committee, subject to the action of the committee, and shall, when requested by the chairman to do so, report the state of finances of the committee at each annual meeting of the unit owners and at any meeting of the committee. He shall perform such other services as the committee may require of him and shall receive compensation as the committee may fix or approve.

Section 5. Regular Meetings. A regular meeting of the committee shall be held immediately after the adjournment of each annual unit owners meeting at the place at which such unit owners meeting was

held. Regular meetings, other than the annual meeting, shall be held at regular intervals and at such places and at such times as the committee may from time to time by resolution designate. No notice need be given of regular meetings of the committee.

Section 6. Special Meetings. Special meetings shall be held whenever called by the Chairman, vice-chairman, or by a majority of the committee. Either written or oral notice of such special meeting shall be given not less than 24 hours in advance of said meeting; provided however, that by unanimous consent of the committee, special meetings may be held without call or notice of any time or place.

Section 7. Quorum. A quorum for the transaction of business at any meeting of the committee shall consist of the majority of the committee then in office.

Section 8. Special Committees. The management committee, by resolution, may designate one or more special committees, each committee to consist of two (2) or more of the unit owners, which exercise the power in said resolution set forth. Such special committee or committees shall have such name or names as may be determined from time to time by the management committee. Such special committees shall keep regular minutes of their proceedings and report the same to the management committee when required. The chairman of the management committee may appoint persons to fill vacancies on each of said special committees occasioned by death, resignation, removal or inability to act for any extended period of time.

ARTICLE II **MEETING OF THE UNIT OWNERS**

Section 1. Annual Meeting. The annual meeting of all unit owners shall be held at 7:00 o'clock P.M. on the third Tuesday of January each year, commencing in January of 2008, at such place as shall be stated in the notice of meeting or in a duly executed waiver of notice; provided, however, that whenever such date falls upon a legal holiday, the meeting shall be held on the next succeeding business day, and provided, further, that the management committee may, by resolution, fix the date of the annual meeting at such other date as it shall deem appropriate. At such meeting the unit owners shall elect committee members for two (2) year terms, which terms shall commence as of February 1; provided, however, that at the first election after the recording of these Bylaws two (2) of the three committee members shall be elected for terms of not more than one (1) year, which terms shall commence upon election and shall expire on the second February 1, after such election; provided, further, that the term of any duly elected appointed committee member shall not expire until his successor is elected and qualifies.

Section 2. Voting. At any meeting of the owners, each owner including Declarant, shall be entitled to cast one vote for each unit owned. Any owner may attend and vote at such meeting in person, or by an agent duly appointed by an instrument in writing signed by the owner and filed with the management committee or manager. Any designation of an agent to act for an owner may be revoked at anytime by written notice to the management committee or manager, and shall be deemed revoked when the management committee or the manager shall receive actual notice of the death or judicially declared incompetence of such owner or of the conveyance of such owner of this Unit. Where there is more than one record owner, any or all of such persons may attend any meeting of the owners, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. Any designation of an agent to act for such persons must be signed by all such persons. Declarant shall be entitled to vote with respect to any Unit owned by Declarant. In the event that a notice of default is recorded by any mortgagee who holds a mortgage which is a first lien on a Unit against the owner of the Unit covered by the mortgage, then in such event and until the default is cured, the right of the owner of such Unit to vote shall be transferred to the mortgagee recording the notice of default. The mortgagee shall mean any creditor that holds a first note on the individual units.

Section 3. Meeting. The presence at any meeting of owners having a majority of the total votes shall constitute a quorum. In the event that a quorum is not present at any meeting, the owners present, though less than a quorum, may adjourn the meeting to a later date and give notice thereof to all the owners in accordance with the provisions of Paragraph 4 hereof, and at that meeting the presence of owners holding in excess of thirty percent (30%) of the total votes shall constitute a quorum for the transaction of business; but in the event a quorum is not present at that meeting, the owners present though less than a quorum, may give notice to all the owners in accordance with Paragraph 4 of an adjourned meeting, and at that meeting whatever owners are present shall constitute a quorum. Unless otherwise expressly provided in the Declaration, any action may be taken at any meeting of the owners upon the affirmative vote of a majority of the voting power of the owners present and voting provided that a quorum is present as provided for above.

Section 4. Special Meeting. Special meetings of the owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration require the approval of all or some of the owners, or for any other reasonable purpose, said meeting shall be called by written notice, signed by a majority of the management committee, or by the owners having one-third (1/3) of the total votes and delivered not less than fifteen (15) days prior to the date fixed for said meeting. Said notices shall specify the date, time and place of the meeting, and the matters to be considered thereat.

Section 5. Calls and Notices of Meetings. The calls and notices of all meetings of the unit owners shall conform to the provisions of Article III of these Bylaws.

Section 6. Waiver of Irregularities. All inaccuracies and/or irregularities in calls notices of meeting and in the matter of voting, and method of ascertaining those present, shall be deemed waived if no obligation is made at the meeting.

ARTICLE III CALLS AND NOTICES OF MEETINGS

Section 1. Annual Meeting of Unit Owners. At least five (5) days, inclusive of the date of meeting, before that date of any annual meeting of the unit owners, the secretary shall cause a written notice setting forth the time and place to be delivered personally or deposited in the mail, with postage prepaid, addressed to each unit owner as his last post office address as it then appears on the records of the management committee.

Section 2. Special Meetings of Unit Owners. Special meetings of the unit owners may be called by the management committee, or by one-third (1/3) in number of the unit owners, and notice of such meeting shall be given to each unit owner in writing personally, or mailed, postage prepaid, to each unit owner at his last post office address as it appears on the books of the management committee. Whenever all of the members shall meet in person, such meeting shall be valid for all purposes without call or notice, or waiver of call or notice. No call or notice of any meeting of members shall be necessary if waiver of call and notice be signed by all of the members.

ARTICLE IV ADMINISTRATIVE RULES AND REGULATIONS

The committee shall have the power to adopt and establish by resolution such building management, and operational rules as the committee may deem necessary for the maintenance, operation, management and control of the project, and the committee may, from time to time by resolution alter, amend and repeal such rules. When a copy thereof has been furnished to the owners they shall be taken to be a part

hereof. Unit owners shall at all times obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision, it being understood that such rules shall apply and be binding upon all unit owners and/or occupants of the project. Rules and regulations may be altered or amended or abolished at a meeting of owners properly called and properly voted.

ARTICLE V **PAYMENT OF EXPENSES**

Section 1. Assessments. Each unit owner shall pay the management committee his pro-rata portion of the cash requirements deemed necessary by the committee to manage and operate MILLCREEK SPRINGS TOWNHOME, upon the terms, at the time, and in the manner provided in the Declaration and herein, without any deduction on account of any setoff or claim which the owner may have against the management, and if the owner shall fail to pay any installment within one (1) month from the time when the same becomes due, the owner shall pay interest thereon at the rate of twelve percent (12%) per annum from the date when such installment shall become due to the date of the payment thereof in the manner set forth in the Declaration.

The management committee shall have discretionary powers to prescribe the manner of maintaining and operating MILLCREEK SPRINGS TOWNHOME and to determine the cash requirements of the management committee to be paid as aforesaid by the owners under the Declaration and these Bylaws. Every such reasonable determination by the committee, within the bounds of Utah law, the Declaration, and these Bylaws, shall, as against the owner, be deemed necessary and properly made for such purpose.

First mortgagees of all Units shall have the right to examine the books and records of the management committee and the association.

If the owner shall at any time let or sublet the unit, and shall default for a period of one (1) month in the payment of any management assessments, the management committee may, at its option and so long as such default shall continue, demand and receive from any tenant or subtenant to the owner occupying the unit the rent due or becoming due from such tenant or subtenant to the owner up to an amount sufficient to pay all sums due from the owner to the management committee, and any such payments of such rent to the committee shall be sufficient payment and discharge of such tenant or sub-tenant as between such tenant or sub-tenant and the owner to the extent of the amount of the default.

Section 2. No Waiver. The omission of the management committee, before the expiration of any year, to fix the management assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the covenants, conditions, or restrictions of the Declaration and these Bylaws, or a release of the owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment shall be fixed.

ARTICLE VI **TAXES AND INSURANCE**

Section 1. Taxes. It is acknowledged that each of the units and each of said unit's percentage of the undivided interest in the common areas and facilities of the project are subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, and that as a result thereof no taxes will be assessed or payable against the project as such. Each member will, therefore, in accordance with the Declaration, pay and discharge any and all taxes which may be assessed against any of said units of which he is the owner, against the percentage of undivided interests in the

common areas and facilities of any such unit, and/or against any items of personal property located in or upon any unit of which he is the owner.

Section 2. Insurance. The committee shall secure and maintain the insurance coverage on the project as required and set forth in the Declaration.

ARTICLE VII **RIGHT OF ENTRY**

Section 1. By the Committee. The committee and its duly authorized agents shall have the right to enter any and all of the units in case of an emergency originating in or threatening such unit or any other part of the project, whether the owner or occupant thereof is present at the time or not. The committee and its duly authorized agents shall also have the right to enter any and all of said units at all reasonable times as required for the purpose of making necessary repairs upon the common areas and facilities of the project.

Section 2. By the Owner. All unit owners and their duly authorized agents and representatives shall have the right to enter any of said units contained within the project for the purpose of performing emergency installations, alterations, or repairs to the mechanical installations, alterations, or repairs that are necessary to prevent damage or threatened damage to other units in the project; provided, however, that the unit owner affected by such entry shall first be notified thereof if available and if time permits.

ARTICLE VIII **REIMBURSEMENT FOR DAMAGES**

Each unit owner shall promptly perform or cause to be performed all maintenance and repair work within any of said units owned by him which, if omitted, will adversely affect the building in which said unit is located or any part of the project. Such unit owner shall be liable in damages for any failure on his part to do so. Each member shall also reimburse the committee for the full value of any repairs or replacements to the common areas and facilities made necessary through the negligence or fault of such unit owner.

ARTICLE IX **NUISANCE**

No unit owner shall cause, permit or suffer any nuisance to be created or carried on in any unit of which he is the owner or occupant.

ARTICLE X **USE AND OCCUPANCY**

Section 1. Obstruction of Common Areas and Facilities. No member shall cause or allow nor permit any person over whom he has or may exercise supervision or control to cause or allow any roadway, driveway, or sidewalk in or on the project to be obstructed or to be used for any purpose other than for ingress to or egress from said units or the project.

Section 2. Use of Unit. No owner or occupant of any of said units, shall, without the prior or written consent of the committee, occupy or use any of said units, nor permit any person over whom such owner or occupant has or may exercise supervision and control to occupy or use the same, for any purpose other than a private dwelling or to permit or suffer anything to be done or kept in or upon any of said units which would constitute a nuisance or a violation of any law, ordinance, or regulation, which

would increase the rate of fire insurance on the project or which might otherwise interfere with the rights of other owners or occupants of the project. No sign, signal, advertisement, or illumination shall be inscribed or exposed on or at any window or outside wall of the project, except upon specific approval of the management committee.

Section 3. Antennas. No radio, T.V. antenna or satellite dish shall be installed on the outside of any building captained within the project without the prior written consent of the committee.

Section 4. Pets. No pet shall be kept or harbored in the project unless the same in each instance be expressly permitted by the management committee. In no event shall pets be permitted in any of the common areas and facilities of the project unless carried or upon a leash. The owner shall indemnify the committee and hold it harmless against any loss or liability of any kind of character whatsoever arising from or growing out of having any pet in the project. One pet under 20 pounds (such as a cat or dog) may be authorized without the consent of the committee. Legally kept aquariums of fish (containing less than 100 gallons of water) and caged small animals (such as birds, gerbils and reptiles) shall also not require the consent of the committee, so long as such animals do not become a nuisance.

Section 5. No Waiver of Strict Performance. The failure on the part of the rules, regulations, agreements, determinations and/or these Bylaws, or to exercise any right or option wherein contained, shall not constitute, nor be construed as, a waiver or relinquishment of any other right which the committee may have thereunder or which it may thereafter acquire.

ARTICLE XI **AMENDMENTS**

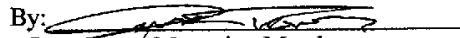
These Bylaws may be altered, amended, or repealed by the affirmative vote of sixty seven percent (67%) of the unit owners at any regular meeting of such unit owners, or at any special meeting if notice of the proposed alterations or repeal be contained in the notice of such special meeting.

[Signature Page Follows]

Executed by Declarant on this 6 day of March, 2007.

DECLARANT:

JTKR, L.L.C., a Utah limited liability company

By: 

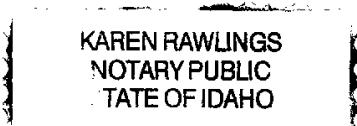
Jerre Tews, Managing Member

By: 

Kent Rasmussen, Managing Member

STATE OF IDAHO)
COUNTY OF Franklin ; ss.

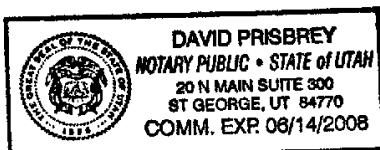
On the 1 day of March, A. D. 2007, personally appeared before me Jerre Tews, who being by me duly sworn, says that he is a Managing Member of JTKR, L.L.C., a Utah Limited Liability Company, the Limited Liability Company that executed the herein instrument and acknowledged the instrument to be the free and voluntary act and deed of the Limited Liability Company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes herein mentioned, and on oath stated that he is authorized to execute this instrument on behalf of the Limited Liability Company




Karen Rawlings
Notary Public
Com. exp. 12-18-09

STATE OF UTAH)
COUNTY OF Washington ; ss.

On the 6 day of March, A. D. 2007, personally appeared before me Kent Rasmussen, who being by me duly sworn, says that he is a Managing Member of JTKR, L.L.C., a Utah Limited Liability Company, the Limited Liability Company that executed the herein instrument and acknowledged the instrument to be the free and voluntary act and deed of the Limited Liability Company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes herein mentioned, and on oath stated that he is authorized to execute this instrument on behalf of the Limited Liability Company



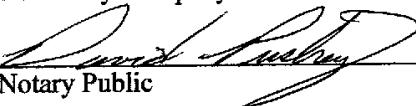

David Prisbrey
Notary Public

EXHIBIT C

[Insert Survey Map]

EXHIBIT C

[Insert Survey Map]

