

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
AND RESERVATION OF EASEMENTS
FOR
TUSCANY AT CLIFF ROSE,
an Expandable Utah Planned Unit Development Project**

**DECLARANT
TROPHY HOMES, L.C.
A Utah limited liability company**

**DEVELOPER
TUSCANY AT CLIFFROSE, L.C.
A Utah limited liability company**

***WHEN RECORDED RETURN TO:
TROPHY HOMES, L.C.
758 South 400 East
Orem, Utah 84097
(801) 227-0550***

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
AND RESERVATION OF EASEMENTS
FOR
TUSCANY AT CLIFF ROSE TOWNHOMES
(an Expandable Utah Planned Unit Development Project)**

This Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Tuscany at Cliff Rose Townhomes, an Expandable Utah Planned Unit Development, is made and executed by TROPHY HOMES, L.C., a Utah limited liability company, of 758 South 400 East, Orem, Utah 84097 (the "Declarant") and is consented to by TUSCANY AT CLIFFROSE, L.C., a Utah limited liability company, of 758 South 400 East, Orem, Utah 84097 (the "Developer").

RECITALS:

- A. The Property is an area of unique natural beauty, featuring distinctive terrain;
- B. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.
- C. This Declaration of Covenants, Conditions and Restrictions affects that certain real property located in Washington County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").
- D. Declarant is the Owner of the Tract.
- E. Declarant has constructed, is in the process of constructing, or will construct upon the Tract a residential Planned Unit Development which shall include certain Lots, Limited Common Area, Common Area, and other improvements. All of such construction has been, or is to be, performed in accordance with the plans contained in the Plat Map to be recorded concurrently herewith.
- F. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Tract, together with an appurtenant ownership interest in the Association of Lot Owners, subject to the Plat Map, the covenants, conditions and restrictions set forth herein.
- G. Since the completion of the Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.

H. Declarant desires, by filing this Declaration of Covenants, Conditions and Restrictions, to submit Phase One of the Tract and all improvements now or hereafter constructed thereon.

I. The Project is to be known as "Tuscany at Cliff Rose Townhomes."

J. Declarant intends that Developer construct the Common Area, Lots and Units (as defined in the Master Declaration) shown on the Plat.

K. Declarant desires to designate Developer as a Builder and "Developer" under the Declaration.

AGREEMENT

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

I. DEFINITIONS

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

1. Additional Land shall mean and refer to additional real property subject to Declarant's unilateral right of annexation as provided elsewhere in this Declaration, which property is more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference.

2. Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Tuscany at Cliff Rose Townhomes HomeOwners Association, Inc. on file or to be filed with the Utah Department of Commerce.

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

4. Association shall mean and refer to all of the Lot Owners at Tuscany at Cliff Rose Townhomes taken as or acting as, a group in accordance with the Declaration.

5. Builder shall mean and refer to Tuscany at Cliffrose, LC, a Utah limited liability company.

6. Building shall mean and refer to any of the structures constructed in the Project.
7. Business Use and Trade shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefore.
8. ByLaws shall mean and refer to the ByLaws of the Association, a copy of which is attached to and incorporated in this Declaration by reference as Exhibit "C".
9. Capital Improvement shall mean and refer to all new improvements intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.
10. City shall mean and refer to the City of Santa Clara, Utah.
11. Class B Control Period shall mean and refer to the period of time during which the Class B Member is entitled to appoint all of the members of the Management Committee.
12. Committee shall mean and refer to the Management Committee of the Association as duly constituted.
13. Common Areas shall mean and refer to all real property in the Project owned in common by the Lot Owners including but not limited to the following items:
 - a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Lots.
 - b) All Common Areas and Facilities designated as such in the Plat Map;
 - c) All Limited Common Areas designated as such in the Plat Map;
 - d) All foundations, columns, girders, beams, supports, main walls, roofs, driveways, and exterior Building surfaces;
 - e) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Project and intended for the common use of all Lot Owners, such as telephone, electricity, gas, water, cable tv and sewer;
 - g) The Project's outdoor grounds, open space, play areas, private roads, driving lanes, parking amenities, sidewalks, entry and monument;

h) All portions of the Project not specifically included within the individual Lots; and

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

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

14. Common Expense shall mean and refer to: (a) The expense of all irrigation water; (b) All sums lawfully assessed against the Owners; (c) Expenses of administration, maintenance, repair or replacement of the Project; (d) Expenses allocated by the Association among the Owners; (e) Expenses agreed upon as common expenses by the Association; and (f) Expenses declared common expenses by the Declaration.

15. Community shall mean and refer to the Project.

16. Community Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community, as determined by the Management Committee from time to time.

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

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

18. Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, a Planned Unit Development for Tuscany at Cliff Rose Townhomes.

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

20. Design Guidelines shall mean and refer to the architectural and engineering plans and specifications and guidelines prepared by the Developer and approved by the City for the construction of the Buildings, Lots, and other physical improvements in the Project, including by way of illustration but not limitation all structural components and Exterior Materials. The City shall assume no responsibility for enforcement of the Design Guidelines, but reserves the right to and may enforce any Design Guideline at any time and in its sole discretion.

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

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

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

24. Exterior Materials shall mean and refer to stone, rock, stucco, wood, finished lumber, brick, or other similar materials but shall not mean cinder block or concrete block or aluminum or vinyl siding. Exterior residence materials shall be of a noncombustible material as approved by the City. The City shall assume no responsibility for enforcement of the External Materials, but reserves the right to and may enforce any External Material requirement at any time and in its sole discretion. The determination whether any specific material constitutes an acceptable Exterior Material shall be made by Developer or its designee.

25. Family shall mean one of the following: (1) a single person living alone; (2) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, such as a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent or great-grandchild, with an additional person or persons as domestic help or a caretaker; or (3) a group of not more than three unrelated persons living and cooking together as a single housekeeping Lot and maintaining a common household, but not as a boarding or rooming house.

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

27. Individual Charges shall mean and refer to a charge levied by the Management Committee against an Owner or Permittee for all expenses resulting from the act or omission of such Owner or Permittee, excepting the Owner's failure to pay any Assessment.

a) The act or negligence of any Permittee shall be deemed to be the act or negligence of the Owner responsible for the Permittee.

b) Individual Charges shall include, by way of illustration but not limitation, any expense resulting from the act or omission of any Owner or Permittee;

1) The cost to repair any damage to any portion of the Project on account of loss or damage caused by such Owner or Permittee; or

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

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

4) Administrative costs and expenses incurred by the Committee in enforcing the Project Documents;

5) Any other fine, charge, fee, due, expense, or cost designated as an Individual Charge in the Project Documents or by the Management Committee;

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

7) Individual a la carte services provided, such as cable television, additional lawn, yard or garden care, the cost of insurance covering the deductible on the master Association all-risk policy, and so forth.

While Individual Charges are not Assessments, they are secured by a lien in the same manner as Assessments, as set forth below. The Association and Management Committee also shall have all other remedies, both legal and equitable, described in this Declaration available against any Owner for nonpayment of such Owner's other monetary obligations.

28. Land shall mean and refer to all of the real property subject to this Declaration.

29. Limited Common Area shall mean and refer to those Common Areas designated in this Declaration or in the Plat Map as reserved for the use of a certain Lot Owner to the exclusion of the other Lot Owners. Any portico, colonnade, Lot entry, doorsteps, landings, porches, balconies, decks, patios, Limited Common Areas, garages, assigned parking spaces, or other improvements intended to serve only a single Lot, shall constitute Limited Common Area appertaining to that Lot exclusively, whether or not the Plat Map makes such a designation.

30. Lot shall mean and refer to a separate physical part of the Property intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building. Mechanical equipment and appurtenances located within any one Lot, or located without said Lot but designated and designed to serve only that Lot, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Lot; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows, window units and window frames, doors, door units and door frames, trim, carpeting, tile, linoleum and so forth. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Lot or serving only the Lot, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Lot, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Lot is located shall be deemed to be part of the Lot.

31. Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot.

32. Lot Owner shall mean and refer to the person who is the Owner shown of record in the office of the County Recorder of Washington County, Utah of a fee or an undivided fee interest in a Lot. The term Lot Owner does not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

33. Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

34. Management Committee shall mean and refer to the committee of Owners elected to direct the affairs of the Association.

35. Manager shall mean and refer to the person or entity appointed or hired by the Association to manage and operate the Project and/or assist in the administration of the Association.

36. Map shall mean and refer to the Plat Map.

37. Member, unless the context clearly requires otherwise, shall mean and refer to the Owner of a Lot, each of whom is obligated, by virtue of his ownership to be a member of the Association.

38. Mortgage shall mean and refer to both a first mortgage or first deed of trust on any Lot, but shall not mean or refer to an executory contract of sale.

39. Mortgagee shall mean and refer to a mortgagee under a first mortgage or a beneficiary under a first deed of trust on any Lot, but shall not mean or refer to a seller under an executory contract of sale.

40. Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Washington County, Utah) of a fee or an undivided fee interest in a Lot, excluding a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

41. Period of Developer's Control shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of the earliest of the following events: (a) five (5) years from the effective date of this Declaration, (b) not less than 120 days after all of the Additional Land has been added and Lots to 75% of the Lots have been conveyed, or (c) the Developer executes and records a written Waiver of his right to control.

42. Permanent Resident shall mean and refer to anyone who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) total weeks in any calendar year.

43. Permittee shall mean and refer to a tenant, renter, lessee, or Guest of the Lot Owner.

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

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

46. Plat Map shall mean and refer to the "Plat Map of the Tuscany at Cliff Rose Townhomes" on file in the office of the County Recorder of Washington County, as amended or supplemented from time to time.

47. Project shall mean and refer to this the Tuscany at Cliff Rose Townhomes Project.

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

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

50. Recreational, Oversized or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

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

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

53. Single Family shall mean one Family Lot.

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

II. SUBMISSION

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

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

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

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

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

all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

III. COVENANTS, CONDITIONS, AND RESTRICTIONS

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

1. Description of Improvements. It is intended that the Project will consist of 36 Buildings and 160 Lots if all of the intended improvements are made. Each Lot will have Limited Common Area, including an appurtenant patio, balcony or deck and garage. The Buildings will be constructed principally of concrete foundations with exterior walls of stucco veneer, tile roofing, interior walls of wood studs, plywood, and dry wall plaster. The Common Area and Facilities will include open space, pool, play area, roads, walkways, entry and monument, and other improvements of a less significant nature. The location and configuration of the improvements referred to in the foregoing sentence are depicted on the Plat Map.

2. Description and Legal Status of the Property.

a) The Plat Map shows the Lot Number of each Lot, its location, those Limited Common Areas and Facilities which are reserved for its use, and the Common Areas and Facilities to which it has immediate access.

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

c) Title to the Common Area and Facilities, including the Building foundations, exterior surfaces and roofs, is hereby granted to and the Common Area and Facilities shall be owned by the Association for and in behalf of the Owners.

3. Membership in the Association. Since membership in the Association is mandatory, each Lot Owner is a member of the Association and membership may not be partitioned from the ownership of a Lot.

4. Allocation of Profits, Losses and Voting Rights.

a) Voting rights (subject to subsection (b) below) shall be distributed among the Owners equally. The ownership interest in the Association appurtenant to each Lot is equal. The ownership interest of each Lot and Owner in the Association shall have a permanent character and shall not be altered without the express affirmative consent of at least two-thirds (2/3) of the Lot Owners memorialized in an amendment to the Declaration duly recorded.

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

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

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

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

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

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

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

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

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

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

(1) Four months after seventy five percent (75%) of the Lots have been sold; or

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

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

From and after the happening of these Events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Developer shall call a meeting, in the manner described in the By Laws of the

Association for special meetings, to advise the membership of the termination of Class B status and, if it has not already occurred, to schedule transition of the operation and management of the entire Project to the Association.

5. Limited Common Areas. Limited Common Areas are those portions of the Common Areas whose use is assigned exclusively to an Owner or Owners. A Limited Common Area may not be partitioned from the Lot to which it is appurtenant. The exclusive use of Limited Common Area is reserved to the Lot to which it is assigned on the Plat Map, as amended from time to time, subject to the right of the Management Committee to restrict the use and regulate the maintenance thereof.

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

All of Lot No.____ in Building No. ____ contained within Phase _____, Tuscany at Cliff Rose Townhomes, as the same is identified in the Plat Map recorded in Washington County, Utah as Entry No. in Book____ at Page ____ of the official records of the County Recorder of Washington County, Utah (as said Plat Map may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions and Restrictions for Tuscany at Cliff Rose Townhomes recorded in Washington County, Utah as Entry No.____ in Book____ at Page ____ of the official records of the County Recorder of Washington County, Utah (as said Declaration may have heretofore been supplemented), together with an ownership interest in the Association.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Neither the membership in the Association, nor the right of exclusive use of a Limited Common Area shall be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

7. Architectural and Design Guidelines. The Developer has prepared Design Guidelines for the Project, which have been approved by the City. The City shall assume no responsibility for enforcement of the Design Guidelines, but reserves the right to and may enforce any Design Guideline at any time and in its sole discretion. The approved Design Guidelines shall apply to all construction activities within the Project. The Developer shall have sole and full authority to change, amend, and supplement the Design Guidelines as long as it owns any of the Property; provided, however, the approved Design Guidelines may not be at any time changed, amended, or supplemented without the express written consent of the City. The Developer or, after transition of the Project, the Association must stamp all proposed plans and

specifications to construct or remodel a Building or Lot "approved and in compliance with the Declaration and Design Guidelines" before presenting such plans and specifications to the City for the issuance of a building permit.

8. Ownership and Use Restrictions. Each Owner, of whatever kind, shall be entitled to the exclusive ownership and possession of his Lot and to membership in the Association as set forth herein, subject to the following use restrictions:

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

b) Title to the Common Area. Title to the Common Area and Facilities shall be vested in the name of the Association.

c) Mandatory Association. Each purchaser of a Lot, by virtue of accepting a deed or other document of conveyance thereto, shall automatically become a member of the Association.

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

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

(2) The right of the Association to suspend the voting rights and the privilege to use the recreational amenities by a member for: (a) any period during which his Assessment remains delinquent, and (b) a period not to exceed thirty (30) days after notice and hearing as may be set forth hereinafter for any infraction of the Association rules;

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

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

e) Rules and Regulations. The Association, acting through its Management Committee, shall have the power and authority to adopt administrative and/or house rules and regulations and, in its sole discretion, to impose reasonable user fees for the amenities. Such rules, regulations and use restrictions shall be binding upon all Owners and Residents, their guests and invitees.

(1) Parties Bound. All provisions of the Project Documents shall be binding upon all Owners, Guests and Permittees.

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

a. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his Lot or the Common Areas;

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

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

d. Drug houses and drug dealing; the unlawful sale, manufacture, service, storage, distribution, dispensing or acquisition occurs of any controlled substance; gambling; criminal activity; parties which occur frequently which bother, annoy or disturb other reasonable residents or interfere with their quiet and peaceful enjoyment of the premises; prostitution; or other violation of U.C.A., Section 78-38-9 (1999) as amended or supplemented.

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

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

(5) No Severance. The elements of a Lot and other rights appurtenant to the ownership of a Lot, including interest in Common Areas and Facilities and Limited

Common Areas and Facilities, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Lot and such appurtenances. Any conveyance made in contravention of this Subsection, including under any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) shall be void.

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

(7) Temporary Structures. No Owner or occupant shall place upon any part of the Project any temporary structures, including but not limited to dog runs, storage Lots, tents, trailers and sheds or their equivalent, without the prior written consent of the Management committee; provided, however, tents may be allowed for up to forty-eight (48) hours by Lot Owners in their Limited Common Areas or the Common Area immediately adjacent to their buildings.

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

(9) Energy Conservation Equipment. Unless expressly allowed by state law or City ordinance, no solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior express written consent of the Management Committee.

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

Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this sub-section.

(11) Storage and Parking of Vehicles. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

a. The parking rules and regulations adopted by the Management committee from time to time;

b. The parking areas are not designed for Recreational, Commercial or Oversized motor vehicles and the Management Committee has the right to make rules and regulations restricting or prohibiting their use. Unless otherwise determined by the Management Committee, all Recreational, Commercial and Oversized Vehicles shall be parked outside the Project, except for purposes of loading and unloading.

c. No motor vehicle or trailer may be parked or stationed in such a manner so as to create a potentially dangerous situation.

d. Except for purposes of loading and unloading, no motor vehicle or trailer may be parked or stationed in such a manner so as to create an obstacle or along any street or road, or in front of any garage, walkway, driveway, Building or Lot, or in an unauthorized Common Areas.

e. Residents may only park their motor vehicles within their designated garages, covered parking spaces, or in other designated Common Area parking stalls.

f. Residents may not park their motor vehicles in red zones, fire lanes, guest or visitor parking, or other unauthorized areas.

g. Visitors or guests shall park their motor vehicles in Common Areas designated for Guest or visitor parking.

h. No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Lot or the Common Area, except for emergency repairs, and then only for a seventy-two (72) hour period to enable movement thereof to a proper repair facility.

i. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonable parked in the garage as originally designed and constructed.

j. No motor vehicle shall be parked in such a manner as to inhibit or block access to a Lot, garage, covered parking space, uncovered parking space, entrance, exit, or parking area.

k. All parking areas shall be used solely for the parking and storage of motor vehicles used for personal transportation.

(12) Aerials, Antennas, and Satellite Systems. Antennas and satellite dishes shall be prohibited within the Property, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter or diagonal measurement; (b) antennas or satellite dishes designed to receive video programming services via multipoint distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device is: (1) located in the attic, crawl space, garage, or other interior spaces of the Lot or another approved structure on the Property, so as not to be visible from outside the Lot or other structure; and (2) attached to or mounted in the Limited Common Area immediately adjacent to the Lot, such as a balcony, deck or patio in the rear of the building, and extending no higher than the eaves of that portion of the roof of the Lot directly in front of such antenna. The Management Committee may adopt rules establishing a preferred hierarchy of alternative locations and requiring screening of all Permitted Devices, so long as such rules do not unreasonably increase the cost of installation, maintenance, or use of the Permitted Device in the authorized areas.

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

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

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

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

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

(18) Structural Alterations. Except in the case of an emergency repair, no structural alterations, plumbing, electrical or similar work within the Common Areas or Limited Common Areas shall be done or permitted by any Owner without the prior written consent of the Management Committee.

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

(20) Laws. Nothing shall be done or kept in, on or about any Lot or 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 governmental body.

(21) Damage or Waste. No damage to, or waste of, the Common Areas or Limited Common Areas shall be committed by any Owner or Resident, their guests or invitees; and each Owner and Resident shall indemnify and hold the Management Committee and the other Owners in the Project harmless against all loss resulting from any such damage or waste caused by that Owner or Resident, their guests or invitees; provided, however, that any invitee of the Declarant and/or Developer shall not under any circumstances be deemed to be an invitee or any other Owner.

9. Leases. Any agreement for the leasing, rental, or occupancy of a Lot (hereinafter in this Section referred to as a "lease") shall be in writing and a copy thereof shall be delivered to the Management Committee upon request. By virtue of taking possession of a Lot, each lessee agrees to be subject to and abide by these restrictive covenants, and that any covenant violation shall be deemed to constitute a default under the lease. No Owner shall be permitted to lease his Lot for transient, vacation, hotel, seasonal, or short-term purposes, which by way of illustration and not limitation includes any rental with an initial term of less than one (1) year. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Lot without the express written consent of the Management Committee. Within ten (10) days after delivery of written notice of the creation of a nuisance or material violation of these restrictive covenants, the Owner shall proceed promptly to abate the nuisance or cure the default, and notify the Management Committee in writing of his intentions. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Lot.

10. Easements -- Support, Maintenance and Repair. There is hereby RESERVED to the City and the Association, and the City and the Association are hereby GRANTED a non-exclusive easement over, across, through, above and under the Lots and the Common Area for the operation, maintenance, and repair of the Common Area and Facilities, and regulation of the Design Guidelines. The City shall assume no responsibility for enforcement of the Design Guidelines, but reserves the right to and may enforce any Design Guideline at any time and in its sole discretion.

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

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

13. Management Committee. The Association shall be managed by a Management Committee.

14. Officers and Agents. The Management Committee shall elect and/or appoint officers and agents of the Association, including without limitation a President, Secretary, and Treasurer.

15. Management Committee Meetings. The Management Committee shall meet at regular intervals and at least quarterly.

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

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

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

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

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

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

f) Transfer Interests in Real Property. The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the Association Members.

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

h) Add Property. The power and authority to add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Project, so long as it has been approved by at least seventy five percent (75%) of the Association Members.

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

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

k) Meetings. The authority to establish procedures for the conduct of its meetings, including but not limited to the power to decide what portion of the meeting shall be open or closed to Owners or Residents not on the Committee, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Committee meetings.

l) Delegation of Authority. The power and authority to delegate its responsibilities over the management and control of the Common Areas and regulation of the Project to a professional manager, reserving the right, power and authority, however, to control and oversee the administration thereof.

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

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

17. Delegation of Management Responsibilities: The Management Committee may delegate some of its management responsibilities to either a professional management company, an experienced on-site manager, an independent contractor, through service contracts, or any combination thereof. The Manager may be an employee or an independent contractor. The termination provision of any such contract must not require a termination penalty or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than one (1) year. The Management Committee may also employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical personnel as necessary to perform its management responsibilities. Provided, however, any management contract may be terminated for cause on thirty (30) days notice in accordance with Title 38, Code of Federal Regulations, Section 36.4360a (f), as it may be amended from time to time.

18. Owners Meetings. The Association shall meet at least annually.

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

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

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

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

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

21. Operation, Maintenance and Alterations. Each Lot, the Limited Common Area and Common Area shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:

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

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

c) Area of Common Responsibility. Unless otherwise expressly noted, the Association shall maintain, repair and replace all of the Common Area and Facilities within or serving the Project, including by way of illustration but not limitation all foundations, columns, girders, beams, supports, main walls, roofs, driveways, and exterior Building surfaces; open space, common landscaping and play area; private roads, driving lanes and parking amenities; sidewalks and walkways; entry and entry monument; and all front and side yards. Upon written request, the Association may, for a fee, but is not obligated to maintain an Owner's rear yard area. The Association shall initially install all Limited Common Area improvements.

d) Area of Personal Responsibility. Each Owner shall maintain, repair and replace his Lot, including without limitation all interior spaces and improvements, individual services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, fixtures, windows and window systems, glass, doors and door systems, garage doors and garage

door systems, patios, balconies and decks, plumbing fixtures, systems and lateral pipes or valves servicing only his Lot, including any damage caused thereby and not covered by insurance. Each Lot Owner shall also maintain broom clean and free of debris, repair and replace the physical improvements to his Limited Common Area, including all flooring, cement, decking, gates, rails and fencing. All such Limited Common Area maintenance, repairs and replacements are subject to the approval of the Management Committee as to construction materials, quality of construction and installation, and uniformity of appearance. No Lot Owner shall allow his Lot, Limited Common Area to detract from the health, safety or uniform appearance or design of the Project.

e) Default Provisions. If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of the real property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the Association, or Management Committee may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible party's sole cost and expense (the "Default Maintenance Cost"). The term "emergency" as used here means a situation or condition in which there is a threat of imminent and substantial harm to person or property. The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such. In addition, it may be considered a "Fine" against a Lot Owner. A Fine assessed hereunder which remains unpaid after the time for appeal has expired becomes a lien against the Lot Owner's interest in the property in accordance with the same standards as a lien for the nonpayment of Common Expenses under U.C.A., Section 57-8-20.

f) Alterations to the Common Area. The Developer may make changes to the design and construction of the improvements located in or on the Common Areas without additional approval required, including without limitation the consent of the Management Committee or Members of the Association; provided, however, no Owner or Permittee may make any structural alterations to the Common Area (including the Limited Common Area), without the express prior written consent of the Management Committee.

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

22. Common Expenses. Each Owner shall pay his Assessments subject to and in accordance with the procedures set forth below.

a) Declarant and/or Developer. Anything to the contrary notwithstanding, neither the Declarant nor the Developer shall not be obligated to pay Assessments on any Lots owned by it until such time as: (1) the physical structures are substantially completed; (2) certificates of permanent occupancy are issued and the Lots are sold or rented; or (3) Declarant and/or Developer elects in writing to pay the Assessments, whichever first occurs.

b) Purpose of Common Area Expenses. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Community, all as may be more specifically authorized from time to time by the Management Committee.

c) Creation of Assessments. Since the Assessments shall pay for the common expenses of the Association, as shall be determined by the Management Committee from time to time, each Owner, by acceptance of a deed to a Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association in a timely manner all Assessments assessed by the Management Committee.

d) Budget. At least thirty (30) days prior to the Annual HomeOwners Meeting, the Management Committee shall prepare and deliver to the Owners a proposed Budget which:

(1) Itemization. Shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1.

(2) Basis. Shall be based upon advance estimates of cash requirements 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 and regulation of the Association, which estimate shall include but is not limited to expenses of management, irrigation water, grounds maintenance, taxes and special assessments, premiums for all insurance which the Management Committee is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, 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 or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

e) Apportionment. The voting rights shall be distributed among and the Common Expenses shall be charged equally and uniformly to all of the Lot Owners.

f) Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a majority of the Owners. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Management Committee fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time

as a new budget and new Assessment schedule shall have been established, the Budget and the Assessments in affect for the then current year shall continue for the succeeding year.

g) Payment of Assessments. The Management Committee has the sole authority and discretion to determine how and when the annual Assessments are paid.

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

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

j) Equitable Changes. If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days written notice of any changes.

k) Dates and Manner of Payments. The dates and manner of payment shall be determined by the Committee.

l) Reserve Account. The Committee shall establish and maintain a reserve account or accounts to pay for unexpected operating expenses, major Repairs, and Capital Improvements.

m) Analysis Report. The Management Committee shall prepare and update at least annually a written Capital Asset Replacement and Reserve Account Analysis, and make the report available to the Owners at the annual meeting of the Association.

n) Acceleration. The Management Committee may but is not obligated to accelerate the entire annual Assessment of a delinquent Owner who has not cured his default within thirty (30) days after written notice.

o) Statement of Assessments Due. Upon written request, the Committee shall furnish to any Owner a statement of Assessments due, if any, on his Lot. Failure to provide the certificate within ten (10) days after a written request is received by the Secretary, shall be deemed conclusive evidence that all Assessments are paid current. The Association may require

the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

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

q) Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the Association may be suspended for up to ninety (90) days if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

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

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

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

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

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

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

Failure of the Committee to exercise its authority under this Section shall not be grounds for any action against the Association or the Committee and shall not constitute a waiver of the Committee's right to exercise its authority under this Section in the future with respect to any

expenses, including an expense for which the Committee has not previously exercised its authority under this Section.

25. Individual Charges. Individual Charges may be levied by the Management Committee against a Lot and its Owner and shall be due not earlier than thirty (30) days after written notice.

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

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

b) Late Fees. A late fee of twenty-five dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater, shall be assessed on all late payments. A payment received by the Management Committee ten (10) days or more after its due date shall be considered late for purposes of this subsection.

c) Default Interest. Default interest at the rate of one and one-half percent (1.0%) per month or eighteen percent (18%) per annum shall accrue on all delinquent accounts.

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

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

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

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

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

i) Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Assessments and Current Assessments.

j) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Committee. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Committee may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

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

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

m) Lenders, Foreclosures and Unpaid Assessments. Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees

who obtain title to a Lot in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Lot for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

n) Termination of Utilities and Right to Use Amenities for Non-Payment of Assessments.

1. If an Owner fails or refuses to pay any assessment when due, the management committee may (a) terminate the Owner's right to receive utility services paid as a common expense; and (b) terminate the Owner's right of access and use of recreational facilities., after giving notice and an opportunity to be heard.

2. Before terminating utility services or right of access and use of recreational facilities, the manager or management committee shall give written notice to the Owner in the manner provided in the Declaration, ByLaws, or association rules. The notice shall state:

(a) utility services or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within the time provided in the Declaration, ByLaws, or association rules, which time shall be stated and be at least 48 hours;

(b) the amount of the assessment due, including any interest or late payment fee; and

(c) the right to request a hearing.

3. An Owner who is given such notice may request an informal hearing to dispute the assessment by submitting a written request to the management committee within 14 days from the date the notice is received. A notice shall be considered received on the date (a) it is hand delivered, (b) it is delivered by certified mail, return receipt requested, or (c) five (5) days after it is deposited in the U.S. Mail, postage prepaid, addressed to the Owner's last known address on the books and records of the Association

4. The hearing shall be conducted in accordance with the standards provided in the Declaration, ByLaws, or association rules.

5. If a hearing is requested, utility services or right of access and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered.

6. Upon payment of the assessment due, including any interest or late payment fee, the manager or management committee shall immediately take action to reinstate the terminated utility services to the Lot and right to use of recreational facilities.

o) Assignment of Rents.

1. If the Owner of a Lot who is leasing the Lot fails to pay any assessment for a period of more than 60 days after it is due and payable, the management committee may demand the tenant to pay to the association all future lease payments due the Owner, commencing with the next monthly or other periodic payment, until the amount due to the association is paid; provided, however, the manager or management committee must give the Owner written notice, in accordance with the Declaration, ByLaws, or association rules, of its intent to demand full payment from the tenant. This notice shall:

(a) provide notice to the tenant that full payment of remaining lease payments will commence with the next monthly or other periodic payment unless the assessment is received within the time period provided in the Declaration, ByLaws, or association rules;

(b) state the amount of the assessment due, including any interest or late payment fee;

(c) state that any costs of collection, not to exceed \$150, and other assessments that become due may be added to the total amount due; and

(d) provide the requirements and rights described herein.

2. If the Owner fails to pay the amount of the assessment due by the date specified in the notice, the manager or management committee may deliver written notice to the tenant, in accordance with the Declaration, ByLaws, or association rules, that demands future payments due to the Owner be paid to the association pursuant hereto. A copy of the notice must be mailed to the Owner at his last known address as shown on the books and records of the Association. The notice provided to the tenant must state:

(a) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the management committee's intent to collect all lease payments due to the association pursuant hereto.

(b) that until notification by the association that the assessment due, including any interest or late payment fee, has been paid, all future lease payments due to the Owner are to be paid to the association; and

(c) payment by the tenant to the association in compliance herewith will not constitute a default under the terms of the lease agreement. If payment is in

compliance with this Subsection (6) suit or other action may not be initiated by the Owner against the tenant for failure to pay.

3. All funds paid to the association pursuant hereto shall be deposited in a separate account and disbursed to the association until the assessment due, together with any cost of administration which may not exceed \$25, is paid in full. Any remaining balance must be paid to the Owner within five business days of payment in full to the association.

4. Within five business days of payment in full of the assessment, including any interest or late payment fee, the manager or management committee must notify the tenant in writing that future lease payments are no longer due to the association. A copy of this notification must be mailed to the Owner.

5. As used in this section, the terms "lease" or "leasing" shall mean and refer to regular, exclusive occupancy of a Lot by any person or persons, other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

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

28. Insurance. The Manager, Management Committee or Association, will obtain insurance against loss or damage by fire and other hazards for: (a) all Common Elements and Facilities; and (b) all Buildings that contain more than one Lot, including any improvement which is a permanent part of a Building. The insurance coverage shall be written on the property in the name of the Manager, Management Committee or Association, as trustee for each of the Lot Owners. The insurance premiums shall be a Common Expense. This Section is without prejudice to the right of each Lot Owner to insure his own Lot for his benefit. The Manager,

Management Committee or Association shall satisfy at least the following minimum requirements:

a) Property Insurance. Blanket property insurance using the standard "Special" or "All Risk" building form. Loss adjustment shall be based upon replacement cost. For purposes of this sub-section, the term "casualty insurance" shall not mean or refer to "earthquake" or other special risks not included in the standard 'Planned Unit Development' casualty policy. This additional coverage may be added by the Committee as it deems necessary in its best judgment and in its sole discretion. The Association may purchase a policy with a deductible up to \$10,000.00. The Association may require Lot Owners or residents to obtain insurance covering the amount of the deductible if, under the Declaration, they would, but for insurance coverage, be responsible for the loss or claim.

b) Flood Insurance. If any part of the Project's improvements are in a Special Flood Hazard Area -- which is designated as A, AE, AH, AO, A1-30, A-99, V, VE, or V1-30 on a Flood Insurance Rate Map (FIRM) -- the Association shall obtain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover any common element buildings and any other common property. The Lot Owner may also be required to purchase an individual policy. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

c) Liability Insurance. A public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million (\$1,000,000) Dollar single person limit as respects bodily injury and property damage, a Two Million (\$2,000,000) Dollar limit per occurrence, if reasonably available, and a One Million (\$1,000,000) Dollar minimum property damage limit. If possible, the policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection.

d) Directors and Officers Insurance. A director's and officer's liability or errors and omissions policy, if reasonably available, with at least One Million (\$1,000,000) Dollars in coverage.

e) Fidelity Bond. A separate fidelity bond in a reasonable amount to be determined by the Management Committee to cover all non-compensated officers as well as all employees for theft of Association funds, subject to the following:

(1) Agents. Furthermore, where the Committee or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds are required for the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Committee or the Association.

(2) Amount of Coverage. The total amount of fidelity bond coverage required shall be based upon the Committee's best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Committee, the Association, or the management agent as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Lots, plus reserve funds.

(3) Quality of Coverage. The bonds required shall meet the following additional requirements: (a) they shall name the Committee, the Owners Association, and the Property Manager as obligee; (b) if the insurance contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense; (c) the premiums on all bonds required herein for the Committee and the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Committee or the Association as part of the Common Expenses; and (d) the bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the Committee and the Association, to any Insurance Trustee, and to each service of loans on behalf of any Mortgagee, and FNMA.

f) Earthquake Insurance shall not be required unless requested by at least Seventy five percent (75%) of the Members of the Association.

g) Miscellaneous Items. The following provisions shall apply to all insurance coverage:

(1) Quality of Carrier. A "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance reports -- International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBB" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service -- if the carrier is issuing a master policy or an insurance policy for the common elements in the Project.

(2) The Insured. The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "Association of Lot Owners for Tuscany at Cliff Rose Townhomes, for the use and benefit of the individual Owners."

(3) Designated Representative. The Association may designate an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners.

(4) Beneficiary. In any policy covering the entire Project, each Owner and his Mortgagee, if any, shall be equal beneficiaries of the policy.

(5) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(6) Mortgage Provisions. Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each Mortgagee.

(7) Miscellaneous Provisions. Each insurance policy shall contain at least the following additional miscellaneous items: (a) A waiver of the right of a subrogation against Owners individually; and (b) A provision that the insurance is not prejudiced by any act or neglect of any individual Owner.

(8) Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

(9) Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any proceeds remaining thereafter shall be placed in the Capital Improvement Reserve Account and retained by and for the benefit of the Association. This is a covenant for the benefit of the Association and any Mortgagee of a Lot, and may be enforced by them.

(10) Special Endorsements. Each policy shall also contain or provide those endorsements commonly purchased by other Associations in similarly situated first class subdivisions in the county, including but not limited to a guaranteed replacement cost endorsement under which the insurer agrees to replace the insurable property regardless of the cost and,; or a Replacement Cost Endorsement under which the insurer agrees to pay up to 100% of the property's insurable replacement cost, but no more, and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement which waives the requirement for coinsurance; an Inflation Guard Endorsement when it can be obtained, a Building Ordinance or Law Endorsement, if the enforcement of any building, zoning or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, and increased costs of reconstruction; Steam Boiler and Machinery Coverage Endorsement if the Project has any central heating or cooling.

(11) Restrictions on Policies. No insurance policy shall be maintained where:

a. Individual Assessments Prohibited. Under the term of the carrier's charter, ByLaws, or policy, contributions may be required from, or assessments may be

made against, an Owner, a borrower, a Mortgagee, the Management Committee, the Association, FNMA, or the designee of FNMA.

b. Payments Contingent. By the terms of the Declaration, By-Laws, or policy, payments are contingent upon action by the carrier's board of directors, policyholder, or member; or

c. Mortgagee Limitation Provisions. The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Committee, the Association, an Owner, FNMA, or the borrowers) from collecting insurance proceeds.

(12) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association, Committee or Owners to obtain and maintain insurance coverage, in amounts and in such forms as the Management Committee or Association may deem appropriate from time to time.

(13) Deductible. The deductible on a claim made against the Association's Property Insurance Policy shall be paid for by the party who would be liable for the loss, damage, claim, or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. If a loss is caused by an act of God or nature or by an element, risk or peril beyond the control of the Lot Owner, then the Association shall be responsible for the deductible.

h) Adjusting Claims. The Management Committee has the authority to adjust claims and declare whether it is the intent of the Association that its master insurance policy is to provide primary or secondary coverage. The Management Committee may refuse to submit an insurance claim, if the claimant has coverage for the loss or there is a substantial likelihood that the claim will be covered by the Owner's or renter's insurance company, and (1) submitting the claim risks cancellation of the Association's insurance or a significant increase in premiums, or (2) the problem occurred in the Lot, or (3) was caused by the claimant or under his control, or (4) the claim is legally or primarily the responsibility of the claimant. The Management Committee may also elect to self-insure any claim and, in such an instance, the person legally responsible for the loss or maintenance shall pay a sum equal to the deductible.

29. Destruction, Condemnation, and Obsolescence. The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

a) Definitions. Each of the following terms shall have the meaning indicated:

(1) "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the estimated cost of

restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(2) "Partial Destruction" shall mean any other damage or destruction to the Project or any part thereof.

(3) "Substantial Condemnation" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the estimated cost of restoration over the funds available is Twenty five (25%) percent or more of the estimated restored value of the Project.

(4) "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(5) "Substantial Obsolescence" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(6) "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(7) "Restored Value" shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

(8) "Estimated Cost of Restoration" shall mean the estimated costs of restoring the Project to its former condition.

(9) "Available Funds" shall mean any proceeds of insurance, condemnation awards, payments in lieu of condemnation, and any uncommitted funds of the Management Committee or Association. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Lot in which they are interested.

b) Determination by Committee. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under eminent domain or by grant or conveyance in lieu thereof, the Committee shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Committee shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence exists. In making such determinations the Committee may retain and rely upon one or more qualified appraisers or other professionals.

c) Restoration of the Project. Restoration of the Project shall be undertaken by the Committee promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent of the ownership interest in the Association and is further consented to by Eligible Mortgagees holding Mortgages on Lots which have appurtenant at least fifty-one (51%) percent of the ownership interest in the Association which is then subject to Mortgages held by Eligible Mortgagees.

d) Notices of Destruction or Obsolescence. Within thirty (30) days after the Committee has determined that Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall send to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration.

e) Excess Insurance. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Committee or Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective ownership interests in the Association. Payment to any Owner whose Lot is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

f) Inadequate Insurance. If the cost of Restoration exceeds Available Funds, the Management Committee may elect to make a special assessment in accordance with Article III, Section 21 above to pay for the deficiency.

g) Reallocation in Event of Partial Restoration. In the event that all or any portion of one or more Lots will not be the subject of Restoration (even though the Project will continue as a Planned Unit Development project) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the ownership interest in the Association shall be immediately reallocated to the remaining Lots.

h) Sale of Project. Unless Restoration is accomplished as set forth above, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, Planned Unit Development ownership under this Declaration and the Plat Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Committee to the Owners in proportion to their respective ownership interests in the Association. Payment to any Owner whose Lot is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

i) Authority of Committee to Represent Owners in Condemnation or to Restore or Sell. The Committee, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities.

j) Settlement Proceeds. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear.

k) Restoration Power. The Committee, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Lot therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided.

l) Right of Entry. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

m) Termination of Legal Status. Any action to terminate the legal status of the Project after Substantial Destruction or Condemnation occurs shall be agreed to by Lot Owners who represent at least sixty-seven (67%) percent of the total allocated votes in the Association and by Eligible Mortgage holders who represent at least fifty-one (51%) percent of the votes of the Lots that are subject to mortgages held by eligible holders.

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

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

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

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

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

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

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

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

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

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

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

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

e) Eligible Mortgagee Designation. Upon written request to the Committee or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be, shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

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

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

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

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

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

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

a) General. Except as provided elsewhere in this Declaration, including by way of illustration but not limitation to sections pertaining to the addition or annexation of any land, any amendment to this Declaration shall require the affirmative written vote or consent of

at least sixty-seven percent (67%) of the total ownership interest in the Association cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting.

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

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

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

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

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

g) Execution of Amendments.

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

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

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

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

- Voting rights;
- Increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens;
- Reductions in reserves for maintenance, repair, and replacement of Common Areas, Facilities and Elements;
- Responsibility for maintenance and repairs;
- Reallocation of interests in the Common Area, Limited Common Area, and general or limited common elements, or rights to their use;
- Redefinition of any Lot boundaries;
- Convertibility of Lots into Common Area or Elements, or vice versa;
- Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- Hazard or fidelity insurance requirements;
- Imposition of any restrictions on the leasing of Lots;

- Imposition of any restrictions on a Lot Owner's right to sell or transfer his Lot;
- A decision by the Association (if the Project consists of more than 50 Lots) to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;
- Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the documents; and
- Any provisions that expressly benefit Mortgage holders, insurers or guarantors.

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

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

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

a) Sales Office and Model Lots. Developer shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots at any one time. Such office and/or

models may be one or more of the Lots owned by the Developer, one or more separate structures or facilities placed on the Property for the purpose of aiding Developer's sales effort, or any combination of the foregoing;

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

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

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

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

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

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

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

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

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

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

39. Transfer of Management. Anything to the contrary notwithstanding, Developer may at any time relinquish its reserved right to select the Members of the Committee and may elect to transfer the management of the Project to a Committee elected by the Owners. Upon the termination of the Period of Developer's Control, or sooner if the Developer so elects, Developer shall notify Owners in writing of the effective date of such transfer (the "Transfer Date") at least forty five (45) days prior thereto. Thereupon, the Owners shall call a meeting to elect the Members of the Management Committee to take office as of the Transfer Date. Developer covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Developer shall cause all obligations for Common Expenses of the Association prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Association funds to the newly elected Committee.

40. Working Capital Fund. A working capital fund shall be established by the Developer equal to or greater than two (2) months' Assessments for each Lot. Each Lot's share of the working capital fund shall be collected and transferred to the Management Committee at the time of closing of the sale of each Lot by Developer. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Lot shall be paid to the Management Committee at the time such Lot is first occupied for residential purposes or a certificate of permanent occupancy is issued, whichever first occurs. With respect to each Lot for which the Developer pays the contribution to the working capital fund, the Developer shall be reimbursed for such contribution by the buyer of such Lot at the time of closing. The purpose of the working capital fund is to insure that the Management Committee will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of the Project. Sums paid into the working capital fund are not to be considered as advance payments or regular monthly payments of Common Expenses. Thereafter, the Management Committee may continue the working capital fund by charging a reasonable transfer or impact fee when Lots are sold or rented.

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

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

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

44. Enforcement and Right to Recover Attorneys Fees. Should the Association or Committee be required to take action to enforce the Declaration, ByLaws or any administrative rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorneys fee, which may arise or accrue.

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

46. Expansion of the Project.

a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Project to include additional Lots in the Project. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire five (5) years from the date following the first conveyance of a Lot in Phase I to a Lot purchaser unless sooner terminated by Declarant's recorded Waiver of

such option, there being no other circumstances which will cause the option to expire prior to said five (5) years. Such right may be exercised without first obtaining the consent or vote of Lot Owners and shall be limited only as herein specifically provided. Such Lots shall be constructed on any or all portions of the Additional Property.

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

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

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

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

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

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

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

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

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

(4) No assurances are made concerning:

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

b. Type, kind or nature of improvement which may be created on any portion of the Additional Land, except that the common facilities, Buildings and Lots will

be comparable to the Phase I facilities on a per Lot basis and will be of a similar quality of materials and construction to Phase I and will be substantially completed prior to annexation.

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

d. Type, size, or maximum number of Limited Common Areas which may be created within any portion of the Additional Land added to the Project.

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

(6) Assuming that only Phase 1 of the Project is completed, there would be 2 Buildings, and the minimum number of Lots would be 10 and the maximum ownership interest of each Lot in the Association would be 1/10 or 10.0%. Assuming all Phases in the Project are completed and all of the Additional Land is added to the Project (a) the maximum number of Buildings would be 36; (b) the maximum number of Lots would be 160; (c) there would be approximately 19.05 acres; (d) the maximum number of Lots per net acre would be about 8.399 and (e) the minimum ownership interest of each Lot in the Association would be 1/160 or 0.625%. Provided, however, the number of Lots actually constructed and the actual ownership interest of each Lot in the Association may actually be somewhere in between the numbers and percentages set forth above.

g) General Liability Insurance Policy for Expansion of Project. Pursuant to Title 38, CFR Section 36.4360 (a) (5), which is incorporated herein by this reference, the Declarant shall purchase at its own expense and maintain a general liability insurance policy in the sum of not less than \$1 million to cover any liability which Owners of previously sold Lots are exposed to as a consequence of further and future expansion of the project pursuant hereto.

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

a) Such amendments may be accomplished by the Lot Owner recording an amendment or amendments to this Declaration, together with an amended Map or Maps containing the same information with respect to the altered Lots as required in the initial

Declaration and Map with respect to the initial Lots. All costs and expenses required in such amendments shall be borne by the Lot Owner desiring such combination.

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

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

48. Fines. Each Owner and Resident is responsible for adhering to the Project Documents governing the Project. Pursuant to U.C.A., Section 57-8-37 (2001), a breach of these restrictive covenants and rules is subject to enforcement pursuant to the Declaration and may include the imposition of a fine. Each Owner is also accountable and responsible for the behavior of the residents, tenants and/or guests of his Lot. Fines levied against residents, tenants, and guests are the responsibility of the Owner. The Management Committee shall react to each material violation in the following manner:

a. Fines imposed are final unless appealed in writing to the Management Committee within thirty (30) days of written notification of the violation. If a request for a hearing is not submitted to the Management Committee within thirty (30) days, the right to a hearing is waived, and the fine imposed will stand. A request for a hearing to appeal should be sent in writing to the Manager or Secretary of the Association.

b. Before assessing a fine under Subsection (a), the Management Committee shall give notice to the homeOwner of the violation and inform the Owner that the fine will be imposed if the violation is not cured within the time provided in the Declaration, ByLaws, or rules, which shall be at least forty-eight (48) hours.

c. A fine assessed under Subsection (a) shall:

(1) be made only for a violation of a restrictive covenant, rule or regulation;

(2) be in the amount specifically provided for in the Declaration, ByLaws, or association rules for that specific type of violation, not to exceed \$500.00; and

(3) accrue interest and late fees as provided in the Declaration, ByLaws, or association rules.

d. Cumulative fines for a continuing violation may not exceed \$500.00 per month.

e. An Owner who is assessed a fine under Subsection (a) may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed. The hearing shall be conducted in accordance with standards of due process adopted by the Management Committee. No finance charge, default interest, or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

f. An Owner may appeal a fine issued under Subsection (a) by initiating a civil action within one hundred and eighty (180) days after: (1) A hearing has been held and a final decision has been rendered by the management committee under Subsection (e); or (2) The time to request an informal hearing under Subsection (e) has expired without Owner making such a request.

g. A fine assessed under Subsection (a) which remains unpaid after the time for appeal has expired becomes a lien against the Owner's interest in the property in accordance with the same standards as a lien for the nonpayment of common expenses under Section 26(c) above.

49. Accommodations. The Developer is committed to develop and operate this Project in accordance with the Utah Fair Housing Act and the Federal Fair Housing Act, and hereby pledges its support of the letter and spirit of U.S. and state policy for the achievement of equal housing opportunity. It is understood that all persons are entitled to equal protection of the law.

a. Handicapped Persons. Unlawful discrimination includes a refusal to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by that person, if modifications are necessary to afford the person full enjoyment of the premises.

b. Fair Housing Acts/ADA. In order to satisfy the requirements of local building codes and ordinances, the state and federal Fair Housing Acts (collectively "Act"), and the applicable portions of the ADA, as they may be amended from time to time, for the handicapped, Developer and, upon the termination of the Period of Developer's Control, the Management Committee are hereby granted the unilateral right, authority and power to:

- 1) Make adjustments in the Project Documents;

2) Change, alter or modify the design and construction of the Lots, Buildings, and/or Common Area and Facilities.

c. Examples. By way of illustration but not limitation, it is anticipated that design, construction, alteration and/or remodel may be required from time to time in order to make reasonable accommodations for the handicapped, to provide accessibility, accessible routes, adaptable dwelling Lots, entrances, finished grades, ground floors, slopes, stories, vehicular or pedestrian arrival points, vehicular routes, recreational amenities, parking amenities, striping, mail box stations, ramps, signage, assistive devices, garbage receptacles, and so forth.

d. Costs Generally. All costs associated with work authorized by this Section are to be borne by the Developer and upon the termination of the Period of Developer's Control, the Association, unless otherwise expressly noted in the subsections below.

1) Resident's Obligation. There are situations where a resident may require modifications to a Building, Lot or amenity which are necessary to make the property accessible for that person's particular type of disability. The resident will incur the cost of this type of modification, whether or not the property is part of a multi-family dwelling exempt from the accessibility requirements of the Act or ADA; provided, however:

a) Property Subject to Accessibility Requirements of the Act or ADA. For property subject to the accessibility requirements of the Act or ADA, the resident's costs will be limited to those modifications that were not covered by the design and construction requirements of the Act or ADA. (For example, the resident would pay for the cost of purchasing and installing grab bars.).

b) Property Not Subject to Accessibility Requirements of the ADA. For property not subject to the accessibility requirements of the Act or ADA, the resident will pay the cost of all modifications necessary to meet his needs. (Using the grab bar example, the resident will pay both the cost of buying and installing the grab bars and the costs associated with the bathroom wall reinforcement.)

e. Reasonableness Standard. All modifications must be reasonable and designed and constructed in accordance with the applicable accessibility requirements of the local building codes and ordinances of the ADA.

f. Notice. Written notice of any proposed change shall be given to the Lots and Lot Owners affected or to be affected at least thirty (30) days in advance.

1) Opportunity to be Heard. The Owners affected shall be given the opportunity to be heard before a final decision is made.

2) Final Decision. The decision of the Management Committee shall be binding, conclusive and final.

g. Authority to Promulgate Use Restrictions and Rules. The Management Committee is hereby granted the right, power and authority to unilaterally adopt, promulgate, modify, amend, change, repeal and enforce Fair Housing Rules to implement the terms, covenants, conditions and restrictions set forth herein.

- 1) Reasonableness. The Fair Housing Rules must be reasonable.
- 2) Fair Housing Rules. The term "*Fair Housing Rules*" shall mean and refer to the rules and regulations adopted by the Management Committee pursuant to Article III, Section 50 of the Declaration.
- 3) Conflict. In the event of any conflict, incongruity or inconsistency between the Fair Housing Rules and the Declaration, the latter shall in all respects govern and control.
- 4) Binding. All Lots, Lot Owners and their family members, tenants, guests, visitors and invitees shall be bound by and subject to the Fair Housing Rules.

50. Security. Neither the Declarant, Developer nor Association shall in any way be considered insurers or guarantors of security within the Project. Neither the Declarant, Developer nor Association shall be held liable for any loss or damage, including malfunction, by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and Permittees acknowledge that neither the Declarant, Developer, Association, Management Committee nor Manager, or their employees, agents or representatives represent or warrant that any fire protection system or burglar alarm system designated by or installed in the Project may not be compromised or circumvented, that any fire protection or burglar alarm systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise nor that the gate, fire protection or burglary alarm systems will in all cases provide the detection or protection for which the system is designed or intended. Each Owner for himself and his Guests and Permittees acknowledges and understands that the Declarant, Developer, Association, Management Committee and Manager, and their employees, agents or representatives are not insurers and that each Owner and his Permittees expressly, by accepting a deed or other document of conveyance or taking possession of a Lot or entering the Project, assume all risks for loss or damage to persons or property within the Project and further acknowledges that Declarant, Developer, Association, Management Committee and Manager, and their employees, agents or representatives have made no representations or warranties nor has any Owner or his Permittees relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems recommended or installed or any security measures undertaken within the Project.

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

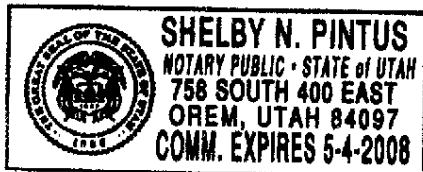
Dated this 16 day of March, 2007.

TROPHY HOMES, L.C.,
a Utah limited liability company

By: [Signature]
Name: William L. Montgomery
Title: Manager

STATE OF UTAH)
 ss:
COUNTY OF UTAH)

On the 16 day of March, 2007, personally appeared before me William L. Montgomery, who by me being duly sworn, did say that he is the Manager of Trophy Homes, L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of its Articles of Organization or a resolution of its Members, and said William L. Montgomery duly acknowledged to me that said Company executed the same.



[Signature]
NOTARY PUBLIC

CONSENTED TO BY:

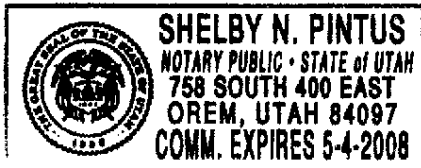
TUSCANY AT CLIFFROSE, L.C.,
a Utah limited liability company

By: [Signature]
Name: William L. Montgomery
Title: Manager

3/16/07
Date

STATE OF UTAH)
 ss:
COUNTY OF UTAH)

On the 16 day of March, 2007, personally appeared before me William L. Montgomery, who by me being duly sworn, did say that he is the Manager of Tuscanly at Cliffrose, L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of its Articles of Organization or a resolution of its Members, and said William L. Montgomery duly acknowledged to me that said Company executed the same.



[Signature]
NOTARY PUBLIC

LEGAL DESCRIPTION OF TRACT
EXHIBIT "A"
PHASE 1 OF TUSCANY AT CLIFF ROSE TOWNHOMES

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

LEGAL DESCRIPTION:

Beginning at a point on the Center Section line, said point being South 00°47'11" West 802.12 feet along said Center Section line from the North Quarter Corner of Section 8, Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running:

thence South 84°12'44" East 33.00 feet perpendicular to the Center Section line;
thence southeasterly 33.02 feet along an arc of a 20.00 foot radius curve to the left (center bears South 84°12'44" East long chord bears South 46°30'11" East 29.34 feet with a central angle of 94°34'36");
thence northeasterly 408.85 feet along an arc of a 606.00 foot radius curve to the left (center bears North 03°47'45" West long chord bears North 43°28'33" East 822.51 feet with a central angle of 85°27'25") to a point on a line that is parallel to and 50.00 feet West of the Easterly Block Line of Block 5 Lot 30 of the St. George and Santa Clara Bench Irrigation Company Survey as on file at the Washington County Recorder's Office;
thence North 00°44'44" East 181.30 feet along said parallel line;
thence northeasterly 34.84 feet along an arc of a 25.00 foot radius curve to the left (center bears North 84°15'11" West long chord bears North 44°18'10" East 35.75 feet with a central angle of 41°17'59") to a point on a line that is parallel to and 25.00 feet South of the Northerly Section line of said Section 8, Township 42 South, Range 16 West, Salt Lake Base & Meridian;
thence North 84°26'54" East 75.54 feet along said parallel line to a point on the Easterly Block Line of said Block 5 Lot 30;
thence South 00°44'44" West 468.46 feet along said Easterly Block line;
thence southeasterly 746.61 feet along an arc of a 706.00 foot radius curve to the right (center bears North 67°33'36" West long chord bears South 34°45'22" West 753.02 feet with a central angle of 64°38'51");
thence southeasterly 30.13 feet along an arc of a 20.00 foot radius curve to the left (center bears South 02°54'34" East long chord bears South 43°36'16" West 27.36 feet with a central angle of 86°18'10") to a point on a line that is parallel to and 33.00 feet East of the Center Section line of said Section 8;
thence South 00°47'11" West 350.43 feet along said parallel line;
thence southeasterly 34.10 feet along an arc of a 25.00 foot radius curve to the left (center bears South 84°12'47" East long chord bears South 44°42'15" East 35.66 feet with a central angle of 40°38'57") to a point on a line that is parallel to and 25.00 feet North of the Southerly line of said Lot 5;
thence North 84°46'14" East 150.85 feet along said parallel line;
thence northeasterly 31.04 feet along an arc of a 20.00 foot radius curve to the left (center bears North 00°11'46" West long chord bears North 45°16'32" East 28.05 feet with a central angle of 84°03'24");
thence North 00°44'44" East 102.84 feet;
thence North 84°48'14" East 13.72 feet;
thence North 00°11'46" West 28.00 feet;
thence North 84°48'14" East 310.71 feet;
thence South 84°15'11" East 35.00 feet;
thence South 00°44'44" West 184.62 feet;
thence southeasterly 31.75 feet along an arc of a 20.00 foot radius curve to the left (center bears South 84°15'11" East long chord bears South 44°43'28" East 28.52 feet with a central angle of 40°38'36") to a point on a line that is parallel to and 25.00 feet North of the South line of said Lot 2;
thence North 84°48'14" East 33.66 feet along said parallel line to the Easterly line of said Lot 5;
thence South 00°44'44" West 25.00 feet along said East line to the corner of Lots 3, 4, 7, 8 Block 30 of the St. George and Santa Clara Bench Irrigation Company Survey as on file at the Washington County Recorder's Office;
thence North 84°48'14" East 25.00 feet along the Northerly line of said Lot 8 to a point on a line that is parallel to and 25.00 feet Easterly of the East line of Lots 2 and 3 Block 30 of said St. George and Santa Clara Bench Irrigation Company Survey;
thence South 00°44'44" West 864.02 feet along said parallel line to the Northerly line of Heights West Plat "F" Subdivision;
thence South 84°38'41" West 25.00 feet along said North line to the Easterly line of said Lot 2;
thence South 00°44'44" West 44.54 feet along said South line;
thence North 84°50'30" West 63.53 feet along said East line to the Southerly line of said Lot 2;
thence North 00°04'30" East 15.25 feet perpendicular to the Center Section line to a point parallel to and 40.00 feet North of said Center Section line;
thence northeasterly 34.01 feet along an arc of a 25.00 foot radius curve to the left (center bears North 00°04'30" East long chord bears North 45°27'04" East 35.17 feet with a central angle of 84°24'41") to a point on a line that is parallel to and 25.00 feet West of the Easterly lines of said Lots 2 and 3 Block 30;
thence North 00°44'44" East 1,212.64 feet along said parallel line;
thence northwesterly 34.68 feet along an arc of a 25.00 foot radius curve to the left (center bears North 84°15'11" West long chord bears North 44°43'24" West 35.65 feet with a central angle of 40°38'36") to a point on a line that is parallel to and 25.00 feet South of the Northerly line of said Lot 3, Block 30;
thence South 84°48'14" West 335.03 feet along said parallel line;
thence southeasterly 38.84 feet along an arc of a 25.00 foot radius curve to the left (center bears South 00°11'46" East long chord bears South 45°17'42" West 35.05 feet with a central angle of 84°03'03");
thence North 84°12'44" West 8.25 feet perpendicular to the Westerly line of said Lot 3, Block 30;
thence North 00°47'11" East 44.44 feet along the Westerly line of said Lot 3, and Block 30 of the St. George and Santa Clara Bench Irrigation Company Survey;
thence South 84°48'14" West 24.75 feet to the Center Section line of said Section 8;
thence North 00°47'11" East 521.14 feet along said Center Section line to the Point of Beginning.

Containing 215,556 square feet or 6.33 acres.

Less and Excepting the Following Described Parcel:

Beginning at a point being South 00°47'11" West 1323.41 feet along the Center Section line and North 84°48'14" East 294.72 feet along the southerly line of Lot 4, Block 30 of the St. George and Santa Clara Bench Irrigation Company Survey as on file at the Washington County Recorder's Office, and North 00°11'46" West 25.00 feet from North Quarter Corner of Section 8, Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running:

thence northwesterly 31.75 feet along an arc of a 20.00 foot radius curve to the right (center bears North 00°11'46" West long chord bears North 44°43'28" West 28.52 feet with a central angle of 40°38'36");
thence North 00°44'44" East 47.51 feet;
thence northeasterly 31.04 feet along an arc of a 20.00 foot radius curve to the right (center bears South 84°15'11" East long chord bears North 45°16'31" East 28.05 feet with a central angle of 84°03'24");
thence North 84°48'14" East 235.03 feet;
thence southeasterly 31.75 feet along an arc of a 20.00 foot radius curve to the right (center bears South 00°11'46" East long chord bears South 44°43'28" East 28.52 feet with a central angle of 40°38'36");
thence South 00°44'44" West 47.51 feet;
thence southeasterly 31.04 feet along an arc of a 20.00 foot radius curve to the right (center bears North 84°15'11" West long chord bears South 45°16'31" West 28.05 feet with a central angle of 84°03'24");
thence South 84°48'14" West 235.03 feet to the Point of Beginning.

Containing 23,723 square feet or 0.545 acres

**LEGAL DESCRIPTION OF ADDITIONAL LAND
EXHIBIT "B"**

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

**LEGAL DESCRIPTION TUSCANY CLIFFROSE
ORIGINAL 20 ACRES LESS PHASE 1**

PARCEL 1

Beginning at a point on the Westerly line of Lot 5, Block 30 of the St. George and Santa Clara Bench Irrigation Company Survey as on file at the Washington County Records Office, said point being South 00°47'11" West 802.12 feet along the Center Section line and South 89°12'49" East 24.75 feet from North Quarter Corner of Section 8, Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running;

thence North 00°47'11" East 777.94 feet along said West line to the Northerly line of said Lot 5;
thence North 89°26'54" East 637.46 feet along said North line;
thence South 00°44'49" West 0.25 feet;
thence South 89°26'54" West 75.59 feet parallel to said North line;
thence southeasterly, a distance of 39.84 feet along a non tangent curve to the right of which the radius point lies South 00°33'06" East a radius of 25.00 feet, and having a central angle of 91°17'55"
thence South 00°44'49" West 181.30 feet Parallel to the Easterly line of said Lot 5;
thence southwesterly, a distance of 903.85 feet along a curve to the right having a radius of 606.00 feet and a central angle of 85°27'25";
thence northwesterly, a distance of 33.02 feet along a compound curve to the right having a radius of 20.00 feet and a central angle of 94°34'56"
thence North 89°12'49" West 8.25 feet to the Point of Beginning.

Containing 394,638 square feet or 9.060 acres

PARCEL 2

Beginning at a point being South 00°47'11" West 1323.91 feet along the Center Section line and North 89°48'14" East 299.72 feet along the southerly line of Lot 4, Block 30 of the St. George and Santa Clara Bench Irrigation Company Survey as on file at the Washington County Records Office; and North 00°11'46" West 25.00 feet from the North Quarter Corner of Section 8, Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running;

thence northwesterly 31.75 feet along an arc of a 20.00 foot radius curve to the right (center bears North 00°11'46" West long chord bears North 44°43'28" West 28.52 feet with a central angle of 90°56'36");

thence North $00^{\circ}44'49''$ East 47.51 feet;
thence northeasterly 31.09 feet along an arc of a 20.00 foot radius curve to the right
(center bears South $89^{\circ}15'11''$ East long chord bears North $45^{\circ}16'31''$ East 28.05 feet with
a central angle of $89^{\circ}03'24''$);
thence North $89^{\circ}48'14''$ East 235.03 feet;
thence southeasterly 31.75 feet along an arc of a 20.00 foot radius curve to the right
(center bears South $00^{\circ}11'46''$ East long chord bears South $44^{\circ}43'28''$ East 28.52 feet with
a central angle of $90^{\circ}56'36''$);
thence South $00^{\circ}44'49''$ West 47.51 feet;
thence southwesterly 31.09 feet along an arc of a 20.00 foot radius curve to the right
(center bears North $89^{\circ}15'11''$ West long chord bears South $45^{\circ}16'31''$ West 28.05 feet
with a central angle of $89^{\circ}03'24''$);
thence South $89^{\circ}48'14''$ West 235.03 feet to the Point of Beginning.

Containing 23,723 square feet or 0.545 acres

PARCEL 3

Beginning at a point on a line that is parallel to and 33.00 feet East of the Center Section
line, said point being South $00^{\circ}47'11''$ West 1,272.91 feet along said Center Section line
and South $89^{\circ}12'49''$ East 33.00 feet from the North Quarter Corner of Section 8,
Township 42 South, Range 16 West, Salt Lake Base & Meridian, and running;

thence North $00^{\circ}47'11''$ East 330.43 feet along said parallel line;
thence northeasterly, a distance of 30.13 feet along a tangent curve to the right of which
the radius point lies South $89^{\circ}12'48''$ East a radius of 20.00 feet, and having a central
angle of $86^{\circ}18'10''$;
thence northeasterly, a distance of 796.61 feet along a reverse curve to the left having a
radius of 706.00 feet and a central angle of $64^{\circ}38'57''$ to the Easterly line of Lot 4 Block
30 of the St. George and Santa Clara Bench Irrigation Company Survey as on file at the
Washington County Records Office;
thence South $00^{\circ}44'49''$ West 809.04 feet along the East lines Lots 4 and 5 said Block
30;
thence South $89^{\circ}48'14''$ West 53.68 feet parallel the Southerly line of said Lot 4, Block
30;
thence northwesterly, a distance of 31.75 feet along a curve to the right having a radius of
20.00 feet and a central angle of $90^{\circ}56'36''$
thence North $00^{\circ}44'49''$ East 189.62 feet;
thence North $89^{\circ}15'11''$ West 35.00 feet;
thence South $89^{\circ}48'14''$ West 310.77 feet;
thence South $00^{\circ}11'46''$ East 88.00 feet;
thence South $89^{\circ}48'14''$ West 15.72 feet;

thence South $00^{\circ}44'49''$ West 102.84 feet;
thence southwesterly, a distance of 31.09 feet along a curve to the right having a radius of 20.00 feet and a central angle of $89^{\circ}03'24''$
thence South $89^{\circ}48'14''$ West 150.85 feet parallel the Southerly line of said Lot 4, Block 30;
thence northwesterly, a distance of 39.70 feet along a curve to the right having a radius of 25.00 feet and a central angle of $90^{\circ}58'57''$ to the Point of Beginning.

Containing 238,084 square feet or 5.47 acres

EXHIBIT "C"
BYLAWS
FOR
TUSCANY AT CLIFF ROSE TOWNHOMES HOMEOWNERS ASSOCIATION

ARTICLE I
REGISTERED AGENT AND OFFICE

1. Office and Registered Agent. The initial Registered Agent shall be William L. Montgomery of 758 South 400 East, Orem, Utah 84097. However, after transfer of management and control of the Association is made by the Declarant to the members of the Association, the Registered Agent shall be the President of the Association and the Registered Office shall be the home of the President or such other place as shall be designated by him.

ARTICLE II
ASSOCIATION

1. Composition. The association is a mandatory association consisting of all Lot Owners at Tuscany at Cliff Rose Townhomes.

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

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

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

5. Proxies. The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Lot Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon the adjournment of the first meeting held on or

after the date of that proxy. Each proxy must be filed with the Secretary of the Association prior to the meeting. Only individual Owners or the legal representative of an institutional Owner may be proxies.

6. Quorum Voting. A majority of the members of the Association shall constitute a quorum for the adoption of decisions. If however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an oral announcement at the meeting to be rescheduled. Those Owners present, either in person or by proxy, at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association in person or by proxy, shall decide any question brought before the meeting. If the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

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

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

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

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

**ARTICLE III
MANAGEMENT COMMITTEE**

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

- a) Preparing of an annual budget;
- b) Allocating the Common Expenses;
- c) Maintaining the Common Areas and Facilities.
- d) Collecting Assessments.
- e) Making, amending, repealing and enforcing the Rules and Regulations.
- f) Creating bank accounts.
- g) Enforcing by legal means the Project Documents.
- h) Purchasing and maintaining insurance.
- i) Keeping books and records.
- j) Paying for common utilities.
- k) Making emergency repairs;
- l) Immobilizing, towing and/or impounding motor vehicles;
- m) Doing such other things and acts necessary to accomplish the foregoing and not inconsistent with the Declaration or ByLaws, or to do anything required by a proper resolution of the Management Committee or Association.

2. Composition of Management Committee. The Management Committee shall be composed of three (3) but not more than nine (9) individuals.

3. Election and Term of Office of the Committee. The term of office of membership on the Management Committee shall be two (2) years; provided, however, at the first annual meeting of the Association after the termination of the Period of Declarant's Control, the odd number of members elected to serve on the Management Committee shall serve a one (1) year term. Thereafter all members shall be elected to serve a two (2) year term. At the expiration of the member's term, a successor shall be elected by the majority vote of Owners present in person or by proxy at a meeting of the Association duly called for this purpose.

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

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

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

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

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

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

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

11. Presiding Authority. The President shall preside over all meetings of the Committee.

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

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

ARTICLE IV OFFICERS

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

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

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

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Committee shall be an ex officio member of all committees; he shall have general and active management of the business of the Committee and shall see that

all orders and resolutions of the Committee are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the use of president of a corporation organized under the laws of the State of Utah.

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

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

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

ARTICLE V FISCAL YEAR

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

ARTICLE VI INVESTMENT OF COMMON FUNDS

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

**ARTICLE VII
AMENDMENT TO BYLAWS**

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

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

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

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

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

e) To Satisfy Requirements of Lenders. Anything to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this ByLaws to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this ByLaws or approval of the sale of Lots, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of an Amendment duly signed by the Declarant, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment,

when recorded, shall be binding upon all Lots and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, then Declarant shall have the unilateral right to amend this ByLaws to restore such control.

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

g) Execution of Amendments.

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

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

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

ARTICLE VIII NOTICE

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

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

ARTICLE IX BOOKS AND RECORDS

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

2. Financial Statements: Upon the written request of any Lot Owner, the Management Committee shall mail to such member its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operation, unless the member has already received the same.

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

4. Independent Compilation, Review or Audit. Within 120 days of the end of the Association's fiscal year, the Management Committee shall provide either a Compilation Report, Reviewed Financial Statement, or an Audited Financial Statement¹, prepared by an independent

¹ The Management Committee should be sensitive to the legal requirements for, and the costs involved in, preparing financial reports. The Management Committee may require preparation of anything from merely compiled financial

CPA.² At least every third year, or whenever requested in writing by a majority of members of the Management Committee or Lot Owners, the Management Committee shall provide an Audited Financial Statement. The cost of the Compilation Report, Reviewed Financial Statement, or an Audited Financial Statement shall be a common expense.

ARTICLE X COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

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

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

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

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

5. Severability. The invalidity of any one or more phrases, sentences, subparagraphs, subsections or sections hereof shall not affect the remaining portions of this instrument or any

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

² The CPA may not own or reside in a Unit, serve on the Management Committee, be an officer, agent, representative or employee of the Association, or otherwise have a conflict of interest, real or apparent.

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

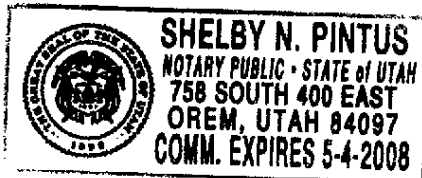
Dated the 16 day of March, 2007.

TROPHY HOMES, L.C.,
a Utah limited liability company

By: [Signature]
Name: William L. Montgomery
Title: Manager

STATE OF UTAH)
 ss:
COUNTY OF UTAH)

On the 16 day of March, 2007, personally appeared before me William L. Montgomery, who by me being duly sworn, did say that he is the Manager of TROPHY HOMES, L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of its Articles of Organization or a resolution of its Members, and said William L. Montgomery duly acknowledged to me that said Company executed the same.



[Signature]
Notary Public

Commission Expires: 5-4-2008