

Recording Requested By And
When Recorded Return To:

The Homes at Deer Mountain
Homeowners Master Association, Inc.
132 South 600 East
Salt Lake City, Utah 84102
Attention: Peter S. Cooke

E 222508 R 485 P 0504
Date 22-DEC-2000 9:08am
Fee: 368.00 Check
ELIZABETH PARCELL, Recorder
Filed By EMP
For TAGGART PAUL S
WASATCH COUNTY CORPORATION

MASTER DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
DEER MOUNTAIN RESORT SUBDIVISION

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF DEER MOUNTAIN RESORT SUBDIVISION (the "Master Declaration"), is entered into and effective as of January 1, 2000 (the "Effective Date"), by and among the undersigned. This Master Declaration is also executed by certain other individuals and entities solely for the limited purposes set forth next to their respective signatures hereto and those individuals and entities do not intend to otherwise undertake any other obligations under, or become parties to, this Master Declaration.

RECITALS

A. Capitalized terms in this Master Declaration are defined in Article I, except as otherwise defined herein.

B. This Master Declaration is intended to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed and to establish thereon a Planned Unit Development in accordance with the terms hereof.

NOW, THEREFORE, it is hereby declared that the Project shall be held, sold, conveyed, leased, rented, encumbered and used, subject to this Master Declaration and its covenants, restrictions, limitations, and conditions, all of which shall constitute covenants which run with the land and shall be binding upon and be for the benefit of the Owners, their successors and assigns, and all owners of all or any part of the Project, together with their grantees, successors, heirs, executors, administrators, devisees and assigns, all as set forth herein.

ARTICLE I
DEFINITIONS

When used in this Master Declaration (including that portion hereof headed "Recitals") the following terms shall have the meanings indicated below. To the extent that those terms are also defined in the Act, the definitions in the Act shall be incorporated herein.

1.1 Architectural Committee shall mean the committee created pursuant to the Article of this Master Declaration entitled "Architectural Committee."

1.2 “Articles” or “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of the Master Association, filed with the Utah State Department of Commerce, Division of Corporations and Commercial Code.

1.3 “Board or Board of Trustees” shall mean and refer to the governing board of the Master Association which shall be appointed or elected in accordance with this Master Declaration the Articles of Incorporation and Bylaws of the Master Association.

1.4 “Bylaws” shall mean the Bylaws of the Master Association attached to this Master Declaration and recorded in the official records of the County concurrently with this Master Declaration and all modifications and amendments thereto.

1.5 “County” shall mean and refer to the County of Wasatch in the State of Utah.

1.6 “Common Areas” shall mean and refer to that part of the Project which is not included within the Lots, including all roadways, walkways and utility lines within the Project and all improvements other than utility lines not owned by the Master Association now or hereafter constructed or located thereon together with easements and rights-of-way appurtenant thereto. The Common Areas are further shown on the Plat.

1.7 “Common Expense Fund” shall mean and refer to the fund created or to be created pursuant to the provisions of *Article V of this Master Declaration and into which all monies of the Master Association shall be deposited. Two separate and distinct funds shall be created and maintained hereunder, one for operational expenses and one for capital expenses, which together shall constitute the Common Expense Fund.

1.8 “Common Expenses” shall mean and refer to those costs and expenses arising out of or connected with the maintenance and operation of the Project and Master Association as described in *Article V hereof and which determine the assessments made to Owners.

1.9 “County” shall mean Wasatch County, Utah.

1.10 “Eligible Mortgagee” shall mean and refer to a First Mortgagee which has requested notice of certain matters from the Master Association in accordance with *Section 12.1 of this Master Declaration.

1.11 “ERU” shall mean the equivalent residential unit assigned to each portion of the Project as shown on Exhibit “C” hereto.

1.12 “First Mortgage” shall mean any Mortgage, which is not subject to any lien or encumbrance except liens for taxes or other liens, which are given priority by statute.

1.13 “First Mortgagee” shall mean any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage, which First Mortgage is not subject to any lien or encumbrance except liens for taxes or other liens, which are given priority by statute.

1.14 “Governing Laws” shall mean all laws, ordinances, regulations, orders, judgments, legislation, covenants, conditions, restrictions, easements, Rules, and other agreements, including this Master Declaration, pertaining to and governing the Project and/or the activity or matter in question, as may hereafter be amended from time to time.

1.15 **Improvement** shall mean any structure or appurtenance thereto of every type and kind, including but not limited to walkways, gutters, curbs, pipes, sprinkler pipes, conduit, garages, room additions, patio covers, spas, recreational facilities, roads, driveways, parking areas, fences, walls, screening walls, retaining walls, stairs, decks, patios, porches, balconies, chimneys, antennas, edges, windbreaks, poles, signs, exterior air conditioning and water softening fixtures or equipment, plantings, planted trees, shrubs, flowers, plants and other vegetation, landscaping of every kind, nature, or description, whether temporary or permanent, excepting personal Project or equipment within, or usually within, a structure.

1.16 **Limited Common Areas** shall mean any Common Area designated as reserved for use by the Owner of a certain Lot or Lots to the exclusion of the other Owners in the Project. Any parking areas and storage facilities which are identified on the Plat as Limited Common Areas are permanently assigned to specific Lots, as an appurtenance to such Lots, for the exclusive use of such Lots. The Plat permanently designates the Lot or Lots to which each of the Limited Common Areas is reserved and appurtenant.

1.17 **Lot** shall mean and refer to any of the separately numbered and individually described parcel identified on the Plat which is designed and intended for use and occupancy as a single family residence.

1.18 **Manager** shall mean and refer to the person, firm or company, if any, designated from time to time by the Master Association to manage, in whole or in part, the affairs of the Master Association and Project.

1.19 **Master Association** shall mean and refer to THE HOMES AT DEER MOUNTAIN HOMEOWNERS MASTER ASSOCIATION, INC., a Utah nonprofit corporation.

1.20 **Master Declaration** shall mean and refer to this Master Declaration as the same may be hereafter modified, amended and supplemented.

1.21 **Master Developer** shall mean Canyon Ridge Apartments At Deer Mountain, L.P., a Utah limited partnership.

1.22 **Mortgage** shall mean any mortgage, deed of trust, or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.23 **Mortgagee** shall mean a beneficiary of a Mortgage as named Mortgagor.

1.24 **Owner** shall mean each individual and/or entity owning in fee simple interest a Lot in the Project, as such ownership is shown on the official records of the County. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has obtained title in fee simple to a Lot pursuant to a judicial or nonjudicial action, including, without limitation, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure) or to any person or persons purchasing a Lot under contract (until such contract is fully performed and legal title conveyed of record.) With respect to the Apartment Zone, the Owner shall be the individual or entity that owns fee title interest in and to the entire Apartment Zone. Tenants in the Apartment Zone or any other portion of the Project shall not be deemed Owners.

1.25 **Party** shall mean the Master Association, a Member and/or an Owner. The term "Parties" shall mean more than one Party.

1.26 **Percentage Interest** shall mean the undivided percentage interest of each Owner in the Association. The Percentage Interest appurtenant to an Owner shall be equal to the ratio between that Owner and the aggregate number of all Owners in the Association, regardless of the size of the Lot(s) owned by the Owner in question. The Percentage Interest of each Owner is set forth on Exhibit "C" attached hereto and incorporated herein. The sum total of all Percentage Interests shall equal one hundred percent (100 %).

1.27 **Plat** shall mean and refer to the Record of Survey Plat Maps recorded from time to time for the Deer Mountain Resort Subdivision in the official records of the County, and all amendments and supplements thereto. A depiction of the preliminary Plat is attached as Exhibit "B" hereto. That Plat is for general reference purposes and may be changed at any time without any amendment to this Master Declaration.

1.28 **Project** shall mean and refer to the entire tract of real property known as the Deer Mountain Resort Subdivision Project now or hereafter covered by the Plat. A description of the Project covered by the Plat on the Effective Date is set forth in Article II hereof.

1.29 **Related Parties** shall mean all the present and future owners, directors, trustees, officers, employees, affiliates, agents, heirs, successors and assigns associated with the person or entity in question.

1.30 **Rules** shall mean the rules and regulations regulating the use and enjoyment of the Common Area or governing the Master Association.

1.31 **State** shall mean the State of Utah in the United States of America.

1.32 **Sub-Association** means any owner association that is established and operates pursuant to covenants, conditions and restrictions recorded against any portion, but not all, of the Project. Sub-Association shall not include the Master Association or any other owner association, which is established and operates pursuant to covenants, conditions and restrictions recorded against all the Zones in the Project.

1.33 **Sub-Declaration** means any declaration of covenants, conditions or restrictions, as amended from time to time, that governs any Sub-Association, Zone, or other portion of the Project.

1.34 **Zone** shall mean any one of the following five areas in the Project as depicted on the Plat: (1) the Apartments Zone; (2) the Town Homes Zone; (3) the Twin Homes Zone; (4) the Single Family Zone; and (5) the Estate Zone. Although the Common Areas are part of the Project, those areas are not designated as Zones in this Declaration. There shall be no membership, voting rights or assessment obligations associated with those Common Areas. The area designated herein as a Zone shall remain such even though the zoning or use classification of part or all of the Zone may change from that assumed by the Master Plan.

The boundary line between two or more adjacent Zones may be modified by a recorded document that is executed by all of the Owners owning land contiguous to the old and/or new boundary line in question as well as by the Owners for the Zones whose boundaries are being modified. That boundary line adjustment must also comply with all applicable Governing Laws. Any modification to a boundary of a Zone that satisfies the foregoing requirements shall be effective without the need for any further consents, approvals or amendments to the Governing Documents or documents related thereto. The foregoing provisions may not be used to delete land from one Zone unless that same land is added to another Zone.

ARTICLE II **PROJECT DESCRIPTION**

The land initially associated with the Project which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Master Declaration consists of the real property situated in the County and State as further described on Exhibit "A" attached hereto and incorporated herein.

ARTICLE III **THE MASTER ASSOCIATION**

3.1. Membership.

Each Owner shall be entitled and required to be a member of the Master Association. Membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the membership appurtenant to the Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one membership for each Lot owned. Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from membership in the Master Association appurtenant thereto and any devise, encumbrance, conveyance or other disposition of the Owner's membership in the Master Association and rights appurtenant thereto.

No person or entity other than an Owner may be a member of the Master Association and membership in the Master Association cannot be transferred except in connection with the transfer of a Lot. The Master Association shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Lot, current copies of the Master Declaration, Articles, Bylaws and other rules governing the Project and the Master Association and other books, records and financial statements of the Master Association. The term "available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

3.2. Board of Trustees.

The Board of Trustees shall be elected by the Owners in accordance with the Bylaws. Except, as otherwise expressly set forth in this Master Declaration, all decisions by the Board of Trustees shall be effected by a majority vote of all the Trustees.

3.3. Votes.

The Owner of each Lot shall be entitled to a vote equal to the Percentage Interest associated with the Lot in question. The number of votes appurtenant to each Lot shall be permanent and shall not change. In the event that there is more than one Owner of a particular Lot, the votes relating to such Lot shall be exercised as such Owners may determine among themselves. No Lot shall have more than one vote, regardless of the number of persons having an ownership interest in the Lot. The votes cast at any Master Association meeting by any Owners, whether in person or by proxy, shall be conclusively presumed to be the votes attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the votes involved shall not be counted for any purpose, whatsoever other than to determine the existence of a quorum. If the voting results in a tie vote, that impasse may be resolved in any manner agreed upon by the vote or written assent of a majority of all the Owners. If the voting results in a tie vote and the method for resolving the impasse also results in a tie vote, then the action in question shall not be deemed approved until it is ultimately

approved by the vote or written assent of a majority of all the Owners. Master Developer shall have full voting rights with respect to each Lot that it owns. Except as otherwise expressly set forth in this Master Declaration, all decisions by the Owners shall be effected by a majority vote of all the Owners. Notwithstanding anything in this Master Declaration to the contrary, so long as Master Developer is an Owner of any portion of the Project, each decision of the Master Association, the Board, the Architectural Committee or any other committee or body appointed by the foregoing or the Owners must be approved by Master Developer in order for that decision to be effective and enforceable.

3.4. Professional Management.

The Master Association may carry out through the Manager, those of its functions which are properly the subject of delegation as determined by the Master Association. The Manager so engaged shall be an independent contractor and not an employee of the Master Association and shall be responsible for management of the Project for the benefit of the Master Association and the Owners and shall, to the extent permitted by law and by the terms of the management agreement with the Master Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Master Association itself.

3.5. Amplification.

The provisions of this Section may be amplified by the Articles and the Bylaws; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Master Declaration.

3.6. Initial Agent for Service.

The initial agent for service of process for the Master Association and on behalf of the Project shall be:

Mark B. Cohen
The Homes at Deer Mountain Homeowners Master Association, Inc.
132 South 600 East
Salt Lake City, Utah 84102

The agent may be changed at any time by the Board. Upon changing the agent for service, the Master Association shall file a notice of that change with the Division of Corporations and Commercial Code for the State, and with the County Recorder, without the need to amend this Master Declaration.

3.7. Relationship with Sub-Associations.

Any Owner(s) of more than one Lot in the Project shall have the right, but not the obligation, to impose a Sub-Association and/or a Sub-Declaration upon any portion of the Project owned by such Owner(s). Each Sub-Association and/or Sub-Declaration shall be subordinate to the Master Association and the Master Declaration and in the event of any conflict, the Master Association and Master Declaration shall govern.

**ARTICLE IV
PROJECT RIGHTS IN COMMON AREAS AND LOTS**

4.1. Description and Legal Status of Lots.

The Plat shows each Lot number, its location, dimensions from which its size may be determined, the Common Areas to which it has immediate access and the Limited Common Areas,

reserved for each Lot, if any. The interest in the Common Areas appurtenant to a Lot may not be partitioned from the balance of the Common Areas or Lots for any reason.

4.2. Estate of an Owner.

The Project is hereby divided into Lots, each consisting of a fee simple interest in a Lot. Each Owner shall have the right to horizontal and lateral support of that Owner's Lot and such rights shall be appurtenant to and pass with the title to each Lot.

4.3. Title.

Title to a Lot may be held or owned by any person or more than one person and in any manner in which title to any other real property may be held or owned in the State, including, without limitation, joint tenants or tenancy in common.

4.4. Inseparability.

No part of a Lot or the legal rights comprising ownership of a Lot may be separated from any other part thereof during the period of ownership prescribed herein, so that each Lot shall always be conveyed, devised, encumbered or otherwise affected only as a complete Lot. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Lot shall be presumed to be a gift, devise bequest, transfer, encumbrance or conveyance, respectively, of the entire Lot and associated Percentage Interest, together with all appurtenant rights created by law or by this Master Declaration. The Common Areas shall be owned in common by all the Owners as members of the Master Association and no Owner may bring any action for partition thereof.

4.5. Separate Mortgages.

Each Owner shall have the right separately to mortgage or otherwise encumber that Owner's Lot. No Owner shall have the right to mortgage or otherwise encumber the Common Areas. Any Mortgage or other encumbrance of any Lot shall be subordinate to all of the provisions of this Master Declaration and in the event of foreclosure, this Master Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.6. Taxation.

Each Lot shall be deemed to be a parcel and shall upon conveyance of any Lot by Owners be assessed separately for all taxes, assessments and other charges of any political subdivision or any special improvement district or of any other taxing or assessing authority. The valuation of the Common Areas and Limited Common Areas shall be apportioned among the Lots proportionately. All such taxes, assessments and other charges of each respective Lot shall be separately levied against that Lot and the Owner thereof. No forfeiture or sale of any Lot for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Lot.

4.7. Liens.

In the event that any judgment, claim, encumbrance or lien of any type attaches to any particular Lot, with or without the consent of the Owner or that Lot, that judgment, claim, encumbrance or lien shall not attach to or encumber any other Lot.

4.8. Easements for Parking.

Temporary guest parking or recreational parking shall be permitted within the Common Areas only within spaces and areas clearly marked for such purpose, excepting spaces and areas as shall be specifically reserved and marked as such. Spaces shall be shown by signs or markings on the paved area. The Master Association, through its officers, committees and agents, is hereby empowered to establish "parking" and "no parking" areas within the Common Areas, as well as to

enforce those parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those so empowered.

4.9. Easements for Marketing.

In addition to the other easements over the Common Areas, Master Developer reserves to itself and its employees and agents easements over the Common Areas and any Lots owned by Owners to the extent necessary to market and sell the Lots in the Project. Master Developer may maintain sales offices, trailers or model Lots in the Project in the number, size, location and time-periods reasonably determined by Owners.

4.10. Easements for Utilities.

4.10.1 General.

Master Developer and the Master Association desire to have utilities for water, sewer, electricity, fuel, power, cable television and all other utility services (collectively, the "Utilities"), provided to the Project and located in the Common Areas and areas noted on the Plat (collectively the "Easement Areas"). The providers of all such utilities to the Project and their respective successors, assigns, agents and affiliates are hereinafter collectively called the "Utility Providers".

4.10.2 Grant.

Master Developer, the Master Association, and the Owners do hereby grant to the Utility Providers a non-exclusive easement (the "Utility Easement") to, from, across, over, upon and under all the Easement Areas to construct, maintain, operate, repair, inspect, protect, remove and replace all lines, pipes, valves, meters, equipment, facilities and other improvements reasonably and customarily necessary to provide and maintain all the Utilities to the Project and perform the Utility Providers' obligations under this Utility Easement (collectively, the "Utility Improvements"). This grant of Utility Easement is intended for the benefit of all individuals and entities comprising the Utility Providers. This Utility Easement shall include a right of ingress and egress to and from the Easement Areas. During temporary periods, the Utility Providers may use such portions of the Project along and adjacent to the Easement Areas as may be reasonably necessary in connection with the Utility Providers' obligations under this Utility Easement.

4.10.3 Utility Providers' Rights and Obligations.

The Utility Providers shall take all actions and pay all costs necessary to construct, maintain in good condition, operate, repair, inspect, protect, remove and replace all their respective Utility Improvements. The Utility Providers shall exercise all their rights and obligations under this Utility Easement in a reasonable and customary manner so as to minimize disruption and damage to the Project, the Master Association, the Owners and the residents, guests and invitees associated with the Project.

4.10.4 Owners and Master Association's Rights and Obligations.

Owners and the Master Association shall have the right to use the surface of the Easement Areas except for the purposes for which this Utility Easement is granted provided such use does not interfere with the Utility Improvements, Utilities or any other rights granted to the Utility Providers hereunder. The Master Association shall not build or construct, nor permit to be built or constructed, any building or other structure on, over or across the Easement Areas, nor change the contour thereof.

4.10.5 Easement for Specific Lots.

A Utility Easement for the installation and maintenance of the Utilities is also reserved within each Lot. It is contemplated that the Utilities may originate in one Lot and

terminate in another Lot. A right of access to all Lots is reserved to Master Developer, the Master Association and the Utility Providers for all matters pertaining to the Utilities.

4.10.6 Term.

This Utility Easement shall commence as of the date that this Master Declaration is recorded in the official records of County and shall continue in perpetuity until terminated by the Master Association upon written notice to the other Utility Providers hereto. The termination of this Utility Easement with respect to one or more of the Utility Providers shall not terminate this Utility Easement with respect to any other Utility Provider unless written notice of that termination has been sent to that Utility Provider.

4.10.7 Transfer.

This Utility Easement shall run with, and be appurtenant to, the land associated with the Project and shall be transferred, assigned, sold, encumbered or otherwise conveyed with all or any portion of the Project without the consent of any other person or entity.

4.10.8 Miscellaneous.

The Utility Providers shall perform their respective obligations under this Utility Easement in compliance with all Governing Laws, permits and agreements affecting the Project. Nothing in this Utility Easement shall be construed to create any partnership, joint venture or fiduciary relationship among the Owners, the Master Association and/or any of the Utility Providers.

4.11. Easements for Vehicular Traffic.

In addition to the general easements for use of the Common Area reserved herein, every Owner shall have a non-exclusive easement appurtenant for vehicular traffic over any private streets within the Project, subject to the parking provisions set forth herein. Master Developer reserves the right to grant similar easements to owners of Project within adjacent subdivisions or subdivisions annexed hereto without the consent of any other person or entity.

4.12. Easements for County Use.

In addition to the foregoing easements over the Common Areas, there shall be, and Master Developer hereby reserves and covenants for itself and all future Owners, easements for city, county and federal public services, including but not limited to, the right of the police to enter upon any part of the Common Areas for the purpose of enforcing the laws and permanent easements in favor of the County pursuant to the ordinances of the County to guarantee that the open spaces remain perpetually in the uses for which intended.

4.13. Creation of Easements.

Each of the easements provided for in this Master Declaration shall be deemed to be established upon the recordation of this Master Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the Lots superior to all other encumbrances applied against or in favor of any portion of the Project. In furtherance of the easements provided for in this Master Declaration, the individual grant deeds to Lots may, but shall not be required to, set forth said easements.

4.14. Entry onto Lots.

The Master Association, Master Developer, and their respective representatives shall have the right to enter upon any Lot within the Project, without being liable to any Owner, to the extent such entry is necessary in connection with the enforcement of the provisions of this Master Declaration or with the performance by the Master Association of its duties and responsibilities under this Master Declaration, including, without limitation, the construction, maintenance or

effectuation of emergency repairs for the benefit of the Lots, the Common Areas, or for any of the Owners within the Project. Reasonable advance notice shall be given to any Owner of a Lot before such entry thereupon, except in the case of emergencies.

4.15. Power to Grant Easements.

The Master Association shall have the power to grant and convey in the name of all the Owners as their attorney in fact (or in the name of the Master Association as to any Project to which the Master Association holds title) to any Owner or other party, easements and rights-of-way in, on, over or under the Common Areas for the purpose of constructing and maintaining utility services and infrastructure improvements. Each Owner hereby appoints the Master Association its attorney in fact for the purposes set forth in this Section.

4.16. Easement of Enjoyment.

Each Owner shall have a right and easement of use and enjoyment in and to the Common Areas. Each Owner shall have an unrestricted right of ingress or egress to and from his or her lot over and across such Common Areas. Each Owner shall also have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner. Such rights and easements shall be appurtenant to and shall pass the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides in such Owner's Lot.

4.17. Easements for Encroachments.

If any portion of the Common Areas encroaches on any portion of a Lot, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Lots and Common Areas are made subject to such easements.

There is also hereby created an easement for any encroachment by any roof overhang upon an adjoining Lot or any part of the Common Areas to the extent that such roof overhang was constructed by Master Developer.

Each Lot and Owner is granted an easement over all adjoining Lots and Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of structures, or any other cause as long as the encroachment remains. However, in no event shall a valid easement for encroachment exist in favor of an Owner if the encroachment occurred due to the willful misconduct of the Owner.

In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owner of such Lot agrees that minor encroachments over adjoining Lots and the Common Areas shall be permitted and there shall be valid easements for the maintenance of the encroachments as long as they shall exist.

In no event shall a valid easement for encroachment exist in favor of an Owner if the encroachment occurred due to the willful misconduct of the Owner.

Each Lot and its Owner shall have and is hereby granted an easement appurtenant to such Lot over each adjoining Lot or the Common Areas, for overhanging roofs and eaves, and other structural components as originally constructed or, if partially or totally destroyed, as subsequently rebuilt or repaired in accordance with the original plans and specifications.

4.18. Limitation on Easement.

An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

4.18.1. The right of the Master Association to suspend an Owner's voting right in the Master Association and an Owner's right to the use of any recreational facilities included in the Common Areas for any period during which:

4.18.1.A An assessment on such Owner's Lot remains unpaid after that assessment is due;

4.18.1.B For a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Master Declaration or of any rule or regulation promulgated by the Master Association; and

4.18.1.C. For successive sixty (60) day periods if any such infraction is not corrected during any prior sixty (60) day suspension period;

4.18.2. The right of the Master Association to impose reasonable limitations on the number of guests of each Owner who at any given time are permitted to use the Common Areas;

4.18.3. The right of the County or any other governmental or quasi-governmental body having jurisdiction over the Project to have rights of access, ingress and egress over and across any street, parking area, walkway or open area contained within the Project for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal service.

4.19. Conveyance.

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

Lot No. _____, Plat _____, Deer Mountain Resort Subdivision, recorded in the official records of Wasatch County, State of Utah, as Entry No. _____ in Book _____ and Page _____ and in the Master Declaration of Covenants, Conditions and Restrictions of Deer Mountain Resort Subdivision recorded in the official records of Wasatch County, State of Utah, as Entry No. _____ in Book _____ and Page _____ (of official records of Wasatch County, State of Utah);

That description shall be construed to describe the Lot, together with the appurtenant Percentage Interest in the Common Areas and to incorporate all the rights incident to ownership of a Lot and all the limitations on that ownership as described in this Master Declaration.

ARTICLE V
ASSESSMENTS

5.1. Agreement to Pay Assessments.

Each Owner of any Lot by the acceptance of instruments of conveyance and transfer therefore, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Master Association to pay the Master Association all assessments made by the Master Association for the purposes provided in this Master Declaration. Such assessments shall be fixed, established and collected from time to time as provided in this Article V. In any event, all Lots shall be allocated the then applicable assessments upon conveyance of the first Lot.

5.1.1. From and after January 1 of the year immediately following the conveyance of the first Lot by Master Developer to an Owner, the maximum annual assessment may be set and such assessment may then be increased each year by up to fifteen percent (15%) above the maximum assessment for the previous year without a vote of the Owners regarding such increases.

5.1.2. From and after January 1 of the second year immediately following the conveyance of the first Lot by Master Developer to an Owner, the maximum annual assessment may be increased above fifteen percent (15%) only by a vote of a majority of the votes of Owners who are voting in person or by proxy, at a meeting duly called for this purpose.

5.1.3. The Board may fix the annual assessment at an amount not in excess of the maximum.

5.2. Annual Assessments.

Annual assessments shall be computed and assessed against all Lots in the Project as follows:

5.2.1. Common Expense.

Annual assessments shall be based upon advance estimates of the Master Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas and furnishing any common utility service and other common items to the Project. Such estimated expenses may include, without limitation, the following: expenses of management, real property taxes and special assessments on the Common Areas (and the Lots until the Lots are separately assessed); premiums for all insurance that the Master Association is required or permitted to maintain hereunder; repairs and maintenance of the Common Areas; landscaping; wages of Master Association employees, including fees for a Manager; repairs and replacements of window well sump pumps; utility charges, including charges for utility services to the Lots to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of and adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Master Association for the benefit of the Owners under or by reason of this Master Declaration.

The aggregate of all such items shall constitute the Common Expenses and all funds received from assessments under this Section 5.2.1 shall be part of the Common Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the Common Expense Fund.

5.2.2. Apportionment.

Common Expenses shall be apportioned among and assessed to all Lots and their Owners in accordance with the Percentage Interests allocated to each Lot. The Owners shall be liable for the amount of any assessments against Lots owned by Owners.

5.2.3. Annual Budget.

Annual assessments shall be determined on the basis of a fiscal year beginning January 1, and ending December 31, next following, provided the first fiscal year shall begin on the date of conveyance of the first Lot by Master Developer. On or before December 1, of each year thereafter, the Board of Trustees shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall

itemize the estimated expenses of Common Expense for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

5.2.4. Notice and Payment.

Except with respect to the first fiscal year, the Board of Trustees shall notify each Owner in writing as to the amount of the annual assessment against his or her Lot on or before December 1, each year for the fiscal year beginning on January 1, next following. Except as otherwise provided by the Board, each annual assessment shall be payable in twelve (12) equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates; provided, however, the annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year.

All unpaid installments of any annual assessment shall bear interest at the rate established by the Board of Trustees, not to exceed eighteen percent (18%) per annum from fifteen (15) days after the date each such installment becomes due, until paid. The Board of Trustees shall also have the right to assess a late fee of up to five percent (5%) of any assessment installment not paid within fifteen (15) days following the due date thereof. In addition, in the event that any installment of the annual assessment is not paid within fifteen (15) days of the date such installment becomes due, the Master Association may, at its option, and upon fifteen (15) days' prior written notice to the Owner, accelerate the due date for all remaining unpaid installments of the annual assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the annual assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Board not to exceed eighteen percent (18%) per annum from such date until paid in full.

The failure of the Board of Trustees to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Master Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment.

5.2.5. Inadequate Funds.

In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's assessment, the Board of Trustees may, on behalf of the Master Association, levy additional assessments in accordance with the procedure set forth in Section 5.3 below.

5.3. Emergency Assessment.

The Board may increase assessments necessary for emergency situations. For purposes of this Section, an emergency situation is any of the following: (i) an extraordinary expense required by an order of the court; (ii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Master Association is responsible where a threat to personal safety on the Project is discovered; or (iii) an extraordinary expense necessary to repair or maintain the Project or any part of it for which the Master Association is responsible that could not have been reasonably foreseen by the Board. However, prior to the imposition or collection of such an emergency assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and such resolution shall be distributed to the Owners with the notice of assessment.

5.4. Reimbursement Assessment.

The term "Reimbursement Assessment" as used herein shall mean a charge against each Owner and that Owner's Lot for the purpose of reimbursing the Master Association for any costs incurred by the Master Association on behalf of an individual Owner. A Reimbursement Assessment may also be levied by the Master Association for purposes of collecting any monetary penalties which may be imposed by the Master Association against an Owner who fails to comply with provisions of this Master Declaration, the determinations of the Board or the Architectural Committee, or any rule or regulation adopted by the Master Association. The Master Association shall levy a Reimbursement Assessment against any Owner who fails to comply with the provisions of this Master Declaration, the determinations of the Architectural Committee or the Board, the Master Association's Articles or Bylaws, or any rule or regulation adopted by the Master Association, if such failure results in the expenditure of moneys by the Master Association in carrying out its functions hereunder or for purposes of collecting any fines which may be levied by the Master Association. Except for collection of fines, such assessment shall be for the purpose of reimbursing the Master Association, shall be limited to the amount so expended, and shall be due and payable to the Master Association when levied.

5.5. Special Assessments.

In addition to the annual assessments authorized by this Article V, the Board of Trustees may, on behalf of the Master Association, levy at any time, and from time to time, upon the affirmative vote of at least sixty-seven percent (67%) of the voting power of the Master Association in person or by proxy at a meeting called for such purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Master Declaration (including, without limitation, Common Expenses).

This Section shall not be construed as an independent source of authority for the Master Association to incur expenses but shall be construed to prescribe the manner of assessing for expenses authorized by other sections or articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in accordance with their Percentage Interests. Notice in writing of the amount of each such special assessment and the time for payment thereof shall be given promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any special assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund. In connection with any such special assessment, if Master Developer is only obligated to pay twenty-five percent (25%) of the annual assessment attributable to Lots it owns pursuant to Section 5.6 below, it shall only be required to pay twenty-five (25%) of the special assessment otherwise attributable to each such Lot. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of annual assessments for the aforesaid purposes.

5.6. Uniform Rate of Assessment.

The amount of any annual or special assessment against each Lot shall be fixed at a uniform rate based on the Percentage Interests allocated to each Lot, except that Master Developer shall pay only twenty-five percent (25%) of the annual assessment attributable to each Lot which it owns until the conveyance by Master Developer of such Lot to a third-party purchaser. If Master Developer ceases to qualify for the reduced twenty-five percent (25%) rate during the period to which an annual assessment is attributable, the assessment attributable to the membership shall be prorated between the applicable rate on the basis of the number of days in the period that the Owner qualified for each rate.

Annual assessments may be collected on a monthly basis and special assessments may be collected as specified by the Board unless otherwise determined by a resolution of Board.

So long as Master Developer pays the reduced assessment rate with respect to the Lots which it owns, if the assessments of the Master Association shall fail to equal or exceed the actual expenses incurred by the Master Association because of Master Developer's right to pay reduced assessments, then Master Developer shall pay to the Master Association a sufficient amount, up to the amount of the full assessment for each Lot owned by Master Developer to meet any such deficit, so long as a written notice of such deficit is given by the Master Association to the Master Developer.

5.7. Notice and Quorum for Any Action Authorized Under Section 5.1.

Written notice of any meeting called for the purpose of taking any action authorized under this Section V shall be sent to all Owners no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast fifty percent (50%) of all votes (exclusive of suspended voting rights) of Owners shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.8. Lien for Assessments.

All sums assessed to Owners of any Lot within the Project pursuant to the provisions of this Article V, together with penalties and interest thereon as provided herein, shall be secured by a lien on such Lot in favor of the Master Association. To evidence a lien for sums assessed pursuant to this Article V, the Board of Trustees may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed and acknowledged by a duly authorized officer of the Master Association and may be recorded in the official records of the County. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages with the attorney for the Master Association being here designated as the trustee with power of sale, or in any other manner permitted by law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorney's fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Master Association any assessment against the Lot which shall become due during the period of foreclosure and all such assessments shall be secured by the lien being foreclosed. The Board of Trustees shall have the right and power in behalf of the Master Association to bid in at any foreclosure sale and to hold, lease, mortgage or convey the subject Lot in the name of the Master Association.

In addition to any other remedies herein provided, the Board, or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration, and each of them, in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

A. Enforcement by Suit. The Master Association may commence and maintain a suit at law against any other defaulting Owner obligated to pay assessments for such delinquent assessments as to which that defaulting Owner is personally obligated. Such suit shall be maintained in the name of the Master Association. Any judgment rendered in any such action shall include the amount of the delinquency, together with late charges and interest thereon as provided for herein,

costs of collection, court costs and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien discussed below.

B. Enforcement by Lien.

i. **Grant of Lien.** There is hereby created a lien on each and every portion of the land in each Lot to secure payment to the Master Association of any and all assessments levied against that portion of each Lot pursuant to this Declaration, together with late charges, interest thereon and all costs of collection which may be paid or incurred by the Master Association in connection therewith, including actual attorneys' fees.

ii. **Exercise of Lien Rights.** At any time after the occurrence of any delinquency in the payment of any such assessment, the Board may make a written demand for payment to the delinquent Owner. Said demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien and any demand or claim of lien or lien on account of prior delinquencies shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within 10 days after delivery of such demand, the Board or its duly authorized representative may thereafter file and record a claim of lien on behalf of the Master Association in the Office of the County Recorder of the County, against all or any portion of the land with respect to which the delinquency exists. Such claim of lien shall be executed and acknowledged by any officer of the Master Association and shall contain substantially the following information:

- (1) The name of the Owner;
- (2) The legal description of the Lot against which the claim of lien is made;

(3) The total amount claimed to be due and owing for the amount of the delinquency, late charges and interest thereon, collection costs, and estimated attorneys' fees (with any proper offset allowed);

(4) That the claim of lien is made by the Master Association pursuant to this Declaration; and

(5) That a lien is claimed against the described Lot in an amount equal to the amount stated, together with all other amounts thereafter becoming due from the Owner from time to time in accordance with this Declaration.

Upon recordation of a duly executed original or copy of a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Master Association as a lien upon the area against which such assessment was levied.

iii. **Foreclosure of Lien.** Any such lien may be foreclosed by appropriate action in a court or in the manner provided under the Governing Laws. The Master Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any foreclosed land area. In connection with such action, Master Association shall be allowed to recover reasonable attorneys' fees, court costs, title search fees, late charges, interest and all other costs and expenses to the extent permitted by the Governing Laws. Upon the timely curing of any default for which a notice of claim of lien was filed by the Board and the payment of all sums secured

by the lien created by the recordation of such claim of lien, the Board shall cause an officer of the Master Association to file and record an appropriate release of such claim of lien in the office of the Recorder of the County. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use or abandonment of the land owned by such Owner. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a claim of lien, whether judicially, by power of sale, or otherwise, until the expiration of 10 days after a copy of said claim of lien, showing the date of recordation thereof, has been mailed to the Owner owning the land described in such claim of lien.

iv. **Lien Priority.** Such a lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration, except for (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other governmental assessing unit; (c) First Mortgages; (d) utility easements; (e) the Governing Laws; and (f) arms-length leases, whether or not recorded.

C. **Effect of a Sale or Transfer on Assessments.** The sale or transfer of any portion of a Lot shall not affect any assessment lien created pursuant to the term of this Master Declaration to secure assessments becoming due whether prior to, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent assessments; provided, however, that the sale or transfer of the Lot pursuant to a judicial foreclosure or foreclosure by power of sale of a First Mortgage, or by a transfer in lieu of foreclosure of a First Mortgage, shall extinguish any assessment lien which has attached and become effective with regard to the land being so transferred prior to the time of such sale or transfer, and shall prohibit the recordation of any assessment lien against such land on account of assessments which became due prior to the date of such sale or transfer; provided, however, that there shall be a lien on the interests of the purchaser at such sale or transfer which shall attach, be created and become effective and may be foreclosed in accordance with this Declaration and which shall secure all assessments becoming due after the date of any such sale or transfer. In the event that all or any portion of an assessment against any land is extinguished, the Trustees shall have the right by unanimous vote, but not the obligation, to proportionately reallocate all or any portion of that extinguished assessment among the other portions of the Project. For the purpose of this Section, a sale or transfer of a Lot shall occur on the date of recordation of a deed or other instrument of title evidencing the conveyance of record title to the area in question. Notwithstanding the extinguishment of any assessment lien by a First Mortgage, that extinguishment shall not relieve the Owner originally responsible for the delinquent assessment secured by that lien from the obligation to pay that delinquent assessment to the Master Association. The Master Association shall execute and deliver a separate subordination agreement (consistent with this Declaration) requested by any lender that holds a First Mortgage.

5.9. **Personal Obligation of Owner.**

The amount of any assessment against any Lot shall be the personal obligation of the Owner of such Lot to the Master Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Master Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot or by waiving any services or amenities provided for in this Master Declaration. In the event of any suit to recover a money judgment or unpaid assessment hereunder, the involved Owner shall pay the costs and expenses incurred by the Master Association in connection therewith, including reasonable attorney's fees.

A transferee of a Lot shall be jointly and severally liable with the transferor for all unpaid assessments against the Lot up to the time of the transfer, without prejudice to the transferee's right to recover from the transferor of the amount paid by the transferee for such assessments.

5.10. Personal Liability of Grantee.

Except as expressly otherwise set forth herein, in a conveyance of a Lot, the grantee of that Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor of the Lot, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Master Association setting forth the amounts of the unpaid assessments against the grantor and the grantee shall not be liable for, nor shall the Lot conveyed by subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth in that statement except to the extent that additional penalties and interest accrue on the amount set forth in that statement. Notwithstanding the foregoing, foreclosure of a lien by a First Mortgagee shall extinguish any liens for assessments payable prior to the foreclosure sale.

5.11. Reserves and Working Capital.

In addition to its day-to-day operating funds, the Master Association shall establish the following funds:

5.11.1. Reserve Fund.

The Master Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas the Master Association is obligated to maintain, repair or replace. The reserve fund shall be maintained out of regular assessments for Common Expenses.

5.11.2. Working Capital Fund.

The Owners shall have the right but not the obligation, to establish and maintain for the Project, a working capital fund equal to at least two monthly installments of the annual assessment of each Lot. Each Lot's share of the working capital fund must be collected and transferred to the Master Association at the time of the closing of sale of that Lot. Notwithstanding the foregoing, the contribution to the working capital fund for each unsold Lot shall be paid by the Owners to the Master Association within sixty (60) days after the date of conveyance of the first Lot in the Project. With respect to each Lot for which Master Developer pays the contribution to the working capital fund, Master Developer shall be reimbursed for such contribution either by the purchaser of such Lot at the time of the closing of the sale to such purchaser or by the Master Association upon termination of the Master Developer's control of the Master Association as described in Section 5.11.2 of this Article V, whichever is earlier. The working capital fund must be maintained in a segregated account for the use and benefit of the Master Association. The purpose of the working capital fund is to ensure that the Master Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Master Association. Amounts paid into the working capital fund are not to be considered advance payments of any annual or special assessment. The working capital fund shall be transferred to the Master Association for deposit to a segregated fund when control of the Master Association is transferred to the Owners. Master Developer shall not use the working capital fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Master Association.

5.12. Evidence of Payment of Annual and Special Assessments.

Upon receipt of a written request by a Owner or any other person, the Master Association within a reasonable period of time thereafter shall issue to such Owner or other person a written certificate stating:

5.12.1. That all annual and special assessments (including interest, costs and attorneys' fees, if any, as provided in Section 5.12 above) have been paid with respect to any specified Lot as of the date of such certificate, or

5.12.2. That certain annual and/or special assessments have not been paid, and the amount of such annual and special assessments (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Master Association may impose a reasonable charge for the issuance of such certificates, not to exceed the maximum amount established by law, which charge must be paid at the time the request for any such certificate is issued. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Lot in question.

All sums assessed an Owner within the Project pursuant to the provisions hereof, together with the interest thereon as provided in this Master Declaration, shall be secured by a lien on such Lot in favor of the Master Association. To evidence a lien for sums assessed pursuant to this Section, the Master Association shall prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner and description of the Lot. Such notice shall be signed and acknowledged by a duly authorized officer of the Master Association and may be recorded in the official records of the County.

The Master Association and each Owner hereby covenants and agrees with County that in the event the subsurface drainage system is not maintained and assessments therefore paid as indicated above, the County shall have the right to assume responsibility for the maintenance thereof and assess each Owner's prorata share of the costs of such maintenance on an annual basis and shall have the right to secure such assessments with a lien with interest thereon and to provide notice thereof in the manner above described.

ARTICLE VI **OPERATION AND MAINTENANCE**

6.1. Maintenance of Lots by Owners.

The Owner of each Lot shall take all actions and pay all costs necessary to maintain that Lot in good and clean condition and repair and so as not to adversely impact the appearance, value or use of any portion of the Project.

If the Lot or any Limited Common Area associated with that Lot shall develop an unclean or unsanitary condition or fall into a state of disrepair, and the Owner of that Lot fails to correct that condition or disrepair promptly following delivery of written notice to that Owner, the Master Association shall have the right, but not the obligation, at the expense of the Owner and without liability by the Owner for trespass or otherwise, to enter that Lot as well as any Limited Common Area associated therewith and correct or eliminate the unsanitary or unclean condition or state of disrepair. The Master Association shall have the irrevocable right to access and inspect each Lot at reasonable times following reasonable notice to ensure that the Owner is in compliance with this Section and all other covenants under this Master Declaration.

6.2. Operation and Maintenance by Master Association.

The Master Association shall have no obligation regarding maintenance or care of any Lots and their associated Limited Common Areas, except as set forth in this Section 6.2 or elsewhere in

this Master Declaration. The Master Association shall provide for such maintenance, landscaping (including area within County's monument sign easement), roadway drainage system sustentation, snow removal and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive and generally in good condition and repair. The expenses incurred by the Master Association for such purposes shall be paid for with funds from the Common Expense Fund.

6.3 Maintenance of Limited Common Areas.

Each Owner shall keep any Limited Common Areas designated for use in connection with that Owner's Lot, if any, in a good, clean, sanitary and attractive condition.

6.4. Utilities.

Each Owner shall pay for all utility services furnished to that Owner's Lot except utility services which are not separately billed or metered to individual Lots by the utility or other party furnishing such service. The Master Association shall pay such bills which are not separately metered and charge an appropriate share to each Lot and Owner as part of the Common Expenses.

Wherever utility connections, including, without limitation, sanitary sewer house connections, water hose connections, drainage facilities, and electricity, gas, telephone and cable television lines are installed within the Project, which connections, lines or facilities, or any portion thereof, lie in or upon areas of the Project owned by persons other than the Owner of a Lot served by said connections, the Owner of any Lot served by said connections, lines or facilities shall have the right, and is hereby granted an easement to the full extent necessary therefore, to enter upon, or to have utility companies enter upon, the areas within the Project in or upon which said connection, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below.

Wherever utility connections are installed within the Project, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service that Owner's Lot.

In the event of a dispute between Owners with respect to the repair or rebuilding of any utility connections or with respect to the sharing of the cost thereof, then upon the written request of one of those Owners addressed to the Master Association, the matter shall be submitted to the Board and the Board shall decide and make an assessment against any or all of the Owners involved, which assessment shall be final and collected and enforced in the manner provided by this Master Declaration.

6.5. Damage to Common Area by Owners.

The foregoing maintenance, repairs or replacements within the Common Area arising out of or caused by the willful or negligent act of the Owner, the Owner's family, guests or invitees, shall be done at said Owner's expense or a special assessment therefore shall be made against said Owner's Lot; provided, however, that the liability of an individual Owner for such damage to the Common Area shall not be absolute, but shall only be that for which the Owner is legally responsible under Governing Law.

**ARTICLE VII
INSURANCE**

The Master Association shall at all times maintain in force insurance meeting the following requirements:

7.1. Hazard Insurance.

A "master" or "blanket" type policy of Project insurance shall be maintained covering the entire Project, including: Common Areas; common fixtures, building service equipment, personal Project and supplies comprising a part of the Common Areas or owned by the Master Association and which are of a class typically encumbered by Mortgages held by institutional Mortgage investors; but excluding land, foundations, excavations and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of Project insurance are intended to denote single entity insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement and by all other perils which are customarily covered with respect to projects similar to the Project, location and use, including (without limitation) all perils normally covered by the standard "all-risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage:

7.2. Fidelity Bonds.

The Master Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members and employees of the Master Association and for all other persons handling or responsible for funds of or administered by the Master Association whether or not that individual receives compensation for services. Furthermore, where the Master Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Master Association for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Master Association.

The total amount of fidelity bond coverage required shall be based upon the Master Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Master Association, or the Manager, as the case may be, at any given time during the term of each bond. A lesser amount of fidelity insurance coverage is acceptable for the Project so long as the Master Association and the Manager adhere to the following financial controls: (1) the Master Association or the Manager maintains separate bank accounts for the working account and the reserve account, each with appropriate access controls and the bank in which the funds are deposited sends copies of the monthly bank statements directly to the Master Association; (2) the Manager maintains separate records and bank accounts for each Master Association that uses its services and the Manager does not have authority to draw checks on or transfer funds from the Master Association's reserve account; or (3) two members of the Board must sign any checks written on the reserve account. Nevertheless, in no event may the amount of such bonds be less than the sum equal to three (3) months' aggregate assessments in all Lots.

The bonds required shall meet the following additional requirements: (1) the fidelity bonds shall name the Master Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar term or expressions; (3) the premium on all bonds required herein for the Master Association, (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be paid by the Master Association as a

part of the Common Expenses; and (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Master Association, to any Insurance Trustee and to each servicer of loans.

7.3. Liability Insurance.

The Master Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas, public ways in the Project, including any dedicated trail system(s), all other areas of the Project under the Master Association's supervision and commercial spaces owned by the Master Association, if any, whether or not such spaces are leased to some third party. Coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for similar projects, location and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons and Project damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insured for Project damage, bodily injury and death of persons in connection with the operation, maintenance or use of the Common areas, and/or legal liability arising out of lawsuits related to employment contracts of the Master Association. Additional coverage under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project, location and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in the terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Master Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days prior written notice to the Master Association and each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

7.4. Insurance Trustees and General Requirements Concerning Insurance.

Notwithstanding any of the foregoing provisions and requirements relating to Project or liability insurance, there may be named as an insured on behalf of the Master Association, the Master Association's authorized representative, including any trustee with whom the Master Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such Project or liability insurance.

Each Owner hereby appoints the Master Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Master Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

The Master Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear. Each insurance policy maintained pursuant to Article VII, shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a "B" general policyholder's rating or a financial performance index of "6" or better in the Best's Key Rating Guide or an "A" or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or

assessments may be made against, an Owner, a Mortgagee, the Board, or the Master Association; (2) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Master Association, or an Owner) from collecting insurance proceeds.

The provisions of Article VII shall not be construed to limit the power of authority of the Master Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Master Association may deem appropriate from time to time.

7.5. Annual Review of Policies.

All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repair or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Master Declaration.

7.6. Insurance Rates.

Nothing shall be done or kept in the Project which will increase the rate of insurance on any Project insured by the Master Association without the approval of the Board, nor shall anything be done or kept in the Project which would result in the cancellation of insurance on any Project insured by the Master Association or which would be in violation of any governing laws.

**ARTICLE VIII
DAMAGE OR DESTRUCTION**

8.1. Master Association as Attorney in Fact.

All of the Owners irrevocably constitute and appoint the Master Association their true and lawful attorney in fact in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by said grantee of the Master Association as his or her attorney in fact as herein provided. As attorney-in-fact, the Master Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Master Association except as otherwise provided in this Master Declaration.

8.2. Definition of Repair and Reconstruction.

Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage and destruction, with each Lot and the Common Areas having substantially the same vertical and horizontal boundaries as before.

8.3. Procedure.

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

8.3.1. Notice to First Mortgagees.

The Master Association shall give timely written notice to any holder of any First Mortgage on a Lot who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas or a Lot subject to such First Mortgage. The failure

to give such notice shall not constitute a default by, or create any liability against, the Master Association.

8.3.2. Estimate of Costs.

As soon as practicable after an event causing damage to or destruction of any part of the Project, the Master Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

8.3.3. Sufficient Insurance.

If the proceeds of the insurance maintained by the Master Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed portion of the Project, such repair and reconstruction shall be carried out.

8.3.4. Insufficient Insurance, Less than Seventy-Five Percent (75%) Destruction.

If the proceeds of the insurance maintained by the Master Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Master Association shall levy a special assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such special assessment shall be allocated and collected as provided in Article V hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected, together with the proceeds of insurance are insufficient to pay all actual costs of such repair and reconstruction.

8.3.5. Insufficient Insurance, Seventy-Five Percent (75%) or More Destruction.

If the proceeds of the insurance maintained by the Master Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction and Owners entitled to vote at least seventy-five-percent (75%) of the votes of the Owners to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Owners to carry out such repair and reconstruction but rather elect to terminate the Project and if Eligible Mortgagees who represent fifty-one percent (51%) of the votes of the Lots subject to Mortgages held by Eligible Mortgagees approve such termination, the Master Association shall record in the official records of the County, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

8.3.5.A The Project shall be deemed to be owned in common by the Owners;

8.3.5.B Each Owner shall own an undivided interest in the Project equal to such Owner's Percentage Interest;

8.3.5.C Any liens affecting any of the Lots shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project; and

8.3.5.D The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one

fund and shall be divided among all Owners after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner. The division of funds shall be based on the fair market values of the Lots immediately prior to the damage or destruction and the Owners shall divide said funds based upon the relative value of the Lots prior to the damage or destruction.

8.3.6. Priority.

In no event shall an Owner of a Lot or any other party have priority over the holder of any First Mortgage on such Lot with respect to the distribution to such Lot of any insurance proceeds.

8.4. Repair or Reconstruction.

If the damage or destruction is to be repaired or reconstructed as provided above, the Master Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Master Association may take all necessary or appropriate action to effect repair and reconstruction as attorney in fact for the Owners and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein.

The Project shall be restored or repaired in substantially the same condition in which it existed prior to the damage or destruction, with Lot, and Commons Areas having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Master Declaration and the original architectural plans and specifications.

8.5. Disbursement of Funds for Repair and Reconstruction.

If repair or reconstruction is to occur, the insurance proceeds held by the Master Association and any amounts received from assessments made pursuant to this Article VIII, shall constitute a fund for the payment of costs of repair after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all such repair reconstruction, such balance shall be distributed to the Owners equally.

8.6. Amendment of Article.

This Article VIII shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the votes of the Owners consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Board of Trustees of the Master Association and recorded in accordance with the provisions of this Master Declaration.

**ARTICLE IX
CONDEMNATION**

9.1. Condemnation.

If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article IX shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Lot or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Board of Trustees shall give prompt, written notice of any such condemning authority.

proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee who has requested in writing notice thereof.

The Master Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements or agreements with the condemning authority for acquisition of the Common Areas, or any part thereof and each Owner hereby appoints the Master Association as such Owner's attorney in fact for the purposes of such representation.

9.2. Proceeds.

All compensation, damages and other proceeds from any such taking by power of eminent domain (hereinafter "Condemnation Award") shall be made payable to the Master Association and shall be distributed by the Board of Trustees, on behalf of the Master Association as herein provided.

9.3. Complete Taking.

In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate and the Condemnation Award shall be allocated among and distributed to the Owners and the Owners shall divide the Condemnation Award based upon the relative values of the immediately prior to the condemnation. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

9.4. Partial Taking.

9.4.1. Partial Taking.

In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

9.4.1.A The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Lots have been taken).

9.4.1.B The total amount apportioned to severance damages shall be allocated and distributed equally to the Owners of those Lots which have not been taken.

9.4.1.C The respective amounts apportioned to the taking of or injury to a particular Lot shall be allocated and distributed to the Owner of such Lot.

9.4.1.D The total amount apportioned to consequential damages and any other taking or injuries shall be allocated and distributed as the Master Association determines to be equitable under the circumstances;

9.4.1.E If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Master Association shall employ such apportionment and allocation to the extent it is relevant and applicable.

9.4.1.F Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and

9.4.1.G No provision of this Article IX or any other provision of this Master Declaration, the Articles or the Bylaws shall entitle the Owner of a Lot or other party to priority over any First Mortgagee holding such Lot with respect to the distribution to such Lot of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceeding.

9.4.2. Continuation and Reorganization.

If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate but shall continue. In such event, the Project shall be reorganized as follows:

9.4.2.A If any partial taking results in the taking of an entire Lot, then the Owner thereof shall cease to be a member of the Master Association and all voting rights shall terminate;

9.4.2.B If any partial taking results in the taking of a portion of a Lot, the voting rights appertaining to such Lot shall continue.

9.4.2.C If any partial taking results in the taking of a portion of a Lot and if there is a determination made by the Board of Trustees, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Lot, then all voting rights terminate and the remaining portion of such Lot shall thenceforth be part of the Common Areas;

9.4.2.D The Board of Trustees, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Article IX; provided, however, that if any such determination shall have been or such action taken by judicial decree, the Board of Trustees shall defer thereto and proceed in accordance therewith.

9.5. Repair and Reconstruction.

Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Article VIII hereof for cases of Damage or Destruction; provided, however, that the provisions of said article dealing with sufficiency or insufficiency of insurance proceeds shall not be applicable.

ARTICLE X
TERMINATION

10.1. Required Vote.

This Master Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect until terminated as provided herein.

Except as otherwise provided in Articles VIII and IX, the Project may be terminated only by agreement of the Master Developer so long as Master Developer is an Owner as well as Owners entitled to vote at least seventy-five percent (75%) of the votes attributable to all Lots.

10.2. Termination Agreement.

An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. Such an agreement to terminate shall also be approved by the Eligible Mortgagees who represent Lots subject to First Mortgages held by Eligible Mortgagees. Such approval (and any other approval related to an amendment to this Master Declaration) shall be deemed given when an Eligible Mortgagee fails to submit a response within thirty (30) days after receipt of proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt"

requested. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in the official records of the County, and is effective only upon recordation.

10.3. Sale of Project.

A termination agreement may provide that the entire Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

10.4. Master Association Duties.

The Master Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to this Article X. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Master Association as trustee for all Owners. Thereafter, the Master Association has all powers necessary and appropriate to effect the sale.

Until the sale has been concluded and the proceeds of the sale distributed, the Master Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interest may appear, based on the relative Percentage Interest of each Owner. Unless otherwise specified in the termination agreement, as long as the Master Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Lot in accordance with the terms of this Master Declaration.

During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Master Declaration.

10.5. Proceeds of Sale.

Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Master Association, shall be held by the Master Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Lots which were recorded before termination may enforce those liens in the same manner as any lien holder.

ARTICLE XI
GENERAL USE RESTRICTIONS

11.1. Rules and Regulations.

The Master Association shall have authority to promulgate and enforce such reasonable Rules, regulations and procedures as may be necessary or desirable to aid the Master Association in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interest of the Owners.

11.2. Use of Common Areas.

The Common Areas shall be used only in a manner consistent with their community nature and with the Rules, regulations and use restrictions applicable to Lots. No admission fees, charges for use, leases, or other income generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas except for guest or special event charges

that may be established by the Board from time to time. Provided, however, vending machines and similar devices approved by the Board may be made available within the Common Areas.

11.3. Use of Lots.

Each Lot shall be used only as a single-family residence. No Lot shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Lot, so as to create a nuisance or interfere with the rights of any Owners, or in any way which would result in an increase in the cost of any insurance covering the Lots, or Common Areas.

11.4 Business or Commercial Activity.

No part of the Project or a Lot shall be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such non-residential purposes; except Master Developer, its successors or assigns, may use any portion or portions of the Project for model homes sites and display and sales offices during the construction and sales period and to accomplish any of Master Developer's other rights and obligations hereunder. The provisions of this Section shall not preclude professional and administrative occupations in a Lot without external evidence thereof, for so long as such occupations are in conformance with County ordinances, all other applicable governing laws and ordinances, and are merely incidental to the use of the Lot as a residential home. Notwithstanding anything herein to the contrary, nothing in this Declaration shall prohibit or require the Master Association's approval in connection with any clubhouse proposed in the Apartment Zone; any storage units proposed in the Town Homes Zone; and/or any other commercial uses in any Zone; so long as those commercial uses comply with all applicable Governing Laws.

11.5. Exception for Master Developer.

Notwithstanding the restrictions contained in this Article XI, for the five (5) year period following the date on which this Master Declaration is filed for record in the official records of the County, Master Developer shall have the right to use any Lot owned by it and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any activities designed to accomplish or facilitate improvement and sale of all Lots owned by Master Developer. Master Developer shall have the right to maintain one or more sales offices and model Lots. Such offices and model Lots may be located in any Lot owned or leased by Master Developer, or in one or more separate structures or facilities placed upon the Project for the purpose of aiding Master Developer's sales efforts, or any combination of the foregoing. Master Developer shall also have the right to maintain a reasonable number of promotional, advertising, or directional signs, banners, or similar devices at any place or places on the Project. Master Developer shall have the right from time to time to locate or relocate any of its sales offices, model Lots, signs, banners or similar devices.

11.6. Leases.

Any lease agreement between an Owner and a lessee respecting a Lot shall be subject in all respects to the provisions of this Master Declaration, the Articles and Bylaws and any failure by lessee to comply with the terms of such documents shall be a default under the lease. All such lease agreements shall be in writing and shall have a term of at least six (6) months. Notwithstanding anything herein to the contrary, so long as Master Developer is an Owner, Lots in the Apartment Zone, the Town Home Zone, and the Twin Home Zone may be used for nightly rental with the prior written approval of the Master Developer, which approval may be given or withheld in Master Developer's sole discretion. Other than the foregoing, there is no restriction on the right of any Owner to lease a Lot. An Owner shall be responsible and liable for any damage to the Project caused by its tenant.

11.7. Nuisances.

No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Project and no odors shall be permitted to arise there from so as to render any part of the Project unsanitary or unsightly or which would be offensive or detrimental to any other part of the Project or to the occupants thereof. No noise or other nuisance shall be permitted to exist or operate upon any part of the Project so as to be offensive or detrimental to any other part of the Project, or to the occupants thereof. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on the Project without the prior written approval of the Board.

11.8. Animal Restrictions.

No insects, reptiles, poultry or animals of any kind shall be raised, bred or kept on or within any Lot, Limited Common Areas, Common Areas, or otherwise within the Project, except usual and ordinary dogs, cats, fish, birds and other household pets (excluding without limitation, equine, bovine, sheep, swine, goats and other such animals) may be kept in Lots, subject to rules and regulations adopted by the Master Association, and provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Master Declaration, "unreasonable quantities" shall ordinarily mean more than four (4) pets per household, provided, however, that the Master Association (or the Architectural Committee or other such person or entity as the Master Association may from time to time designate) may determine that a reasonable number in any instance may be more or less.

The Master Association acting through the Board of Trustees, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Project must be either kept within an enclosure, an enclosed patio, or on a leash being held by a person capable of controlling said animals. The enclosure must be so maintained that the animal cannot escape there from and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an Owner be found unattended, out of the enclosure, and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Master Developer or a person designated by Master Developer to do so (for so long as Master Developer owns any interest in the Project), to a shelter under the jurisdiction of the local municipality in which the Project is situated and subject to the laws and rules governing such shelter, or to a comparable animal shelter.

Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or Project caused by any animals brought or kept within the Project by an Owner or by members of his family, his tenants or guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used any portion of the Common Areas or any other area within the Project.

Notwithstanding anything herein to the contrary, horses may be kept on any Lot to the extent allowed by the applicable Governing Laws.

11.9. Trash.

No rubbish, trash or garbage or other waste material shall be kept or permitted on or within any Lot, Limited Common Areas, Common Areas or otherwise within the Project, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise there from so as to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other Project in the vicinity thereof or to its

occupants. Such containers shall be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed twenty-four (24) hours before and after scheduled trash collection hours).

There shall be no exterior fires whatsoever except barbecue fires contained within appropriate receptacles therefore as approved by the Board.

11.10. Temporary and Other Structures.

No structures of a temporary nature, trailer, basement, house, tent, shack, shed, garage, barn or other outbuildings shall be used at any time as a residence either temporarily or permanently, nor shall said structures be permitted on the Project at any time. All Lots erected and maintained within the Project shall be of good construction, of good quality, workmanship and material.

11.11. Unsightly Articles.

No unsightly articles shall be permitted to remain on or near a Lot so as to be visible from any other Lot or the Common Areas. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or when appropriately screened from view.

11.12. No Further Subdividing.

No Lot or Common Areas may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Master Association; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Master Association for (a) the transfer or sale of any Lot, to more than one person to be held by them as tenants in common, joint tenants, or otherwise; or (b) the subdivision of any Zone performed in compliance with all the Governing Laws.

11.13. Signs.

No sign of any kind shall be displayed to the public view without approval of the Master Association, except such signs as may be used by Master Developer in connection with the development of the Project and the sale of Lots and except such signs of customary and reasonable dimensions as may be displayed on a Lot advertising a Lot for sale or lease. Display of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Master Association. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible. Any street sign identifying the Project may not be changed without prior approval by the Master Association.

11.14. No Hazardous Activities.

No activities shall be conducted on the Project and no improvements shall be constructed on the Project which are or might be unsafe or hazardous to any person or Project. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Project and no

open fires or incinerators shall be lighted or permitted on the Project except in a contained barbecue Lot while attended and in use for cooking purposes.

11.15. Toxic Materials.

No Owner shall store, use, manufacture, process, distribute, treat, transport, handle, emit, dispose of, discharge or release any Toxic Materials in violation of environmental laws governing the Project. Each Owner shall indemnify and hold the Master Association and the other Owners harmless from and against any liabilities, claims and/or expenses (including attorneys' fees) arising in connection with that Owner violation of this Section.

The term "Toxic Materials" as used herein shall mean any flammable explosives, asbestos, industrial substances, pollutants, contaminants, chemicals, wastes, discharges, emissions, radioactive materials and other hazardous substances, whether injurious by themselves or in combination with other materials, including, but not limited to, substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," or "toxic substances" described in the environmental laws governing the Project.

11.16. Parking and Vehicular Restrictions.

No Owner shall park, store or keep any vehicle, except wholly within the parking area designated therefore, and any inoperable vehicle shall be stored only in enclosed garages. No Owner shall park, store or keep on any land or street (public or private) within the Project any large commercial-type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck), bus, trailer, aircraft, or any other similar vehicle or any vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board, upon any unenclosed parking space, so as to be visible from anywhere in the Project. The above excludes recreational vehicles (including, but not limited to, any camper or motor home) up to and including three-quarter (3/4) ton vehicles when used for everyday-type transportation. The above also excludes camper trucks, trailer coaches, camp trailers, boats, mobile homes and similar vehicles parked in designated areas within the Project for less than ninety (90) days during any twelve (12) month period. Any vehicle owned or controlled by an Owner, to be parked within the Project is subject to approval by the Board. No Owner shall conduct repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any Lot or upon the Common Areas, except wholly within the Owner's garage, and then only when the garage door is closed; provided, however, that such activity shall at no time be permitted if it is determined by the Board to be a nuisance. Garage doors shall remain closed except for reasonable periods while the garages are being used. Recreational vehicles may temporarily be parked, from time to time, for periods not to exceed four (4) hours for purposes of loading, unloading and cleaning.

11.17. Laundry and Storage.

No clothing or fabrics shall be hung, dried or aired in such a way in the Project as to be visible to other Project, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Project except, within an enclosed structure or appropriately screened from view.

11.18. Repair.

No improvement upon the Project shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof or the Master Association as applicable.

11.19. Improvements and Alterations.

There shall be no excavation, construction or alteration which in any way alters the exterior appearance or structure of any Improvement within the Project, no alteration of any structural component of any Lot, no plumbing or electrical work outside the Lot, no removal of any Lot or other Improvement within the Project (other than repairs or rebuilding) without the prior written approval of the Architectural Committee.

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition to or change or alteration therein be made unless and until the plans and specifications showing the color, nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee.

All Improvements and alterations shall be performed in compliance with all Governing Laws. No Owner shall perform any work or make any alterations or changes which would jeopardize the soundness or safety of any portion of the Project, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other Owners being first obtained.

11.20 Outside Installations.

No television, ham radio, citizens band or radio antenna, satellite receiving or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any Lot or elsewhere if exposed to view from any other Lot, except as allowed under the architectural guidelines and Governing Laws applicable to the Lot in question. Such antennas, if used, must be of the type that is installed within the natural building structure. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Lot Owner's premises or home entertainment facilities or equipment. Provided, however, Master Developer and the Master Association reserve the right and option to install cable service lines and antennas as needed throughout the Project in connection with its development.

11.21. General Obligations.

Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Master Declaration and the Governing Laws. Master Developer shall enjoy the same rights and assume the same duties with respect to each unsold Lot.

**ARTICLE XII
MORTGAGEE PROTECTION**

12.1. Notice of Action.

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

12.1.1. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor;

12.1.2. Any delinquency in the payment of assessments or charges owed by an Owner, whose Lot is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;

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

12.1.4. Any proposed action which would require the consent of Eligible Mortgagees as specified in Section 12.2 below or elsewhere herein.

12.2. Matters Requiring Prior Eligible Mortgagee Approval.

Except as provided elsewhere in this Master Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Lots in the Master Association (unless pursuant to a specific provision of this Master Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Master Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding First Mortgages on sixty-seven percent (67%) of Lots held by Eligible Mortgagees shall be required to:

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

12.2.2. To partition or subdivide any Lot;

12.2.3. To abandon, partition, subdivide, encumber, sell or transfer all or any part of the Common Areas (except for the granting of easement for utilities and similar purposes consistent with the intended use of the Common Areas);

12.2.4. To use hazard insurance proceeds resulting from damage to any part of the Project (except within a Lot) for purposes other than the repair, replacement or reconstruction of such improvements, except as otherwise provided in this Master Declaration;

12.2.5. To materially change the Percentage Interests or obligations of any Lot.

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

12.3. Availability of Project Documents and Financial Statements.

The Master Association shall maintain and have current copies of the Master Declaration, Articles, Bylaws and other rules concerning the Project as well as its own books, records and financial statements available for inspection by the Owners or by holders, insurers and guarantors of First Mortgages that are secured by Lots in the Project. Generally, these documents shall be available during normal business hours. The Master Association shall make a financial statement for the preceding fiscal year (if the Project has been established for a full fiscal year) available to the holder, insurer, or guarantor of any First Mortgage on submission of a written request for it. The financial statement shall be made available within 120 days of the Master Association's fiscal year-end.

12.4. Subordination of Lien.

The lien or claim against a Lot for unpaid assessments or charges levied by the Master Association pursuant to this Master Declaration shall be subordinate to the First Mortgage affecting such Lot if the First Mortgage was recorded before the delinquent assessment was due and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid assessment of charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession of a purchaser from such mortgagee which obtains title shall be collected or enforced by the Master Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Lot affected or previously affected by the First Mortgage concerned.

12.5. Payment of Taxes.

In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 7.1 of Article VII lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefrom from the Master Association.

12.6. Priority.

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

12.7. Implied Approval.

In the event that the approval of an Eligible Mortgagee is required under this Master Declaration, that Mortgagee's approval shall be deemed given if the party requesting that approval does not receive any written disapproval from the Mortgagee within thirty (30) days after delivering to that Mortgagee a written request for the same.

ARTICLE XIII
ARCHITECTURAL COMMITTEE

13.1. Members of Committee.

The Architectural Committee shall consist of not less than three (3) members but not more than five (5) members as shall be determined by the Board. Master Developer shall appoint all of the original members of the Architectural Committee and all replacements until one (1) year following the date on which this Master Declaration is recorded in the official records of the County. Master Developer shall have the right and power to appoint and remove a majority of the members of the Architectural Committee or to fill any vacancy of such majority until the "turnover date" which shall be the date on which either, (i) ninety percent (90%) of the Lots subject to this Master Declaration have been sold and the deeds recorded with the County recorder, or (ii) five (5) years following the date on which this Master Declaration is recorded in the official records of the County. Commencing one (1) year from the date of close of escrow for the sale of the first Lot in the Project to a purchaser from Master Developer, the Board shall have the power to appoint one (1) member to the Architectural Committee, until the turnover date. Thereafter, the Board shall have the power to appoint and remove all of the members of the Architectural Committee. Persons appointed to the Architectural Committee by the Board shall

be Owners, but persons appointed to the Architectural Committee by Master Developer need not be Owners. The Architectural Committee shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed plans conform harmoniously to the exterior design and existing materials in the Project. The Architectural Committee may designate and appoint a representative who is a licensed architect and a majority of the members of said Architectural Committee may, from time to time, remove or replace such representative. The designated representative of the Architectural Committee may be, but need not be, an Owner.

13.2. Review of Plans and Specifications.

The Architectural Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Master Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Architectural Committee. No construction, alteration, addition, modification, decoration, redecoration or reconstruction of an Improvement in the Project shall be commenced maintained, painted, erected or otherwise altered until the plans and specifications therefore showing the nature, kind, shape, height, width, color, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee. The address for submission of such plans and specifications shall be the address of the principal place of business of the Master Association. The Architectural Committee shall approve plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area of Project as a whole, that the appearance of any structure affected thereby will be in harmony with the surrounding structures, that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Common Areas or the enjoyment thereof by the Owners, and that the upkeep and maintenance thereof will not become a burden on the Master Association. The Architectural Committee may condition its approval of proposals or plans and specifications for any Improvement on such changes therein as the Architectural Committee deems appropriate, upon the agreement by the Person (referred to in this Section as "Applicant") submitting the same to grant appropriate easements to the Master Association for the maintenance of the Improvement, or upon the agreement of the applicant to reimburse the Master Association for the cost of such maintenance, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Architectural Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval, require a fee payable to the Master Association to accompany each application for approval, or require any additional factors which it will take into consideration in reviewing submissions. The Architectural Committee may provide that the amount of such fee shall be uniform or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated. The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings or descriptions or samples of exterior material and colors. Decisions of the Architectural Committee and the reasons therefore shall be transmitted by the Architectural Committee to the applicant at the address set forth in the application for approval within thirty (30) days after receipt by the Architectural Committee of all materials required by the Architectural Committee. Any application submitted pursuant to this Section shall be deemed approved, unless written disapproval or a request for additional information or materials by the Architectural Committee shall have been transmitted to the applicant within thirty (30) days after the date of receipt by the Architectural Committee of such application or additional information.

13.3. Dwelling Quality and Size.

No dwelling shall be permitted to remain incomplete for a period in excess of one (1) year from the date construction of the building was started unless approval, in writing, is obtained from the Architectural Control Committee. The Architectural Control Committee has enacted separate architectural guidelines for the entire Project and for each Zone in the Project setting forth size, quality, and other requirements. Those architectural guidelines may be amended at any time with the prior written approval of the Master Developer (so long as the Master Developer is an Owner) as well as with a majority of the Board. Each Owner and area within the Project must comply with the architectural guidelines applicable thereto.

13.4. Meetings of the Architectural Committee.

The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may, from time to time, by resolution unanimously adopted in writing, designate an Architectural Committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Architectural Committee, except the granting of variances pursuant to this Article. In the absence of such designation, the vote of a majority of the members of the Architectural Committee taken without a meeting, shall constitute an act of the Architectural Committee.

13.5. Decisions.

All decisions by the Architectural Committee shall require a majority vote of all the members of that Committee. So long as Master Developer is an Owner, all decisions by the Architectural Committee must also first be approved in writing by the Master Developer, which approval may be withheld or granted in Master Developer's sole discretion.

13.6. No Waiver of Future Approvals.

The approval of the Architectural Committee of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

13.7. Compensation of Members.

The members of the Architectural Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

13.8. Inspection of Work.

Inspection of work and correction of defects therein shall proceed as follows:

13.8.1. Upon the completion of any work for which approved plans are required under this Article, the Owner shall give written notice of completion to the Architectural Committee.

13.8.2. Within sixty (60) days thereafter, the Architectural Committee or its duly authorized representative may inspect such Improvement. If the Architectural Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.

13.8.3. If, upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the Architectural Committee shall notify the Board in writing of such failure. After affording such Owner notice and hearing, the Board

shall determine whether there is noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board ruling within such period, the Board, at its option, may record a notice of noncompliance in the Office of the County recorder and may remove the noncomplying Improvement or otherwise remedy the noncompliance, and the Owner shall reimburse the Master Association, upon demand, for all expenses, including legal fees, incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Master Association, the Board shall levy a special Reimbursement Assessment against such Owner for reimbursement.

13.8.4. If for any reason the Architectural Committee fails to notify the Owner of any noncompliance within sixty (60) days after delivery of said written notice of completion from the Owner, the Improvement shall be deemed to be in accordance with said approved plans.

13.9. Non-liability of Architectural Committee Members.

Neither Master Developer, the Architectural Committee nor any member of the Architectural Committee, the Board nor their duly authorized representatives, shall be liable to the Master Association, or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Architectural Committee. The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally. The Architectural Committee shall take into consideration the aesthetic aspects of the architectural designs, landscaping, color schemes, exterior finishes and materials and similar features. The Architectural Committee's approval or disapproval shall be based solely on the considerations set forth in this Article, and the Architectural Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plans or designs from the standpoint of structural safety or conformance with building or other codes.

13.10. Variance.

The Architectural Committee may authorize variances from compliance with any of the architectural provisions of this Master Declaration, including without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be signed by at least two (2) members of the Architectural Committee, and shall become effective upon recordation in the official records of the County. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Master Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration for any purpose except as to the particular Project and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting that Owner.

13.11. Appeal.

In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request for appeal must be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. Within forty-five (45) days

following the receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

ARTICLE XIV DEFAULTS AND REMEDIES

14.1. Default.

An "Event of Default" shall occur under this Master Declaration if any party governed hereby fails to perform its obligations under this Master Declaration where those obligations are due and that party has not performed the delinquent obligations within thirty (30) days following delivery to that party of written notice of such delinquency (the "Notice of Default"). These provisions shall not supersede more restrictive requirements set forth elsewhere in this Master Declaration.

14.2. Remedies.

14.2.1. General.

Upon the occurrence of an Event of Default, the Master Association shall have the right to exercise all rights and remedies available in this Master Declaration, at law and in equity, including injunctive relief and specific performance. The Owners acknowledge that their obligations under this Master Declaration are unique and defaults may not be compensated by purely monetary damages. Those rights and remedies shall be cumulative. Under no circumstances, even an Event of Default, shall any Owner have the right to terminate this Master Declaration or take any action that would damage, injure, impair, prohibit or revoke approvals, licenses, permits, uses or other rights associated with the other Owners or their respective portions of the Project that are not in default under this Master Declaration.

14.2.2. Cure.

Furthermore, the Master Association shall have the right to cure the default and seek reimbursement from the defaulting Owner for the costs incurred in effecting such cure. Notwithstanding any provision herein to the contrary, the Owner shall reimburse the Master Association for such costs of curing a default within fifteen (15) days following delivery to the defaulting Owner of a written notice of such costs along with reasonable support documentation.

14.2.3. Additional Remedies.

In addition to any other enforcement rights and remedies described in this Master Declaration, the Master Association may take any of the following actions against any Owner whose act or failure to act violates or threatens to violate any provision of this Master Declaration: impose monetary penalties, including late charges and interest; suspend voting rights in the Master Association; suspend use privileges for the Common Area; and/or remove the defaulting Owner from the Board and/or the Architectural Committee.

14.2.4. No Cross-Defaults.

If any Owner shall create an Event of Default hereunder, only the defaulting Owner shall be subject to remedies and none of the other Owners governed by this Master Declaration shall be deemed to be in default or be penalized in any manner. For example, if an Owner shall cause an Event of Default, the Master Association may exercise its rights and remedies against the defaulting Owner, but shall not take any action that would damage, injure, impair, prohibit or revoke approvals, licenses, permits, uses or other rights associated with the other Owners that are not in default under this Master Declaration.

14.2.5. Jurisdiction.

Any judicial or arbitration action associated with this Master Declaration shall be taken in the courts within the jurisdiction where the Project is located.

14.2.6. Enforcement by County.

The County shall have the right, but not the obligation, to exercise all rights and enforce all provisions in this Master Declaration. The County shall have no obligations or liabilities under this Master Declaration except to the extent that the County seeks to exercise rights or remedies under this Master Declaration in breach thereof or in violation of any Governing Laws.

14.2.7. Enforcement by Master Developer and Owners.

In addition to the Master Association, Master Developer and any Owner or the successor-in-interest of an Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Master Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations, and the right to recover damages or other sums for such violation; provided, however, that with respect to assessment liens, the Master Association shall have the exclusive right to the enforcement thereof. Failure by the Master Association, Master Developer, or by any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

14.2.8. Non-liability of Officials.

To the fullest extent permitted by law, the Master Developer, the Board, the Architectural Committee, the County any other committees of the Master Association or any member of such Board or committee shall not be liable to any Owner or other person or entity for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties.

ARTICLE XV
MISCELLANEOUS

15.1. Governing Laws.

This Master Declaration and the Project are intended to be governed by the Governing Laws. In the event of any conflict between the Governing Laws and this Master Declaration, the Governing Laws shall prevail.

15.8. Master Developers Exemption.

Notwithstanding anything in this Master Declaration to the contrary, no provision of this Master Declaration shall be construed as to prevent or limit Master Developer's rights to perform Master Developer's rights and obligations hereunder, to complete development of the Project and construction of Improvements therein, nor Master Developer's rights to maintain model Lots or homes, construction, sales or leasing offices or similar facilities on any Project in the Project owned by Master Developer or the Master Association, nor Master Developer's right to promote and market the Project or to post signs incidental to construction, sales, or leasing. Master Developer shall have the right to take all actions that Master Developer deems necessary, in Master

Developer's sole discretion, to develop and operate the Project without the consent of the Master Association, or any other Owner or Party.

In order that said work may be completed and the Project established as a fully occupied residential community as rapidly as possible, no Owner nor the Master Association shall do anything to interfere with, and nothing in this Master Declaration shall be construed to:

15.8.1. Prevent Master Developer, its successors or assigns, or their contractors or subcontractors, from doing, on any Lot owned by them, whatever they determine to be necessary or advisable in connection with the completion of said work, including, without limitation, subdividing, grading, constructing, or making Improvements to Lots, Common Areas, or other facilities and Improvements in the Project.

15.8.2. Prevent Master Developer, its successors or assigns, or their contractors or subcontractors, from altering construction plans and designs, or from effectuating such alterations, as Master Developer deems advisable and as are acceptable to the Architectural Committee, for any part of the Project throughout the course of development.

15.8.3. Limit the right of Master Developer, its assigns, contractors, subcontractors or representatives, to, on any Lot or portion thereof, or portion of the Common Areas or Project, make, construct, install and maintain such reasonable structures or Improvements as Master Developer deems necessary, for the establishing the Project as a residential community and disposing of the same in Lots by sale, lease or otherwise; including, without limitation, signs, models, displays, booths, decorations, sales and promotion centers, directional signs, and any other structure associated with marketing and the disposition of Lots.

15.8.4. Prevent Master Developer, its assigns, contractors, subcontractors or representatives, on any Lot or portion thereof, or portion of the Common Areas or Project, to establish or allow on that area additional temporary uses, for any purpose in connection with or incidental to the construction, development, sale, lease or other transfer of Project within or adjacent to the Project, (including, without limitation, licenses, reservations, rights-of-way, easements, parking, rights of access, or any other reasonable alternative use as may be reasonably necessary to the proper development and disposal of the Project), and to grant such uses to others (including, without limitation, Master Developer's agents, employees, utility companies, representatives, contractors, subcontractors, and prospective purchasers), provided, however, that the exercise of such right and easement shall not unreasonably interfere with the reasonable use and enjoyment of the Common Areas by Master Developer.

15.9. Conveyance and Release.

All of Master Developer's rights and obligations under this Master Declaration may be assigned, transferred and conveyed voluntarily or by operation of law without the consent of any Owner or Eligible Mortgagee. Upon Master Developer's conveyance of any or all of its obligations in connection with the Project, the Master Association and/or this Master Declaration, Master Developer shall be entirely released and exonerated from those Obligations.

15.10. Limitation on Liability.

The Owners and the Master Association shall indemnify and hold Master Developer and/or its Related Parties harmless from and against any and all liabilities, claims and expenses (including attorneys' fees) incurred directly or indirectly by Master Developer and/or its Related Parties in connection with the Project, the Master Association or this Master Declaration except to the extent caused by the gross negligence or intentional misconduct of Master Developer. None of Master Developer's Related Parties shall have any personal, recourse or deficiency liability in connection

with the Project, the Master Association or this Master Declaration and the Master Association shall indemnify those individuals and entities against the same. Nothing in this provision shall limit the liability of (a) any person or entity for performance of the obligations that are specifically imposed on that person or entity by the Governing Laws; or (b) any person or entity that has undertaken such liability in writing, as by a written guaranty, indemnification or other promise of responsibility.

15.11. No Representations.

Each person that acquires a Lot is responsible to reasonably investigate that Lot and the Project. Master Developer conveys each Lot in "as is" condition without any representation or warranty as to that Lot or the Project.

15.12. Conflicts.

In case of any conflict between this Master Declaration and the Articles or Bylaws, this Master Declaration shall control.

15.13. Attorneys' Fees.

In the event of any controversy or claim respecting this Master Declaration, or in connection with the enforcement of this Master Declaration, the prevailing party shall be entitled, in addition to all expenses, costs and damages, to reasonable attorneys' fees to be reimbursed by the non-prevailing party.

15.14. No Waiver.

Any party's failure to enforce any provision of this Master Declaration shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by another party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

15.15. Force Majeure.

Any prevention, delay or stoppage of the performance of any obligation under this Master Declaration which is due to strikes; labor disputes; inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; wars; civil commotions; fires; other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay, or stoppage.

15.16. Request for Notice.

The Master Association hereby requests that a copy of any notice of default and a copy of a notice of sale under any mortgages, deeds of trust or other liens or encumbrances filed for record against any Lots or the Project be mailed to the Master Association as follows: The Homes At Deer Mountain Homeowners Master Association, Inc., 132 South 600 East, Salt Lake City, Utah 84102, Attention: Peter S. Cooke.

15.17. Notices.

Any notice required or permitted to be given to any Owner under the provisions of this Master Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as an Owner, at the latest address for such person, appearing in the records of the Master Association at the time of mailing.

15.18. Amendment.

Except as provided elsewhere in this Master Declaration, any amendment to this Master Declaration shall require the affirmative vote or written approval of at least sixty-seven percent (67%) of the total votes of the Owners as well as the prior written approval of Master Developer so long as Master Developer is an Owner. Master Developer may withhold or grant that approval in Master Developer's sole discretion. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the official records of the County of an instrument executed by the Master Association. In such instrument an officer or Trustee of the Master Association shall certify that the vote required by this Section for amendment has occurred. Anything in this Article or Master Declaration to the contrary notwithstanding, Master Developer reserves the unilateral right to amend all or any part of this Master Declaration to such extent and with such language as may be requested by any lenders 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 the Master Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lots or any portions thereof or as may otherwise be necessary for development and protection of the Project as determined by Master Developer in Master Developer's sole discretion. Any such amendment shall be effected by the recordation by Master Developer of an amendment duly signed by or on behalf of the authorized officers of Master Developer with their signatures acknowledged, 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 of the Project and all persons having an interest therein. It is the desire of Master Developer to retain control of the Master Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Master Developer alone shall have the right to amend this Master Declaration to restore such control. Within ten (10) years from the date of recording this Master Declaration, and so long as the Master Developer is the Owner of any Lot in the Project, this Master Declaration may be amended or terminated only with the written approval of the Master Developer which approval may be given or withheld in Master Developer's sole discretion. Master Developer alone may amend or terminate this Master Declaration prior to the closing of sale of any Lot. If any of the Governing Laws are amended, the Master Association and Owners agree to subordinate and subject to those amendments, any and all interests and agreements that those parties may have relative to the Project. Within 10 days following delivery of a written request to the Master Association and/or Owners, those Parties shall execute (with notary acknowledgment if required) and deliver to the requesting party, any further written evidence of that subordination made by that requesting party.

15.19. Rights of Action.

The Master Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of this Master Declaration or the decisions of the Master Association. Owners shall have a similar right of action against the Master Association.

15.20. Master Developer's Rights Assignable.

The rights of Master Developer under this Master Declaration or in any way relating to the Project may be assigned whereupon the assignee of Master Developer shall have all the rights of Master Developer hereunder.

15.21. Interpretation.

The captions which precede the Articles and Sections of this Master Declaration are for convenience only and 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 Master Declaration shall not affect the validity or enforceability of the remainder thereof; this Master Declaration shall be liberally construed to effect all of its purposes.

15.22. Covenants to Run With Land.

This Master Declaration and all of 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 Master Developer, all parties who hereafter acquire any interest in a Lot or in the Common Areas and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner, user or occupant of a Lot shall comply with, and all interests in all Lots or in the Common Areas shall be subject to, the terms of this Master Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Master Declaration. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to and agrees to be bound by, each and every provision of this Master Declaration. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by and against the various subsequent and future Owners.

15.23. Lists of Owners and Eligible Mortgagees.

The Board shall maintain up-to-date records showing: (i) the name of each person who is an Owner, the address of such person, and the Lot which is owned by him or her; (ii) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity and the Lot which is encumbered by the Mortgage held by such person or entity; and (iii) the name of each person or entity who is an insurer or governmental guarantor, the address of such person or entity and the Lot which is encumbered by the Mortgagee insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the official records of the County. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Board is otherwise advised.

15.24. No Discriminatory Restrictions.

No Party shall execute or cause to be recorded any instrument or take or omit to take any action that imposes a restriction upon the use, sale, lease or occupancy of all or any portion of the Project on the basis of race, sex, sexual preference, marital status, national ancestry, color, religion or age.

15.25. Estoppel Certificates.

Within ten (10) days following the Master Association's receipt from any other Party of a request for an estoppel certificate respecting the status of performance of the requesting Party under this Declaration, the Master Association shall deliver to the requesting Party a reasonable estoppel certificate respecting such matters. The estoppel certificate contemplated herein shall be addressed to any lenders, purchasers, government agencies or other individuals or entities designated by the requesting Party. The failure to deliver such estoppel certificate shall be presumed to mean that the

Master Association is not aware of any defaults or delinquencies by the requesting Party under this Declaration and is estopped from asserting the same. Except as expressly stated herein, no other person or entity shall be entitled to require and/or obligated to give estoppel certificates under this Declaration. In particular, Members and Owners shall not be entitled to require and/or obligated to give estoppel certificates to each other under this Declaration.

15.26 Time of Essence.

Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.

15.27 Error! Bookmark not defined.

The Members and the Master Association shall cooperate together, take such additional actions, sign such additional documentation and provide such additional information as reasonably necessary to accomplish the objectives set forth herein.

15.28 Error! Bookmark not defined.

Nothing in this Declaration shall be construed to create any partnership, joint venture or fiduciary relationship among the Parties.

15.29 Representations and Warranties

The Parties hereby individually represent and warrant to each other that the statements below are true and complete as to the representing Party as of the date that the representing Party became subject to this Declaration. Each Party understands that the other Parties are relying upon the truthfulness and completeness of the statements below in entering into this Declaration:

A. Organization. The Party is duly organized, validly existing and in good standing under the laws of the state of its organization, with full power and authority to carry out its business in all other states in which it may do business.

B. Authority. The Party has full authority to enter into and be subject to this Declaration and to perform all of its obligations hereunder. The individuals executing documents binding the Party do so with the full authority of the Party that those individuals represent.

C. Enforceability. This Declaration has been duly authorized and approved by the Party and constitutes the legal, valid and binding obligation of the Party enforceable in accordance with its terms.

D. Approvals. No registration with, or consent or approval of, or notice to, or other action by, any person or entity to this Declaration is required to make this Declaration enforceable against the Party.

E. No Default. The Party is not in default under any contract that would adversely impact the Party's ability to perform under this Declaration. The Party is not subject to any pending or threatened litigation, judgment, order or other proceeding which do at present or could in the future materially and adversely affect the ability of the Party to perform its obligations under this Declaration.

F. Capacity. The Party shall perform its obligations under this Declaration in a competent manner consistent with that customarily required of successful entities in comparable industries.

G. Documents. All of the statements, records, plans and other documents that the Party has submitted to the other Parties in connection with this Declaration are true, correct, complete and not misleading.

15.30 Consents and Approvals.

Except as expressly stated in this Declaration, the consent, approval, permit, license or other authorization of the Parties shall not be unreasonably withheld, conditioned or delayed. No consent, approval or authorization, or the absence thereof, by a Party shall make that Party liable in any manner for the matter subject to that consent, approval or authorization or the consequences thereof. Notwithstanding anything herein to the contrary, any consent, approval, or authorization by Master Developer may be given or withheld in Master Developer's sole discretion.

15.31 Exhibits

All Exhibits attached hereto are hereby made a part hereof and incorporated herein.

15.32 Recitals.

The recitals are incorporated into this Declaration.

15.33 Counterparts.

This Declaration may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document. This Declaration shall be effective and enforceable against the Parties even if the subordination provisions below are not signed by all the mortgagees and trustees contemplated herein.

15.34 Priority and Subordination.

This Declaration shall be recorded against the Project senior to all liens (other than liens of non-delinquent taxes and assessments) and/or trust deeds encumbering the Project. The Master Association and each Member shall promptly take all actions and pay all costs necessary to have any pre-existing liens (other than liens of non-delinquent taxes and assessments) and/or trust deeds on areas of the Project owned by the Master Developer and/or Member subordinated to this Declaration. All present and future lenders, lien holders and trust deed holders of any type holding liens or encumbrances on any portion of the Project hereby agree (a) that such liens or encumbrances shall automatically be subordinate to this Declaration and all future amendments thereto, and (b) to execute and deliver within 10 days following delivery of a written request for the same, any additional documentation that may be reasonably required by the Master Association to confirm that subordination.

15.35 Effective Date.

This Master Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the official records of the County.

**ARTICLE XVI.
EXPANSION OF PROPERTY**

16.1 Expansion Option.

Master Developer herewith expressly reserves the unconditional and exclusive right and option, without obligation or the approval of any other person or entity except as required by the Governing Laws, to expand the Project (the "Expansion Option") by developing and adding to the Project the "Additional Land", the "Additional Improvements" and the "Additional Common Areas" (all as hereinafter defined below and collectively called the "Additional Property"), Master Developer reserves the right to exercise all or any portion of the Expansion Option or to develop all

or any portion of the Additional Property. The expansion of the Additional Property may have the effect of increasing the fees, assessments, and liabilities imposed upon the Owners in an amount that cannot be determined until some future date.

16.1.1. **Unrestricted Option.** Master Developer shall have the right, in Master Developer's sole discretion, to exercise all or any portion of the Expansion Option with respect to all or any portion of the Additional Property at any time, under or in any order, size, amount, configuration, boundary, location, style, manner, or condition without limitations or restrictions of any type and without the approval of the existing or future Master Association, Owners, Board, Architectural Committee and/or any other person and/or entity associated with the existing Project or the Additional Property except as required by the Governing Laws. Master Developer shall have no obligation to exercise the Expansion Option. Notwithstanding the foregoing, Master Developer shall exercise the Expansion Option in accordance with the requirements of this Article XVI, the City, all other governmental entities, and the Governing Laws.

16.1.2. **Termination.** The Expansion Option shall expire 10 years from the date of recording of this Master Declaration in the official records of the County (exclusive of any amendments or supplements thereto). The exercise of the Expansion Option with respect to a portion of the Additional Land shall not terminate the Expansion Option as to the remaining portions of the Additional Land. Master Developer may add portions of the Additional Land to the Project at different times and configurations and there are no limitations upon the order in which portions of the Additional Land may be added to the Project.

16.2. **Additional Property.**

16.2.1. **Additional Land.** The "Additional Land" shall mean all or any portion of any real property contiguous to, or linked by a road of not more than three (3) miles from, any portion of the Project then governed by the Association.

16.2.2. **Additional Improvements.** The "Additional Improvements" shall mean all of the Improvements constructed on the Additional Property. Master Developer intends that the Additional Improvements may include several separate homes and other structures. All Lots to be constructed as Additional Improvements shall be used exclusively for residential purposes.

16.2.3. **Additional Common Areas.** The "Additional Common Areas" shall mean all or any portion of the Common Areas developed on all or any portion of the Additional Land. Master Developer reserves the right to create limited or restricted Common Areas and facilities in the Additional Common Areas.

16.3. **No Representations or Restrictions.** Notwithstanding anything in this Declaration to the contrary, except as set forth in this Article XVI, Master Developer makes no assurances, representations or warranties with respect to the Additional Property and there are no limitations of any type as to any of the following pertaining to any portion of, or improvement associated with, the Additional Property: compatibility with or similarity to the existing Project, appearance, materials, components, quality, construction, architecture, style, size, location, appearance, materials, description, and/or other improvements. Master Developer reserves the right to develop, implement and modify all criteria associated with the Additional Property in Master Developer's sole discretion without any approval or consent from any other person or entity except as required by the Governing Laws.

16.4. **Additional Property Documents.** In connection with any Additional Property, Master Developer shall prepare and, where appropriate, record in the official records of the County, (a) an amendment to this Declaration, (b) an amendment to the Bylaws of the Association, (c) a supplemental plat and (d) any other documents desired by Master Developer and/or required by the Governing Laws (collectively, the "Additional Property Documents"). The Additional Property Documents shall be in a form approved by Master Developer, in its sole discretion and the City, without any approval or consent from any other person or entity except as required by the Governing Laws. The Additional Property Documents shall be considered part of the Governing Documents. The Additional Property Documents shall comply with all Governing Laws. The Association and Owners and their respective Related Parties and lenders shall promptly take all actions and sign all documents requested by Master Developer or as otherwise necessary to accomplish the transactions associated with the Expansion Option and the Additional Property Documents.

16.5. **Alteration of Percentage Interests.** The Additional Property Documents shall reflect, among other matters, that the Percentage Interest shall be recalculated so that the Percentage Interest shall be equal to the ratio between each Owner and the aggregate number of all the Owners in the entire Association after the Additional Property is incorporated therein. The total of the Percentage Interests pertaining to all Owners in the entire Association after the Additional Property is incorporated therein shall in all events equal one hundred percent (100%).

16.6. **Incorporation of Additional Property.** Prior to the time, if ever, that the Additional Property may be incorporated into the Project, the Owners and their respective family members, guests, invitees, employees, contractors and agents shall not enter upon, use or exercise any other rights or obligations respecting the Additional Property. The Additional Property, if any, shall be incorporated into the Project, if ever, only after (a) Master Developer and all governmental agencies having jurisdiction over the Project and the Additional Property have approved that incorporation; and (b) the Additional Property Documents have been executed by all parties thereto and, where appropriate, recorded in the official records of the County.

ARTICLE XVII. **REDUCTION OF PROPERTY**

17.1 **Reduction Option.** Master Developer herewith expressly reserves the unconditional and exclusive right and option, without obligation or the approval of any other person or entity except as required by the Governing Laws, to reduce the Project (the "Reduction Option") by withdrawing or eliminating from the Project any land, Improvements and associated Common Areas to the extent that such land and Improvements are owned exclusively by Master Developer (collectively, the "Reduced Property"). Master Developer reserves the right to exercise all or any portion of the Reduction Option and to separately develop all or any portion of the Reduced Property at any time. The Reduction Option may have the effect of altering the fees, assessments, and liabilities imposed upon the Owners in an amount that cannot be determined until some future date.

17.1.1. **Unrestricted Option.** Master Developer shall have the right, in Master Developer's sole discretion, to exercise all or any portion of the Reduction Option with respect to all or any portion of the Reduced Property at any time, under or in any order, size, amount, configuration, boundary, location, style, manner, or condition without limitations or restrictions of any type and without the approval of the existing or future Association, Owners, Board, Architectural Committee and/or any other person and/or entity associated with the existing Project or the Reduced Property except as required by the Governing Laws. Master Developer shall have no

obligation to exercise the Reduction Option. Notwithstanding the foregoing, Master Developer shall exercise the Reduction Option in accordance with the requirements of this Article XVII, the City, all other governmental entities, and the Governing Laws.

17.2. **No Representations or Restrictions.** Notwithstanding anything in this Declaration to the contrary, except as set forth in this Article XVII, Master Developer makes no assurances, representations or warranties with respect to the Reduced Property and there are no limitations of any type as to any of the following pertaining to any portion of, or improvement associated with, the Reduced Property: compatibility with or similarity to the existing Project, appearance, materials, components, quality, construction, architecture, style, size, location, appearance, materials, description, and/or other improvements. Master Developer reserves the right to develop, implement and modify all criteria associated with the Reduced Property in Master Developer's sole discretion without any approval or consent from any other person or entity except as required by the Governing Laws.

17.3. **Reduced Property Documents.** In connection with any Reduced Property, Master Developer shall prepare and, where appropriate, record in the official records of the County, (a) an amendment to this Declaration, (b) an amendment to the Bylaws of the Association, (c) a supplemental plat and (d) any other documents desired by Master Developer and/or required by the Governing Laws (collectively, the "Reduced Property Documents"). The Reduced Property Documents shall be in a form approved by Master Developer, in its sole discretion and the City, without any approval or consent from any other person or entity except as required by the Governing Laws. The Reduced Property Documents shall be considered part of the Governing Documents. The Reduced Property Documents shall comply with all Governing Laws. The Association and Owners and their respective Related Parties and lenders shall promptly take all actions and sign all documents requested by Master Developer or as otherwise necessary to accomplish the transactions associated with the Reduction Option and the Reduced Property Documents.

17.4. **Alteration of Percentage Interests.** The Reduced Property Documents shall reflect, among other matters, that the Percentage Interest shall be recalculated so that the Percentage Interest shall be equal to the ratio between each Owner and the aggregate number of all the Owners in the entire Association after the Reduced Property is removed there from. The total of the Percentage Interests pertaining to all Owners in the entire Association after the Reduced Property is removed from the Project shall in all events equal one hundred percent (100%).

IN WITNESS WHEREOF, the undersigned have executed this Master Declaration as of the Effective Date.

CANYON RIDGE APARTMENTS AT DEER MOUNTAIN, L.P.

CANYON RIDGE APARTMENTS AT DEER MOUNTAIN, L.P.,
a Utah limited partnership

By: Canyon Ridge at Deer Mountain, L.C.,
a Utah limited liability company, Managing Member

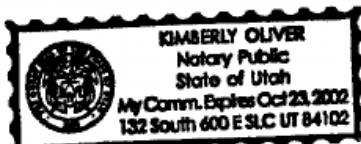
By: PSC DEVELOPMENT COMPANY,
a Utah corporation, Manager

By: 
Mark B. Cohen, Vice President

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

On this 20 day of Dec, 2000, personally appeared before me, Mark B. Cohen, the signer of the above instrument, who duly acknowledged to me that he is the Vice President of PSC Development Company, a Utah corporation, which corporation is the Manager of Canyon Ridge At Deer Mountain, L.C., a Utah limited liability company, which company is the Managing Member of Canyon Ridge Apartments at Deer Mountain, L.P., a Utah limited partnership, and that he executed the same as duly authorized in the capacity indicated.


NOTARY PUBLIC 132 S. 600 E. SLC, UT 84102
Residing at: 10/23/02
My Commission Expires: 10/23/02



KEETLEY STATION AT DEER MOUNTAIN, L.C.

**Keetley Station At Deer Mountain, L.C.,
A Utah limited liability company**

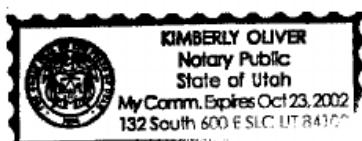
By: **PSC Development Company,
A Utah corporation, Manager**

By: Mark B. Cohen
Print Name: MARK B COHEN
Title: V.P.

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

On this 20 day of December, 2000, personally appeared before me, MARK B. COHAN, the signer of the above instrument, who duly acknowledged to me that he is the V. PRESIDENT of PSC Development Company, a Utah corporation, which corporation is the Manager of Keetley Station At Deer Mountain, L.C., a Utah limited liability company, and that he executed the same as duly authorized in the capacity indicated.

Kimberly Olson
NOTARY PUBLIC
Residing at: 132 S. 600 E. SLC, UT 84102
My Commission Expires: 10/23/02



Todd Hollow Apartments At Deer Mountain, L.P.,

**Todd Hollow Apartments At Deer Mountain, L.P.,
A Utah limited partnership**

By: Todd Hollow At Deer Mountain, L.C.,
A Utah limited liability company, General Partner

By: **PSC Development Company,
A Utah corporation, Manager**

By: Peter S. Cooke, President

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

On this 20 day of Dec., 2000, personally appeared before me, Peters. Cooke, the signer of the above instrument, who duly acknowledged to me that he is the President of PSC Development Company, a Utah corporation, which corporation is the Manager of Todd Hollow At Deer Mountain, L.C., a Utah limited liability company, which company is the Managing Member of Todd Hollow Apartments At Deer Mountain, L.P., a Utah limited partnership, and that he executed the same as duly authorized in the capacity indicated.

NOTARY PUBLIC 132 S. 600 E, SUCC, UT 84402
Residing at:

My Commission Expires: 10/23/02

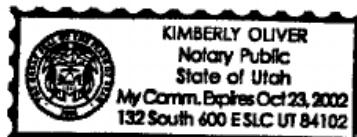


EXHIBIT "A"
LEGAL DESCRIPTION OF PROJECT

Commitment No. MT-48605A

SCHEDULE A - CONTINUED

BEGINNING at the Southwest corner (Brass Cap) of Section 5, Township 2 South, Range 5 East, Salt Lake Base and Meridian and running thence East 1320.00 feet more or less along the Southerly line of said Section to the Easterly line of the Southwest Quarter of the Southwest Quarter; thence North 00°33'28" East 1286.25 feet more or less to the Northerly line of the Southwest Quarter of the Southwest Quarter of above said Section; thence West 1320.00 feet more or less to the Westerly Section Line of above said Section; thence North 00°33'28" East 1286.25 feet to the West 1/4 corner (Brass Cap) of said Section; thence East 2620.94 feet more or less to the Easterly line of the Southwest Quarter of above said Section; thence South 00°08'00" West 2572.38 feet more or less to the South Quarter Corner of Section 5; thence South 00°09'55" East 5453.24 feet more or less to the South Quarter Corner of Section 8, Township 2 South, Range 5 East, Salt Lake Base and Meridian (Brass Cap); thence South 89°33'38" West 757.50 feet to the Northerly right of way line of U.S. Highway 189 (the next 13 (thirteen) courses are along said right of way line); thence along the arc of a 7489.437 foot radius curve to the right 101.95 feet through a central angle of 00°46'48" the chord of which bears North 46°23'11" West 101.95 feet; thence North 40°48'12" West 782.94 feet; thence North 33°19'30" West 779.78 feet; thence North 56°00'13" East 55.00 feet to a point on a non-tangent curve; thence along the arc of a 7354.437 foot radius curve to the right 1084.17 feet through a central angle of 08°26'47", the chord of which bears North 29°46'24" West 1083.19 feet; thence North 25°33'00" West 873.80 feet; thence North 54°21'39" West 114.13 feet; thence North 39°35'10" West 412.31 feet; thence North 25°33'00" West 610.37 feet; thence North 23°30'49" West 281.41 feet; thence North 26°06'01" West 527.86 feet; thence North 35°24'09" West 313.27 feet; thence North 45°23'20" West 264.99 feet; thence leaving said right of way line North 00°22'43" West 254.06 feet to the Northerly line of said Section 7, Township 2 South, Range 5 East, Salt Lake Base and Meridian; thence North 89°00'57" East 1319.97 feet more or less to the point of BEGINNING.

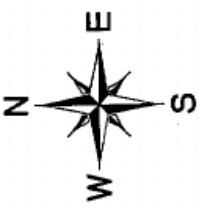
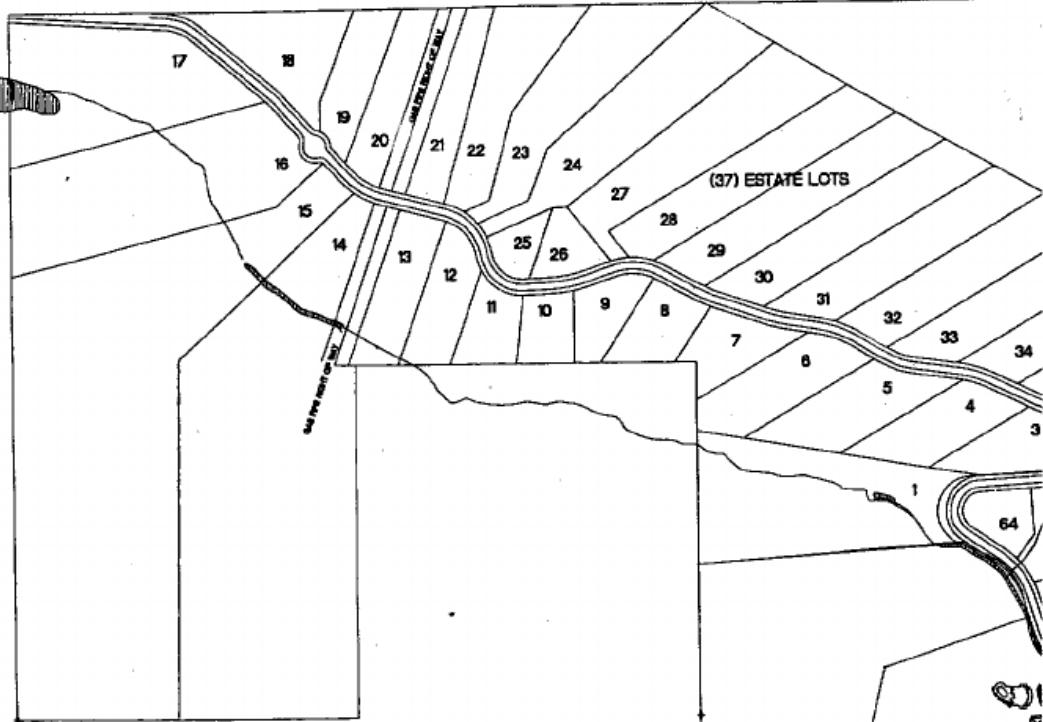
EXCEPTING Parcels No. JDR-HY-189-61: 9, 9B and 9F as found in the Amended Declaration of Taking recorded May 8, 1989 as Entry No. 152697 in Book 219 at Page 726 of Official Records.

Being the proposed plat of Deer Mountain Resort Subdivision.

E 229508 B 485 P 0557

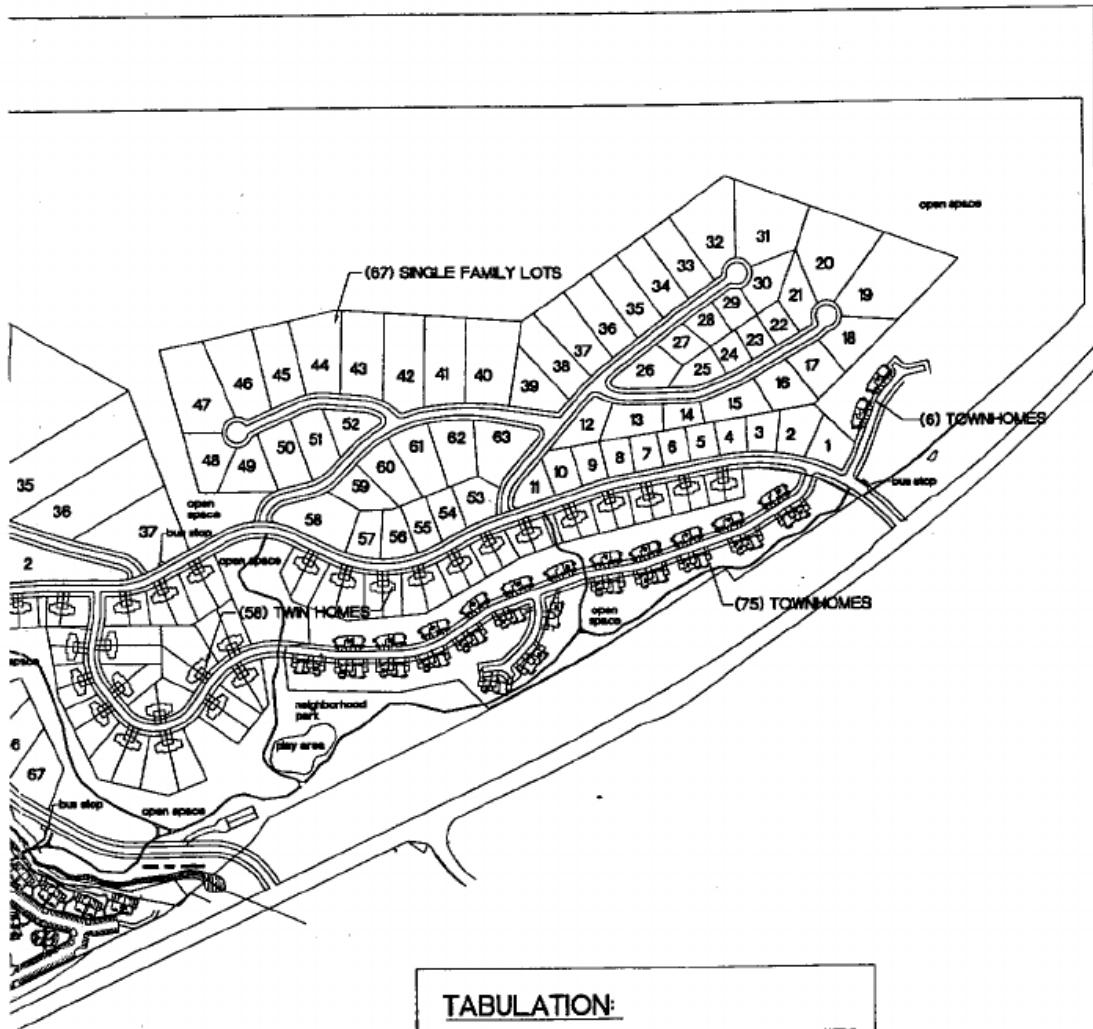
EXHIBIT "B"

PRELIMINARY PLAT



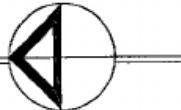
DEER MOUNTAIN

MASTER SITE F



<u>TABULATION:</u>	
<u>HOUSING TYPE</u>	<u>TOTAL UNITS</u>
APARTMENTS	184 UNITS
TOWNHOMES	81 UNITS
TWIN HOMES	58 UNITS
SINGLE FAMILY LOTS	67 UNITS
ESTATE LOTS	37 UNITS
TOTAL UNITS	427 UNITS

.AN



229508 BK 485 PG 560

EXHIBIT "C"

SCHEDULE OF OWNERSHIP INTERESTS

<u>Zone</u>	<u>Lots</u>	<u>ERUs/ Zone</u>	<u>ERUs/ Lot</u>	<u>Percentage Interests / Zone</u>	<u>Percentage Interest / Lot</u>
Apartment Zone	184	101.00	0.55	31.20 %	0.0170 %
Town Home Zone	81	60.75	0.75	18.80 %	0.0232 %
Twin Home Zone	58	58.00	1.00	17.90 %	0.0309 %
Single Family Zone	67	67.00	1.00	20.70 %	0.0309 %
Estate Zone	37	37.00	1.00	11.40 %	0.0308 %
Totals	427	323.75	N/A	100.00 %	N/A