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When Recorded Return To:
Joseph E. Tesch
Tesch Law Offices, P.C.
PO Box 3390
314 Main Street, Suite 200
Park City, Utah 84060

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ELIZABETH M PALMIER, Recorder
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FOR COALITION TITLE AGENCY, INC.
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR VICTORY RANCH A MASTER PLANNED COMMUNITY

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VICTORY RANCH, A MASTER PLANNED COMMUNITY**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") FOR VICTORY RANCH, A MASTER PLANNED COMMUNITY, is made this 9 day of June, 2006, by VICTORY RANCH, L.C., a Utah limited liability company ("Declarant").

ARTICLE 1

DEFINITIONS

- 1.1 "**Additional Property**" means: (a) the real property, together with all Improvements located thereon, described on Exhibit B and (b) any other real property, together with the Improvements located thereon, located not more than two miles from the exterior boundaries of the property described on Exhibit A and Exhibit B.
- 1.2 "**Affiliate**" means a Person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with another Person; where "control" means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.
- 1.3 "**Annual Assessments**" means the Assessments levied pursuant to Section 6.2.
- 1.4 "**Architectural and Site Design Guidelines for Victory Ranch**" means the document named as such on file in the office of the Wasatch County Recorder as document number _____, as amended or supplemented from time to time.
- 1.5 "**Architectural Review Committee**" means the committee established pursuant to Section 5.10.1.
- 1.6 "**Architectural Review Committee Rules**" means the rules and guidelines adopted by the Architectural Review Committee pursuant to Section 5.10 including the Architectural and Site Design Guidelines for Victory Ranch.
- 1.7 "**Articles**" means the articles of incorporation of the Association, as amended from time to time.
- 1.8 "**Assessable Property**" means each Lot, except for Exempt Property.
- 1.9 "**Assessment**" means an Annual Assessment or a Special Assessment.
- 1.10 "**Assessment Lien**" means the lien created and imposed by Article 6.
- 1.11 "**Assessment Period**" means the period set forth in Section 6.5.

1.12 "Association" means Victory Ranch Home Owners Association, a Utah nonprofit corporation and its successors and assigns.

1.13 "Association Land" means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest, easement or license for as long as the Association is the owner of the fee or holds such leasehold interest, easement or license.

1.14 "Association Member" means any Person who is a member of the Association as provided in Section 5.6.

1.15 "Association Membership" means a membership in the Association.

1.16 "Association Membership Assessment" shall have the meaning given such term in Section 6.3.1(a).

1.17 "Association Rules" means the rules adopted by the Board pursuant to Section 5.3 as amended from time to time.

1.18 "Board" means the Board of Directors of the Association.

1.19 "Bylaws" means the bylaws of the Association, as amended from time to time.

1.20 "Common Areas" means: (a) all Association Land; (b) all land, and the Improvements situated thereon, within the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is Common Area or is to be conveyed to the Association for the benefit and use of the Association Members; (c) all land, and the Improvements situated thereon, which is situated within the boundaries of a Lot and which is designated on a Recorded subdivision plat Recorded by the Declarant or approved by the Declarant or the Association as land which is to be improved, maintained, repaired and replaced by the Association; (d) all land, and the Improvements situated thereon, within or adjacent to the Project which the Declarant indicates on a Recorded subdivision plat or other Recorded instrument is to be used for roads, trails, parks, landscaping, drainage or water retention or flood control for the benefit of the Project or the general public; (e) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated rights-of-way with respect to which Wasatch County has not accepted responsibility for the maintenance thereof, but only until such time as Wasatch County has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Association pursuant to this clause have been expressly approved by either the Declarant or the Board; and (f) all land, and the Improvements situated thereon, which is designated in a Recorded amendment to this Declaration as Common Areas. Common Areas do not include the Excluded Properties.

1.21 "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.22 "**Declarant**" means Victory Ranch, L.C., a Utah limited liability company, and its successors, and any Person to whom Victory Ranch, L.C. may expressly assign any or all of its rights under this Declaration. The Declarant may assign some or all of its rights hereunder to a Declarant Affiliate while retaining such rights to itself. The Declarant presently intends to assign such rights to the current owners of a portion of the Additional Property.

1.23 "**Declarant Affiliate**" means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.24 "**Declaration**" means this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

1.25 "**Developer**" means the Declarant and any person who purchases multiple Lots within the Property for the purpose of re-sale to individual lot owners.

1.26 "**Development Agreement**" means the Development Agreement for Victory Ranch, Wasatch County, Utah, entered into, or to be entered into, by and between Declarant and Wasatch County, Utah.

1.27 "**Equestrian Center**" is one of the Excluded Properties.

1.28 "**Excluded Properties**" means all property noted on the Plat as Restricted Open Space including, without limitation, the Golf Course Property, all property subject to conservation easements, the River Lodge, and the Equestrian Center, and all other property not shown as private Lots, roadways or Common Areas on the Plats of each phase of the Project as of the time recorded with the County, all of which are referred to in the Master Plan and all of which shall be referred to collectively as the Excluded Properties. It is expected that access to the Excluded Properties requires membership in the Victory Ranch Club or the Victory Ranch Golf Club.

1.29 "**Exempt Property**" means: (a) all land and improvements owned by, or dedicated to and accepted by, the United States, the State of Utah, Wasatch County or any municipality having jurisdiction, or any political subdivision of any of them, for as long as such entity or political subdivision is the owner thereof or for as long as said dedication remains effective; (b) all Association Land, (c) all Common Areas as shown on the Plats of each phase of the Project when and if filed with the County, and (d) the Excluded Properties.

1.30 "**First Mortgage**" means a Mortgage Recorded against a Lot which has priority over all other Mortgages Recorded against that Lot.

1.31 "**Golf Course Property**" is one of the Excluded Properties and more specifically means the real property described as the Golf Course Property in the approved Master Plan together with all improvements now or hereafter situated thereon or attached thereto.

1.32 "Improvement" means: (a) any Residence, building, guest house or other accessory building, fence or wall; (b) any swimming pool, tennis court, basketball court, road, driveway, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any statuary, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot); and (e) any other structure of any kind or nature.

1.33 "Lessee" means the lessee or tenant under a lease, oral or written, of any Lot (or part thereof), including an assignee of the lessee's or tenant's interest under a lease.

1.34 "Lot" means a portion of the Project intended for independent ownership and use and designated as a lot on any Plat and, where the context indicates or requires, shall include any Residence, building, structure or other Improvements situated on the Lot.

1.35 "Master Plan" means the Development Master Plan for Victory Ranch Club as shown on Exhibit C attached hereto. There is no assurance that the Master Plan with respect to the Additional Property will not be changed from time to time.

1.36 "Maximum Association Membership Assessment" shall have the meaning given such term in Section 6.3.1(b).

1.37 "Mortgage" means a deed of trust or a mortgage Recorded against a Lot.

1.38 "Mortgagee" means a beneficiary under a deed of trust, or a mortgagee under a mortgage, Recorded against a Lot, and "First Mortgagee" means such a beneficiary or mortgagee under a First Mortgage.

1.39 "Occupant" means any Person other than an Owner who occupies or is in possession of a Lot, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a Resident).

1.40 "Owner" means the Person or Persons who individually or collectively own fee title to a Lot (as evidenced by a Recorded instrument), provided that: (a) the Declarant (and not the fee title holder) shall be deemed to be the "Owner" of each Lot with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate; (b) in the event that, and for so long as, the Declarant or a Declarant Affiliate has, pursuant to a written agreement, an existing right or option to acquire any one or more Lots (other than by exercise of a right of first refusal or right of first offer), the Declarant shall also be deemed to be the Owner of each Lot with respect to which the Declarant or a Declarant Affiliate has such right or option; and (c) in any case where fee title to a Lot is vested in a trustee under a deed of trust pursuant to Chapter 1 of Title 57 of the Utah Code, the owner of the trustor's interest under the deed of trust shall be deemed to be the "Owner" of that Lot. Where reference is made in this Declaration to Lots owned by a Person, such phrase shall be deemed to refer to Lots of which that Person is the Owner, as determined pursuant to this Section.

1.41 **“Period of Declarant Control”** means the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) one hundred twenty (120) days after the conveyance of title by Declarant to the last Lot owned by the Declarant; or (b) such earlier date on which the Declarant elects to terminate the Period of Declarant Control by Declarant’s providing written notice of Declarant’s termination to the Association.

1.42 **“Person”** means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.43 **“Plat”** means the recorded subdivision plats designating, among other entitlements and limitations, the Lots, Common Areas and boundaries of each phase of the Project.

1.44 **“Primary Infrastructure”** means all roads located within the Project, trails designated as public trails by Wasatch County and located within the Project or Excluded Properties, and any utility facilities and systems for the transmission of utility services, including the drainage and storage of surface water, that are installed and maintained to provide the applicable service to both (a) a Lot, Lots or Common Areas and (b) the Excluded Properties. If a pond serves both as a detention pond for the Lots and as irrigation supply for the Excluded Properties, then only the maintenance, repair and replacement costs relating to its use as a detention pond shall be reimbursed under Section 10.13.

1.45 **“Project” or “Property”** means the real property described on **Exhibit A** attached hereto together with all Improvements located thereon, and all real property, together with all Improvements located thereon, which is annexed and subjected to this Declaration pursuant to **Section 2.2** provided, however, although depicted on the Plats, the Excluded Properties are not part of the Project (unless expressly annexed to the Project under Section 2.2) but this Declaration does impose certain provisions that benefit and restrict the Excluded Properties as more specifically set forth and provided in Section 4.6 and Article 10 of this Declaration.

1.46 **“Project Documents”** means this Declaration, the Articles, the Bylaws, the Association Rules, the Architectural and Site Design Guidelines for Victory Ranch, as such documents are amended from time to time.

1.47 **“Purchaser”** means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot except for: (a) a Person who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots; or (b) a Person who, in addition to purchasing a Lot, is expressly assigned any or all of the Declarant’s rights as the Declarant under this Declaration.

1.48 **“Record,” “Recording,” “Recorded” and “Recordation”** means placing or having placed an instrument of public record in the official records of the Wasatch County Recorder’s Office.

1.49 "Residence" means any building, or portion of a building, including a guest house or other accessory building, situated upon a Lot and designed and intended for separate, independent use and occupancy as a residence.

1.50 "Resident" means each individual who resides in any Residence.

1.51 "River Lodge" is one of the Excluded Properties and more specifically means the real property described as the River Lodge in the approved Master Plan together with all improvements now or hereafter situated thereon or attached thereto.

1.52 "Special Assessment" means any Assessment levied pursuant to Section 6.4.

1.53 "Special Use Fees" means any fees charged by the Association for use of Common Areas pursuant to Section 4.1.1(e).

1.54 "Supplemental Declaration" means an amendment or supplement to this Declaration filed pursuant to Article 2 which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or which effects any other amendment or modification of this Declaration.

1.55 "Visible From Neighboring Property" means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property.

ARTICLE 2

PLAN OF DEVELOPMENT

2.1 Property Initially Subject to the Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. The initial phase of the Project includes 23 Lots. The Project may be expanded pursuant to the provisions of Section 2.2. The Declarant presently intends to develop the Project and the Additional Property, if and when annexed to the Project to consist of 698 Equivalent Residential Units as defined by the Land Development Code of Wasatch County. All of the property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, Purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. The

Excluded Properties are not included within the Project but Section 4.6 and Article 10 of this Declaration include certain provisions that benefit and restrict the Excluded Properties.

2.2 Annexation of Additional Property and/or Excluded Property.

2.2.1 At any time on or before the later of (a) ten (10) years from the date of this Declaration or (b) date of the conveyance by Declarant of title to the last Lot owned by the Declarant, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Excluded Properties or Additional Property without the consent of any other Owner or Person (other than the Person who owns the property to be annexed, if other than the Declarant), from time to time, by one or more Supplemental Declarations. The annexation of all or any portion of the Excluded Property or Additional Property shall be effected by the Declarant Recording a written instrument setting forth the legal description of the property being annexed and stating that such portion of the Additional Property or Excluded Property is annexed and subjected to this Declaration. Any such Supplemental Declaration shall also be signed by the owners of any additional real estate that is being added to the definition of Excluded Properties for purposes of subjecting such additional real estate to the benefits and restrictions of Section 4.6 and Article 10 hereof.

2.2.2 The Additional Property and Excluded Property may be annexed as a whole, at one time or in one or more portions at different times, or it may never be annexed, and there are no limitations upon the order of annexation or the boundaries thereof. Property annexed by the Declarant pursuant to this Section 2.2 need not be contiguous with other property in the Project, and the exercise of the right of annexation as to any portion of the Additional Property or Excluded Property shall not bar the further exercise of the right of annexation as to any other portion of the Additional Property or Excluded Property. The Declarant makes no assurances as to which, if any, part of the Additional Property or Excluded Property will be annexed.

2.2.3. The Additional Property shall not be subject to the provisions of this Declaration unless and until added to the Property by the filing of a Supplemental Declaration as described in this Section 2.2, but once added, shall be treated in the same manner as the remainder of the Property.

2.3 Disclaimer of Representations. The Declarant makes no representations or warranties whatsoever that: (a) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; or (d) the use of any property subject to this Declaration will not be changed in the future. In addition, if any guardhouses are constructed within the Project, the Declarant makes no representations or warranties that a guard service will be provided or, if guard service is provided, that it will be provided during any particular hours or be continued in the future. Nothing contained in this Declaration and nothing which may be represented to a purchaser by

real estate brokers or salesmen representing the Declarant or any Developer shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration or of any part of the Additional Property.

2.4 Gatehouses, Security Gates and Security Devices. Gatehouses, security gates (manned or unmanned), crash gates and/or other security devices designed to limit access and to provide more privacy for Owners and Occupants may be constructed, removed, modified or relocated from time to time within or adjacent to the Project. Each Owner and Occupant, and their families, guests and invitees, acknowledge that any such gatehouse, security gate or other security device may restrict or delay entry into, or access within, the Project by police, fire department, ambulances and other emergency vehicles or personnel. Each Owner and Occupant and their families, guests and invitees agree to assume the risk that any such gatehouse, security gate or other security device will restrict or delay entry into, or access within, the Project by police, fire department, ambulances or other emergency vehicles or personnel, and that such devices are no assurance that access by unauthorized persons will be prevented. Neither the Declarant, any Declarant Affiliate or the Association nor any director, officer, agent or employee of the Declarant, any Declarant Affiliate or the Association shall be liable to any Owner or Occupant or their families, guests or invitees for any claims or damages resulting, directly or indirectly, from the construction, existence, operation or maintenance of any such guardhouse, security gate, crash gate or other security device. All present and future Owners of any Lot or any portion of or interest in any Lot, and all present and future Occupants of any Lot or any portion of any Lot, are advised that, notwithstanding anything to the contrary:

(a) Any gatehouse, security gate or similar facility currently situated, or planned for construction, or hereafter constructed, across any street or roadway (i) may never be constructed, (ii) if constructed may be removed at some future date or dates, (iii) if constructed may be relocated at some future date or dates to a site which does not control or limit access to the Property or portions thereof, or (iv) if constructed may be modified (including, without limitation, to change the same from a manned facility to an unmanned facility), in all such cases without any notice or liability to or consent of any Owners or Occupants of the Property or any portion thereof or interest in the Property. Declarant makes no representations regarding, and shall have no liability for, the adequacy or degree of security or protection provided by any gatehouse, security gate, crash gate or other facility constructed as part of the Project.

(b) Other property along or adjacent to, or otherwise directly or indirectly served by, the roads within the Project, including, but not necessarily limited to, the Excluded Properties and Additional Property may be developed or used as a public or private golf course, club, river lodge, bunkhouses, cabins, sports facility, equestrian facilities, recreational facility or other similar facility, or any combinations of the foregoing, and in connection therewith, without any notice or liability to or consent of any Owners or Occupants of the Property or any portion thereof (i) guests, employees, invitees, contractors, agents, and service providers of any such public or private golf course, club, river lodge, bunkhouses, cabins, sports facility, equestrian facilities, recreational facility or

other similar facility may be given the right to use the roads within the Project or portions thereof for pedestrian and vehicular ingress and egress and may be provided with access codes, passkeys, passcards or such other devices, information or authorizations as may be necessary to permit such guests, employees and invitees to pass through any security gate(s), guard gate(s), guard post(s) and the like to use such roads, or applicable portions thereof, for such purposes, and (ii) the owner of any applicable portion of the roads within the Project may dedicate such portion, or easements or other rights-of-way over and across such portion, to the public (but only with the prior written consent of Declarant, so long as Declarant owns any of the Property or any of the Additional Property or Excluded Property, and thereafter only with the prior written consent of the Association).

2.5 Sanitary Sewer Services. Sewer services for the Project shall be provided pursuant to contract with the Jordanelle Special Service District or other publicly owned sewer facility (the "Sewer District"), or any successor or assignee of the Sewer District, or any other accessible provider of sewer services selected by the Board. Due to the physical contours and layout of the Property, certain Lots within the Project may require sewage ejector pumps or similar facilities to connect to the main sewer lines in the Project. The specific Lots that may require sewer ejector pumps or similar facilities are noted on each Plat. Each Owner shall be responsible for the cost of purchasing, installing and maintaining any such equipment required for their Lot and may be responsible for the payment of its portion of government bonds issued in connection with sewer and culinary water services. The specifications and location of all supplementary sewer facilities shall be subject to the review and approval of the Sewer District, or other applicable entity. The cost of any improvements by the Sewer District to the Property (or portions thereof) and the maintenance and repair thereof and the costs for the payment of bonds issued to finance such costs (or a portion thereof attributable to Common Areas) may be added to and become part of the Assessments payable under this Declaration.

2.6 Storm Sewer System. Maintenance of any portion of the storm water sewer system, including but not limited to detention ponds and detention basins, that is located within, on or under any portion of the Property or which transports or holds storm water and run-off related to the Property, excluding any portions of such systems located within the Excluded Properties, shall be the responsibility of the Association, subject to reimbursement, if any, required under Section 10.13.

2.7 Development Plan. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its development plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by the Declarant or changing the nature or extent of the uses to which such property may be devoted.

ARTICLE 3

LAND USES, PERMITTED USES AND RESTRICTIONS

3.1 Land Uses. The Property shall be used exclusively for single family residential homes, along with ancillary uses such as public or private pedestrian, bicycle and equestrian trails, public or private parks, club houses, boat houses, river lodges, bunkhouses, cabins, and related facilities, Common Areas and the like, and such limited commercial uses that are consistent with a residential master planned community as may be permitted from time to time by the Architectural Review Committee including, but not limited to, the use of a portion of the Property for: (i) a post office, (ii) general store, (iii) sales office(s) and (iv) model homes. The Architectural Review Committee shall have the authority to make, modify and to enforce standards and restrictions governing the use of the Property in addition to those otherwise contained in this Declaration.

3.2 Maximum Home Size and Buildable Area. The maximum size of each single family residential home and the buildable area within each Lot shall be limited as set forth on the recorded Plat for each Lot.

3.3 Architectural Control.

3.3.1 All Improvements constructed within the Project shall be of new construction, and no intact buildings or other structures shall be moved from other locations to the Project (except for construction and sales trailers or similar facilities approved in advance by the Architectural Review Committee).

3.3.2 The applicable architectural and site design guidelines, and design review process are those contained in the Architectural and Site Design Guidelines for Victory Ranch which may be amended from time to time in the same manner and with the same standards as amendments to this Declaration.

3.3.3 No devegetation, excavation, grading, planting or revegetation work of a material scope shall be performed within the Project without the prior written approval of the Architectural Review Committee.

3.3.4 No Improvement shall be constructed, installed or removed within the Project without the prior written approval of the Architectural Review Committee.

3.3.5 No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within the Project, or any Improvements located thereon, shall be made or done without the prior written approval of the Architectural Review Committee, nor shall any Lot be split, divided or further subdivided in any manner nor shall any lot line be adjusted nor shall any easement or licenses be granted without the prior written approval of the Architectural Review Committee and, during the Period of Declarant Control, the Declarant.

3.3.6 Any Owner or other Person desiring approval of the Architectural Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his, her or its Lot or other portion of the Project, or any Improvements located thereon, shall submit to the Architectural Review Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform. Any Owner or other Person requesting the approval of the Architectural Review Committee shall also submit to the Architectural Review Committee any additional information, plans and specifications which the Architectural Review Committee may reasonably request. In the event that the Architectural Review Committee fails to approve or disapprove an application for approval within forty-five (45) days after the application, together with all supporting information, plans and specifications required by the Architectural Review Committee Rules or reasonably requested by the Architectural Review Committee, have been submitted to it, the application shall be deemed denied. However, in the event of such denial by inaction, the applicant may thereafter make a written request that the Architectural Review Committee provide written reasons for such denial, and the Architectural Review Committee shall provide such written denial within 15 days of receipt of the written request therefore.

3.3.7 Neither the approval by the Architectural Review Committee of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this Section, nor any failure to act with respect to any of the foregoing, shall be deemed a waiver of the Architectural Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

3.3.8 Upon receipt of approval from the Architectural Review Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Architectural Review Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Review Committee.

3.3.9 Any change, deletion or addition to the plans and specifications approved by the Architectural Review Committee must be approved in writing by the Architectural Review Committee.

3.3.10 The Architectural Review Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section, which fee shall be payable at the time the application for approval is submitted to the Architectural Review Committee. Such fee, if established and charged by the Architectural Review Committee, shall be set at such reasonable level as the Architectural Review Committee may estimate will be necessary to defray the reasonable

costs and expenses of the Architectural Review Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Review Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Architectural Review Committee by an architect or engineer.

3.3.11 The provisions of this Section do not apply to, and approval of the Architectural Review Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

3.3.12 The Architectural Review Committee Rules shall contain provisions for building pad location requirements and design guidelines, including height limitations, in accordance with the Development Agreement or as may be otherwise determined by the Architectural Review Committee in its sole discretion.

3.3.13 The approval required of the Architectural Review Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument. The Architectural Review Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Architectural Review Committee of evidence satisfactory to the Architectural Review Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Architectural Review Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Review Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

3.4 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, modular or prefabricated home or structure, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Review Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Architectural Review Committee. No residence, house, garage or other structure appurtenant thereto shall be moved upon any Lot from another location.

3.5 Maintenance of Landscaping. Each Owner of a Lot shall properly maintain and keep properly cultivated, and free of trash, weeds and other unsightly material, all shrubs, trees, hedges, grass and plantings of every kind (collectively, "Landscaping") located on: (a) his, her or its Lot; (b) any public right-of-way or easement area which abuts or adjoins the Owner's Lot and which is located between the boundary line of his Lot and the paved area of any street, sidewalk, bike-path or similar area (unless otherwise directed by the Board); and (c) any non-street public

right-of-way or easement area adjacent to his Lot (unless otherwise directed by the Board); provided, however, that such Owner shall not be responsible for maintenance of any area over which: (i) the Association assumes the responsibility in writing; or (ii) Wasatch County or any other municipality or other governmental agency or entity having jurisdiction over such property assumes responsibility, for so long as Wasatch County or such other municipality or other governmental agency or entity assumes or has responsibility. For purposes of this Section 3.5 proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping, subject to the Architectural Review Committee Rules. Notwithstanding anything to the contrary herein, it is intended that large portions of a Lot may be maintained with its natural undisturbed ground cover and growth as permitted by the Architectural Review Committee.

3.6 Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or other Property, and no odors, loud noises or loud music shall be permitted to arise or emit therefrom (except as provided in Article 10) so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other Property. No other nuisance shall be permitted to exist or operate upon or adjacent to any Lot or other Property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but during construction periods, Lots and other Property shall be kept in a neat and tidy condition, trash and debris shall not be permitted to accumulate, supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved in writing by the Architectural Review Committee, and no loud music shall be permitted. In addition, any construction equipment and building materials stored or kept on any Lot or other Property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Review Committee, which may also require screening of the storage areas. The Architectural Review Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section shall not apply to construction activities of the Declarant.

3.7 Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot or other property which shall induce, breed or harbor infectious diseases or noxious insects.

3.8 Repair of Building. No Residence, building, structure or other Improvement on any Lot or other Property shall be permitted to fall into disrepair and each such Residence, building, structure and other Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Residence, building, structure or other Improvement is damaged or destroyed, then, subject to the approvals required by Section 3.3 such Residence, building, structure or other Improvement shall be immediately repaired or rebuilt or shall be demolished.

3.9 Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or

maintained upon any Lot or other part of the Property unless such antenna, pole, tower or dish is fully and attractively screened or concealed so as not to be Visible From Neighboring Property, which means of screening or concealment shall be subject to the regulation and prior approval of the Architectural Review Committee. Notwithstanding the foregoing, the Architectural Review Committee may adopt a rule or regulation permitting an Owner or Occupant to install and maintain a flagpole upon the Owners or Occupant's Lot, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Architectural Review Committee and may, if so provided in such rule or regulation, be made subject to the prior approval thereof by the Architectural Review Committee. Nothing in this Section shall be deemed to prohibit the Declarant from installing and maintaining flagpoles on, at or adjacent to model homes within the Project. Poles to which basketball backboards, goals and related equipment are affixed shall be governed by Section 3.32.

3.10 Mineral Exploration. No Lot or other Property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant during the Period of Declarant Control, and by the Association for the period following the Period of Declarant Control, and no derrick or other structure designed for use in boring for water, oil, or other hydrocarbons or minerals of any kind or nature shall be erected, maintained or permitted on any Lot.

3.11 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or other Property except in sanitary, covered containers of a type, size and style which are approved by the Architectural Review Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash or garbage shall be removed from Lots and other Property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be maintained on any Lot or other Property.

3.12 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot or other Property so as to be Visible From Neighboring Property.

3.13 Utility Service. No lines, wires or other devices for the communication (except as specifically required by federal law) or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot or other property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Review Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public,

quasi-public or private utility or any governmental agency or body, provided that reasonable efforts shall be made to avoid placing any such meter, panel or other equipment on the outside front wall of a Residence or other building facing the street running directly in front of such Residence.

3.14 Overhead Encroachments. No tree, shrub or planting of any kind on any Lot or other Property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, bicycle path or pedestrian way from ground level to a height of eight (8) feet without the prior approval of the Architectural Review Committee.

3.15 Health, Safety and Welfare. In the event additional uses, activities or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Lessees and Occupants, the Board may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Architectural Review Committee to make rules governing their presence on Lots or other Property as part of the Architectural Review Committee Rules.

3.16 Model Homes. Any provisions of this Declaration which prohibit non-residential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes or other model Residences of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Persons engaged in the construction of Residences in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Architectural Review Committee may also permit Lots owned by Declarant, Declarant Affiliate or Developers, and other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residences in the Project, and no home or other structure shall be used as a Model for the sale of homes or other structures not located in the Project. Neither the provisions of this Section nor the provisions of any other Section of this Declaration shall restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models in the Project.

3.17 Incidental Uses. The Architectural Review Committee may approve uses of property within a particular land use which are incidental to the full enjoyment of the Owners and Occupants of the property within that land use. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Architectural Review Committee may wish to impose, in its sole discretion, for the benefit of the Project as a whole subject to the provisions of Section 3.18.

3.18 Residential Use and Trades or Businesses. Except as otherwise provided and/or permitted in this Declaration, including, but not limited to, the provisions of Section 3.1, all Lots and Residences shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residence, except that an Owner or other Resident may conduct a business activity in a Residence so long as:

- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence;
- (b) the business activity conforms to all applicable zoning ordinances or requirements;
- (c) the business activity does not involve the door-to-door solicitation of Owners or other Residents in the Project;
- (d) the use of the Residence for trade or business shall in no way destroy or be incompatible with the residential character of the Residence or the surrounding neighborhood;
- (e) the trade or business shall be conducted only inside the Residence or inside an accessory building or garage, and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Residence;
- (f) the trade or business shall be conducted only by a Resident or Residents of the Residence and no employees shall be present on the Lot on a regular basis other than Residents;
- (g) no more than twenty percent (20%) of the total floor area of the Residence shall be used for trade or business;
- (h) the Residence used for trade or business shall not be used as a storage facility for a business conducted elsewhere;
- (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a gated residential neighborhood;
- (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and
- (k) a trade or business shall not utilize large vehicles not customary to a residential use.

The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity.

The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section but see Section 3.37.

3.19 Animals. No animal, livestock, poultry or fowl of any kind, other than a reasonable number of house pets, shall be maintained on or in any Lot and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No house pets shall be permitted to make an unreasonable amount of noise or create a nuisance. No structure for the care, housing or confinement of any pet shall be Visible From Neighboring Property. Notwithstanding the foregoing, no pets may be kept on or any Lot which, in the opinion of the Board, result in an annoyance to other Owners or Occupants in the vicinity. All pets shall be leashed when not on property owned by the pet's owner or on which the pets' owner is a Resident or guest, and persons walking any pet shall promptly and properly remove and dispose of the pet's waste. Notwithstanding anything herein to the contrary, if Additional Property is annexed to the Project, Declarant shall have the unilateral right to create more liberal rules regarding pets and other animals permitted on the Lots of such Additional Property.

3.20 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a Residence, building, appurtenant structures or other Improvements; and (b) which Declarant or the Association may permit or require for the development, operation and maintenance of the Project.

3.21 Signs. No signs whatsoever (including, but not limited to commercial, political, "for sale," "for rent" and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot except:

3.21.1 Signs required by legal proceedings.

3.21.2 Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Review Committee.

3.21.3 Signs of Declarant, Declarant Affiliates or Developers approved from time to time by the Architectural Review Committee as to number, size, color, design, message content, location and type.

3.21.4 Such construction job identification signs and subdivision identification signs which are in conformance with the minimum requirements of Wasatch County or any municipality having jurisdiction over the property and which have been approved in writing by the Architectural Review Committee as to number, size, color, design, message content and location.

3.22 Required Approvals for Further Property Restrictions.

3.22.1 All proposed changes to existing site plans and subdivision plats for any Lot, or any portion thereof, must be approved in writing by the Architectural Review Committee prior to Recordation thereof or commencement of construction on the applicable Lot. No Lot or portion thereof, shall be further subdivided, no lot lines or boundaries may be modified, and no portion less than all of any such Lot, or any

easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Declarant during the Period of Declarant Control and the Architectural Review Committee.

3.22.2 No further covenants, conditions, restrictions, or easements shall be Recorded against any Lot, or portion thereof, without the prior written approval of the Architectural Review Committee.

3.22.3 No applications for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, shall be filed with any governmental authority or agency without the prior written approval of the Architectural Review Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration.

3.22.4 No subdivision plat of a Lot, easement, declaration of further covenants, conditions, restrictions or easements or other instrument which is to be Recorded and which is required by this Section 3.22 to be approved by the Declarant (during the Period of Declarant Control) and the Architectural Review Committee shall be effective unless the required approval is evidenced on such instrument by the signature of an authorized representative of the Architectural Review Committee.

3.22.5 No site plan, subdivision of a Lot, or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits shall be submitted to Wasatch County or any other governmental authority or agency unless the same has first been approved in writing by the Architectural Review Committee as provided in this Section 3.22; further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the Architectural Review Committee hereunder unless such changes or modifications have first been approved by the Architectural Review Committee in writing.

3.22.6 Notwithstanding the foregoing, neither the Declarant nor any Declarant Affiliate shall be required to seek or obtain any of the approvals or consents otherwise required under this Section 3.22 as to any Lot, or any portion of either, of which the Declarant or any Declarant Affiliate is the Owner.

3.23 Vehicles. In general, all Vehicles (as defined below) must be parked, kept, maintained, stored, constructed, reconstructed or repaired only within a fully-enclosed garage approved by the Architectural Review Committee pursuant to Section 3.3 or in other areas on a Lot approved in writing by the Architectural Review Committee (which approval may be conditioned upon the planting or construction of landscaping or other screening approved by the Architectural Review Committee). For purposes of this Section, the term "Vehicles" includes cars, trucks and vans of all sizes, motorcycles, motorbikes, mopeds, mini-bikes, motor scooters, all-terrain vehicles, off-road vehicles, motor homes, recreational vehicles, trailers, travel trailers, tent trailers, camper shells, detached campers, boats, boat trailers, mobile homes, or other similar machinery or equipment, whether motorized or not, whether wheeled or not and whether or not in operating condition. Notwithstanding the foregoing: (a) up to one car, van or truck having a

capacity of one ton or less may occasionally be parked on driveways or other improved parking areas on a Lot so long as the same are in operating condition and are regularly used for transportation of passengers; (b) additional cars, vans or trucks having a capacity of one ton or less may be parked from time to time on driveways or other improved parking areas on a Lot to accommodate visitors or guests of the Owner or Occupant of that Lot (provided that the Architectural Review Committee may adopt rules or regulations relating to the number or frequency of guest or visitor vehicle parking, if it determines, in its discretion, that such rules or regulations are necessary); (c) service, repair or delivery vehicles may be parked on a Lot, but only for the period reasonably required to effect the needed service, repair or delivery; and (d) a temporary construction trailer may be placed and maintained on a Lot in connection with construction of Improvements on that Lot, but only if that temporary construction trailer, its location on the Lot and the period during which it will be permitted to remain on the Lot are approved in writing by the Architectural Review Committee. Except for emergency repairs, no Vehicle shall be repaired, constructed or reconstructed on the Property except within a fully-enclosed garage. No Vehicle shall be parked on any roadway or street within or adjacent to the Property, except for temporary parking (not exceeding 24 hours) of Vehicles of an Owner's or Occupant's guests.

3.24 Towing of Vehicles. The Board has the right, without notice, to have any Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the Vehicle. Any expense incurred by the Association in connection with the towing of any Vehicle must be paid to the Association upon demand by the owner of the Vehicle. If the Vehicle is owned by an Owner or Occupant, any amounts payable to the Association will be secured by the Assessment Lien against that Owner's or Occupant's Lot, and the Association may enforce collection of those amounts in the same manner provided for in this Declaration for the collection of Assessments.

3.25 Snow Removal. The Association shall be responsible for removal of snow from all streets and roads within the Project. Each Owner shall be responsible for removal of snow from the driveway and sidewalks on such Owner's Lot. If an Owner elects to hire a contractor to perform some or all of such Owner's snow removal duties under this Section, such Owner must use the contractor then used by the Association for snow removal, or otherwise approved by the Association. The Association shall publish a list of no less than three approved snow removal entities for such hire. This limitation is for the purpose of reducing the number of snow removal vehicles within the Project and thereby promote coordination and safety within the Project.

3.26 Variances. The Architectural Review Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 3 if the Architectural Review Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants, in the sole discretion of the Architectural Review Committee, and is consistent with the high quality of life intended for residents of the Project. Variances are granted in the sole discretion of the Architectural Review Committee and are not subject to judicial challenge for

any reason, including on the basis of arbitrariness, reasonableness, abandonment, or similar theories.

3.27 Change of Use of Common Areas. Upon: (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Common Areas is no longer in the best interests of the Owners; and (b) the approval of such resolution by Association Members casting more than fifty percent (50%) of the votes entitled to be cast by Association Members who are present in person or by proxy at a meeting duly called for such purpose and who are entitled to use such Common Areas under the terms of this Declaration, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use shall be consistent with any zoning regulations restricting or limiting the use of the Common Areas. This Section 3.27 shall not apply to, or be deemed to limit in any way, the right and power of the Declarant (during the Period of Declarant Control) or the Association pursuant to Section 4.1.1(a) to grant easements over, under or through portions of the Common Areas, or to dedicate portions of the Common Areas, to public, quasi-public or private utility companies, municipalities or other governmental agencies or entities, in connection with or at the time of development of property within or adjacent to the Project, where required or requested by any municipality or other governmental agency or entity, or any public, quasi-public or private utility company.

3.28 Drainage. No Residence, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the drainage plans on file with the county or municipality in which the Project is located.

3.29 Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and sightly condition. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

3.30 Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained on the roof of any Residence or other building so as to be Visible From Neighboring Property.

3.31 Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements theron, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners' respective investments therein. Therefore, subject to prior approval of the plans therefore by the Architectural Review Committee, solar collecting panels and other active solar devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar

collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Review Committee may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property).

3.32 **Basketball Goals or Play Structures.** No basketball goal, backboard or similar structure or device, and no swingsets or other play structures, shall be placed or constructed on any Lot without the prior written approval of the Architectural Review Committee (including, without limitation, approval as to appearance and location).

3.33 **Tanks.** No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot unless such tanks are buried underground. Nothing herein shall be deemed to prohibit use or storage upon any Lot of an aboveground propane or similar fuel tank used in connection with a normal residential gas barbecue grill or fireplace or a spa or "hot tub", so long as any such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Architectural Review Committee Rules or as otherwise approved by the Architectural Review Committee, so as not to be Visible From Neighboring Property.

3.34 **Exterior Lighting.** Exterior lighting shall be permitted on a Lot in accordance with the Architectural Review Committee Rules.

3.35 **Time Sharing Prohibited.** Without the prior written consent of Declarant during the Period of Declarant Control and the Association during any period thereafter, which may be granted or withheld in Declarant's or the Association's sole and absolute discretion, no portion of the Property shall be used: (i) for the operation of a timesharing, fraction-sharing, multiple ownership or similar program on a fixed or floating time schedule over a period of years, (ii) for the operation of a reservation or time-use system among co-Owners of a Lot managed by a party other than the co-Owners themselves, or (iii) for the operation of a reservation or time-use system among co-Owners whereby co-Owners are required as a condition of purchase of a fractional interest in the Lot to subject the fractional interest to a pre-determined reservation or time-use system among co-Owners, regardless of whether or not the co-Owner may later opt out of such system and regardless of whether the reservation or time-use system is record or unrecorded, fixed or floating.

3.36 **Declarant's Exemption.** Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant Affiliate or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in Declarant's sole discretion, to the development or sale of property within the Property.

3.37 **Rented Units.** No residential family home may be rented for anything except uses permitted herein and for terms not less than six (6) months in duration. Copies of the home rental leases shall be provided to the Association subject to rejection if such lease is inconsistent

with this Declaration. No Lot, Residence or portion thereof may be leased or rented for less than six (6) months at a time.

ARTICLE 4

EASEMENTS

4.1 Owners Easements of Enjoyment.

4.1.1 Subject to the rights and easements granted to the Declarant in Section 4.4, each Owner, and each Occupant of such Owner's Lot, shall have a non-exclusive right and easement of enjoyment in, to and over the Common Areas as shown on the Plots of the various phases of the Project if and when filed with the County, which right and easement shall be appurtenant to and shall pass with the title to each Lot, subject to the provisions of this Declaration including, without limitation, the following:

(a) Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Areas shall be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of Association Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners or any other Person (except Declarant, whose consent shall be required so long as Declarant owns any part of the Property or of the Additional Property), to dedicate portions of the Common Areas to the public, or grant easements over, under or through portions of the Common Areas to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by Wasatch County or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property or of portions of the Additional Property.

(b) The Association shall have the right to regulate the use of the Common Areas through the Association Rules (which may include, without limitation, the adoption and implementation of a reservation system for such portions of the Common Areas, or Improvements or amenities thereon, as the Board deems appropriate) and to prohibit access to such portions of the Common Areas, such as landscaped right-of-ways, not intended for use by the Owners, Lessees or other Occupants.

(c) The Declarant and the Association shall each have the right to grant easements or licenses to Developers or other Persons for the construction of Improvements on the Common Areas, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the streets and roads in the Project to Persons who are not Members of the Association consistent

with the terms of and for the purposes of carrying out the objectives of this Declaration.

(d) The Declarant and the Association shall each have the right to convey certain portions of the Common Areas to Owners of adjoining Lots in connection with the correction or adjustment of any boundary between Common Areas and any one or more adjoining Lots; provided, however, that neither the Association nor the Declarant shall have the right to transfer or convey any portion of the Common Areas upon which is situated any recreational facility unless approved by a vote of the Association Members pursuant to Section 4.1.1(a).

(e) The Association shall have the right to charge special use fees ("Special Use Fees") for the use of the Common Areas. The Special Use Fees, if any, shall be set by the Board from time to time, in its discretion. Special Use Fees shall be charged only for actual entry upon or use of those portions of the Common Areas, if any, selected by the Board to be subject to a Special Use Fee, and shall be imposed only where the Board deems it appropriate to collect revenue from the actual users of such selected portions of the Common Areas so that all of the costs of operating such selected portions of the Common Areas are not borne by all of the Owners through Annual Assessments, but rather are borne, at least in part, by the Owners, Occupants and other Persons using such selected portions of the Common Areas.

(f) The Association shall have the right to suspend the rights of any Owner or Occupant to use and enjoy recreational facilities on the Common Areas: (a) for any period during which an Assessment remains delinquent; (b) for a period not to exceed 60 days for any violation of the terms of the Project Documents; or (c) for successive 60-day periods if any such violation is not corrected during any preceding suspension period.

4.1.2 If a Lot is leased or rented by its Owner, the Occupants of such Lot shall have the right to use the Common Areas during the term of the lease, and the Owner of such Lot shall have no right to use the Common Areas until the termination or expiration of such lease.

4.1.3 The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Areas at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

4.2 Utility Easement. There is hereby created an easement along the lot lines of the Common Areas, Lots and other property for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water (including wells), sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the Declarant, the Association, and/or the providing utility company to

install and maintain the necessary equipment on the Common Areas, Lots and other property but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Areas, Lots and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board (and, in the case of a Lot, by the Owner of such Lot). If any utility company requests that a more specific easement be granted in its favor in substitution for the blanket easement hereby established with respect to the Common Areas, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

4.3 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas within the Common Areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and their guests, families, tenants, employees and invitees. Further, certain pathways or trails around and/or through the Property may be developed and maintained from time to time as part of hiking and/or bicycling trail systems serving the public in addition to Owners and Occupants; in such instances, members of the public shall also have the right to use such trails for the purposes for which they are developed and maintained, subject to reasonable, non discriminatory rules and regulations as the Board may adopt from time to time and subject to applicable requirements and regulations of Wasatch County and any other governmental body or agency having jurisdiction. There is also hereby created an easement upon, across and over the Common Areas and all private streets, private roadways, private driveways and private parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of Wasatch County or any other governmental body or agency having jurisdiction thereover including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

4.4 Declarant's Use and Easements.

4.4.1 The Declarant shall have the right and an easement (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Areas with respect to the sales of Lots or other property in the Project or within any of the Additional Property. The Declarant reserves the right (which, in its discretion, it may delegate to and/or share with one or more Developers, upon and subject to such terms and conditions as the Declarant may deem appropriate) to place models, management offices and sales and leasing offices on any Lots or other Property owned by the Declarant (or by such Developers, as applicable) and on any portion of the Common Areas in such number, of such size and in such locations as the Declarant deems appropriate.

4.4.2 So long as the Declarant or a Declarant Affiliate is marketing Lots or other portions of the Property or the Additional Property, the Declarant shall have the right to restrict the use of the parking spaces on the Common Areas. Such right shall include reserving such spaces for use by prospective Purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.4.3 The Declarant shall have the right and an easement on and over the Common Areas to construct all Improvements the Declarant may deem necessary and to use the Common Areas and any Lots and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project and property adjacent to the Project.

4.4.4 The Declarant shall have the right and an easement upon, over and through the Common Areas as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.5 Easement in Favor of Association. The Lots and Common Areas are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.5.1 For inspection during reasonable hours of the Lots and Common Areas in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents, including the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.5.2 For inspection, maintenance, repair and replacement of portions of the Common Areas accessible only from such Lots;

4.5.3 For correction of emergency conditions on one or more Lots or on portions of the Common Areas accessible only from such Lots; and

4.5.4 For the purpose of enabling the Association, the Board, the Architectural Review Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents.

4.6 Easements in Favor of Excluded Properties. There are hereby created in favor of: (i) the owners of the Excluded Properties, their agents, employees, and parties in privity with the owners of the Excluded Properties and (ii) their successors and assigns, a permanent non-exclusive easement for ingress and egress over, under and across all Common Areas and roadways and over and across all Lots (except portions of said Lots upon which Residences have been constructed) in order to allow for and permit the owner of the Excluded Properties to maintain, repair, monitor, and inspect the portions of the storm water drainage and control system (collectively, the "Storm Water System") which are located on, within or as part of the Excluded Properties, Common Areas or any Lots including, but not limited to all detention

ponds, detention lakes, basins, drainage channels, lines and other related facilities; provided that the location of the Storm Water System shall be subject to the prior written approval of the Declarant during the period of Declarant Control and the Association thereafter. In consideration of the granting of the rights set forth herein to the owners of the Excluded Properties, it is understood and agreed that said properties bring additional value to the Lots and Residences which may be constructed thereon. The provisions of this Section 4.6 may not be modified or amended without the prior written consent of the then current owner of the Excluded Properties and Declarant. Additional easements are set forth in Article 10 below.

ARTICLE 5

THE ASSOCIATION; ORGANIZATION; ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

5.1 Formation of Association. The Association shall be a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the Bylaws and this Declaration. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, Association Rules or Architectural Review Committee Rules, this Declaration shall control.

5.2 Governing Board and Officers. The affairs of the Association shall be conducted by the Governing Board (the "Board") and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Association Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association and the Common Areas. The Board shall determine the compensation to be paid to any such manager.

5.3 Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (a) the management, operation and use of the Common Areas including, but not limited to, any recreational facilities situated upon the Common Areas; (b) traffic and parking restrictions including speed limits on private streets within the Project; (c) minimum standards for any maintenance of Common Areas and Lots within the Project; or (d) any other subject within the jurisdiction of the Association including fines and other penalties for violations of Project Documents. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

5.4 No Personal Liability. No member of the Board, the Architectural Review Committee or any other committee of the Association, no officer of the Association and no manager or other employee of the Association shall be personally liable to any Association Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any member thereof, the Architectural Review Committee or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or

any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has engaged in intentional misconduct.

5.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

5.6 Membership in the Association. Every Owner of a Lot shall be an Association Member, and the Declarant shall be an Association Member so long as it owns a Lot or any other part of the Project or of the Additional Property (unless and until the Declarant expressly relinquishes in writing its status as an Association Member). There shall be one (1) Association Membership for each Lot, which Association Membership shall be held jointly by all Owners of that Lot.

5.7 Votes in the Association.

5.7.1 There shall be one (1) vote to each Lot.

5.7.2 Until the expiration or termination of the Period of Declarant Control: (a) the Association shall be deemed to have two classes of Association Members, Class A and Class B; (b) the Declarant shall be the Class B Association Member, and all votes held by the Declarant shall be Class B votes; (c) all Owners other than Declarant shall be Class A Association Members, and all votes held by such Owners shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Association shall be deemed to have a single class of Association Members and votes. During the Period of Declarant Control, all matters coming before the Association for vote shall be decided by the vote of the Declarant as the sole Class B Association Member. Following the Period of Declarant Control, all Class B Association Memberships and all Class B votes shall cease to exist, and any issue put to a vote at a duly held meeting of Association Members shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting.

5.8 Voting Procedures. A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof. The vote for each Lot must be cast as a single unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Association Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote or votes for a particular Lot, the vote or votes for that Lot shall be deemed void and shall not be counted.

5.9 Transfer of Association Membership. The rights and obligations of any Association Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership of the Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot to the new Owner thereof automatically transfers to the new Owner all of the rights and obligations of an Association membership. Each Purchaser of a Lot shall promptly notify the Association of his, her or its purchase of a Lot. Upon transfer of the ownership of an Owner's Lot, a transfer fee may be required pursuant to Section 6.11.

5.10 Architectural Review Committee.

5.10.1 The Association shall have an architectural review committee (the "Architectural Review Committee") to perform the functions assigned to it as set forth in this Declaration. So long as the Declarant owns any Lot or other property within the Project, or any portion of the Additional Property, the Architectural Review Committee shall consist of three (3) regular members and one (1) alternate member, each of whom shall be appointed by, and serve at the sole discretion of, the Declarant. At such time as the Declarant no longer owns any Lot or other property within the Project, or any portion of the Additional Property, the Architectural Review Committee shall consist of such number of regular and alternate members as the Board may deem appropriate from time to time (but in no event less than three (3) nor more than seven (7) regular members, nor less than one (1) nor more than three (3) alternate members), each of whom shall be appointed by, and serve at the pleasure of, the Board. The Declarant may at any time voluntarily surrender in writing its right, as the Declarant, to appoint and remove the members of the Architectural Review Committee pursuant to this Section 5.10.1 and in that event the Declarant may require, for so long as the Declarant owns any Lot or other property within the Project, or any portion of the Additional Property, that specified actions of the Architectural Review Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

5.10.2 The Architectural Review Committee shall promulgate architectural design guidelines and standards, including, but not limited to, color palettes and plant materials to be used in rendering its decisions. The decision of the Architectural Review Committee shall be final on all matters submitted to it pursuant to this Declaration. As provided in Section 3.3.10 the Architectural Review Committee may establish a reasonable fee to defr the costs of considering any requests for approvals submitted to the Architectural Review Committee, which fee shall be paid at the time the request for approval is submitted. In the event of any conflict between this Declaration and any design guidelines adopted by the Architectural Review Committee, this Declaration shall control.

5.10.3 No member of the Architectural Review Committee shall be personally liable to any Owner, the Association or any other Person for any mistake of judgment or

for any other acts or omissions of any nature whatsoever (including, without limitation, any mistake in judgment, negligence or nonfeasance) except for willful or intentional misconduct or fraud. The Association shall indemnify and hold harmless the members of the Architectural Review Committee, and their respective heirs and legal representatives, against all contractual and other liabilities to others arising out of: (a) contracts made by the Architectural Review Committee, within the scope of and in the course of performing its duties hereunder; (b) acts or omissions of such members of the Architectural Review Committee; or (c) their status as members of the Architectural Review Committee; provided, however, that such indemnification shall not be applicable where any such contract, act or omission constitutes willful or intentional misconduct or fraud. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, reasonable attorneys' fees and disbursements, amounts of judgments paid and settlement amounts) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such member of the Architectural Review Committee may be involved by virtue of being or having been a member of the Architectural Review Committee; provided, however, that such indemnity shall not be operative with respect to: (i) any matter as to which a member of the Architectural Review Committee shall have finally been adjudged in such action, suit or proceeding to be liable for willful or intentional misconduct or fraud in the performance of his or her duties as such member of the Architectural Review Committee; or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Board, there is no reasonable ground for such member of the Architectural Review Committee being adjudged liable for willful or intentional misconduct or fraud in the performance of his or her duties as a member of the Architectural Review Committee.

5.10.4 Subject to the provisions of Section 5.10.3 neither the Association, the Board, nor the Architectural Review Committee, nor any of the members of any of them, shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications. Further, the design and construction of any Improvement shall be the sole responsibility of the Owner and any recommendation, requirement or condition with respect to any plans or specifications or the means or method of construction made by the Architectural Review Committee or any member thereof shall not alter the Owner's responsibility for the safe and proper design and construction of said Improvement, nor shall it give rise to any claim by anyone against the Association, the Board or the Architectural Review Committee or any member of any of them for any defect in design or construction of any Improvement.

ARTICLE 6

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to an Affiliate of the Owner transferring title), but the lien created by this Declaration against the applicable Lot shall continue to secure payment of such delinquent Assessments (including, but not limited to, any and all interests and late charges) until the same are fully paid.

6.2 Annual Assessment.

6.2.1 In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each Assessment Period beginning with the fiscal year ending December 31, 2007, shall assess an Annual Assessment against each Lot which is Assessable Property.

6.2.2 Beginning with the year 2007 Assessment Period, the Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Association Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board (provided, however, that the total Annual Assessment for such Assessment Period shall not exceed the maximum amount determined pursuant to Section 6.3)

6.3 Rate of Assessment.

6.3.1 The amount of the Annual Assessment against each Lot shall be determined as follows:

(a) The term "**Association Membership Assessment**" shall mean: (i) for the fiscal year ending December 31, 2007, \$3,600.00/year paid quarterly; (ii) for each subsequent fiscal year the amount equal to the total budget of the Association for the applicable Assessment Period divided by the total number of Association Memberships in the Association (subject to Section 6.3.1(b) below).

(b) Except for Lots owned by the Declarant which are exempt from assessment under paragraph (c) of this Section 6.3.1, each Lot shall be assessed an Annual Assessment in an amount equal to the number of Association Memberships attributable to such Lot pursuant to Section 5.6 of this Declaration multiplied by the Association Membership Assessment. Notwithstanding any provision of this Declaration to the contrary, beginning with the fiscal year ending December 31, 2007, the Association Membership Assessment provided for herein shall not for any fiscal year of the Association exceed the Maximum Association Membership Assessment, as determined in accordance with this paragraph (b). For the fiscal year ending December 31, 2008, the Maximum Association Membership Assessment shall be Five Thousand Dollars (\$5000.00). Thereafter, unless a greater increase is approved by the affirmative vote of two-thirds (2/3) of the votes of the Class A members of the Association represented in person or by valid proxy at a meeting of Association Members duly called for such purpose, the Maximum Association Membership Assessment for any fiscal year (the "New Year") shall be equal to the Maximum Association Membership Assessment for the immediately preceding fiscal year (the "Prior Year") increased at a rate equal to the greater of: (i) the percentage increase in the CPI from the Base Month to the Index Month (as each of those terms is defined below); or (ii) ten percent (10%). Nothing herein shall obligate the Board to establish, in any fiscal year, a budget which results in Association Membership Assessments, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Association Membership Assessment for such fiscal year, and the election by the Board not to establish a budget which would result in the Association Membership Assessment, as calculated pursuant to paragraph (a) above, to be in the full amount of the Maximum Association Membership Assessment for any fiscal year shall not prevent the Board from establishing a budget in subsequent fiscal years such that the Association Membership Assessment for such subsequent fiscal year, as calculated pursuant to paragraph (a) above, is in the full amount of the Maximum Association Membership Assessment for such subsequent fiscal year (as determined in accordance with this paragraph (b)). For purposes hereof: (x) the term "CPI" means the Consumer Price Index -- All Urban Consumers --All Items (1982-1984 Average = 100 Base) published by the Bureau of Labor Statistics of the U.S. Department of Labor (or its successor governmental agency), or, if such index is no longer published by said Bureau or successor agency, in the

index most similar in composition to such index; (y) the term "**Index Month**" means the month of July immediately prior to the beginning of the New Year; and (z) the term "**Base Month**" means the month of July immediately prior to the beginning of the Prior Year; provided, however, that if the Board changes the Assessment Period pursuant to Section 6.5 the Board shall have the right to change the calendar month used for purposes of clauses (y) and (z) (so long as the same calendar month in successive years is used for both clauses).

(c) Notwithstanding any other provision of this Declaration to the contrary, no Annual Assessment shall be levied against Lots owned by the Declarant. During the Period of Declarant Control, the Declarant shall subsidize the Association for the amount by which (i) the cost of operating and administering the Association and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies exceeds (ii) the total amount of Assessments levied against Lots owned by Owners other than the Declarant. The subsidy required of Declarant under this paragraph (c) may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed. Declarant shall make payments or contributions in respect of its subsidy obligations under this paragraph (c) at such times as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly); at the end of each fiscal year of the Association, either: (1) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's subsidy obligations under this paragraph (c) for such fiscal year; or (2) the Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total subsidy obligation of Declarant for such fiscal year under this paragraph (c).

6.3.2 If the rate of assessment for any Lot changes during any Assessment Period pursuant to the provisions of Section 6.3.1, the Annual Assessment attributable to such Lot shall be prorated between the applicable rates upon the basis of the number of days in the Assessment Period that the Lot was assessed under each rate.

6.4 Special Assessments. The Association may levy against each Lot which is Assessable Property, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of roads and other Improvements in the Common Areas, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast by Association Members who are voting in person or by proxy at a meeting duly called for such purpose.

6.5 Assessment Period. The period for which the Annual Assessments are to be levied (the "Assessment Period") shall be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period.

6.6 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a monthly basis or such other basis as may be selected by the Association. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Association Member shall not relieve any Association Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefore shall not be foreclosed or otherwise enforced until the Association Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period; successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.7 Effect of Nonpayment of Assessments; Remedies of the Association.

6.7.1 Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

6.7.2 The Association shall have a lien on each Lot for all Assessments levied against the Lot and for all other fees and charges payable to the Association by the Owner of the Lot pursuant to this Declaration. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description or street address of the Lot against which the notice of lien is Recorded and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien recording fees and reasonable attorneys' fees.

6.7.3 The Assessment Lien shall have priority over all liens or claims except for (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other governmental body or assessment district; and (c) the lien of any First Mortgage.

6.7.4 The Association shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court

costs, collection costs and all other sums payable to the Association by the Owner of the Lot have been paid in full.

6.7.5 The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments; or (b) enforce the Assessment Lien against the applicable Lot 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 or in any other manner permitted by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates Coalition Title Agency, a Utah corporation, as trustee and grants and conveys the Project, IN TRUST, to act, as trustee, with full power of sale, to foreclose any such liens as directed by the Board. The Board may, at any time, designate one or more successor trustees, in the place of Coalition Title Agency, in accordance with provisions of Utah law for the substitution of trustees under deeds of trust. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any liens against Lots arising pursuant hereto. In any such foreclosure, the Owner of the Lot being foreclosed shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

6.8 Evidence of Payment of Assessments. Upon receipt of a written request by a Association Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Association Member or other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to any specified Lot as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot in question.

6.9 Purposes for Which Associations Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the

Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Association Members and Occupants, maintenance of landscaping on Common Areas and public right-of-way and drainage areas within the Project, construction, operation and maintenance of recreational and other facilities on Common Areas, recreation, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional managers, and hiring professional consultants such as architects, engineers, attorneys and accountants.

6.10 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

6.11 Transfer Fee. Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee, upon the transfer of a Lot, in order to provide additional funds for payment of the operating expenses or capital improvements of the Association, which will in turn inure to the benefit of all Owners, and there is hereby imposed on all of the Lots the following restriction and obligation:

6.11.1 There is a fee imposed on the transferee of a Lot, the obligation to pay to the Association a real estate transfer assessment (a "Real Estate Transfer Assessment") in an amount not exceeding one-half percent (0.5%) of the purchase price paid upon transfer of the Lot on the occasion of each transfer, defined below. Real Estate Transfer Assessments are imposed not as a penalty and not as a tax, but as a means of supplementing the Assessments provided for in this Declaration. Bulk sales of multiple Lots by Declarant to a single purchaser for resale to individual Lot Owners are not subject to this Real Estate Transfer Assessment.

6.11.2 For the purposes of Section 6.11, Section 6.11.1 and this Section 6.11.2, the term "transfer" shall be defined as any conveyance, assignment, lease, or other transfer of beneficial ownership of a Lot whether occurring in one transaction or a series of related transactions, including but not limited to (A) the conveyance of fee simple title to any Lot; (B) the transfer of more than fifty percent (50%) of the outstanding shares of the voting stock of a corporation (other than Declarant) which, directly or indirectly, owns one or more Lots; and (C) the transfer of more than fifty percent (50%) of the interest in net profits or net losses of any partnership; limited liability company, joint venture or other entity which, directly or indirectly, owns one or more Lots; but "transfer" shall not mean or include any of the following:

- (i) a transfer from Declarant to any Affiliate of Declarant;
- (ii) any transfer from an Affiliate of Declarant to another Affiliate of Declarant;
- (iii) any transfer to the United States of America, or any agency, instrumentality thereof, the State of Utah, any county, city, municipality, district or other political subdivision of the State of Utah;
- (iv) any transfer to Declarant, the Association or the successors of such entities;
- (v) any transfer, whether outright or in trust that is for the benefit of the transferor or his or her relatives, but only if there is no more than nominal consideration for the transfer;
- (vi) any transfer arising solely from the termination of a joint tenancy, or the portion of property held under common ownership except to the extent that additional consideration is paid in connection therewith;
- (vii) any transfer or change of interest by reason of death, whether provided for in a will, trust or decree of distribution;
- (viii) any transfer made (A) by a majority-owned subsidiary to its parent corporation or by a parent corporation to its majority-owned subsidiary, or between majority-owned subsidiaries of a common parent corporation, in each case for no consideration other than issuance, cancellation or surrender of the subsidiary's stock; or (B) by a partner, member of a joint venturer to a partnership, limited liability company or a joint venture in which the partner, member or joint venturer has not less than a fifty percent (50%) interest, or by a partnership, limited liability company or joint venture to a partner, member or joint venturer holding not less than a fifty percent (50%) interest in such partnership, limited liability company or joint venture, in each case for no consideration other than the issuance, cancellation or surrender of the partnership, limited liability company or joint venture interests, as appropriate; or (C) by a corporation to its shareholders, in connection with the liquidation of such corporation or other distribution of property or dividend in kind to shareholders, if the Lot is transferred generally prorate to its shareholders and no consideration is paid other than the cancellation of such corporation's stock, or (D) by a partnership, limited liability company or a joint venture to its partners, members or joint venturers, in connection with a liquidation of the partnership, limited liability company or joint venture or other distribution of property to the partners, members or joint venturers, if the Lot is transferred generally prorata to its partners, members or joint venturers and no consideration is paid other than the cancellation of the partners', members' or joint venturers' interests; or (E) to a

corporation, partnership limited liability company, joint venture or other association or organization where such entity is owned in its entirety by the persons transferring the Lot and such persons have the same relative interests in the transferee entity as they had in the Lot immediately prior to such transfer, and no consideration is paid other than the issuance of each such persons' respective stock or other ownership interests in the transferee entity; or (F) by any person(s) or entity(ies) to any other person(s) or entity(ies), whether in a single transaction or a series of transactions where the transferor(s) and the transferee(s) are and remain under common ownership and control as determined by the Board in its sole discretion applied on a consistent basis; provided, however, that no such transfer or series of transactions shall be exempt unless the Board finds that such transfer or series of transactions (1) is for no consideration other than the issuance, cancellation or surrender of stock or other ownership interest in the transferor or transferee, as appropriate, (2) is not inconsistent with the intent and meaning of this Section 6.11.2(viii), and (3) is for a valid business purpose and is not for the purpose of avoiding the obligation to pay the transfer fee. For purposes of this Section 6.11.2(viii), a transfer shall be deemed to be without consideration if (x) the only consideration is a book entry made in connection with any intercompany transaction in accordance with generally accepted accounting principles, or (y) no person or entity which does not own a direct or indirect equity interest in the Lot immediately prior to the transfer becomes the owner of a direct or indirect equity interest in the Lot (an "Equity Owner" by virtue of the transfer, and the aggregate interest immediately prior to the transfer of all Equity Owners whose equity interest is increased on account of the transfer does not increase by more than twenty percent (20%) (out of the total one hundred percent (100%) equity interest in the Lot), and no individual in entitled to received directly or indirectly any consideration in connection with the transfer. In connection with considering any request for an exception under this Section 6.11.2(viii), the Board may require the applicant to submit true and correct copies of all relevant documents relating to the transfer and an opinion of the applicant's counsel (such opinion and counsel to be reasonably acceptable to the Board) setting forth all relevant facts regarding the transfer, stating that in their opinion the transfer is exempt under this Section 6.11.2(viii), and setting forth the basis for such opinion;

(ix) any transfer made solely for the purpose of confirming, correcting, modifying or supplementing a transfer previously recorded, making minor boundary adjustments, removing clouds on titles, or granting easements, rights-of-way or licenses, and any exchange of Lots between Declarant and any original purchaser from Declarant of the one or more Lots being transferred to Declarant in such exchange. To the extent that consideration in addition to previously purchased Lots is paid to Declarant in such an exchange, the additional consideration shall be a transfer subject to assessment. To the extent that Declarant, in acquiring by exchange Lots previously purchased from Declarant, pays consideration in addition to transferring Lots, the amount of such additional

consideration shall be treated as reducing the original assessable transfer and shall entitle an original purchaser from Declarant, who exchanges with Declarant Lots previously purchased from Declarant, to a refund from the Association of the amount of the Real Estate Transfer Assessment originally paid on that portion of the original transfer;

(x) any transfer pursuant to any decree or order of a court of record determining or vesting title, including a final order awarding title pursuant to a condemnation proceeding, but only where such decree or order would otherwise have the effect of causing the occurrence of a second assessable transfer in a series of transactions which includes only one effective transfer of the right to use or enjoyment of a Lot;

(xi) any lease of any Lot, which is permitted or approved hereunder, of less than thirty (30) years (or assignment or transfer of any interest in any such lease);

(xii) any transfer solely of mineral or interests in minerals;

(xiii) any transfer to secure a debt or other obligation or to release property which is security for a debt or other obligation, including transfers in connection with foreclosure or a deed of trust or mortgage or transfers in connection with a deed given in lieu of foreclosure;

(xiv) the subsequent transfer(s) of a Lot involved in a "tax free" or "tax deferred" trade under the Internal Revenue Code wherein the interim owner acquires property for the sole purpose of reselling that property within 30 (thirty) days after the trade. In these cases, the first transfer of title is subject to transfer fee and subsequent transfers will only be exempt as long as a transfer assessment has been paid in connection with the first transfer of such Lot in such exchange;

(xv) the transfer of a Lot to an organization which is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended (or any comparable statute), provided that the Board specifically approves such exemption in each particular case;

(xvi) any transfer made by a corporation or other entity, for consideration, (1) to any other corporation or entity which owns one hundred percent (100%) of its equity securities (a "**Holding Company**"), or (2) to a corporation or entity whose stock or other equity securities are owned, directly or indirectly, one hundred percent (100%) by such Holding Company;

(xvii) any transfer from a partially owned direct or indirect subsidiary corporation to its direct or indirect parent corporation where consideration is paid for, or in connection with, such transfer; however, unless such transfer is

otherwise exempt, such exemption shall apply only to the extent of the direct or indirect beneficial interest of the transferee in the transferor immediately prior to the transfer; or

(xviii) the consecutive transfer of a Lot wherein the interim owner acquires such Lot for the sole purpose of immediately reconveying such Lot, but only to the extent there is no consideration to the interim owner and such interim owner receives no right to use or enjoyment of such Lot, provided the Board specifically approves such exemption in each particular case. To the extent that consideration is paid to, or for the benefit of, the interim owner, the additional consideration shall be a transfer subject to assessment. In these cases, the first transfer of title is subject to the transfer fee and subsequent transfers will only be exempt as long as a transfer assessment has been paid in connection with the first transfer of such Lot in such consecutive transaction and only to the extent there

6.12 Notice and Quorum for Meetings to Consider Special Assessments and Certain Increases in Annual Assessments. Notwithstanding any other provision hereof or of the Articles, Bylaws or Association Rules, written notice of any meeting called for the purpose of: (a) approving the establishment of any Special Assessment, as required by Section 6.4 hereof or (b) approving any increase in the Maximum Association Membership Assessment greater than that permitted by Section 6.3.1 shall be sent to all Association Members not less than thirty (30) days nor more than sixty (60) days prior to the date of said meeting. At the first meeting thus called to consider the particular Special Assessment or increase in the Maximum Association Membership Assessment, a quorum shall consist of the Class B members plus thirty percent (30%) of the votes of Class A Association Members (whether represented in person or by valid proxy), provided, however, that if a quorum, as so determined, is not present at said first meeting, a second meeting may be called (subject to the same notice requirements as set forth above) to consider the same issue, and a quorum at said second meeting shall be one-half (1/2) of the required quorum at the first meeting, as described above. Such second meeting may not be held more than sixty (60) days after the first meeting.

ARTICLE 7

MAINTENANCE

7.1 Common Areas and Roadways.

7.1.1 The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Areas and all Improvements located thereon (subject to Section 7.1.3) except the Association shall not be obligated to maintain areas which any governmental entity or any utility company is maintaining or is obligated to maintain.

7.1.2 The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. Any cooperative

action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

7.1.3 In the event any Plat or deed restriction permits the Board to determine whether or not Owners of certain Lots will be responsible for maintenance of certain Common Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

7.2 Lots. Each Owner of a Lot shall be responsible for maintaining, repairing or replacing his, her or its Lot, and all buildings, landscaping or other Improvements situated thereon, except for any portion of the Lot which is designated as "Open Space" (unless otherwise required by the Board pursuant to Section 7.1.3). All buildings, landscaping and other Improvements shall at all times be kept in good condition and repair. Landscaping shall be maintained as required by Section 3.5. All Lots upon which no Residence or other Improvements have been constructed shall be maintained in an attractive manner and in accordance with all rules, regulations and guidelines that may be adopted for vacant lots by the Board or the Architectural Review Committee.

7.3 Installation of Landscaping. The Owner of a Lot shall install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements), on all portions of the Lot not remaining in its natural vegetative state, not later than the last day of September next occurring after the date on which a certificate of occupancy is issued with respect to a Residence on that Lot if at all possible. If not possible, no later than the following one year anniversary of obtaining the certificate of occupancy. The Architectural Review Committee shall have the right to require certain minimum landscaping requirements, such as, without limitation, specifying the minimum number of trees that must be planted on a Lot. All landscaping must be installed in accordance with plans approved in writing by the Architectural Review Committee. If landscaping and an irrigation system are not installed on a Lot in the manner and by the applicable date provided for in this Section, the Association shall have the right, but not the obligation, to enter upon such Lot to install such landscaping improvements as the Association deems appropriate (together with an irrigation system sufficient to adequately water the same), and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this Section shall be secured by the Assessment Lien and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments. Notwithstanding anything to the contrary herein, portions of a Lot may be maintained with natural ground cover and growth as permitted by the Architectural Review Committee.

7.4 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Areas or any other area maintained by the Association is caused through the willful or negligent act of any Association Member, his family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Association Member and the Association Members Lot is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

7.5 Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such corrective action as it deems appropriate to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien.

7.6 Walls and Fences. Walls and fences on a Lot shall be prohibited unless expressly authorized by the Architectural Review Committee. In the event that any walls or fences are allowed to be constructed on a Lot, they shall be maintained, repaired and replaced by the Owner of such Lot. There shall be no common fences or walls along property lines, except as specifically approved by the Architectural Review Committee.

7.7 Excluded Properties Ownership and Maintenance. Although the Excluded Properties are shown on the Plat, the Excluded Properties are not subject to this Declaration other than as provided in Section 4.6 and Article 10. Owners, Occupants and guests of any Lot shall have no rights whatsoever to use, occupy or control any portion of the Excluded Properties (except for certain rights to maintain utility facilities as set forth in Section 10.13), or to participate in any activities conducted thereon, except through separately purchased golf memberships in the Victory Ranch Golf Club or any similar organization in relation to any of the Excluded Properties in accordance with the rules and regulations of any such club as they may be amended from time to time at the sole discretion of the then current owner of the Excluded Properties. The Association shall have no responsibility for the care, maintenance, upkeep or other operation of the Excluded Properties.

ARTICLE 8
INSURANCE

8.1 **Scope of Coverage.** Commencing not later than the time of the first conveyance of a Lot to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

8.1.1 Property insurance on the Common Areas insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Areas, as determined by the Board; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy and all other insurances as may be required in agreements with the Provo River Water Users Association and the United States Bureau of Reclamation;

8.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas and other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner and all other insurances as may be required in agreements with the Provo River Water Users Association and the United States Bureau of Reclamation;

8.1.3 Workers' compensation insurance to the extent necessary to meet the requirements of applicable law;

8.1.4 Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners;

8.1.5 Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

(b) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or adversely affect recovery on the policy;

(c) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

(d) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Association or other Owners or Occupants;

(e) Statement naming the Association as the insured; for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

8.2 Certificates of Insurance. An insurer which has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

8.3 Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association and shall be paid by the Association.

8.4 Payment of Insurance Proceeds. With respect to any loss to the Common Areas covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 8.5 the proceeds shall be disbursed for the repair or restoration of the damage to the Common Areas.

8.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners representing at least eighty percent (80%) of the total votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Areas are not repaired or replaced, insurance proceeds attributable to the damaged Common Areas shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: (i) be retained by the Association as an additional capital reserve; or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Association Members representing more than fifty percent (50%) of the votes in the Association.

ARTICLE 9
GENERAL PROVISIONS

9.1 Enforcement. The Declarant, Association or any Owner shall have the right to enforce the Project Documents.

9.2 Term; Method of Termination. Unless terminated in accordance with this Section, this Declaration (as amended from time to time pursuant to the provisions of this Declaration, if applicable) shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is Recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof of Association Members holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to applicable law.

9.3 Amendments.

9.3.1 Subject to Sections 9.3.4 and 9.3.6 of this Declaration, and except for amendments made pursuant to Sections 9.3.2, 9.3.3 and 9.3.4 of this Declaration, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Association Members holding not less than sixty-seven percent (67%) of the votes in the Association.

9.3.2 Either the Board or the Declarant may amend this Declaration, without obtaining the approval or consent of any Owner, Mortgagee or other Person, in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project or the Project Documents is required by law or requested by the Declarant.

9.3.3 Subject to Sections 6.3.1 and 9.3.6 of this Declaration, so long as the Declarant or any Declarant Affiliate owns any Lot or other portion of the Property, or any portion of the Additional Property, the Declarant may amend this Declaration without the consent or approval of any other Owner or other Person.

9.3.4 So long as the Declarant or any Declarant Affiliate owns any Lot or other portion of the Property, or any portion of the Additional Property, no amendment to this Declaration shall be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments).

9.3.5 Any amendment approved pursuant to Section 9.3.1 of this Declaration or by the Board pursuant to Section 9.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Sections 9.3.2 or 9.3.3 of this Declaration shall be executed by the Declarant and shall be Recorded.

9.3.6 Notwithstanding anything to the contrary in this Section 9.3 no amendment may be made to this Declaration which violates the provisions of the Development Agreement without the written consent of Wasatch County.

9.4 Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.

9.5 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

9.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

9.7 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

9.8 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of the other Project Documents.

9.9 Laws, Ordinances and Regulations.

9.9.1 The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Architectural Review Committee with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

9.9.2 Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

9.10 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

9.11 Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders, words in the singular shall include the plural, and words in the plural shall include the singular.

9.12 Captions and Title; Section References; Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

9.13 Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any Owner, Lessee or Resident then, unless otherwise specified in the Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is: (a) sent by United States mail to the last known mailing address of the Owner, Lessee or Resident (as applicable), as shown in the records of the Association; or (b) if no such mailing address is reflected on the records of the Association, then sent by United States mail to the mailing address of the Lot (as applicable) if, at the time, there is a Residence situated thereon; or (c) if there is no such mailing address reflected in the records of the Association and there is then no Residence situated on the applicable Lot, then sent or given in whatever reasonable manner the Board may elect, which may include, without limitation, publishing the same in any newspaper in general circulation within Wasatch County, Utah. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other reasonable and appropriate manner.

9.14 Indemnification. The Association shall indemnify each and every trustee and officer of the Association, each and every member of the Architectural Review Committee, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the Architectural Review Committee, and former members of committees appointed by the Board) (collectively,

“Association Officials” and individually an **“Association Official”**) against any and all expenses, including attorneys’ fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, unless the liability for such expenses arises out of his or her own intentional misconduct. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be an Association Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 9.14 or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

9.15 **No Partition.** No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Areas, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner’s interest in the Common Areas or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner’s Lot (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Areas, which shall be subject to Section 4.1) which may or may not be subject to this Declaration.

9.16 **Property Held in Trust.** Except as otherwise expressly provided in this Declaration, any and all portions of the Property (and of the Additional Property) which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is the Declarant or a Declarant Affiliate, shall be deemed for all purposes under this Declaration to be owned by the Declarant or such Declarant Affiliate, as applicable, and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by the Declarant or such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by the Declarant or any such Declarant Affiliate to any such trust (or the trustee

thereof) or to the Declarant or any such Declarant Affiliate by any such trust (or the trustee thereof) shall be deemed for purposes of this Declaration to be a sale of such property or any right, title or interest therein.

9.17 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays, and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday, or legal holiday.

9.18 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Occupant; (b) the legal description of the Lot against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

9.19 Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither the Declarant nor any Declarant Affiliate makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project and Additional Property as shown on the Master Plan can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant or by any Declarant Affiliate is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

9.20 Bulk Service Agreements.

9.20.1 The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owners and Occupants of Lots within the Property, or within one or more portions thereof, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

9.20.2 If all Lots within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly) (provided that such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or other charges). If not all Lots within the Property will be served by a particular Bulk Service Agreement the Board shall have only the billing option described in clause (b) above.

9.20.3 The Declarant, for each Lot, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Lot) by the Board pursuant to this Section 9.20 and all such amounts: (a) shall be deemed to be a part of the Assessments against the Lots against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorneys fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot at the time such amount became due.

9.20.4 No Owner of a Lot covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot under this Section 9.20 whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to

exempt from payment of such amounts any Lot upon which no Residence or other building has been completed.

9.20.5 **Bulk Provider** means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Residents, Lots within the Property, or within one or more portions thereof, pursuant to a Bulk Service Agreement (as defined below).

9.20.6 **Bulk Service Agreement** means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Residents, Lots with the Property, or within one or more portions thereof.

9.20.7 During the Period of Declarant Control, the Board shall not, without the approval of Association Members holding at least fifty-one percent (51%) of all Class A votes represented in person or by proxy at an annual or special meeting of the Association Members of the Association, enter into a Bulk Service Agreement which imposes on the Association or its Association Members (other than Declarant or a Developer which, in either case, agrees in writing thereto) any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any cable television, community satellite television, high speed Internet, security monitoring or electronic entertainment, information, communication or security services, but nothing in this Section 9.20.7 shall prevent the Board from entering into, or require approval by the Association Members of, any Bulk Service Agreement which imposes on the Association or its Association Members installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Wasatch County, Utah, area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

ARTICLE 10

THE EXCLUDED PROPERTIES

10.1 **Disclaimer Regarding all Excluded Properties including the Golf Courses.** All Persons, including without limitation all Owners, are hereby advised that no representations, warranties or commitments have been or are made by the Declarant or any other Person with regard to the present or future development, ownership, operation or configuration of, or right to use, any golf course or other Excluded Properties within, near or adjacent to the Property, whether or not depicted on the Plat, or any other land use plan, sales brochure or other marketing display, rendering or plan including, but not limited to the Golf Course, Equestrian Center, or other Excluded Properties. No purported representation, warranty or commitment, written or

oral, in such regard shall ever be effective without an amendment hereto executed by the Declarant. Further, the ownership, operation or configuration of, or rights to use, any such golf course or other Excluded Properties facilities may change at any time and from time to time for reasons including, but not limited to: (a) the purchase or assumption of operation of any such golf course or other Excluded Properties facilities by an independent Person; (b) the conversion of any such golf course or other Excluded Properties facilities to an equity club or similar arrangement whereby members of such golf course or an entity owned or controlled thereby become the owner(s) and/or operator(s) of such golf course or related facilities (and, perhaps, such members become the only Persons entitled to use such golf course or related facilities); (c) the conveyance, pursuant to contract, option or otherwise, of such golf course or related facilities to one or more affiliates, shareholders, employees or independent contractors of the Declarant; or (d) the conveyance of any such golf course or related facilities, or portion thereof, to the Association. As to any of the foregoing or any other alternative, no consent of the Association or any Owner shall be required to effectuate such transfer (except for the consent of the Association in the event of a transfer to the Association). No Owner or Occupant shall have any ownership interest in, or right to use, any such golf course or other Excluded Properties facilities solely by virtue of: (i) his, her or its Association Membership; or (ii) his, her or its ownership, use or occupancy of any Lot, or portion thereof.

10.2 Rights of Access and Parking. The then current owner of the Golf Course Property and other Excluded Properties facilities and any golf course facilities located on Excluded Properties land, located within or as part of the Project and its members, invitees (including, without limitation, players and spectators, and regardless of whether such members or invitees are Owners), employees, agents, contractors or designers shall at all times have a right and nonexclusive easement of access and use over all roadways located within the Property as reasonably necessary to travel to and from any entrance within the Property to and from such Golf Course Property, any golf course or any other facilities located on Excluded Properties land and, further, over those portions of the Property (whether Common Areas or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of such Golf Course Property, golf course and its facilities or other facilities on Excluded Properties land. Without limiting the generality of the foregoing, members and invitees of such golf course and other Excluded Properties facilities shall have the right to park their vehicles on the roadways within the Property at reasonable times before, during and after golf tournaments and other functions held at such golf course and other facilities located on Excluded Properties land.

10.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Excluded Properties, no amendment to this Article and no amendment in derogation of this Article to any other provisions of this Declaration may be made, without the written approval thereof by the owner(s) of the Excluded Properties. The foregoing shall not apply, however, to amendments made by the Declarant, including, but not limited to, amendments made by the Declarant pursuant to Section 9.3.

10.4 Golf Cart Path Easements. There may be golf cart path easements designated as such on one or more Plats of the Property, or portions thereof, which may be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and unhindered access between said paths and any golf course including but not limited to the Golf Course Property. Nothing

shall be placed or maintained in any golf cart path easement which shall interfere with utilization thereof as a playable part of the Golf Course Property, any such golf course, and all landscaping and other Improvements within a golf cart path easement (except those installed or constructed by the Declarant) shall require the approval of the owner of the golf course benefited by such easement.

10.5 Golf Balls, Disturbances and Nuisances. Each Owner understands and agrees that his, her or its Lot is or may be adjacent to or near one or more golf courses and related facilities, including, but not limited to the Golf Course Property, and that golf course-related activities and other activities, including, without limitation, regular course play and tournaments, may be held within or adjacent to the Property. Each Owner acknowledges that the location of his, her or its Lot within the Property may result in nuisances or hazards to persons and property on such Lot as a result of normal golf course operations or as a result of such other golf course-related activities. Each Owner covenants for itself, its successors and assigns, and for such Owners, Occupants and family members, that it and they assume all risks associated with such location, including but not limited to, the risk of property damage or personal injury arising from stray golf balls or actions incidental to such golf course-related activities and shall indemnify, defend and hold harmless the Association, the Declarant, the owner(s) and operator(s) of any such golf course or related facilities and any and all sponsors and promoters of any tournament or other activity on or involving any such golf course or related facilities, for, from and against any liability, claims or expenses, including attorneys' fees and court costs, arising from such property damage or personal injury. Each Owner further covenants that the Association, the Declarant and the owner of any such golf and golf course facilities, including but not limited to, the Golf Course Property, shall have the right, in the nature of an easement, to subject all or any portion of the Property to nuisances incidental to the maintenance, operation or use of any such golf course, and to the carrying out of such golf course- related activities, including, without limitation, tournament play.

10.6 Operation of the Golf Course. Each Owner acknowledges that the operation and maintenance of any golf course within, near or adjacent to the Property, including but not limited to, all facilities that are now or hereinafter part of the Golf Course Property, may require that maintenance personnel and other workers will perform work relating to the operation and maintenance of such golf course as early as 4:00 a.m. and as late as 10:00 p.m. on a daily basis, and, in certain circumstances (including, without limitation, during tournaments), at any time(s) of the day or night. In connection therewith, each Owner and Resident agrees that the Declarant, and the owner or owners of all or any portion of such golf courses, the Golf Course Property and the employees, agents and contractors of the Declarant and such owners, shall not be responsible or accountable for, liable for and shall be held harmless from, any claims, causes of action, loss or liability arising in connection with or associated with any noise or inconvenience normally associated with such operation and maintenance activities.

10.7 Watering Easement. Any portion of the Property immediately adjacent to any watered area of the Golf Course Property is hereby burdened with a non-exclusive easement in favor of the Golf Course Property for overspray of water from the watering system serving the Golf Course Property. Under no circumstances shall the Association, Declarant or the then

current owner or operator of the Golf Course Property have any responsibility or be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

10.8 Retrieval of Golf Balls. There is hereby reserved to the then current owner and operator of the Golf Course Property, all Persons using the Golf Course Property and all their respective employees and representatives a nonexclusive easement for ingress and egress over all portions of the Project for flight and retrieval of golf balls including, without limitation, the right to enter a Lot or any Common Areas for the purpose of retrieving golf balls.

10.9 Other Golf Course Related Agreements. No Owner or Occupant, and no guest, invitee, employee, agent or contractor of any Owner or Occupant, shall at any time enter upon any golf course (or related facilities) within, adjacent to or near the Project, including, but not limited to, the Golf Course Property, for any purpose (other than to engage in golf play or as a spectator or guest of the golf course or to engage in other activities specifically permitted within the Golf Course Property, in each and every case subject to all rules and regulations of such golf course and any club operated in connection therewith including, without limitation, all requirements relating to membership, fees, reservation of tee times and the like), and each Owner and Occupant shall keep his, her or its pets and other animals off any golf course (and out of any related facilities) and the Golf Course Property at all times. No Owner shall (or permit his, her or its Occupants, guests, invitees, employees, agents or contractors to) interfere in any way with play on the golf course or any activities on the Golf Course Property (whether in the form of physical interference, noise, harassment of players or spectators, or otherwise). Each Owner (for such Owner and its Occupants, guests and invitees) recognizes, agrees and accepts that: (a) operation of a golf course and related facilities will often involve parties and other gatherings (whether or not related to golf, and including without limitation weddings and other social functions) at or on the golf course and related facilities and the Golf Course Property, tournaments, loud music, use of public address systems and the like, occasional supplemental lighting and other similar or dissimilar activities throughout the day, from early in the morning until late at night; (b) by their very nature, golf courses present certain potentially hazardous conditions, which may include, without limitation, lakes or other bodies of water and man-made or naturally occurring topological features such as washes, gullies, canyons, uneven surfaces and the like; (c) irrigation of landscaping on a golf course or related facilities may result in water spraying, drifting or blowing onto adjacent or nearby Lots; and (d) neither such Owner nor its Occupants, guests and invitees shall make any claim against the Declarant, the Association, the Architectural Review Committee, any other committee of the Association, any sponsor, promoter or organizer of any tournament or other event, or the owner or operator of any golf course within, adjacent to or near the Project (or any affiliate, agent, employee or representative of any of the foregoing) in connection with the matters described or referenced in (a), (b) and (c) above, whether in the nature of a claim for damages relating to personal injury or property damage, or otherwise.

10.10 Equestrian Easements. To the same extent necessary for the operation of an Equestrian Center and trails, like and identical access rights, easements, etc., are granted to the Owner and Operators of the Equestrian Center as if the name "Equestrian Center" were substituted fully for "Golf Course" in paragraphs 10.1 through 10.9 above, and similar necessary changes such as "golf cart path" to "trails."

10.11 Restrictions Regarding Excluded Properties. The Excluded Properties may not be used for any purpose other than open space, conservation area, public or private pedestrian, bicycle and equestrian trails, public or private parks, club houses, boat houses, river lodges, bunkhouses, cabins, other purposes consistent with a residential master planned community and facilities related to the foregoing, without the approving resolution by Association Members casting more than fifty percent (50%) of the votes entitled to be cast by Association Members who are present in person or by proxy at a meeting duly called for such purpose.

10.12 Storm Water System Easement for Association and Owners. There are hereby created in favor of: (i) the Association, as owner of the Common Areas, and (ii) the Owners, as owners of the Lots, their agents, employees, and parties in privity with the owners of the Lots and (iii) their successors and assigns, non-exclusive, perpetual easements over, under and across all Excluded Properties (except portions subject to conservation easements and portions upon which buildings have been constructed) to allow for and permit the Association and the Owners to maintain, repair, monitor, and inspect the portions of the storm water drainage and control system serving the Project (collectively, the "Storm Water System") that are located on, within or as part of the Excluded Properties including, but not limited to all detention ponds, detention lakes, basins, drainage channels, lines and other related facilities; provided that the location of the Storm Water System shall be subject to the prior written approval of the owner of the portions of the Excluded Properties on which the Storm Water System will be located.

10.13 Maintenance of Primary Infrastructure. After the initial construction of the Primary Infrastructure, the Association will maintain, replace and/or relocate the portion of the Primary Infrastructure located within the Project and the owner of the Excluded Properties will maintain, replace and/or relocate the portion of the Primary Infrastructure located within the Excluded Properties, in either case in a safe, clean and good state of repair and condition, and in compliance with all laws and other governmental requirements. After the Association or the owner of the Excluded Properties has incurred any costs for maintaining, repairing or replacing Primary Infrastructure, it may send a statement of such costs, no more often than monthly, together with a copy of any invoice reflecting all charges exceeding \$500 to the owner of the Excluded Properties or to the Association, as applicable. The person receiving the cost statement shall pay, within thirty (30) days after receiving it, its pro rata share as set forth below. The pro rata share for the Association is a fraction, the numerator of which is the Equivalent Residential Units as defined by the Land Development Code of Wasatch County (ERUs) allocated to the Project and the denominator of which is the total ERUs allocated to the Project and the Excluded Properties, each as of the date of calculation. The pro rata share for the owner of the Excluded Properties is a fraction, the numerator of which is the ERUs allocated to the Excluded Properties and the denominator of which is the total ERUs allocated to the Project and the Excluded Properties, each as of the date of calculation. If a Person fails to perform its obligations under this Section, the non-defaulting party shall have the right, but not the obligation, upon reasonable prior written notice to cure such default for the account of and at the expense of the defaulting party. If any non-defaulting party shall cure a default, the defaulting party shall reimburse the non-defaulting party for all costs and expenses incurred in connection with such cure, plus interest at the annual rate of 10% from the date of demand, within ten (10) days after receipt of demand therefor, together with reasonable documentation supporting the expenditures made.

ARTICLE 11

BOUNDARY RELOCATION OF LOTS

11.1 Relocation of Boundaries Between Adjoining Lots.

(a) Requirements. The boundaries between any adjoining Lots may be relocated by a Supplemental Declaration upon application to the Association by the Owners of such Lots pursuant to this Section and, during the Period of Declarant Control, with Declarant's prior written approval, which may be granted in Declarant's sole and absolute discretion. In order to relocate the boundaries between adjoining Lots, the Owners of such Lots, as the applicant, must submit an application to the Board, which application shall be executed by such Owners and shall include:

- (i) Evidence demonstrating to the Board that the applicant has complied, and that the proposed boundary relocation will comply with all applicable rules, regulations and ordinances of the County and that the proposed boundary relocation will not violate the terms of any Mortgage;
- (ii) A statement that the proposed relocation does not affect the Assessments of the affected Lots;
- (iii) The proposed form of Supplemental Declaration, including amendments to the Plat, as may be necessary to show the altered boundaries between adjoining Lots and their dimensions and identifying numbers, and any other information required pursuant to applicable law;
- (iv) A deposit against attorneys' fees and other costs that the Association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Board; and
- (v) Such other information as may be reasonably requested by the Board.

(b) Approval of Relocation. The Board shall approve any application for relocation of boundaries between adjoining Lots properly made under this Section if: (i) the application satisfies the requirements of Section 11.1(a); (ii) the proposed relocation of boundaries between adjoining Lots in fact will comply with all applicable rules, regulations and ordinances of the County and will not violate the terms of any Mortgage; and (iii) the form of Supplemental Declaration submitted by the applicant is sufficient to effectuate the proposed relocation of boundaries in compliance with the terms of this Declaration and all applicable laws. During the Period of Declarant Control any

proposed relocation of boundaries between adjoining Lots shall require the written consent of Declarant.

(c) Execution and Recording. No relocation of boundaries between adjoining Lots shall become effective until a Supplemental Declaration and, if necessary, an amendment to the Plat meeting the requirements of applicable law have been executed and Recorded.

(d) Costs. All costs and attorneys fees incurred by the Association as a result of an application for relocation of boundaries between adjoining Lots shall be the sole obligation of the Owner or Owners requesting such relocation and may be assessed against the Lot(s) of such Owner and Owners as an Assessment.

(e) No Limitation of Development Rights. Nothing in this Article 11 is intended or shall be deemed to limit Declarant's rights under this Declaration.

(f) Combination of Lots. Any 2 or more Lots may be combined into a single Lot (the "Resulting Lot") in accordance with the procedures for the relocation of boundaries provided for in Section 11.1 above; provided that the Resulting Lot will still have the number of Association Memberships and votes allocated to it as were allocated to the combined Lots prior to the combination notwithstanding Sections 5.6 and 5.7.1.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

Declarant:

VICTORY RANCH, L.C.
a Utah limited liability company

By: Robert M. Larsen
Its Member

*Robert M. Larsen by
By: Joseph E. Teach, his attorney-in-fact
Name: Robert M. Larsen
Title: its manager*

State of Utah)
) ss
County of Summit)

This Declaration was acknowledged before me on the 9th day of June,
2006, by Joseph E. Teach, as attorney in fact of Victory Ranch,
L.C., a Utah limited liability company.

Robert M. Larsen

Notary Public

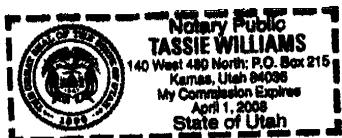


Exhibit "A"

Victory Ranch, a Master Planned Community, Plat A
Property Description

A tract of land located in Section 31 and the Northwest Quarter of Section 32, Township 2 South, Range 6 East, Salt Lake Base and Meridian, Wasatch County, Utah, described as follows:

COMMENCING AT the Southwest Corner of Section 31, Township 2 South, Range 6 East, Salt Lake Base and Meridian; thence North $00^{\circ}00'59''$ West 3323.66 feet along the west line of said Section 31 to the southerly right-of-way line of State Route 32 also known as U.S. Highway 189 (Project S-240); thence North $64^{\circ}51'08''$ East 424.06 feet along said southerly right-of-way line to the point of **BEGINNING**; thence continuing along said southerly right-of-way line North $64^{\circ}51'08''$ East 928.88 feet; thence South $25^{\circ}12'58''$ East 77.20 feet to a point on a 27.00 foot radius curve to the left; thence southeasterly 23.17 feet along the arc of said curve through a central angle of $49^{\circ}10'18''$, said arc having a chord bearing South $49^{\circ}48'07''$ East 22.47 feet to a point on a reverse 195.00 foot radius curve to the right; thence southeasterly 182.42 feet along the arc of said curve through a central angle of $53^{\circ}35'58''$, said arc having a chord bearing South $47^{\circ}35'17''$ East 175.84 feet; thence South $20^{\circ}47'18''$ East 51.04 feet to a point on a 15.00 foot radius curve to the left; thence southeasterly 23.56 feet along the arc of said curve through a central angle of $90^{\circ}00'00''$, said arc having a chord bearing South $65^{\circ}47'18''$ East 21.21 feet; thence South $20^{\circ}47'18''$ East 50.00 feet to a point on a non-tangent 15.00 foot radius curve to the left; thence southwesterly 23.56 feet along the arc of said curve through a central angle of $90^{\circ}00'00''$, said arc having a chord bearing South $24^{\circ}12'42''$ West 21.21 feet; thence South $20^{\circ}47'18''$ East 350.06 feet to a point on a 375.00 foot radius curve to the left; thence southeasterly 515.10 feet along the arc of said curve through a central angle of $78^{\circ}42'04''$, said arc having a chord bearing South $60^{\circ}08'20''$ East 475.55 feet; thence North $80^{\circ}30'38''$ East 66.18 feet; thence North $42^{\circ}00'44''$ East 363.88 feet; thence North $88^{\circ}18'56''$ East 650.31 feet; thence North $85^{\circ}13'55''$ East 635.40 feet; thence South $76^{\circ}51'53''$ East 194.40 feet; thence North $86^{\circ}30'51''$ East 263.32 feet; thence North $62^{\circ}53'40''$ East 480.83 feet; thence North $40^{\circ}24'12''$ East 618.99 feet to a point in the centerline of the Provo River; thence along the centerline of said Provo River and the Wasatch County and Summit County Line North $39^{\circ}27'29''$ East 56.27 feet; thence North $59^{\circ}04'41''$ East 261.05 feet; thence North $78^{\circ}44'45''$ East 226.24 feet; thence North $55^{\circ}44'21''$ East 602.61 feet; thence North $67^{\circ}42'32''$ East 211.87 feet; thence South $80^{\circ}16'41''$ East 300.72 feet; thence South $64^{\circ}34'08''$ East 283.88 feet; thence South $80^{\circ}06'44''$ East 264.72 feet; thence leaving said river and said County Line South $00^{\circ}07'58''$ West 475.42 feet; thence North $89^{\circ}52'02''$ West 195.08 feet; thence South $00^{\circ}12'54''$ East 179.90 feet; thence North $84^{\circ}47'46''$ West 108.81 feet; thence South $68^{\circ}58'05''$ West 440.65 feet; thence South $00^{\circ}08'22''$ West 64.38 feet; thence South $63^{\circ}01'59''$ West 306.99 feet; thence South $20^{\circ}34'33''$ West 256.13 feet; thence South $63^{\circ}20'39''$ West 1442.98 feet; thence South $51^{\circ}18'22''$ West 644.65 feet to a point on a non-tangent 425.00 foot radius curve to the left; thence southwesterly 805.10 feet along the arc of said curve through a central angle of $108^{\circ}32'18''$, said arc having a chord bearing South $39^{\circ}40'10''$ West 690.00 feet; thence South $14^{\circ}35'59''$ East 68.16 feet;

thence South $75^{\circ}24'01''$ West 326.73 feet; thence South $65^{\circ}11'50''$ West 387.06 feet to a point on a non-tangent 275.00 foot radius curve to the left; thence northwesterly 85.66 feet along the arc of said curve through a central angle of $17^{\circ}50'48''$, said arc having a chord bearing North $33^{\circ}43'34''$ West 85.31 feet; thence North $42^{\circ}38'58''$ West 329.49 feet; thence South $47^{\circ}21'02''$ West 50.00 feet; thence South $44^{\circ}16'56''$ West 335.71 feet; thence South $85^{\circ}53'44''$ West 456.41 feet; thence North $83^{\circ}36'29''$ West 365.82 feet; thence North $47^{\circ}34'29''$ West 259.26 feet; thence North $40^{\circ}58'06''$ West 50.00 feet; thence North $31^{\circ}57'27''$ West 399.71 feet; thence North $25^{\circ}08'52''$ West 1665.35 feet to the point of BEGINNING, containing 199.79 acres.

(Tax Serial No. (s) OWC-0189, OWC-0190 AND OWC-0191)
ALSO, Victory Ranch Drive and Moon Light Drive, Road Dedication Plat 1,
described as follows:

A strip of land generally 50 feet in width located in the South Half of Section 31 and the Southwest Quarter of Section 32, in Township 2 South, Range 6 East, and the Northeast Quarter of Section 6 and the Northwest Quarter of Section 5, in Township 3 South, Range 6 East, Salt Lake Base and Meridian, Wasatch County, Utah, described as follows:

COMMENCING AT the Southwest Corner of Section 31, Township 2 South, Range 6 East, Salt Lake Base and Meridian; thence North $00^{\circ}00'59''$ West 1710.72 feet; thence East 2616.77 feet to the southeasterly right of way line of Victory Ranch Drive, Victory Ranch, Plat "A," and the point of BEGINNING and running thence South $42^{\circ}38'58''$ East 329.49 feet along the westerly boundary of Parcel C, Victory Ranch Plat "A" to a point on a 275.00 foot radius curve to the right; thence southeasterly 117.67 feet along the arc of said curve through a central angle of $24^{\circ}30'57''$, said arc having a chord bearing South $30^{\circ}23'29''$ East 116.77 feet; thence South $18^{\circ}08'01''$ East 58.63 feet to a point on a 275.00 foot radius curve to the left; thence southeasterly 103.81 feet along the arc of said curve through a central angle of $21^{\circ}37'40''$, said arc having a chord bearing South $28^{\circ}56'51''$ East 103.19 feet; thence South $39^{\circ}45'41''$ East 88.73 feet to a point on a 425.00 foot radius curve to the right; thence southerly 282.59 feet along the arc of said curve through a central angle of $38^{\circ}05'51''$, said arc having a chord bearing South $20^{\circ}42'46''$ East 277.42 feet; thence South $01^{\circ}39'50''$ East 72.40 feet to a point on a 325.00 foot radius curve to the left; thence southeasterly 437.57 feet along the arc of said curve through a central angle of $77^{\circ}08'26''$, said arc having a chord bearing South $40^{\circ}14'03''$ East 405.26 feet; thence South $78^{\circ}48'16''$ East 578.43 feet to a point on a 575.00 foot radius curve to the right; thence southeasterly 1064.52 feet along the arc of said curve through a central angle of $106^{\circ}04'25''$, said arc having a chord bearing South $25^{\circ}46'04''$ East 918.87 feet; thence South $27^{\circ}16'08''$ West 225.28 feet to a point on a 375.00 foot radius curve to the right; thence southwesterly 247.25 feet along the arc of said curve through a central angle of $37^{\circ}46'37''$, said arc having a chord bearing South $46^{\circ}09'26''$ West 242.79 feet; thence South $65^{\circ}02'45''$ West 76.85 feet to a point on a 175.00 foot radius curve to the left; thence southwesterly 173.75 feet along the arc of said curve through a central angle of $56^{\circ}53'12''$, said arc having a chord bearing South $36^{\circ}36'09''$ West 166.70 feet; thence South $08^{\circ}09'33''$ West 31.36 feet to a point on a 15.00 foot radius curve to the left; thence southeasterly 23.56 feet along the arc of said curve through a central angle of $90^{\circ}00'00''$, said arc having a chord bearing South $36^{\circ}50'27''$ East 21.21 feet; thence South $81^{\circ}50'27''$

East 774.37 feet to a point on a 275.00 foot radius curve to the left; thence easterly 213.04 feet along the arc of said curve through a central angle of $44^{\circ}23'10''$, said arc having a chord bearing North $75^{\circ}57'58''$ East 207.75 feet; thence North $53^{\circ}46'23''$ East 100.00 feet to a point on a 525.00 foot radius curve to the right; thence easterly 404.09 feet along the arc of said curve through a central angle of $44^{\circ}06'01''$, said arc having a chord bearing North $75^{\circ}49'24''$ East 394.19 feet; thence South $82^{\circ}07'36''$ East 307.34 feet to a point on a 425.00 foot radius curve to the left; thence northeasterly 617.54 feet along the arc of said curve through a central angle of $83^{\circ}15'11''$, said arc having a chord bearing North $56^{\circ}14'49''$ East 564.63 feet; thence North $14^{\circ}37'14''$ East 316.71 feet to a point on a 975.00 foot radius curve to the left; thence northerly 220.11 feet along the arc of said curve through a central angle of $12^{\circ}56'04''$, said arc having a chord bearing North $08^{\circ}09'11''$ East 219.64 feet; thence North $01^{\circ}41'09''$ East 675.91 feet to a point on a 325.00 foot radius curve to the right; thence northeasterly 515.71 feet along the arc of said curve through a central angle of $90^{\circ}55'02''$, said arc having a chord bearing North $47^{\circ}08'40''$ East 463.28 feet; thence South $02^{\circ}36'11''$ West 50.00 feet to a point on a non-tangent 275.00 foot radius curve to the left; thence southwesterly 436.37 feet along the arc of said curve through a central angle of $90^{\circ}55'02''$, said arc having a chord bearing South $47^{\circ}08'40''$ West 392.01 feet; thence South $01^{\circ}41'09''$ West 675.91 feet to a point on a 1025.00 foot radius curve to the right; thence southerly 231.39 feet along the arc of said curve through a central angle of $12^{\circ}56'04''$, said arc having a chord bearing South $08^{\circ}09'11''$ West 230.90 feet; thence South $14^{\circ}37'14''$ West 316.71 feet to a point on a 475.00 foot radius curve to the right; thence southwesterly 690.19 feet along the arc of said curve through a central angle of $83^{\circ}15'11''$, said arc having a chord bearing South $56^{\circ}14'49''$ West 631.06 feet; thence North $82^{\circ}07'36''$ West 307.34 feet to a point on a 475.00 foot radius curve to the left; thence westerly 365.61 feet along the arc of said curve through a central angle of $44^{\circ}06'01''$, said arc having a chord bearing South $75^{\circ}49'24''$ West 356.65 feet; thence South $53^{\circ}46'23''$ West 100.00 feet to a point on a 325.00 foot radius curve to the right; thence westerly 251.77 feet along the arc of said curve through a central angle of $44^{\circ}23'10''$, said arc having a chord bearing South $75^{\circ}57'58''$ West 245.52 feet; thence North $81^{\circ}50'27''$ West 854.37 feet; thence North $08^{\circ}09'33''$ East 50.00 feet to a point on a non-tangent 15.00 foot radius curve to the left; thence northeasterly 23.56 feet along the arc of said curve through a central angle of $90^{\circ}00'00''$, said arc having a chord bearing North $53^{\circ}09'33''$ East 21.21 feet; thence North $08^{\circ}09'33''$ East 31.36 feet to a point on a 225.00 foot radius curve to the right; thence northeasterly 223.39 feet along the arc of said curve through a central angle of $56^{\circ}53'12''$, said arc having a chord bearing North $36^{\circ}36'09''$ East 214.33 feet; thence North $65^{\circ}02'45''$ East 76.85 feet to a point on a 325.00 foot radius curve to the left; thence northeasterly 214.28 feet along the arc of said curve through a central angle of $37^{\circ}46'37''$, said arc having a chord bearing North $46^{\circ}09'26''$ East 210.42 feet; thence North $27^{\circ}16'08''$ East 225.28 feet to a point on a 525.00 foot radius curve to the left; thence northwesterly 971.95 feet along the arc of said curve through a central angle of $106^{\circ}04'25''$, said arc having a chord bearing North $25^{\circ}46'04''$ West 838.97 feet; thence North $78^{\circ}48'16''$ West 578.43 feet to a point on a 375.00 foot radius curve to the right; thence northwesterly 504.88 feet along the arc of said curve through a central angle of $77^{\circ}08'26''$, said arc having a chord bearing North $40^{\circ}14'03''$ West 467.61 feet; thence North $01^{\circ}39'50''$ West 72.40 feet to a point on a 375.00 foot radius curve to the left;

thence northerly 249.35 feet along the arc of said curve through a central angle of $38^{\circ}05'51''$, said arc having a chord bearing North $20^{\circ}42'46''$ West 244.78 feet; thence North $39^{\circ}45'41''$ West 88.73 feet to a point on a 325.00 foot radius curve to the right; thence northwesterly 122.68 feet along the arc of said curve through a central angle of $21^{\circ}37'40''$, said arc having a chord bearing North $28^{\circ}56'51''$ West 121.95 feet; thence North $18^{\circ}08'01''$ West 58.63 feet to a point on a 225.00 foot radius curve to the left; thence northwesterly 96.27 feet along the arc of said curve through a central angle of $24^{\circ}30'57''$, said arc having a chord bearing North $30^{\circ}23'29''$ West 95.54 feet; thence North $42^{\circ}38'58''$ West 329.49 feet to the southeasterly corner of Parcel B, Victory Ranch Plat A and the westerly right of way line of Victory Ranch Drive; thence North $47^{\circ}21'02''$ East 50.00 feet to the point of BEGINNING, containing 9.31 acres.

(Tax Serial No.(s) OWC-0189, OWC-0812, OWC-0812-1 AND OWC-0190)
ALSO, Moon Light Drive Extension, Road Dedication Plat 2, described as follows:

A strip of land 50 feet in width located in the Southwest Quarter of Section 32, in Township 2 South, Range 6 East, Salt Lake Base and Meridian, Wasatch County, Utah, described as follows:

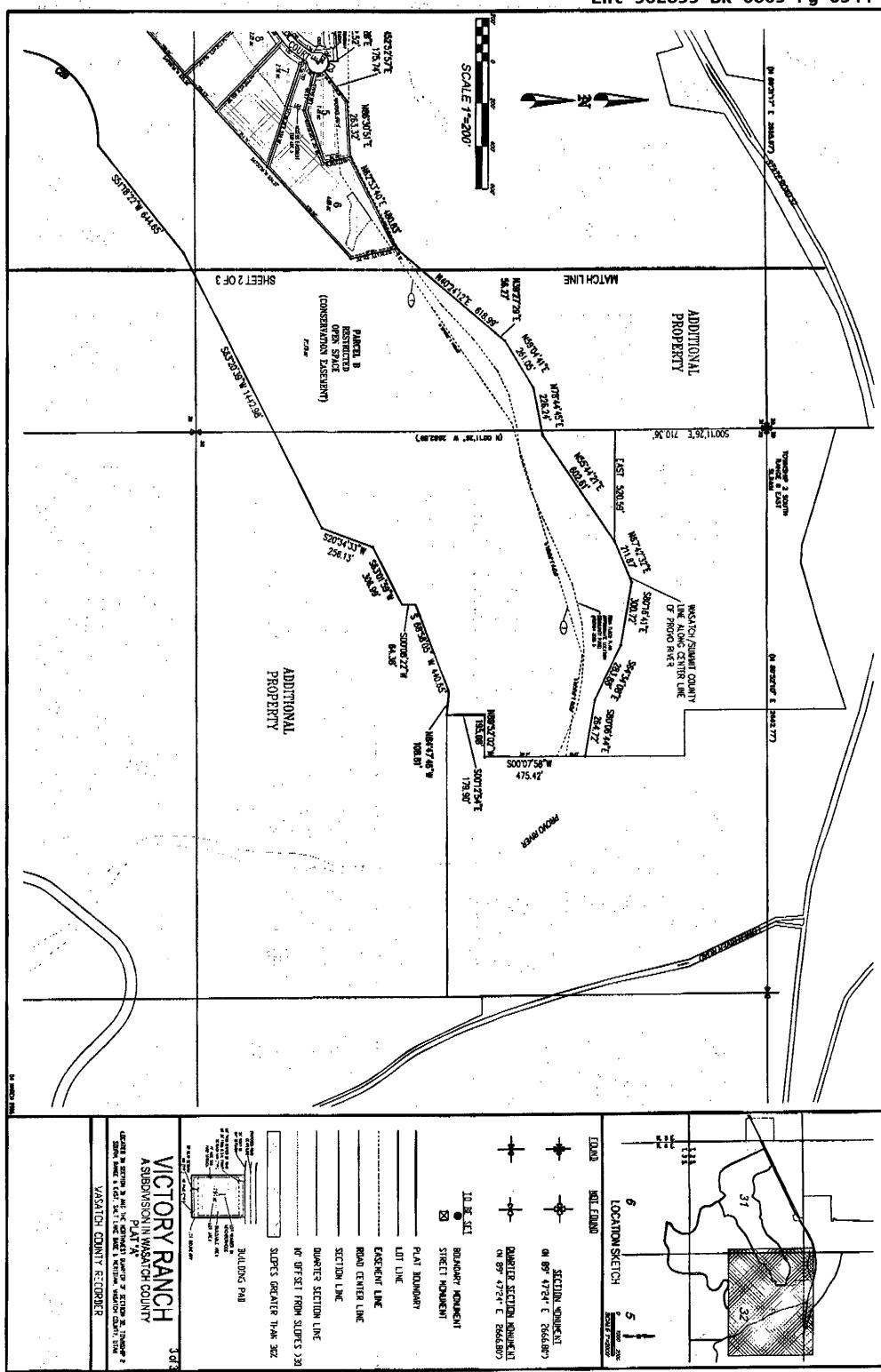
COMMENCING AT the Southwest Corner of Section 31, Township 2 South, Range 6 East, Salt Lake Base and Meridian; thence North $00^{\circ}00'59''$ West 822.06 feet; thence East 6586.66 feet to the southerly right of way line of Moon Light Drive and the point of BEGINNING and running thence North $02^{\circ}36'11''$ East 50.00 feet; thence South $87^{\circ}23'49''$ East 121.13 feet to a point on a 300.00 foot radius curve to the left; thence northerly 810.55 feet along the arc of said curve through a central angle of $154^{\circ}48'16''$, said arc having a chord bearing North $15^{\circ}12'03''$ East 585.56 feet; thence North $62^{\circ}12'05''$ West 252.51 feet to a point on a 170.00 foot radius curve to the right; thence northerly 469.17 feet along the arc of said curve through a central angle of $158^{\circ}07'33''$, said arc having a chord bearing North $16^{\circ}51'42''$ East 333.82 feet; thence South $84^{\circ}04'33''$ East 95.47 feet to a point on a 425.00 foot radius curve to the right; thence easterly 216.26 feet along the arc of said curve through a central angle of $29^{\circ}09'17''$, said arc having a chord bearing South $69^{\circ}29'55''$ East 213.93 feet; thence South $54^{\circ}55'16''$ East 87.73 feet to a point on a 175.00 foot radius curve to the left; thence easterly 340.04 feet along the arc of said curve through a central angle of $111^{\circ}19'54''$, said arc having a chord bearing North $69^{\circ}24'47''$ East 289.02 feet; thence North $13^{\circ}44'51''$ East 83.37 feet to a point on a 325.00 foot radius curve to the right; thence northeasterly 145.69 feet along the arc of said curve through a central angle of $25^{\circ}41'06''$, said arc having a chord bearing North $26^{\circ}35'24''$ East 144.48 feet; thence North $39^{\circ}25'57''$ East 185.26 feet to the center of the Provo River and the Wasatch County and Summit County Line; thence South $52^{\circ}30'33''$ East 50.03 feet along said centerline and said County Line; thence leaving said centerline and County Line South $39^{\circ}25'57''$ West 186.96 feet to a point on a 275.00 foot radius curve to the left; thence southwesterly 123.28 feet along the arc of said curve through a central angle of $25^{\circ}41'06''$, said arc having a chord bearing South $26^{\circ}35'24''$ West 122.25 feet; thence South $13^{\circ}44'51''$ West 83.37 feet to a point on a 225.00 foot radius curve to the right; thence westerly 437.20 feet along the arc of said curve through a central angle of $111^{\circ}19'54''$, said arc having a chord bearing South $69^{\circ}24'48''$ West 371.59 feet; thence North $54^{\circ}55'16''$ West 87.73 feet to a point on a

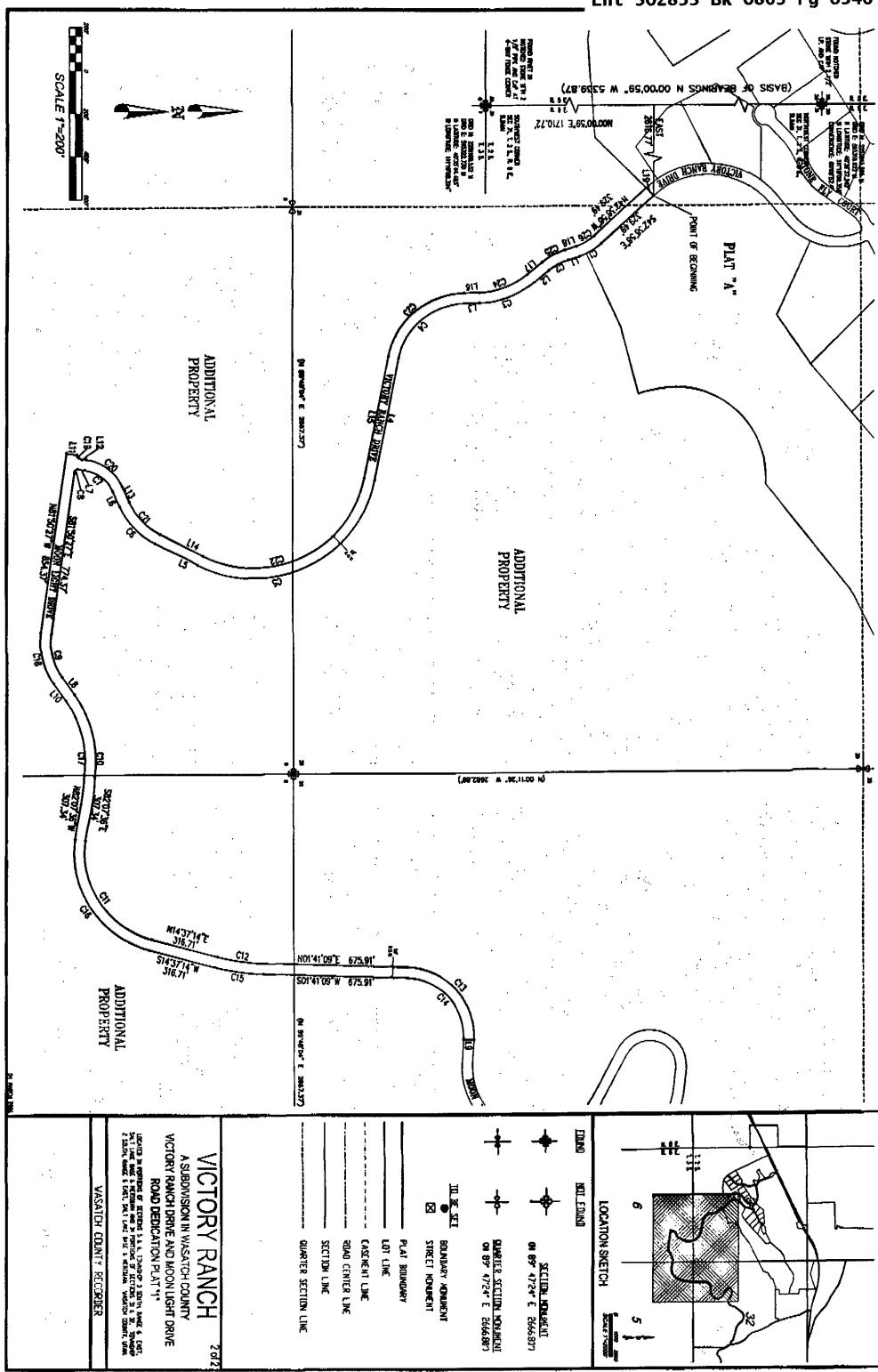
375.00 foot radius curve to the left; thence westerly 190.82 feet along the arc of said curve through a central angle of $29^{\circ}09'17''$, said arc having a chord bearing North $69^{\circ}29'55''$ West 188.77 feet; thence North $84^{\circ}04'33''$ West 95.47 feet to a point on a 120.00 foot radius curve to the left; thence southerly 331.18 feet along the arc of said curve through a central angle of $158^{\circ}07'33''$, said arc having a chord bearing South $16^{\circ}51'42''$ West 235.64 feet; thence South $62^{\circ}12'05''$ East 252.51 feet to a point on a 350.00 foot radius curve to the right; thence southerly 945.65 feet along the arc of said curve through a central angle of $154^{\circ}48'16''$, said arc having a chord bearing South $15^{\circ}12'03''$ West 683.15 feet; thence North $87^{\circ}23'49''$ West 121.13 feet to the point of BEGINNING, containing 3.25 acres.

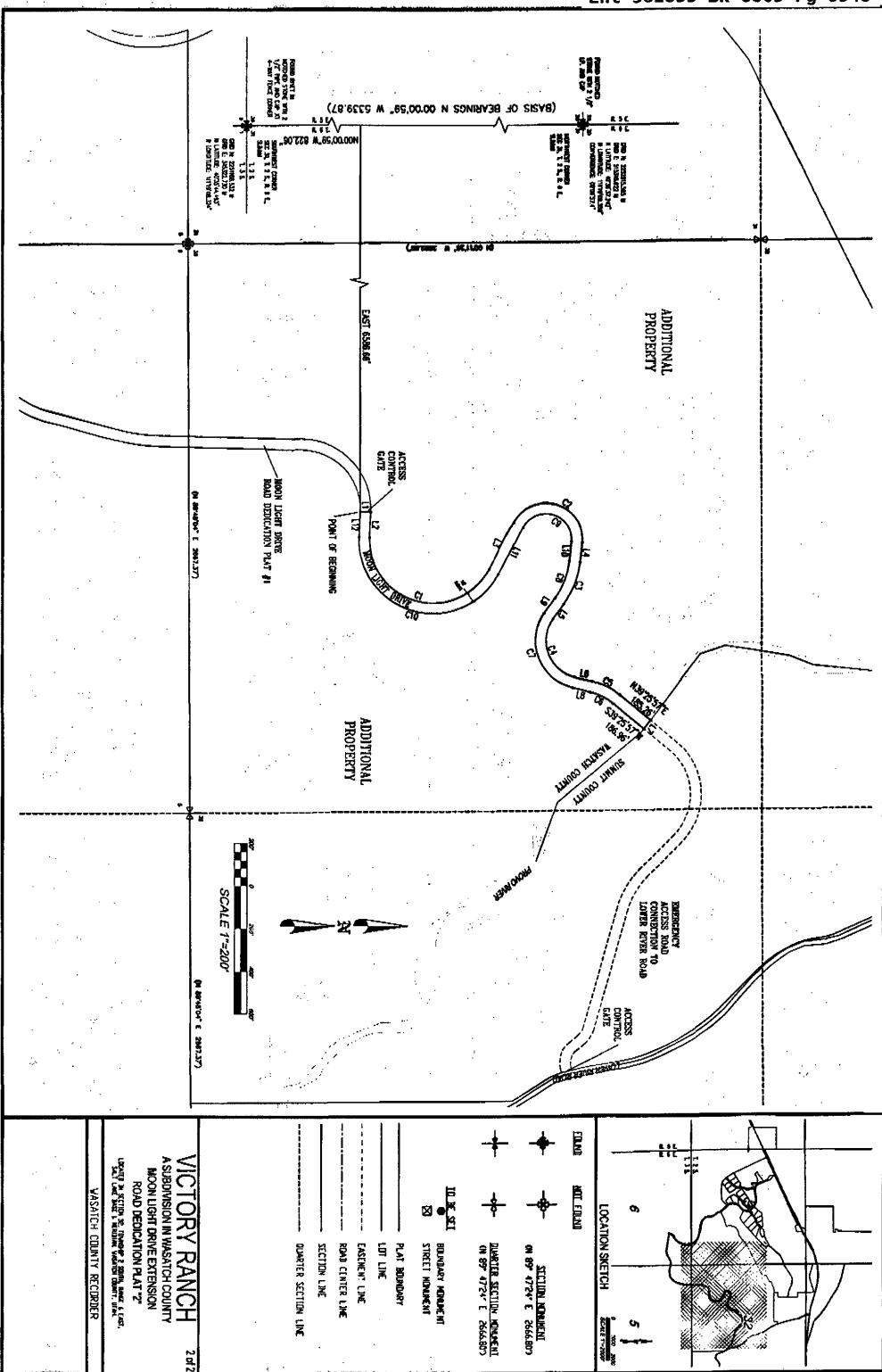
(Tax Serial No.(s) OWC-0190 AND OWC-0191)

Total acreage of three parcels in Exhibit "A" containing 212.35 acres.

Prepared By: John B. Stahl, PLS
Cornerstone Professional Land Surveys, Inc.
P.O. Box 901617
Salt Lake City, Utah 84090
(801) 495-2360
(801) 495-2361 fax







VICTORY RANCH
A SUBDIVISION IN WASATCH COUNTY

Exhibit "B"

Victory Ranch, a Master Planned Community
Additional Property Description

A tract of land located in the South Half of the Northeast Quarter and the South Half of Section 36 of Township 2 South, Range 5 East, the Southeast Quarter of the Southeast Quarter of Section 30, all of Section 31, the Northwest Quarter and South Half of Section 32, and the South Half of the Southwest Quarter of Section 33 of Township 2 South, Range 6 East, the Northwest Quarter of the Southwest Quarter of Section 3, the West Half of the Northwest Quarter and the South Half of Section 4, all of Sections 5, 6, 7 and 8, the Northeast Quarter of the Northwest Quarter, the West Half of the Northwest Quarter and the West Half of the Southwest Quarter of Section 9, the West Half of the Northwest Quarter and the West Half of the Southwest Quarter of Section 16, all of Section 17 less the Southwest Quarter of the Southwest Quarter of said Section 17, the Northeast Quarter of the Southeast Quarter and the Northeast Quarter of Section 18, the East Half of the Northwest Quarter and the Northeast Quarter of Section 20, and the Northwest Quarter of Section 21, all of Township 3 South, Range 6 East of the Salt Lake Base and Meridian, Wasatch and Summit Counties, State of Utah, described as follows:

BEGINNING AT the Southeast Corner of Section 36, Township 2 South, Range 5 East, Salt Lake Base and Meridian (a marked stone), and running thence along the south boundary of said Section 36 South $89^{\circ}41'24''$ West 2667.78 feet to the South Quarter Corner of said Section 36; thence continuing along said south line South $89^{\circ}41'24''$ West 2667.78 feet to the Southwest Corner of said Section 36 (a marked stone); thence North $00^{\circ}00'15''$ East 1343.89 feet to the southerly right of way line of Wasatch County Route A (Project No. SP-1776); thence along said southerly right of way line the following nine courses: 1) North $72^{\circ}02'14''$ East 261.47 feet to a point 350 feet right of said project centerline opposite Engineer's Station 382+91.64; 2) North $68^{\circ}04'18''$ East 742.22 feet to a point 350 feet right of said centerline opposite Engineer's Station 390+33.86; 3) North $53^{\circ}26'25''$ East 559.28 feet to a point 110 feet right of said centerline opposite Engineer's Station 396+28.52; 4) North $88^{\circ}45'04''$ East 840.93 feet to a point 110 feet right of said centerline opposite Engineer's Station 404+69.45; 5) North $87^{\circ}59'28''$ East 154.31 feet to a point 110 feet right of said centerline opposite Engineer's Station 406+19.45; 6) South $81^{\circ}53'06''$ East 434.46 feet to a point 240 feet right of said centerline opposite Engineer's Station 410+00; 7) North $55^{\circ}47'47''$ East 301.82 feet to a point 160 feet right of said centerline opposite Engineer's Station 412+13.72; 8) North $65^{\circ}07'28''$ East 587.14 feet to a point 160 feet right of said centerline opposite Engineer's Station 418+44.89; and 9) North $25^{\circ}08'52''$ West 110.00 feet to a point 50 feet right of said centerline opposite said Engineer's Station 418+44.89, said point also being 50 feet right of the centerline of US Highway 189 (Project No. S-240) opposite Engineer's Station 254+21.53; thence along the southerly right of way line of said US Highway 189 North $64^{\circ}51'08''$ East 808.08 feet to the west line of the Cahoon property; thence South $00^{\circ}00'59''$ East 158.37 feet to the southwest corner of said Cahoon property; thence North $89^{\circ}59'01''$ East 1056.00 feet to the southeast corner of said Cahoon property and the East Quarter Corner of said Section 36; thence along the east line of said Section 36 North $00^{\circ}00'59''$ West 653.74 feet to the southerly right of way line of said US Highway 189; thence along said southerly right of

way line the following two courses: 1) North 64°51'08" East 3486.41 feet to a point 50 feet right of said centerline opposite Engineer's Station 309+55.80, said point also being on a 5779.58 feet radius curve to the left; and 2) northeasterly 407.50 feet along the arc of said curve through a central angle of 04°02'23", said arc having a chord bearing North 62°49'57" East 407.42 feet to a point on the westerly boundary of the US of A Weber-Provo Diversion Canal property; thence South 14°45'05" East 127.68 feet to the southwest corner of said US of A property; thence North 75°16'55" East 250.40 feet to the southeast corner of said US of A property; thence North 09°36'55" East 253.61 feet along the easterly boundary of said US of A property to a point 50 feet right of said centerline, said point being on the southerly right of way of said US Highway 189; thence along said southerly right of way North 57°49'08" East 362.39 feet to a point from which the Northeast Corner of Section 31, Township 2 South, Range 6 East (a found marked stone) bears North 89°31'17" East 1175.69 feet; thence continuing along said southerly right of way line North 57°49'08" East 207.09 feet to a point on a 2814.79 feet radius curve to the right; thence continuing along said southerly right of way line northeasterly 590.57 feet along the arc of said curve through a central angle of 12°01'16", said arc having a chord bearing North 63°49'46" East 589.48 feet to a point on the centerline of a former 3 rod wide County Road; thence along the centerline of said 3 rod road the following eight courses: 1) North 89°49'38" East 110.01 feet; 2) South 85°08'08" East 354.56 feet; 3) South 74°34'31" East 7.85 feet to a point from which said Northeast Corner of said Section 31 bears South 00°04'54" East 328.64 feet; 4) continuing along said centerline South 74°34'31" East 243.74 feet; 5) South 72°48'56" East 326.22 feet; 6) South 87°15'19" East 86.18 feet; 7) North 73°52'51" East 291.48 feet; and 8) North 71°50'16" East 430.06 feet to the westerly line of the Navok property; thence along said Navok property boundaries the following eight courses: 1) South 00°07'58" West 760.84 feet; 2) South 89°52'02" East 214.50 feet; 3) South 00°07'58" West 940.50 feet; 4) North 89°52'02" West 195.08 feet; 5) South 00°12'54" East 179.90 feet; 6) North 89°51'09" East 1332.03 feet; 7) North 00°14'23" West 165.00 feet; and 8) North 89°51'09" East 84.71 feet to the southwesterly right of way of Lower River Road, a 3 rod wide County Road; thence along said southwesterly right of way the following eighteen courses: 1) South 25°03'13" East 285.95 feet to a point on a 774.75 feet radius curve to the left; 2) southeasterly 163.84 feet along the arc of said curve through a central angle of 12°06'59", said arc having a chord bearing South 31°06'43" East 163.53 feet; 3) South 37°10'12" East 96.91 feet to a point on a 725.25 feet radius curve to the right; 4) southeasterly 172.94 feet along the arc of said curve through a central angle of 13°39'44", said arc having a chord bearing South 30°20'20" East 172.53 feet; 5) South 23°30'28" East 389.21 feet to a point on a 275.25 feet radius curve to the right; 6) southerly 65.67 feet along the arc of said curve through a central angle of 13°40'11", said arc having a chord bearing South 16°40'23" East 65.51 feet; 7) South 09°50'17" East 63.23 feet to a point on a 324.75 feet radius curve to the left; 8) southerly 81.27 feet along the arc of said curve through a central angle of 14°20'20", said arc having a chord bearing South 17°00'27" East 81.06 feet; 9) South 24°10'37" East 19.13 feet to a point on a 524.75 feet radius curve to the left; 10) southeasterly 193.98 feet along the arc of said curve through a central angle of 21°10'50", said arc having a chord bearing South 34°46'02" East 192.88 feet; 11) South 45°21'27" East 243.73 feet to a point on a 875.25 feet radius curve to the right; 12) southeasterly 340.80 feet along the arc of said curve through a central angle of

22°18'34", said arc having a chord bearing South 34°12'10" East 338.65 feet; 13) South 23°02'53" East 65.10 feet to a point on a 575.25 feet radius curve to the right; 14) southerly 127.87 feet along the arc of said curve through a central angle of 12°44'11", said arc having a chord bearing South 16°40'47" East 127.61 feet; 15) South 10°18'42" East 248.15 feet to a point on a 324.75 feet radius curve to the left; 16) southerly 130.63 feet along the arc of said curve through a central angle of 23°02'49", said arc having a chord bearing South 21°50'07" East 129.75 feet; 17) South 33°21'31" East 139.79 feet to a point on a 425.25 feet radius curve to the right; and 18) southeasterly 36.45 feet along the arc of said curve through a central angle of 04°54'38", said arc having a chord bearing South 30°54'12" East 36.44 feet the westerly boundary of the Trout River Ranch Subdivision; thence along said westerly boundary South 00°15'51" East 1510.74 feet to the southwest corner of said Subdivision; thence North 89°48'04" East 1300.69 feet to the southeast corner of said Subdivision and the Northwest Corner of Section 4, Township 3 South, Range 6 East; thence along the north line of said Section 4 North 89°48'04" East 1248.55 feet to the southwest corner of a 1.5 rod wide strip of land; thence North 26°46'06" East 456.27 feet to the southerly right of way line of said Lower River Road; thence along said south line South 63°13'54" East 24.75 feet to the northeast corner of said 1.5 rod wide strip; thence South 26°46'06" West 443.68 feet to the southeast corner of said strip and the north line of said Section 4; thence North 89°48'04" East 57.37 feet to the Northeast Corner of the West Half of the Northwest Quarter (W2NW4) of said Section 4 from which the North Quarter corner of said Section 4 (a found marked stone) bears North 89°48'04" East 1333.69 feet; thence along the east line of said W2NW4 South 00°07'31" West 3423.13 feet; thence along a line 34 rods perpendicularly distant northerly of and parallel with the south line of the Northeast Quarter of the Southwest Quarter (NE4SW4) of said Section 4 North 89°55'53" East 1332.86 feet to the east line of said NE4SW4; thence North 00°08'19" East 762.10 feet to the Northwest Corner of the Northwest Quarter of the Southeast Quarter (NW4SE4) of said Section 4; thence along the north line of said NW4SE4 North 89°53'00" East 1143.95 feet to the centerline of the Provo River, said centerline being the Wasatch and Summit County boundary line; thence along the said centerline and said County line the following thirty-one courses: 1) South 40°21'20" East 72.85 feet; 2) South 42°08'57" East 110.30 feet; 3) South 36°57'47" East 108.65 feet; 4) South 24°55'01" East 104.00 feet; 5) South 50°08'50" East 91.00 feet; 6) South 78°04'35" East 113.00 feet; 7) North 79°20'35" East 84.00 feet; 8) North 78°52'41" East 106.00 feet; 9) South 80°44'56" East 116.00 feet; 10) South 72°47'42" East 144.00 feet; 11) South 70°41'41" East 159.00 feet; 12) South 64°16'53" East 98.00 feet; 13) South 56°11'40" East 121.00 feet; 14) South 53°03'20" East 128.00 feet; 15) South 45°51'39" East 96.00 feet; 16) South 38°57'48" East 131.00 feet; 17) South 47°06'24" East 93.00 feet; 18) South 41°26'12" East 132.00 feet; 19) South 42°09'52" East 125.00 feet; 20) South 73°28'01" East 95.00 feet; 21) North 85°28'07" East 81.00 feet; 22) North 62°24'31" East 65.00 feet; 23) North 49°53'18" East 82.00 feet; 24) North 45°51'21" East 92.00 feet; 25) North 66°59'31" East 77.00 feet; 26) South 80°17'57" East 80.00 feet; 27) South 58°11'40" East 94.00 feet; 28) South 42°51'22" East 126.00 feet; 29) South 57°31'43" East 111.00 feet; 30) South 58°14'14" East 178.00 feet; and 31) South 55°54'35" East 128.56 feet to the north line of Woodland Estates Plat "B" Subdivision; thence along said north line South 89°49'16" West (South 89°52'08" West by plat) 883.25 feet to the centerline of a canal; thence along said canal centerline the

following seven courses: 1) North $65^{\circ}02'54''$ West 35.03 feet; 2) North $27^{\circ}35'20''$ West 81.74 feet; 3) North $54^{\circ}43'55''$ West 44.84 feet; 4) South $83^{\circ}06'58''$ West 103.86 feet; 5) North $42^{\circ}48'48''$ West 96.86 feet; 6) North $13^{\circ}56'44''$ East 36.17 feet; and 7) North $48^{\circ}53'07''$ West 56.54 feet to the east line of Woodland Estates Plat 3 Subdivision; thence North $00^{\circ}01'02''$ East 35.64 feet to the northeast corner of said Woodland Estates Plat 3 Subdivision; thence along the north line of said Subdivision South $89^{\circ}59'17''$ West (West by plat) 3.68 feet to a point on the east line of said Section 4, said point being North $00^{\circ}05'43''$ West 1612.39 feet from the Southeast Corner of said Section 4 (a found Aluminum Cap); thence continuing along said north line South $89^{\circ}59'17''$ West (West by plat) 542.82 feet to the northwest corner of said Woodland Estates Plat 3 Subdivision; thence South $00^{\circ}01'02''$ West (South $00^{\circ}01'45''$ West by plat) 744.70 feet to the northeast corner of Woodland Estates Plat 4 Subdivision; thence North $73^{\circ}35'17''$ West (North $73^{\circ}34'35''$ West by plat) 1646.13 feet; thence South $89^{\circ}59'18''$ West (West by plat) 320.00 feet; thence South $00^{\circ}00'42''$ East (South by plat) 198.00 feet to the southwest corner of said Plat 4; thence South $61^{\circ}25'27''$ East (South $61^{\circ}24'45''$ East by plat) 2162.17 feet to the southeast corner of said Plat 4 and the southwest corner of said Woodland Estates Plat 3; thence South $61^{\circ}26'28''$ East 210.14 feet (South $61^{\circ}25'45''$ East 208.89 feet by plat) to a point on the north line of said Section 4, said point being South $89^{\circ}59'27''$ West 361.39 feet from the Southeast Corner of said Section 4 (a found Aluminum Cap); thence along the south line of said Section 4 South $89^{\circ}59'27''$ West 2301.85 feet to the South Quarter Corner of said Section 4; thence South $00^{\circ}05'25''$ West 1335.60 feet to the Southeast Corner of the Northeast Quarter of the Northwest Quarter (NE4NW4) of Section 9, Township 3 South, Range 6 East; thence South $89^{\circ}55'26''$ West 1331.17 feet to the Southwest Corner of said NE4NW4; thence South $00^{\circ}02'12''$ West 1336.88 feet to the Northeast Corner of the West Half of the Southwest Quarter (W2SW4) of said Section 9; thence South $00^{\circ}03'58''$ West 2678.69 feet to the Southeast Corner of said W2SW4, from which the Southwest Corner of said Section 9 (a marked stone) bears North $89^{\circ}10'20''$ West 1328.90 feet; thence South $00^{\circ}07'34''$ West 2626.33 feet to the Northeast Corner of the West Half of the Southwest Quarter (W2SW4) of Section 16, Township 3 South, Range 6 East, from which the West Quarter Corner of said Section 16 bears North $89^{\circ}12'57''$ West 1337.06 feet; thence South $00^{\circ}02'05''$ East 2634.56 feet to the Southeast Corner of said W2SW4, from which the Southwest Corner of said Section 16 (a marked stone) bears North $89^{\circ}40'04''$ West 1337.74 feet; thence South $89^{\circ}40'04''$ East 1337.74 feet to the Northeast Corner of the Northwest Quarter of Section 21, Township 3 South, Range 6 East; thence South $00^{\circ}04'20''$ West 2632.13 feet to the Southeast Corner of said Northwest Quarter of Section 21; thence North $89^{\circ}49'54''$ West 2670.94 feet to the Southwest Corner of said Northwest Quarter of Section 21, from which the Northwest Corner of said Section 21 (a marked stone) bears North $00^{\circ}01'33''$ West 2639.78 feet; thence North $89^{\circ}30'58''$ West 2592.22 feet to the Southeast Corner of the Northwest Quarter of Section 20, Township 3 South, Range 6 East; thence continuing North $89^{\circ}30'58''$ West 1301.37 feet to the Southwest Corner of the East Half of the Northwest Quarter (E2NW4) of said Section 20; thence North $00^{\circ}13'38''$ East 2579.37 feet to the Northwest Corner of said E2NW4, from which the North Quarter Corner of said Section 20 (a marked stone) bears South $88^{\circ}56'56''$ East 1311.22 feet, and from which the Northwest Corner of said Section 20 (a marked stone) bears North $88^{\circ}56'56''$ West 1311.22 feet; thence North $00^{\circ}31'00''$ West 1341.31 feet to the Southeast Corner of the

Northwest Quarter of the Southwest Quarter (NW4SW4) of Section 17, Township 3 South, Range 6 East; thence North 89°24'02" West 1306.69 feet to the Southwest Corner of said NW4SW4, from which the West Quarter Corner of said Section 17 (a marked stone) bears North 00°19'56" West 1330.90 feet; thence South 89°16'52" West 1328.44 feet to the Southwest Corner of the Northeast Quarter of the Southeast Quarter (NE4SE4) of Section 18, Township 3 South, Range 6 East; thence North 00°16'17" West 1335.16 feet to the Northwest Corner of said NE4SE4; thence South 89°27'52" West 1327.00 feet to the Southwest Corner of the Northeast Quarter of said Section 18; thence North 00°12'39" West 2655.01 feet to the North Quarter Corner of said Section 18 (a marked stone); thence South 89°40'36" West 2635.51 feet to the Closing Corner common to Sections 7 and 18 on the west boundary of Township 3 South, Range 6 East (a marked stone); thence North 00°17'22" West 2659.54 feet to the Southwest Corner of the Northwest Quarter of said Section 7; thence North 00°08'36" West 2643.47 feet to the Closing Corner common to Sections 6 and 7 on the west boundary of Township 3 South, Range 6 East; thence North 01°21'28" West 2644.89 feet to the Southwest Corner of the Northwest Quarter of Section 6; thence North 01°10'42" West 2649.88 feet to the point of BEGINNING, containing 5667.40 acres.

LESS AND EXCEPTING THEREFROM, all that property described on Exhibit "A" heretofore attached.

Prepared By: John B. Stahl, PLS
Cornerstone Professional Land Surveys, Inc.
P.O. Box 901617
Salt Lake City, Utah 84090
(801) 495-2360
(801) 495-2361 fax

EXHIBIT C "Master Plan"

