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WASATCH COUNTY CORPORATION
For: SNAKE CREEK PROPERTY HOLDINGS L
LC

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE LODGES AT SNAKE CREEK**

<u>ARTICLE I:</u>	7
<u>DEFINITIONS</u>	7
1.1 <u>Architectural Committee</u>	7
1.2 <u>Articles:</u>	7
1.3 <u>Assessment</u>	7
1.4 <u>Association:</u>	8
1.5 <u>Board or Board of Directors</u>	8
1.6 <u>Buildings</u>	8
1.7 <u>Bylaws:</u>	8
1.8 <u>Common Area</u>	8
1.9 <u>Common Expenses:</u>	8
1.10 <u>Common Wall</u>	8
1.11 <u>Declarant</u>	9
1.12 <u>Declaration</u>	9
1.13 <u>Dwelling:</u>	9
1.14 <u>Limited Common Area</u>	9
1.15 <u>Member:</u>	9
1.16 <u>Mortgage</u>	9
1.17 <u>Mortgagee:</u>	9
1.18 <u>Mortgagor:</u>	9
1.19 <u>Occupant:</u>	9
1.20 <u>Owner or Owners</u>	9
1.21 <u>Person</u>	9
1.22 <u>Plat</u>	9
1.23 <u>Project Documents</u>	10
1.24 <u>Property or Project (synonymous)</u>	10
1.25 <u>Rules and Regulations</u>	10
1.26 <u>Trail</u>	10
1.27 <u>Undivided Interest</u>	10
1.28 <u>Unit:</u>	10
<u>ARTICLE II</u>	10
<u>ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS</u>	10
2.1 <u>Organization of Association</u>	10
2.2 <u>Duties and Powers</u>	10
2.3 <u>Membership</u>	11
2.4 <u>Transferred Membership</u>	11
2.5 <u>Classes of Membership: Voting Requirements</u>	11
2.6 <u>Membership Meetings</u>	11
2.7 <u>Board of Directors</u>	11
2.8 <u>Use of Agent</u>	11
<u>ARTICLE III:</u>	12
<u>RIGHTS IN COMMON AREAS; NATURE OF UNIT OWNERSHIP</u>	12
3.1 <u>Description of Common Area</u>	12
3.2 <u>Ownership and Use of Common Areas</u>	12

3.3 Limited Common Area 12

3.4 Partition of Common Areas Prohibited 13

3.5 Extent of Easements 13

3.6 Damage by Member 14

3.7 Nature of Unit Ownership 14

3.8 Title 14

3.9 No Severance of Ownership 14

3.10 Encumbrance of Units 14

3.11 No Unauthorized Liens 15

3.12 Description of Unit 15

3.13 Notice of Unit Ownership 15

ARTICLE IV: 16

DESCRIPTION OF BUILDINGS AND OTHER IMPROVEMENTS; DESCRIPTION OF UNITS AND SUBMISSION TO THE ACT; ARCHITECTURAL CONTROL..... 16

4.1 Description of the Buildings and Other Improvements 16

4.2 Description of Units 16

4.3 Submission of the Property 16

4.4 Architectural Committee 17

4.5 Prohibition of Alteration and Improvement 17

4.6 Plans and Approval 17

4.7 Non-Liability of Committee Members 17

ARTICLE V: 18

REPAIR AND MAINTENANCE 18

5.1 Repair and Maintenance Rights and Duties of Association 18

5.2 Repair and Maintenance Rights and Duties of Owners 18

ARTICLE VI: 19

ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS..... 19

6.1 Creation of the Lien and Personal Obligation of Assessments 19

6.2 Purpose of Assessments 19

6.3 Regular Assessments 19

6.4 Extraordinary Assessments 20

6.5 Special Assessments 20

6.6 Reserve Fund 20

6.7 Reserve Analysis 20

6.8 Allocation of Assessments 21

6.9 Commencement of Assessment Due Dates 21

6.10 Transfer of Unit by Sale or Foreclosure 21

6.11 Enforcement of Assessment Obligation; Priorities; Discipline 21

6.12 Notice of Nonjudicial Foreclosure 22

6.13 Appointment of Trustee 23

6.14 Payment of Taxes Assessed Against Common Area or Personal Property of Association 23

ARTICLE VII: 23

EASEMENTS AND UTILITIES COMMON WALLS 23

7.1 Access, Use and Maintenance Easements 23

7.2 Encroachments and Utility Easements 24

7.3	<i>Owners' Rights and Duties With Respect to Utilities</i>	24
7.4	<i>Owner's Rights and Duties With Respect to Common Walls</i>	25
7.5	<i>Utilities Easement</i>	25
7.6	<i>Public Service Easement</i>	26
7.7	<i>Public Trail Easement</i>	26
7.8	<i>Dedication Rights Reserved</i>	26
ARTICLE VIII:		25
<i>RESIDENCE AND USE RESTRICTIONS</i>		25
8.1	<i>Use of Individual Dwellings</i>	27
8.2	<i>Nuisances</i>	27
8.3	<i>Signs</i>	27
8.4	<i>Animals</i>	27
8.5	<i>Garbage and Refuse Disposal</i>	28
8.6	<i>Aerials, Antennas, and Satellite Systems</i>	28
8.7	<i>Clothes Line</i>	28
8.8	<i>Power Equipment and Car Maintenance</i>	28
8.9	<i>Recreational Vehicles</i>	28
8.10	<i>Parking Restriction</i>	28
8.11	<i>Window Covers</i>	29
8.12	<i>Sculptures/Flags</i>	29
8.13	<i>United States Flag</i>	29
8.14	<i>Patio/Deck Fences</i>	29
8.15	<i>No Patio/Deck Storage</i>	29
8.16	<i>No Warranty of Enforceability</i>	29
ARTICLE IX:		29
<i>INSURANCE</i>		29
9.1	<i>Duty to Obtain Insurance; Types</i>	29
9.2	<i>Waiver of Claim Against Association</i>	30
9.3	<i>Right and Duty of Owners to Insure</i>	30
9.4	<i>Notice of Expiration Requirements</i>	31
9.5	<i>Insurance Premiums</i>	31
9.6	<i>Trustee for Policies</i>	31
9.7	<i>Actions as Trustees</i>	31
9.8	<i>Required Waivers</i>	31
9.9	<i>Notice of Insurance Unavailability</i>	32
ARTICLE X:		32
<i>DESTRUCTION OF IMPROVEMENTS</i>		32
10.1	<i>Damage to Common Area</i>	32
10.2	<i>Damage to Dwellings</i>	32
10.3	<i>Alternate Plans for Restoration and Repair</i>	33
10.4	<i>Appraisal of Damage</i>	33
10.5	<i>Interior Damage</i>	33
ARTICLE XI:		34
<i>DECLARANT RIGHTS AND RESERVATIONS</i>		34
11.1	<i>Declarant Rights</i>	34
11.2	<i>Sales Offices</i>	34

11.3	<i>Declarant Control</i>	34
<u>ARTICLE XII:</u>		35
<i>RIGHTS OF MORTGAGEES</i>		35
12.1	.....	35
12.2	.....	35
12.3	.....	35
12.4	.....	36
12.5	.....	36
12.6	.....	37
<u>ARTICLE XIII</u>		38
<i>DURATION AND AMENDMENT</i>		38
13.1	<i>Duration</i>	38
13.2	<i>Amendment</i>	38
13.3	<i>Declarant Amendment</i>	38
13.4	<i>Technical Correction Amendment</i>	39
<u>ARTICLE XIV:</u>		39
<i>GENERAL PROVISIONS</i>		39
14.1	<i>Enforcement</i>	39
14.2	<i>Invalidity of Any Provision</i>	39
14.3	<i>Conflict of Project Documents</i>	39
14.4	<i>Agent for Service of Process</i>	39
<u>ARTICLE XV:</u>		40
<i>ANNEXATION</i>		40

EXHIBIT A	Legal Description
EXHIBIT B	Schedule of Units/Lots, Square Footage, Votes and Undivided Interests in Common Areas and Facilities
EXHIBIT C	Copy of Plat
EXHIBIT D	Association Bylaws

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR THE LODGES AT SNAKE CREEK**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE LODGES AT SNAKE CREEK (hereinafter referred to as the "Declaration") is made effective as of the date of recording of this Declaration by THE LODGES AT SNAKE CREEK OWNERS ASSOCIATION, INC., a Utah nonprofit corporation (the "Association"), and SNAKE CREEK PROPERTY HOLDINGS, LLC, a Utah limited liability company (the "Declarant") pursuant to the provisions of Title 57, Chapter 8a, Utah Code Annotated, the Community Association Act, as amended ("Act"):

WITNESSETH:

WHEREAS, on August 24, 2005, a document entitled DECLARATION OF CONDOMINIUM FOR THE JOHNSON CONDOS, A UTAH CONDOMINIUM PROJECT was recorded by the JOHNSON CONDOS OWNERS ASSOCIATION, INC., a Utah nonprofit corporation, as Entry No. 287607 in Book 779, Pages 695-762, in the official records of the Wasatch County Recorder, Wasatch County, Utah (the "Original Declaration"); and

WHEREAS, on June 20, 2007, a document entitled CERTIFICATE OF AMENDMENT AND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE LODGES AT SNAKE CREEK was recorded by the Association and the Declarant, as Entry No. 321957 in Book 943, Pages 350-425, in the official records of the Wasatch County Recorder, Wasatch County, Utah (the "Amended Declaration")

WHEREAS, a document entitled DECLARATION OF TERMINATION AND REVOCATION OF THE CERTIFICATE OF AMENDMENT AND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE LODGES AT SNAKE CREEK, A UTAH CONDOMINIUM PROJECT AND WITHDRAWAL AND REMOVAL OF PROPERTY FROM UTAH CONDOMINIUM OWNERSHIP ACT AND REVOCATION AND TERMINATION OF BYLAWS OF THE LODGES AT SNAKE CREEK OWNERS ASSOCIATION, INC. was recorded by the Association and the Declarant in the official records of the Wasatch County Recorder, Wasatch County, Utah (the "Revocation") for the purpose of withdrawing and removing the Property from the Condominium Ownership Act and terminating the Amended Declaration and the Association's Bylaws; and

WHEREAS, the Plat, a copy of which is attached hereto as **Exhibit C**, was recorded for the purpose of changing the nature of the Property from a condominium development under Title 57, Chapter 8, Utah Code Annotated, the Condominium Ownership Act, to a planned unit development as shown on the Plat; and

WHEREAS, this DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE LODGES AT SNAKE CREEK is intended to replace, in their entirety, the Original Declaration and the Amended Declaration identified above, and to govern the Property and its Owners and Occupants from this date forward as an association under the provisions of the Act; and

WHEREAS, the covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land; and

WHEREAS, Declarant and the Unit Owners each own and control separate portions of the Property described on the attached Exhibit A, and wish to characterize the Property as a planned unit development, and Declarant desires to develop and sell those portions of the Property owned by Declarant as a planned unit development known as the Lodges at Snake Creek; and

WHEREAS, Declarant and the other Unit Owners have reviewed, and in a duly noticed meeting of the Owners held on April 22, 2014 unanimously approved, adopted consented to the actions referenced above and duly authorized execution and recording of the documents referenced herein (including this Declaration) by the Declarant on behalf of all Unit Owners, and the submission of the Property and all of its appurtenances to this Declaration, and to the extent necessary their respective mortgagees have approved and/or consented to the same.

NOW, THEREFORE, the Recitals above and the provisions below are hereby approved and adopted as the Declaration governing the Property and the Declarant on behalf of itself and all Unit Owners declares that all of the Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are for the purpose of protecting the value and desirability of the Property and which shall run with the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof:

ARTICLE I:

DEFINITIONS

Unless otherwise expressly provided, the following capitalized words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

- 1.1 **Architectural Committee**: the Architectural Committee created pursuant to Article 4 of this Declaration.
- 1.2 **Articles**: the Articles of the Association, as amended from time to time.
- 1.3 **Assessment**: that portion of the cost of improving, repairing, operating, and managing the Property which is to be paid by the Unit Owners as determined by the Association under this Declaration. Assessments may be designated as Regular Assessments, Extraordinary

Assessments, or Special Assessments, as those terms are more specifically defined in Article 6 of this Declaration.

- 1.4 **Association:** *THE LODGES AT SNAKE CREEK OWNERS ASSOCIATION, INC.*, a Utah nonprofit corporation, formed or to be formed as the governing body of the Project, the members of which shall be the Owners of Units in the Project.
- 1.5 **Board or Board of Directors:** the governing body of the Association.
- 1.6 **Buildings:** the buildings constructed as part of the Project, located on the Property and containing the Units, all as described in Article 4.
- 1.7 **Bylaws:** the Bylaws of the Association, as amended from time to time. The initial Bylaws are attached hereto as **Exhibit D** and incorporated herein by reference.
- 1.8 **Common Area:** all the real property and improvements located within the Property, which is not included within a Unit designated on the Plat. The Common Area includes, without limitation, all Limited Common Area, all landscaped areas, private roadways and walkways, and the Trail.
- 1.9 **Common Expenses:** the actual and estimated expenses of maintenance, improvement, repair, operation, insurance, and management of the Common Area and of the exterior and structural components of the Dwellings, expenses of operating and maintaining the private roadway through the Project, expenses of administration of the Association, and any reasonable reserve for such purposes as determined by the Board, and all sums designated Common Expenses by or pursuant to the Project Documents. Without limiting the generality of the foregoing, Common Expenses shall also include: the costs of trash collection and removal; compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all maintenance, gardening, security, utilities and other services benefiting the Common Area; the costs of fire insurance, errors and omissions and director, officer and agent liability insurance, and other insurance covering the Property and the directors, officers and agents of the Association; all other expenses denominated as Common Expenses by this Declaration or the Act; and any other costs incurred by the Association pursuant to its authority for any reason whatsoever, for the common benefit of the Owners. Two separate and distinct funds shall be maintained for Common Expenses; one for operating expenses and a reserve fund for capital expenses, which together shall constitute the Common Expense fund. The reserve fund shall be established for the periodic maintenance, repair and replacement of all or any portion of the Common Areas or other areas the Association has the authority or the obligation to maintain, repair or replace, and shall be expended only for such purpose. The Board shall include in annual Assessments amounts necessary to adequately fund and maintain the reserve fund in accordance with the Act and applicable law, as determined by periodic reserve studies, or inspections of the Common Areas, commissioned by the Board.
- 1.10 **Common Wall:** any wall which is common to and separates any two attached Dwellings.

- 1.11 **Declarant**: Snake Creek Property Holdings, LLC, a Utah Limited Liability Company and its successors-in-interest and assigns with respect to the Property, but shall not include members of the public who have purchased or will purchase completed Units.
- 1.12 **Declaration**: this Declaration of Covenants, Conditions, Restrictions and Easements for the Lodges at Snake Creek, as it may be amended from time to time.
- 1.13 **Dwelling**: that portion of any building (including garage and other improvements), which is designated as a Unit on the Plat and designed and intended for use and occupancy as a residence by a single-family.
- 1.14 **Limited Common Area**: those portions of the Common Area set aside for exclusive use of a Unit Owner or Owners, pursuant to Article 3 hereof.
- 1.15 **Member**: a person entitled to membership in the Association herein.
- 1.16 **Mortgage**: includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Unit.
- 1.17 **Mortgagee**: includes a mortgagee, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage on any Unit.
- 1.18 **Mortgagor**: includes a mortgagor, the trustor of a deed of trust, real estate contract vendee or other individual granting a security interest in any Unit.
- 1.19 **Occupant**: any person or persons, other than an Owner, in lawful possession of one or more Units.
- 1.20 **Owner or Owners**: the record holder or holders of title to or a contract vendee's interest in a Unit in the Project. This shall include any person having a fee simple title to any Unit, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Unit is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner", and the fee owner would be considered as a mortgagee.
- 1.21 **Person**: any natural person, corporation, partnership, association, trustee, or other legal entity.
- 1.22 **Plat**: the planned unit development plat titled The Lodges At Snake Creek A Planned Unit Development, recorded in the office of the County Recorder for Wasatch County, State of Utah, a reduced copy of which is attached hereto as **Exhibit C**, as it may be further amended from time to time pursuant to this Declaration and the Act. The Plat may be amended prior to the construction of any Buildings or at such time as the Buildings are constructed in the event there are material changes in the Building boundaries or elevations as constructed. Such an amendment to the Plat is expressly

authorized and may be undertaken by Declarant without the joinder or consent of any other Owners.

- 1.23 **Project Documents**: this Declaration, the Plat, the Articles and the Bylaws of the Association, as each shall be amended from time to time.
- 1.24 **Property or Project (synonymous)**: the real property covered by this Declaration, all easements, rights and appurtenances belonging thereto, and all improvements erected or to be erected thereon.
- 1.25 **Rules and Regulations**: Rules and Regulations shall mean the rules and regulations adopted from time to time by the Board pursuant to the Bylaws, including without limitation rules or regulations adopted by the Board relating to the use and enjoyment of any pool, clubhouse or other Common Areas.
- 1.26 **Trail**: the walking trail along Snake Creek constructed by Declarant and maintained by the Association, all as set forth in the Development Agreement between Midway City and Declarant, which has been recorded against the Property, as amended from time to time.
- 1.27 **Undivided Interest**: the percentage of ownership interest in the Common Areas appurtenant to each Unit as calculated pursuant to Section 3.2 and set forth in **Exhibit B** attached hereto.
- 1.28 **Unit**: identified as "Lots" on the Plat and in **Exhibit B**, each of which includes all elements of individual ownership of a single Dwelling within the Property, intended for use as the residence for a single family, as such Dwelling is identified and depicted on the Plat, together with exclusive use of the appurtenant Limited Common Area, nonexclusive use of the remainder of the Common Area, and all rights of membership in the Association; subject to the provisions of Section 1.

ARTICLE II:

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

- 2.1 **Organization of Association.**

The Association was incorporated under the name of THE LODGES AT SNAKE CREEK OWNERS ASSOCIATION, INC. as a Utah nonprofit corporation pursuant to the Utah Revised Nonprofit Corporation Act, § 16-6a-101, et seq., Utah Code Annotated (the "Nonprofit Corporation Act").
- 2.2 **Duties and Powers**

The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with the general and implied powers of a nonprofit corporation, generally to do any and all things that a corporation organized under the

laws of the State of Utah may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles, Bylaws, the Act or the Nonprofit Corporation Act.

2.3 Membership

The Owner of a Unit shall automatically, upon becoming the Owner of that Unit, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and Bylaws of the Association.

2.4 Transferred Membership.

Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Unit to which it is appurtenant, and then only to the new Owners. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

2.5 Classes of Membership: Voting Requirements.

The Association shall have two (2) classes of voting membership established according to the Articles. Voting rights shall be as set forth in the Bylaws.

2.6 Membership Meetings.

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

2.7 Board of Directors.

The affairs of the Association shall be managed by a Board of Directors, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association. The Board of Directors shall not be liable to the Association, or any Owner, and the Association hereby indemnifies and holds the Board of Directors harmless from and for any loss, damage or injury arising out of or in any way connected with the performance of the Board of Directors' duties hereunder unless due to the willful conduct or bad faith of the Board of Directors or individual Directors.

2.8 Use of Agent.

The Board of Directors, on behalf of the Association, may contract with a professional management agent for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The term of any such contract shall comply with the restrictions set forth in the Bylaws.

ARTICLE III:

RIGHTS IN COMMON AREAS; NATURE OF UNIT OWNERSHIP

3.1 **Description of Common Area.**

The Common Areas shall mean and include all portions of the Property not included as part of any Units, including, but not by way of limitation: (a) the common mechanical installations of a Building consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, and heating and central air-conditioning which exist for common use by the Owners, and the areas designated on the Plat as including those installations; (b) all areas outside of the Buildings not designated as Limited Common Areas, including, without limitation, the grounds and recreational facilities; sidewalks, trails, walkways, parking areas, paths, grass, shrubbery, trees, planters, roadways, landscaping, gardens and related facilities upon the Property; (c) the Project's lighting and perimeter fences; (d) the clubhouse, swimming pool and other recreational amenities, if any; (e) the water and sewer laterals outside of a Building servicing more than one Unit or serving Common Area improvements in the Project from publicly-dedicated sewer and water lines; (f) the water mains located on the Property servicing the Project; (g) the storm drain system; and (h) in general, all other parts of the Project designated on the Plat as Common Areas and existing for the common use of the Owners. In the event of a conflict between this Declaration and the Plat, the provisions of the Declaration shall control.

3.2 **Ownership and Use of Common Areas**

Each Owner shall own an Undivided Interest in the Common Areas, and, except as otherwise limited in this Declaration, shall have the right to use the Common Areas for all purposes incident to the use and occupancy of such Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his or her Unit. Such right to use the Common Areas shall extend to each Owner, his or her agents, tenants, family members, invitees and all Occupants and shall be subject to this Declaration and Rules and Regulations of the Board of Directors. The Undivided Interest in the Common Areas appurtenant to each Unit in the Project shall be allocated equally among each Unit in the Project. The Undivided Interest in the Common Areas appurtenant to each Unit shall be a fraction, the numerator of which is "1" and the denominator of which is the total number of Units in the Project, as shown on the Plat. Alternatively, such fraction may be expressed as a decimal number. Except as otherwise provided in this Declaration, the Undivided Interest appurtenant to each Unit shall have a permanent character and shall not be altered. The sum of the Undivided Interests in the Common Areas allocated to all Units shall at all times equal one hundred percent (100%). Declarant is authorized to round the Undivided Interest of one or more Units in order to cause the total to equal one hundred percent (100%).

3.3 **Limited Common Area.**

Limited Common Areas means those parts of the Common Areas that are limited to, and reserved for, the use of one or more specific Units. Without limiting the foregoing, the

Limited Common Areas shall include those areas designated as Limited Common Area on the Plat; the driveway providing access to a Unit; decks, balconies, patios or other similar amenities that are connected to and protrude from a Unit and specifically serve one or more Units; any individual air-conditioning units and fixtures, and any individual water and sewer service lines, and any plumbing or other installation servicing a single Unit. The Limited Common Areas associated with a particular Unit or Units shall be used in connection with such Unit(s) to the exclusion of the use thereof by the Owners, guests, invitees and Occupants of other Units, except by invitation. No reference thereto need be made in any instrument of conveyance, encumbrance, or other instrument. The use and occupancy of designated Limited Common Areas shall be reserved to the Units as shown on the Plat or as specified in this Declaration. Owners may not reallocate Limited Common Areas between or among Units in which they have an interest. Notwithstanding the foregoing, Declarant hereby reserves the right and grants to the Association the right to reallocate Limited Common Areas to the fullest extent permitted under the Act.

3.4 Partition of Common Areas Prohibited.

The Common Areas shall be owned in common by all of the Owners. No Owner shall bring any action for partition or division of any part of the Common Areas.

3.5 Extent of Easements.

With the exception of the "Perpetual Easement" areas designated on the Plat, the use of which may not be restricted or suspended in any way by the Association, the Board or any Member whose Unit such Perpetual Easement does not directly serve or benefit, the rights and easements of use and enjoyment of the Common Areas created by this Declaration shall be subject to such Rules and Regulations as may be adopted by the Board of Directors according to the Bylaws and the Act. Without limiting the Board's authority to enact reasonable Rules and Regulations, such Common Area easements shall be subject to the following:

- 3.5.1** The right of the Board to suspend the rights and easement of any Member, and the persons deriving such rights and easements from any Member, for use and enjoyment of any recreational facilities located within the Common Areas, for any period during which the payment of any Assessment against the Member and his Unit remains delinquent; provided, however, that any suspension for either nonpayment of any Assessment or breach of any provision in the Project Documents shall not constitute a waiver or discharge of the Member's obligation to pay Assessments as provided in this Declaration;
- 3.5.2** The right of the Association to consent to or otherwise cause the construction of additional improvements on the Common Areas and to consent to or otherwise cause the alteration or removal of any existing improvements on the Common Areas for the benefit of the Members of the Association; and

3.5.3 The right of the Association, acting through the Board, to consent to or join in the grant or conveyance of easements, licenses or rights of way in, on or over the Common Areas for purposes not inconsistent with the intended use of the Property as a planned unit development under the Act.

3.6 **Damage by Member.**

Each Member shall be liable to the Association for any damage to the Common Areas not fully-reimbursed to the Association by insurance, if the damage is sustained because of the negligence or willful misconduct of the Member, his guests, tenants, or invitees, or any other persons deriving their right and easement of use and enjoyment of the Common Area from the Member, or his or their respective family and guests, both minor and adult, or any Occupant. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the right to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the Member may be liable as described above. The cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against the Unit of the Member liable for the damage and may be enforced as provided hereby for the enforcement of any other Assessment.

3.7 **Nature of Unit Ownership**

Each Owner shall have and enjoy the privilege of fee simple ownership of his or her Unit. Each Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

3.8 **Title**

Title to a Unit within the Project may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

3.9 **No Severance of Ownership**

Title to no part of a Unit within the Project may be separated from any other part thereof during the period of ownership, and each Unit and the Undivided Interest in the Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth.

3.10 **Encumbrance of Units.**

Each Owner shall have the right to encumber his or her interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas or any part thereof except the Undivided Interest therein appurtenant to his or her

interest in a Unit. Any Mortgage of any Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

3.11 No Unauthorized Liens.

No labor performed or services or materials furnished with the consent of or at the request of an Owner may be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner (including interest in any portion of the Common Areas), unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in the Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner may remove his or her Unit from a lien against two or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his or her Unit.

3.12 Description of Unit.

Every contract for the sale of a Unit, and every other instrument affecting title to a Unit within the Project, may describe a Unit by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its Unit Number as shown on the Plat. Such description will be construed to describe the Unit, together with the appurtenant Undivided Interest in the Common Areas, and to incorporate all the rights incident to ownership of a Unit within the Project and all of the limitations on such ownership as described in this Declaration.

3.13 Notice of Unit Ownership.

Any person, on becoming an Owner, will furnish the Secretary of the Association with a photocopy or certified copy of the recorded instrument or such other evidence as may be specified by the Board under the Bylaws or the Association Rules and Regulations, vesting the person with the interest required to make him an Owner. At the same time, the Owner will provide the Association with the single name and address to which the Association will send any notices given pursuant to the governing documents of the Project. The Owner will state in such notice the voting interest in the Association to which the Owner believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice, including any change of ownership, the Owner will give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Owner.

ARTICLE IV:***DESCRIPTION OF BUILDINGS AND OTHER IMPROVEMENTS; DESCRIPTION OF UNITS AND SUBMISSION TO THE ACT; ARCHITECTURAL CONTROL*****4.1 Description of the Buildings and Other Improvements.**

The Project is not a cooperative. The Project is a planned unit development, located entirely within Wasatch County, State of Utah. The improvements for the Project will consist of nine (9) freestanding two and three-story residential Buildings containing between four (4) and eight (8) Units. Each Unit will have a garage. Some Units may have a perpetual easement for a garage that may be located within a neighboring Unit, as indicated on the Plat or by other written, recorded easement, in which case access to that garage space may not be restricted and the garage may not be altered by the Owner of the Unit of which that garage is a part without the prior written and recorded consent of the Owner of the Unit that is directly benefitted by the perpetual easement for the garage. The Buildings will be of wood frame construction with high quality building materials such as cultured stone, masonry, stucco and/or hardiplank. The roof will be sloped, with fire-resistant asphalt shingles and metal flashing. The Buildings will be supplied with telephone, cable television, electricity, natural gas, central air, water, and sewer service. In addition to the Buildings, Declarant may construct certain other improvements as part of the Common Areas of the Project, which may include, without limitation, any of the following, as depicted on the Plat (a) fences or walls; (b) walkways, roads, driveways or parking areas; (c) mailboxes, signs; (d) a clubhouse and swimming pool; (e) paving, exterior lights, curbing, trails, trees, shrubs, hedges, grass, windbreak or other landscaping improvements of every type and kind; (f) excavation, fill, retaining wall or any other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel, and related fixtures and equipment; (g) common utility systems; and (h) any other structure of any kind or nature.

4.2 Description of Units.

The Units are as described in Article I of this Declaration. The boundary lines of each Unit are as set forth on the Plat. The Plat and **Exhibit B** hereto contain the "Lot" number of each Unit in the Project.

4.3 Submission of the Property.

The undersigned hereby submit(s) the Property, the Buildings and all other improvements thereon to the provisions of the Act. All of the Project is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a planned unit development. All of the Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement of the Project and division thereof into Units; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, the Owners and their respective successors and assigns, and any person acquiring, leasing, subleasing or owning any interest in the real property and improvements comprising the Project, their assigns, lessees, sub lessees, heirs, executors, administrators, devisees and successors. The Declarant and Association are hereby

granted a limited license to use the name “Lodges at Snake Creek,” in connection with the sale, administration and operation of their respective interests in the Project.

4.4 Architectural Committee.

The Architectural Committee shall consist of three (3) members. The Architectural Committee shall initially consist of members selected by the Declarant. At such time as the period of Declarant control ends, all future members of the Architectural Committee shall be appointed by the Board of Directors. Unless and until the Architectural Committee is appointed under this provision, the functions of the Committee shall be carried out by the Board.

4.5 Prohibition of Alteration and Improvement.

The original architectural design of the Project is referred to below as the “Original Project Design.” Other than alterations or improvements made by the Declarant no alteration of any kind to the Original Project Design, and no exterior painting or staining of any kind, shall be commenced, erected, or maintained upon the Property, until the same has been approved in writing by the Architectural Committee.

4.6 Plans and Approval.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of any alteration to the Original Project Design shall be submitted to the Board or Architectural Committee for approval as to quality of workmanship and design and harmony of external design, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to rebuild in accordance with the plans and specifications for the Original Project Design, or to rebuild in accordance with plans and specifications previously approved by the Board or Architectural Committee.

The Board or Committee shall consider and act upon any and all plans and specifications submitted for its approval under this Article and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Board or Architectural Committee. Any application submitted to the Board or Architectural Committee pursuant to this Article shall be deemed denied, unless written approval or a request for additional information or materials by the Board or Architectural Committee shall have been transmitted to the applicant within forty-five (45) days after the date of receipt by the Board or Committee of all required materials. The Architectural Committee or Association may not charge a fee for reviewing plans that exceeds the actual cost of reviewing and approving the plans.

4.7 Non-Liability of Committee Members.

Neither the Architectural Committee nor any member thereof shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of, or in any way connected with the performance of the Architectural Committee’s duties hereunder unless due to the willful misconduct or bad faith of the Architectural Committee or member. The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement or alteration, solely on the basis of aesthetic

considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

ARTICLE V:

REPAIR AND MAINTENANCE

5.1 Repair and Maintenance Rights and Duties of Association.

Subject to provisions in this Declaration pertaining to eminent domain and destruction of improvements, the Association shall paint, maintain, repair and replace the Common Areas and all improvements and landscaping thereon, including, without limitation, the Trail. The Association shall also paint, maintain, repair and replace the exteriors, including roofs and exterior structural components, of all Buildings. The Association may contract for such maintenance, repair and replacement to assure maintenance of such areas are in good condition, reasonable wear and tear excepted. However, in the event an Owner fails to maintain his Dwelling or to provide other maintenance or repair as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, lien his Unit for the amount thereof.

For the purpose of performing any maintenance, repair or replacement as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to the Common Areas or to the Buildings, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an irrevocable easement over and onto all portions of the Common Areas, and shall also have the irrevocable right, after reasonable notice to the Owner, and at reasonable hours, to enter any Building or Dwelling.

Midway City shall have the right, but not the duty to require, and if necessary, perform, at the Association's expense, landscaping, maintenance, and snow removal within the Common Areas if the Association fails adequately to perform such. In the event Midway City exercises this right, Midway City shall be entitled to recover any associated costs and attorneys' fees from the Association. This section shall not be amended or deleted without the approval of Midway City.

5.2 Repair and Maintenance Rights and Duties of Owners.

Except for those portions of the Property which the Association is required or elects to maintain and repair (including without limitation the obligation of the Association and Owners to maintain water lines running through the Common Area pursuant to that certain Easement & Maintenance Agreement recorded December 18, 2006, as Entry No.

312323 in the official records of Wasatch County), each Unit Owner shall, at his sole cost and expense, maintain and repair all interior and non-structural components of his Dwelling, keeping the same in good condition, and shall repair all damage to the Common Areas for which the Owner is responsible under Paragraph 3.6 above. Additionally, each Owner shall maintain, repair and replace as necessary, all doors and windows (and appurtenant hardware and accessories) to his Dwelling, and any separate air conditioning, water heating, or other separate utility unit which services his Dwelling.

ARTICLE VI:

ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments.

The Declarant and Owners for each Unit owned within the Project hereby covenant, and each subsequent Owner of any Dwelling by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Association the following Assessments, which shall be established and collected as provided herein and in the Bylaws.

All Assessments, together with interest, costs, penalties, and actual attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each Assessment is made. Each such Assessment, together with interest, costs, penalties, and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Dwelling at the time when the Assessment fell due. No Owner of a Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his Unit.

6.2 Purpose of Assessments.

The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project, for the improvement and maintenance of the Common Areas, for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repairs and replacement of those portions of the Common Areas and the exterior and structural components of all Buildings which must be replaced on a periodic basis, creation of an adequate contingency reserve, major maintenance reserve, and/or sinking fund for maintenance and repairs of all Common Areas, including, the private roadways, if any, and public trails located within the Project as shown on the Plat.

6.3 Regular Assessments.

The Board shall determine and fix the amount of the maximum annual Regular Assessment against each Unit at least sixty (60) days in advance of the start of each fiscal year; provided, however, that the maximum annual Regular Assessment may not be increased by more than twenty percent (20%) above the maximum annual Regular Assessment for the immediately preceding fiscal year, without the vote or written assent of the majority of the voting power of the Association.

6.4 Extraordinary Assessments.

In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, or of any exterior or structural component of any Building, or to defray any unanticipated or underestimated expense not covered by the Regular Assessment (and, where necessary, for taxes assessed against the Common Areas); provided, however, and except as provided in the last sentence of this subsection 6.4, that the aggregate Extraordinary Assessments for any fiscal year shall not exceed ten percent (10%) of the budgeted gross expenses of the Association (excluding reserves) for that fiscal year, without the vote or written assent of over sixty percent (60)% of the voting power of the Association.

6.5 Special Assessments.

In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments (without limitation as to amount or frequency) against an individual Unit and its Owner to reimburse the Association for costs incurred in bringing that Owner and his Unit into compliance with the provisions of this Declaration and the Bylaws, including actual attorney's fees and costs.

6.6 Reserve Fund.

Pursuant to Article 6.2, a portion of the Regular Assessments shall be used to fund an adequate Reserve Fund. Until otherwise modified by the Board of Directors, five percent (5%) of all Regular Assessments collected shall be applied to the Reserve Fund. At the closing of the sale of each Unit, the Owner shall pay the approximate equivalent of two (2) months' dues, which shall be deposited in the Reserve Fund and shall be non refundable.

6.7 Reserve Analysis.

To the extent that it is required by the Act, after the period of Declarant Control has ended, the Board of Directors shall cause a reserve analysis to be conducted no less frequently than every six years; and review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis. The reserve fund analysis shall include: (a) a list of the components identified in the reserve analysis that will reasonably require reserve funds; (b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis; (c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis; (d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and (e) a reserve funding plan that recommends how the Association may fund the annual contribution described in Subsection 6.7(d). Commencing with the first

reserve analysis completed for the Project, the Association shall annually provide Owners a summary of the most recent reserve analysis or update; and provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

6.8 Allocation of Assessments.

Each Owner, for each Unit which it owns, shall be liable for a proportionate share of the Common Expenses, such share being the same as the Undivided Interest in the Common Areas appurtenant to the Unit owned by him or her.

6.9 Commencement of Assessment Due Dates.

Except as provided in Section 6.6 above, the Regular Assessments provided for herein shall commence for each Unit in the Project on the first day of the month following closing of the sale of the Unit to a third-party buyer. The Regular Assessment for any partial month preceding such date shall be prorated and paid at closing together with the amount specified in Section 6.6 above. Due dates for Regular Assessments shall be the first day of every calendar month. No notice of such Assessment shall be required other than an annual notice setting forth the amount of the monthly Regular Assessment for the upcoming fiscal year.

6.10 Transfer of Unit by Sale or Foreclosure.

The sale or transfer of any Unit shall not affect any Assessment lien, or relieve the Unit, or its owner at the time the lien accrued, from any liability therefor, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Unit pursuant to foreclosure or by deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer (except for Assessment liens arising prior to the recordation of the mortgage). Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid Assessments. Any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Dwellings or Units including the Dwelling for which the lien was extinguished. In a voluntary conveyance of a Unit, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the grantor up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided; however, the grantee shall be liable for any such Assessment becoming due after the date of any statement.

6.11 Enforcement of Assessment Obligation; Priorities; Discipline.

If any part of any Assessment is not paid and received by the Association or its designated agent within ten (10) days after the due date, an automatic late charge of Twenty Dollars (\$20.00) shall be assessed and additional Twenty Dollar (\$20.00) sums

shall be assessed for each month or fraction thereof from the due date until the Assessment and all late charges are paid. Each unpaid Assessment shall constitute a lien on each respective Dwelling or Unit prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lieu or charge of any institutional first mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declaration or by law to make the sale of said Owner's Unit, after failure of the Owner to pay such Assessment, as though the lien were a deed of trust, in the manner provided by Utah Code Annotated, Sections 57-1-24, 57-1-25, 57-1-26 and 57-1-27, or as otherwise provided for in the Act or other provisions of Utah law applicable to the exercise of powers of sale in deeds of trust. The lien may also be enforced and foreclosed and the Unit sold by judicial foreclosure as a mortgage, or in any other manner permitted by law. The Association, acting on behalf of the Unit Owners, shall have the power to bid for the unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorney's fees and costs, and may temporarily suspend the Association membership rights of a Unit Owner who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

6.12 Notice of Nonjudicial Foreclosure.

So long as it is required by the Act, then at least 30 calendar days before initiating a nonjudicial foreclosure, the Association shall send, via certified mail, return receipt requested, notice to the Owner of the Unit that is the intended subject of the nonjudicial foreclosure. The notice shall notify the Owner that (a) the Association intends to pursue nonjudicial foreclosure with respect to the Owner's Unit to enforce the Association's lien for an unpaid Assessment; and (b) the Owner has a right to demand judicial foreclosure in the place of nonjudicial foreclosure. The notice shall be in substantially the following form:

"NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The Lodges At Snake Creek Owner's Association, Inc., the Association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you

want to make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding upon my unit,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is [insert the Association's address for receipt of a demand]."

6.13 Appointment of Trustee.

The Declarant and Owners hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to Paul D. Colton, with power of sale, the Property and all improvements to the Property for the purpose of securing payment of assessments under the terms of the Declaration. The trustee appointed herein may be replaced at any time by the Board with the appointment of another trustee who qualifies under Subsection 57-1-21(1)(a)(i) or (iv) as amended.

6.14 Payment of Taxes Assessed Against Common Area or Personal Property of Association.

In the event that any taxes are assessed against the Common Areas, or the personal property of the Association, rather than against the Units, said taxes shall be included in, the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Units in an amount equal to said taxes (regardless of the limitation on Extraordinary Assessments set forth in Paragraph 6.4 above), with such payment due thirty (30) days prior to the due date of the tax installment.

ARTICLE VII:

EASEMENTS AND UTILITIES COMMON WALLS

7.1 Access, Use and Maintenance Easements.

Declarant expressly reserves for the benefit of the Owners, reciprocal, non exclusive easements for access, ingress and egress over all of the Common Areas (exclusive of Limited Common Area, unless such Limited Common Area is appurtenant to an Owner's Unit) and for the use and enjoyment of all recreational facilities thereon, including any private streets or driveways in the Common Areas currently existing in the Property, or subsequently added to it which easements shall be deemed granted by Declarant to the Owners and to the Association for so long as Declarant owns any interest in the Property. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing in or temporarily visiting the Property, for walkways, vehicular access and such other purposes reasonably necessary for use and enjoyment of a Unit in the Project.

Declarant also expressly reserves for the benefit of the Board of Directors and all agents, officers and employees of the Association, nonexclusive easements over the Common

Areas (including the Limited Common Area) and all Dwellings as necessary to maintain and repair the Common Areas, and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Areas shall be appurtenant to, binding upon and shall pass with the title to, every Unit conveyed, as more fully described in Paragraph 5.1 above.

Notwithstanding any language in this Declaration to the contrary, Declarant expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same), and the right to permanently locate the same for complete access to any adjoining parcels of property and any amenities or recreational facilities located on or near such adjoining parcels of property. Such easement reservation to Declarant and its heirs successors and assigns, shall, upon completion of the Project and the sale of all of the Units to third-party buyers, or fifteen years from the date of this Declaration, whichever occurs last, be transferred by Declarant or its heirs, successors, or assigns, to the Association for the benefit of its Members.

7.2 Encroachments and Utility Easements.

Each Building or Unit within the Property is hereby declared to have an easement over all adjoining Buildings or Units and the Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units or Common Areas shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

Declarant also expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same) for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, telephone cable television, and other utility lines and services, as may be deemed appropriate to service the Project.

7.3 Owners' Rights and Duties With Respect to Utilities

The rights and duties of the Owners of Dwellings or Units within the Project with respect to utilities shall be as follows:

- 7.3.1 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, heating or air conditioning conduits, ducts, flues or other utility or service connections are located or installed within the Project, which connections, or any

portion thereof, lie in or upon or beneath Dwellings owned by other than the Owner of a Dwelling served by said connections, the Owners of any Dwellings served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Dwelling or to have the utility companies enter upon the Dwellings in or upon or below which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary.

7.3.2 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, heating or air conditioning conduits, ducts, flues or other utility or service connections are located or installed within the Project, which connections serve more than one Dwelling, the Owner of each Dwelling served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Dwelling.

7.3.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

7.4 **Owner's Rights and Duties With Respect to Common Walls.**

The Owner of any Dwelling which shares a Common Wall with another Dwelling shall be deemed to own the one-half (1/2) of the wall nearest his Dwelling, and shall have an exclusive and perpetual easement over the remainder of the Common Wall for support and maintenance. Any such Common Wall shall be deemed a structural component of the building in which it is located, and shall therefore be maintained by the Association, subject to the Unit Owner's responsibility to repair damage caused by negligence or willful misconduct as described in paragraph 3.5.

The interior common walls which exist between adjoining units were designed and installed as required "fire-rated" walls. Owners may not undertake any change to the composition of their respective side of the Common Wall without the express prior written consent of the Association and the Midway City Building Department and/or such other governmental agency as may have responsibility for approving such changes. By way of illustration, replacing the sheet rock of the common wall with any other material of any kind shall be considered a change in the composition of the common wall, and is strictly prohibited without the express prior written consent of the Midway City Building Department.

7.5 **Utilities Easement.**

There is hereby created a general non-exclusive easement upon, across, over, in, and under a portion of the Property that includes the area of all streets on the Property and

extends to an area twelve (12) feet on either side of the top back of curb for such streets, all as such utility easements are more particularly described on the Plat. Such utility easement is granted for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, and a cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electrical, telephone, data transmission and other communication services to erect and maintain the necessary equipment on or beneath the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without unduly disturbing the uses of the Owners, the Association, and Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, Declarant or the Board of Directors shall have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Paragraph 7.5 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

7.6 Public Service Easement.

A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

7.7 Public Trail Easement.

To the extent that such easement has not yet been granted or to the extent that Midway City requires its modification in the future, Declarant or the Association, as the case may be, hereby reserves the right to grant a non-exclusive easement to Midway City over, across and through the Trail or any portion thereof, or to amend such easement, for use by the general public at such time as the precise location of the Trail is established or altered, and the Trail is constructed.

7.8 Dedication Rights Reserved.

Declarant reserves (a) the right to dedicate any access roads and streets serving the Property or and to public use, to grant road easements with respect thereto and to allow such street or road to be used by owners of adjacent land; and (b) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair maintenance or regulation of parking or recreational facilities, which may or may not be a part of the Property for the benefit of the Owners, or the Association.

ARTICLE VIII:

RESIDENCE AND USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Unit therein is subject to the following:

8.1 Use of Individual Dwellings.

No Dwelling shall be occupied and used except for single-family residential purposes by the Owners, their Occupants, and social guests, and no trade or business shall be conducted therein. An Owner shall have the right to rent out his Unit to a tenant or tenants or to place his Unit in a "rental pool" under such terms and conditions as may be deemed appropriate by the Owner in accordance with all applicable laws, rules, ordinances and regulations; provided, that any Occupant shall occupy the Unit subject to all terms and conditions of the Project Documents and all applicable laws, rules, ordinances and regulations.

8.2 Nuisances.

No noxious, illegal, or offensive activities shall be carried on in any Dwelling, or in any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his respective Dwelling, or which shall in any way increase the rate of insurance for the Project, or cause any insurance, policy to be canceled or to cause a refusal to renew the same, or which will impair the structural integrity of any Building.

8.3 Signs.

No signs advertising Dwellings or Units for sale or rent may be displayed on the Property or on any portion of the Property, unless first approved in writing by the Board, and unless such signs comply with any and all local ordinances. Notwithstanding the preceding sentence, until all Units in the Project have been sold, the Declarant shall have the right to advertise Units for sale, provided Declarant complies with the requirements of Midway City with respect to such advertising.

8.4 Animals.

No animals or birds of any kind shall be raised, bred, or kept in any Dwelling, or on any portion of the Property; except that no more than two (2) usual and ordinary household pets such as dogs, cats, or birds, may be kept, provided that they are not kept, bred or maintained for any commercial purposes, and that they are kept under reasonable control at all times. Any such dog shall be kept on a leash at all times that the dog is in the Common Areas. Owners shall prevent their pets from soiling any portions of the Common Areas and in the event a pet does soil a portion of the Common Areas, the Owner or person in control of such pet shall immediately clean up after the pet. The Board may enact reasonable Rules and Regulations respecting the keeping of animals within the Project, including noise restrictions, and may designate certain areas in which animals may not be taken or kept, or may require that specific animals not be allowed on any part of the Property.

8.5 Garbage and Refuse Disposal.

All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. All garbage or trash receptacles, including recyclable containers, shall be stored in the garage except on trash collection days. Trash, garbage and other waste shall not be kept except in sanitary containers and shall be kept in the garage. No equipment, garbage cans, or storage piles may be kept outside of the dwelling.

8.6 Aerials, Antennas, and Satellite Systems.

An Owner or Occupant is prohibited from installing any antenna or satellite dish, including, without limitation, an antenna for amateur ("HAM") radio, citizens band ("CB") radio, and digital audio radio services ("DARS") signals in any Common Areas within the Project. Antennas designed to receive television broadcast signals, video programming or fixed wireless signals and satellite dishes that are one-half meter or less in diameter or diagonal measurement and designed to receive direct broadcast satellite service shall be permitted (each, a "Permitted Device") in Limited Common Areas, provided that any such Permitted Device is: (1) located in the garage or other interior space of the Unit so as not to be visible from outside the Unit; or (2) attached to or mounted in the Limited Common Areas immediately adjacent to the Unit such as the patio in the rear of a Unit. Other than the Permitted Devices, no antennas or satellite dishes may be located in the Limited Common Areas.

8.7 Clothes Line.

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

8.8 Power Equipment and Car Maintenance.

No power equipment or car maintenance of any nature shall be permitted on the Property; provided however, car washing or polishing may be done, but only in the Limited Common Area appurtenant to that Unit.

8.9 Recreational Vehicles.

No boats, trailers, recreational vehicles, trucks or commercial vehicles belonging to Owners or other residents of the Property shall be parked or stored in or upon any of the Common Areas not designated for storage of boats, trailers or recreational vehicles. Any boats, trailers, recreational vehicles, trucks or commercial vehicles belonging to Owners or other residents of the Property not stored within the designated Common Area, if any, must be stored and kept within the Owner's garage. An Owner shall be entitled to temporarily store recreational vehicles on the Owner's driveway, but will not be allowed to park a vehicle in front of the garage of a Unit for more than 48 hours in any 7 day period. Said parking regulation shall be strictly enforced.

8.10 Parking Restriction.

No parking shall be allowed on the street in front of the Units. No permanent parking shall be allowed in front of the garages of the Units. Only temporary guest parking shall

be allowed in front of the garages of the Units. For the purposes of this paragraph, temporary shall mean that a guest will not be allowed to park a vehicle in front of the garage of Unit for more than 48 hours in any 7 day period. This parking regulation shall be strictly enforced.

8.11 Window Covers.

Curtains and drapes (with a white lining), shutters, or blinds of a neutral color may be installed as window covers, subject to the Board's absolute discretion. No window shall be covered with aluminum foil or similar material. No window tinting or mullions shall be allowed without the prior written approval of the Board.

8.12 Sculptures/Flags.

No outdoor sculptures and/or flags shall be permitted except by written approval of the Board.

8.13 United States Flag.

Notwithstanding Subsection 8.12 above, the Association may not prohibit Owner from displaying a United States flag inside a Dwelling or Limited Common Area, if the display complies with United States Code, Title 4, Chapter 1, The Flag.

8.14 Patio/Deck Fences.

Wood fences with a 1" X 1" wire mesh on the inside of the fence may be allowed on decks or patio areas with prior written approval of the Board.

8.15 No Patio/Deck Storage.

No storage of any kind shall be permitted on decks or patios. Patio furniture and portable barbecue grills in good condition (as determined by the Board in its sole discretion) may be maintained on decks and patios.

8.16 No Warranty of Enforceability.

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, and the Unit Owner shall assume all risks of the validity and enforceability thereof and, by acquiring the Unit agrees to hold Declarant harmless there from.

ARTICLE IX:

INSURANCE

9.1 Duty to Obtain Insurance; Types.

Unless otherwise required by the Act or applicable law, the Board shall cause to be obtained and maintained the insurance coverages in the amounts and on the terms described in this Article 9. The Board shall cause to be obtained and maintained

adequate blanket public liability insurance (including medical payments), with such limits as may be considered desirable by the Board, but not less than One Million Dollars (\$1,000,000.00) in combined single limit coverage (taking into consideration the requirements of mortgages), covering and insuring against liability for all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the activities of the Association and its Members, with respect to the Common Areas and any other property under its jurisdiction. The Board shall also cause to be obtained and maintained blanket property insurance or guaranteed replacement cost insurance on the physical structure of all attached Dwellings, Limited Common Areas appurtenant to a Dwelling, and Common Areas in the Project, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, without deduction for depreciation, in an amount as near as possible to the full replacement value of the structures, Limited Common Area and Common Area, and, if economically feasible, those portions of the structures consisting of the fixtures, installations or additions comprising a part of the structure and all built-in or set-in appliances, cabinets and initial basic floor coverings, as initially installed or replacements thereof in accordance with the original plans and specifications for the Project, or as installed by or at the expense of the Owners. Such insurance shall be maintained for the benefit of the Association, the Owners, and the mortgagees, as their interests may appear as named insured; subject, however, to loss payment requirements as set forth herein. The Board of Directors shall purchase such other insurance necessary, including, but not limited to, errors and omissions, directors', officers' and agents' liability insurance, plate glass insurance, medical payments, malicious mischief, liquor liability and vandalism insurance, fidelity bonds and worker's compensation, and such other risks as shall be deemed desirable for the Project.

9.2 Waiver of Claim Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

9.3 Right and Duty of Owners to Insure.

It is the responsibility of each Owner to provide insurance to his personal property and upon all other property and improvements within his Dwelling. Nothing hereby shall preclude any Owner from carrying any public liability insurance as he deems desirable to cover his individual liability for damage to persons or property occurring inside his individual Dwelling or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

9.4 Notice of Expiration Requirements.

If available, all of the policies of insurance maintained by the Association shall contain a provision that said policy or policies shall not be cancelled, terminated or expired by their terms, without twenty (20) days' prior written notice to the Board, Declarant, Owners and their respective first mortgagees (provided that Declarant, such Owners or mortgagees have filed written requests with the carrier for such notice) and every other person in interest who requests such notice of the insurer.

9.5 Insurance Premiums.

Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners.

9.6 Trustee for Policies.

The Association, acting through its Board of Directors, shall have the sole right to adjust claims, to determine whether the Association or individual Owner is responsible for the deductible under any claim. The Board of Directors may determine at a meeting of said Board and without amendment to this Declaration, whether the casualty is of the nature that the Association is responsible for filing a claim.

9.7 Actions as Trustees.

Except as otherwise specifically provided in this Declaration, the Board of Directors, acting on behalf of the Association and all Owners shall have the exclusive right to bind such parties in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance.

9.8 Required Waivers.

All policies of physical damage insurance shall provide, if reasonably possible, for waiver of the following rights, to the extent that the respective insurers would have the rights without such waivers:

9.8.1 Subrogation of claims against the Owners and Occupants;

9.8.2 Any defense based upon co-insurance;

9.8.3 Any right of set-off, counterclaim apportionment, proration or contribution by reason of other insurance not carried by the Association;

9.8.4 Any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act,

neglect, or omission of any named insured or the respective agents, contractors and employees of any insured; and

- 9.8.5 Any right of the insurer to repair, rebuild or replace, and, if the improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the improvements insured.

9.9 Notice of Insurance Unavailability.

So long as it is required by the Act, if the Association becomes aware that property insurance or liability insurance described in Subsection 9.1 above is not reasonably available, the Association shall, within seven calendar days after becoming aware, give all Unit Owners notice, as required by the Act, that the insurance is not reasonably available .

ARTICLE X:

DESTRUCTION OF IMPROVEMENTS

10.1 Damage to Common Area.

Except as otherwise provided in this Declaration, in the event of any destruction of any portion of the Common Area, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is adequate to complete the restoration and repair, the Board shall levy an Extraordinary Assessment for the deficiency and proceed with such restoration and repair.

10.2 Damage to Dwellings.

Except as otherwise provided in this Declaration, in the event of any destruction of any Dwelling or Dwellings, it shall be the duty of the Owner(s) of the Dwelling or Dwellings to restore and repair the same to its/their former condition. as promptly as practical, under the supervision of the Board. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction or repair of the Property shall be made available for such purpose, unless otherwise provided herein. The Dwelling or Dwellings shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than the estimated cost of restoration and repair, the Owner(s) of the Dwelling or Dwellings shall be responsible for the deficiency, and the Board shall have the power to levy a Special Assessment to secure payment of the deficiency. In the event

more than one Dwelling is damaged or destroyed, the available insurance proceeds shall be allocated according to the estimated costs of repair and restoration of each Dwelling.

10.3 Alternate Plans for Restoration and Repair.

Notwithstanding the provisions of Paragraph 10.1 and 10.2, the Association shall have the right, by a vote of seventy-five percent (75%) of the voting power of the Association, to make alternate arrangements respecting the repair, restoration or demolition of the damaged portion of the Property. The alternate plan may provide for special allocation of insurance proceeds, modification of design, or special allocation of any necessary Assessments. Any plan adopted pursuant to this subparagraph shall be adopted within sixty (60) days of the damage or destruction and shall be supported by the vote of any Owner whose Dwelling has been physically damaged, to the extent the proposed plan affects the reconstruction of such Dwelling.

10.4 Appraisal of Damage.

In the event the parties affected by damage or destruction to the Property cannot agree, within twenty (20) days of the date of the damage, on the estimated cost of repair or the allocations referred to in this Article 10, the Association shall appoint three (3) independent appraisers having at least five (5) years full-time appraisal experience in Wasatch and/or Summit County, Utah, to appraise the damage and establish allocations among various damaged portions of the Property. Within forty-five (45) days after the selection of the appraisers, a majority of the appraisers shall set the estimated cost of repairs and allocations. If a majority of the appraisers are unable to agree within the stipulated period of time, the average of the three (3) appraisals shall be utilized. If, however, the low appraisal and/or the high appraisal are/is more than fifteen percent (15%) lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one appraisal is disregarded, the average of the two remaining appraisals shall be utilized. If both the low appraisal and the high appraisal are disregarded, the middle appraisal shall be utilized. The cost of the appraisals required by this subparagraph shall be paid by the Association and reimbursed by the Owners through an Extraordinary Assessment.

10.5 Interior Damage.

With the exception of any casualty or damage insured against by the Association pursuant to Article 9 of this Declaration, restoration and repair of any damage to the interior of any individual Dwelling, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Dwelling so damaged. In the event of a determination to rebuild the Property after partial or total destruction as provided in this Article 10, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Architectural Committee as provided herein.

ARTICLE XI:

DECLARANT RIGHTS AND RESERVATIONS

11.1 Declarant Rights.

Declarant has undertaken and will continue to undertake the work of construction of the Project and the creation of the planned unit development on the Property. The completion of that work and the sale or other disposition of the Units is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

11.1.1 Prevent Declarant, its contractors, or subcontractors from doing work on the Property, whatever is reasonably necessary or advisable in connection with the completion of the work; or

11.1.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a planned unit development project; or

11.1.3 Prevent Declarant from maintaining such sign or signs on any of the Property as maybe necessary for the sale or disposition thereof; or

11.1.4 Prevent Declarant, its successors in interest and assigns, from entering into an exclusive long-term contract on behalf of the Association, with a company to provide to each Owner cable television service, the cost of the same to be considered a Common Expense.

11.2 Sales Offices.

Declarant hereby reserves the right to maintain sales offices, management offices, signs advertising the Project and models in any of the Units which it owns or leases or on the Common Areas of the Project for a period of seven (7) years from the recording of this Declaration; provided, however, that Declarant's right shall expire at such earlier time as Declarant sells all Units in the Project. Declarant may relocate sales offices, management offices and models to other Units or Common Areas at any time. Declarant shall have the right to use the clubhouse as a sales and marketing office.

11.3 Declarant Control.

There is hereby established a period of administrative control or Declarant control of the Association, during which period Declarant or persons designated by it shall have the authority to appoint and remove the Association officers. The period of Declarant control shall terminate no later than the earlier of:

- 11.3.1 60 days after 75% of the Units that may be created and built are conveyed to Owners other than Declarant; or
- 11.3.2 Seven years after all Declarants have ceased to offer lots for sale in the ordinary course of business.

So long as Declarant owns one or more of the Units established and described in this Declaration and except as otherwise specifically provided herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

In the event Declarant shall convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation or liability hereunder and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

ARTICLE XII:

RIGHTS OF MORTGAGEES

In order to induce various lenders and lending agencies to participate in the financing of Units within the Project, this Article 12 is included in this Declaration. To the extent these added provisions pertaining to the rights of such lenders and lending agencies conflict with any other provisions of this Declaration or any other of the Project Documents, these added restrictions shall control. For purposes of this Article 12, the terms "Eligible Holders" and "Eligible Insurer Guarantor" refer to an Institutional First Mortgage Holder, Insurer or Guarantor of any institutional First Mortgage on a Unit, who has provided a written request to the Association, to be notified of any proposed amendment or action described in Paragraph 12.5 or Paragraph 12.6 below.

- 12.1 Notwithstanding any other provision of the Project Documents, no amendment or violation of the Project Documents shall operate to defeat or render invalid the rights of any Institutional First Mortgagee of a Unit made in good faith and for value, provided that after the foreclosure of any such mortgage, such Unit shall remain subject to the Project Documents,
- 12.2 Each Institutional First Mortgagee of a mortgage encumbering any Unit, which obtains title to such Unit pursuant to judicial foreclosure or the powers provided in such mortgage, shall take title to such Unit free and clear of any claims far unpaid Assessments or charges against such Unit which accrued after the time such mortgagee recorded its mortgage, and prior to the time such mortgagee acquires title to such Unit.
- 12.3 Institutional First Mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours; (2) require from the Association the submission of annual audited financial reports and other financial

data; (3) receive written notice of all meetings of the Owners; and (4) designate, in writing, a representative to attend all such meetings.

12.4 Each Owner hereby authorizes the Institutional First Mortgagee of a First Mortgage on his Unit to furnish information to the Board concerning the status of the First Mortgage and the loan which it secures.

12.5 Unit Owners shall have the right to amend the Project Documents according to their terms, subject to the rights of Eligible Holders to participate in the amendment process as provided in this Paragraph. Amendments of a material nature shall be agreed to by (i) the Declarant (so long as there are two classes of voting power); and (ii) Unit Owners representing at least sixty-seven percent (67%) of the total votes in the Association (excluding votes residing in Declarant so long as two classes of voting power exist). Additionally, approval must be obtained from Eligible Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Holders. A change to any of the following would be considered as material:

12.5.1 Voting Rights;

12.5.2 Assessments, assessment liens, or subordination of assessment liens;

12.5.3 Reserves for maintenance, repair and replacement of Common Area;

12.5.4 Responsibility for maintenance and repairs;

12.5.5 Reallocation of interests in the Common Area, or rights to its use;

12.5.6 Boundaries of any Unit;

12.5.7 Convertibility of Units into Common Area or vice-versa;

12.5.8 Expansion or contraction of the Project or the addition, annexation or withdrawal of Property to or from the Project;

12.5.9 Insurance or fidelity bonds;

12.5.10 A decision by the Association to establish self-management when professional management had been previously required by an Eligible Holder;

12.5.11 Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;

12.5.12 Any action to terminate the legal status of the Project after substantial destruction or condemnation (when Unit Owners are considering termination of the legal status of the Project for reasons other than substantial destruction or condemnation, approval must be obtained from Eligible Holders representing at least sixty-seven percent (67%) of the votes of units that are subject to mortgages held by Eligible Holders); or

12.5.13 Any provisions that expressly benefit mortgage holders, insurers or guarantors.

If the Association determines that an addition or amendment to the project Documents is not a material change, the approval of Eligible Holders shall be implied by the failure of an Eligible Holder to submit a response to a written proposal for an amendment within thirty (30) days after the proposal is made.

12.6 Each Eligible Holder and each Eligible Insurer or Guarantor is entitled to timely written notice of the following:

12.6.1 Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage;

12.6.2 Any sixty (60) day delinquency in the payment of assessments, or charges owed by the Owner of any Unit on which it holds the mortgage;

12.6.3 A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

12.6.4 Any proposed action that requires the consent of a specified percentage of Eligible Holders.

In addition to the foregoing, the Board shall have the power and authority, without the vote of the Association, to enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of any generally recognized lending institution so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their residential Units, if such agencies or lending institutions approve the Property as a qualifying Project under their respective policies, rules and regulations, as adopted from time to time.

ARTICLE XIII

DURATION AND AMENDMENT

13.1 Duration.

This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless at any time a Declaration of Termination is recorded, meeting the requirements of an amendment to this Declaration as set forth in Paragraph 13.2. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant membership of the Association, as long as this Declaration shall continue in full force and effect.

13.2 Amendment.

Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of the Members of the Association representing not less than sixty-seven percent (67%) of the total voting power of the Association (both classes combined).

Notwithstanding the foregoing, the following special voting provisions shall apply:

- (a) Amendments of a material nature shall be enacted in compliance with the provisions of Article 12 of this Declaration;
- (b) The specified percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes prescribed for action to be taken under that provision.

A certificate, signed and sworn to by two (2) officers of the Association, that the record owners of the required number of Units have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for a period of at least four (4) years. Such a certificate reflecting any amendment which requires the written consent of any of the record holders of Institutional First Mortgages shall be signed and sworn to by such first mortgagees.

13.3 Declarant Amendment.

Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) to make technical corrections to fix mistakes or remove/clarify ambiguities; or (c) if such amendment is reasonably necessary to enable a

title insurance company to issue title insurance coverage or to enable a mortgagee to meet underwriting requirements for a loan with respect to the Project or any Unit.

13.4 Technical Correction Amendment.

Notwithstanding anything contained in this Declaration to the contrary, because the Plat has been recorded prior to the construction of some of the Units, Declarant reserves the right to unilaterally amend the Plat at any time and from time to time if such amendment is necessary to make technical corrections, to fix mistakes, remove/clarify ambiguities or to accurately reflect the "as-built" Units on the Plat.

ARTICLE XIV:

GENERAL PROVISIONS

14.1 Enforcement.

The Board or any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Any such action by the Board shall be taken on behalf of three (3) or more Unit Owners, as their respective interests may appear, with respect to any cause or action relating to the Common Area or more than one Unit. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

14.2 Invalidity of Any Provision.

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

14.3 Conflict of Project Documents.

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order; Plat; Articles; Bylaws; and Rules and Regulations of the Association. Notwithstanding the foregoing, any provision in any of the Project Documents which is for the protection of Institutional First Mortgagees shall have priority over any inconsistent provision in that document or in any other Project Document.

14.4 Agent for Service of Process.

The initial registered agent for service of process under the Act shall be Craig Mogel whose address is 5532 Lillehammer Ln. Ste. 103, Park City, Utah 84098 (Mailing Address: PO Box 1918, Park City, Utah 84060). During Declarant's period of control, Declarant may designate the Common Area manager or another person to serve as registered agent. Thereafter, the agent for service of process shall be the Common Area manager or such other person as the Board of Directors may designate.

ARTICLE XV:

ANNEXATION

Declarant reserves the right and option to expand the Project. Additional parcels may be annexed to the Property only by the Declarant and/or its successors and assigns and shall thereafter automatically become subject to this Declaration, and subject to the jurisdiction of the Association, without the assent of the Association or its Members, on condition that a Supplemental Declaration shall incorporate this Declaration by reference and may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, and as are not inconsistent with the scheme of this Declaration. Upon the recording of a supplemental declaration adding additional property to the Project, all single-family residential units in such property shall be Units, and all owners of such units shall be Owners and Members of the Association, with all of the rights and obligations of Owners hereunder. Notwithstanding any other provision of this Declaration, Declarant may, upon such terms and conditions as are appropriate, grant an easement over the roadways of the Project or the right to use the Common Areas in order to facilitate the expansion of the Project or the development by Declarant of property proximate to the Development.

The undersigned, being the Declarant herein, has executed this Declaration on the 12 day of November, 2014 on behalf of itself and all Unit Owners.

DECLARANT:

SNAKE CREEK PROPERTY HOLDINGS, LLC,
a Utah Limited Liability Company

By: _____


Craig Mogel

Its: Manager

ACKNOWLEDGEMENT

STATE OF UTAH)
County of SUMMIT)
ss.

On the 12th day of November, 2014, personally appeared before me Craig Mogel, who being by me duly sworn did say that he is the Manager of Snake Creek Property Holdings, LLC, a Utah limited Liability Company, and that he executed the foregoing Declaration on behalf of said Snake Creek Property Holdings, LLC., being duly authorized and empowered to do so by the Operating Agreement of Snake Creek Property Holdings, LLC. for the uses and purposes stated therein.



Notary Public
My commission expires on: Aug. 12, 2016

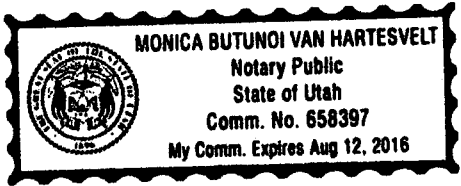


EXHIBIT A**Legal Description**

Commencing at a point located North 89°20'05" East along the section line 31.82 feet and South 1744.64 feet from the North Quarter Corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence South 00°28'17" East 96.16 feet; thence South 89°50'56" East 15.46 feet; thence along a curve having a radius of 194.00 feet to the left 56.78 feet (South 26°46'57" East 56.58 feet); thence South 35°12'13" East 260.30 feet; thence along a curve having a radius of 206.00 feet to the right 36.98 feet, (South 30°03'41" East 36.93 feet); thence North 89°58'33" West 40.16 feet; thence South 32°40'16" East 109.58 feet; thence along a curve having a radius of 206.00 feet to the right 10.84 feet, (South 03°11'51" West 10.84 feet); thence along a reverse curve having a radius of 66.50 feet to the left 61.30 feet, (South 21°42'10" East 59.15 feet); thence North 89°25'27" West 660.79 feet; thence South 00°50'36" East 0.78 feet; thence North 89°25'27" West 78.32 feet; thence South 00°59'11" East 1.59 feet; thence North 89°25'27" West 64.01 feet; thence North 01°39'40" East 28.64 feet; thence North 00°24'43" East 89.60 feet; thence South 87°37'06" West 104.75 feet; thence North 04°47'34" West 87.43 feet; thence North 00°07'37" West 82.44 feet; thence South 89°52'22" West 36.93 feet; thence North 00°07'25" West 9.27 feet; thence South 89°52'25" West 171.03 feet; thence South 07°22'52" West 83.98 feet; thence South 83°08'13" East 109.97 feet; thence South 05°50'20" West 19.19 feet; thence North 85°32'22" West 20.55 feet; thence South 31°03'32" West 69.32 feet; thence South 09°53'41" West 20.51 feet; thence South 14°41'20" East 10.13 feet; thence South 32°37'03" East 10.00 feet; thence South 44°20'02" East 20.18 feet; thence South 61°02'48" East 20.12 feet; thence South 76°25'40" East 13.32 feet; thence South 00°00'24" East 22.50 feet; thence South 00°00'35" West 37.53 feet; thence West 310.41 feet; thence North 49°11'05" West 62.40 feet; thence North 47°34'00" West 228.39 feet; thence North 08°47'06" West 131.20 feet; thence North 13°30'57" West 220.72 feet; thence North 12°24'36" West 11.61 feet; thence South 89°59'57" East 1,382.17 feet to the point of beginning.

Containing 711,945 square feet or 16.34 acres

EXHIBIT B

Lodges at Snake Creek
 Schedule of Units/Lots, Square Footage,
 Votes and Undivided Interests in Common Areas and Facilities

Unit/Lot Identifying Number	Approx. Sq. Footage of Unit/Lot (as indicated on Plat)	No. of Votes Per Unit/Lot	Undivided Interest Per Unit/Lot
Lot 1	2448	1	.016
Lot 2	2456	1	.016
Lot 3	2306	1	.016
Lot 4	3643	1	.016
Lot 5	3643	1	.016
Lot 6	2306	1	.016
Lot 7	2456	1	.016
Lot 8	2448	1	.016
Lot 9	3015	1	.016
Lot 10	2809	1	.016
Lot 11	2809	1	.016
Lot 12	3015	1	.016
Lot 13	2448	1	.016
Lot 14	2456	1	.016
Lot 15	2306	1	.016
Lot 16	3643	1	.016
Lot 17	3643	1	.016
Lot 18	2306	1	.016
Lot 19	2456	1	.016
Lot 20	2448	1	.016
Lot 21	3015	1	.016
Lot 22	2809	1	.016
Lot 23	2809	1	.016
Lot 24	2809	1	.016
Lot 25	2809	1	.016
Lot 26	3015	1	.016
Lot 27	2448	1	.016
Lot 28	2456	1	.016
Lot 29	2306	1	.016
Lot 30	3643	1	.016
Lot 31	3643	1	.016
Lot 32	2306	1	.016
Lot 33	2456	1	.016
Lot 34	2448	1	.016
Lot 35	3015	1	.016
Lot 36	2809	1	.016

Unit/Lot Identifying Number	Approx. Sq. Footage of Unit/Lot (as indicated on Plat)	No. of Votes Per Unit/Lot	Undivided Interest Per Unit/Lot
Lot 37	2809	1	.016
Lot 38	3015	1	.016
Lot 39	2448	1	.016
Lot 40	2456	1	.016
Lot 41	2306	1	.016
Lot 42	3643	1	.016
Lot 43	3643	1	.016
Lot 44	2306	1	.016
Lot 45	2456	1	.016
Lot 46	2448	1	.016
Lot 47	2448	1	.016
Lot 48	2456	1	.016
Lot 49	2306	1	.016
Lot 50	3643	1	.016
Lot 51	3643	1	.016
Lot 52	2306	1	.016
Lot 53	2456	1	.016
Lot 54	2448	1	.016
Lot 55	2448	1	.016
Lot 56	2456	1	.016
Lot 57	2306	1	.016
Lot 58	3643	1	.016
Lot 59	3643	1	.016
Lot 60	2306	1	.016
Lot 61	2456	1	.016
Lot 62	2448	1	.016
TOTALS	170,798	62	100%

EXHIBIT C

Copy of Plat

EXHIBIT D
Association Bylaws

