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Jerry M. Houghton, Recorder
Tooele County Corporation
For: Meridian Title Company

WHEN RECORDED RETURN TO:
Perry Development, LLC
17 East Winchester Street, Suite #200
Murray, Utah 84107

**DECLARATION OF PROTECTIVE COVENANTS
OVERLAKE 1L SUBDIVISION**

This DECLARATION OF PROTECTIVE COVENANTS for the Overlake 1L subdivision (the "Subdivision") is made and executed by Perry Development, LLC, of 17 East Winchester Street, Suite #200, Murray, Utah 84107, (hereinafter referred to as the "Declarant").

RECITALS

1. This Declaration of Protective Covenants affects that certain real property located in the City of Tooele, County of Tooele, State of Utah described with particularity in Article II set forth below (the "Tract").
2. Declarant is the owner of the Tract.
3. Declarant has constructed, or is in the process of constructing, a residential subdivision upon the Tract.
4. Pursuant to the recorded plat, there is planned Open Space in the Tract some of which requires or will require common care, management, and control.
5. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the subdivision.
7. The Declarant desires that the Subdivision be known as "Overlake 1L"
8. The streets in the subdivision shall be dedicated to Tooele City.
9. The Declarant desires that the Tract shall be subject to the protective covenants herein recited.
10. The Declarant desires, by filing this Declaration of Protective Covenants, to submit the OVERLAKE 1L SUBDIVISION and all improvements now or hereafter constructed thereon to the terms, covenants, conditions and restrictions set forth below, which shall constitute equitable servitudes and shall run with the land.

AGREEMENT

NOW, THEREFORE, the Declarant does hereby establish the nature of the use and enjoyment of all Lots in the Subdivision and does hereby declare that the conveyances of said Lots shall be made subject to the following conditions, restrictions, stipulations, and provisions:

ARTICLE I. DEFINITIONS

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

1. Assessment shall mean and refer the allocation of Common Expenses among the Lot Owners or maintenance charge which each Lot or Lot Owner, by virtue of his acceptance of a deed or other document of conveyance thereto, is obligated to pay.
2. Association shall mean and refer to the association of all the Lot Owners taken as, or acting as, a group in accordance with this Declaration which may be legally incorporated as a non-profit entity under Utah law.
3. Board of Trustees shall mean and refer to the group of neighbors who own Lots in the Subdivision and volunteer and are elected or appointed to (a) administer the Declaration, (b) manage the Open Space, and (c) operate the Association.
4. Business and Trade are terms which shall be constructed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefor. Notwithstanding the above, the leasing of a Lot or Dwelling Unit shall not be considered a trade or business within the meaning of this subsection.
5. Common Expenses shall mean and refer to the following: (a) All sums lawfully assessed against the Lot Owners; (b) Expenses of administration, maintenance, repair, or replacement of the Open Space; (c) Expenses agreed upon as Common expenses by the Association; and (d) Expenses declared common expenses by the Project Documents.
6. Community shall mean and refer to the Overlake 1L Subdivision.
7. Declarant Control shall mean the period of time that Declarant controls the Association which shall be until Declarant sells its last Lot in Property unless such shorter period is prescribed by law.

8. Declaration shall mean and refer to this DECLARATION OF PROTECTIVE COVENANTS FOR OVERLAKE 1L.

9. Lot shall mean and refer to a portion of the Property, other than dedicated roadways and sidewalks, intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the final Plat for the Subdivision. Where the context indicates or requires, the term Lot includes any structure constructed or located on the Lot.

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

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

12. Member shall mean and refer to each Lot Owner who, by virtue of his acceptance of a deed or other document of conveyance to a Lot, is a member of the Association, unless the context clearly requires otherwise.

13. Open Space shall mean and refer to all landscaping, common features and non-dedicated elements located within the Subdivision that are not contained within a Lot as shown and delineated on the recorded plat for the Subdivision but which are limited to park strips along public roads that are not within a Lot and not publicly maintained.

14. Owner shall mean and refer to Lot Owner.

15. Project shall mean and refer to OVERLAKE 1L SUBDIVISION.

16. Project Documents shall mean and refer jointly and severally to this Declaration, By-Laws, Plat, Rules and Regulations, and Articles of Incorporation as they may be adopted and/or modified by the Association from time to time.

17. Property shall mean and refer to the Land, real estate, or real property which is submitted to this Declaration.

18. Plat shall mean and refer to the final plat of this subdivision on file with the Tooele County Recorder. The Map will show the location of the Lots and may show the location of the Open Space.

19. Street or Streets shall mean and refer to the roads within the Subdivision;

20. Tract shall mean and refer to the real property subject to the protective covenants of this Declaration.

ARTICLE II. SUBMISSION

The Land described with particularity below is hereby made subject to these protective covenants, conditions and restrictions: See Exhibit "A," attached hereto and incorporated herein by this reference;

SUBJECT TO the described easements and rights of way;

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property; and

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

There is hereby created a blanket easement upon, across, over and under the Property for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Property to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires, and other necessary equipment on the Property, provided that all such services shall be placed underground. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property in such a way as to unreasonably encroach upon or limit the use of a Lot or any structure thereon. In the initial exercise of easement rights under this section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations and shall

be responsible to restore and repair any damage caused by virtue of using such easement. Should any utility furnishing a service covered by the general easement herein provided, request a specific easement by separate recordable document, Declarant or the Association shall have the right, power and authority to grant such easement on said property without conflicting with the terms hereof.

ARTICLE III. RESIDENTIAL AREA COVENANTS

1. Land Use and Building Type. This is a residential subdivision and all Lots must be used exclusively for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling. The plans for any homes built on the Project by a builder other than the Declarant, Perry Homes, Inc., Perry Homes Utah, Inc. or any affiliated or related companies of any of the foregoing must be approved by the Declarant in writing prior to the commencement of construction. Any homes built by Declarant, Perry Homes, Inc., Perry Homes Utah, Inc. or any affiliate or related companies of any of the foregoing shall be deemed approved and shall not be subject to any further review by the Architectural Control Committee.

2. Architectural Control. No building shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Declarant as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the front building setback line unless similarly approved.

3. Dwelling Cost, Quality and Size. Declarant shall determine the quality, size and cost of each home constructed upon a Lot in accordance with the regulations of Tooele City relating to the Subdivision.

4. Location of Dwelling. The Declarant shall determine the location of a home upon any Lot in accordance with the regulations of Tooele City relating to the Subdivision.

5. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear ten (10') feet of each Lot. Within these easements, no structure shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. This easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

6. Prohibited Activities. No noxious or offensive activity shall be carried on in, on or about any Lot. Nothing shall be done or omitted on a Lot or the Open Space which may be or may become an annoyance or nuisance to the neighborhood. The following acts or activities shall be deemed to constitute a nuisance:

1. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Open Space;
2. The storage of any item, property or thing that will cause any Lot or the Open Space to appear to be in an unsightly, unclean, unhealthy, or untidy condition or that will be noxious to the senses.
3. The storage of any substance, toxin, hazardous waste, pollutant, thing or material in, on or about any Lot or the Open Space that do or are likely to emit any foul, unpleasant or noxious odors, or that do or are likely to cause any unreasonable amount of noise or other condition that does or is likely to disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
4. Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, or their guests or invitees, particularly if the local law enforcement agencies must be called to restore order;
5. The maintenance of any plants, animals, devices or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the neighborhood by other residents, their guests, visitors or invitees; and
6. The drying of clothes or storage of any articles which are unsightly (in the sole opinion of the Declarant and the Association) will not be permitted unless in enclosed areas designed for such purposes.
7. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-buildings shall be used on any lot at any time as a residence either temporarily or permanently except that the Declarant may construct temporary structures to assist it in the development of the Subdivision. No mobile Homes, pre-fabricated homes, or homes built off the Property are permitted.
8. Pets, Animals, Livestock and Poultry. No animals, livestock or poultry of any kind shall be bred in, on or about the exterior yard of any dwelling on a Lot at the Project. All pets must be properly licensed and registered (if required) with the appropriate governmental agencies, owners may be required to pay a deposit to the Board of Trustees, obtain a certificate of registration from the Association, and abide by all local ordinances and pet rules and regulations adopted from time to time. Pets may not create a nuisance. The following acts may constitute a nuisance; (a) causing damage to the property of anyone other than the pet owner; (b) causing unreasonable fouling of the air by odors; (c) causing unsanitary conditions; (d) defecating on any common area when the feces are not immediately cleaned up by the responsible party; (e) barking, howling, whining or making other disturbing noises in an excessive, continuous or

untimely fashion; (f) molesting or harassing passersby by lunging at them or chasing passing vehicles; (g) attacking or threatening to attack people or other domestic animals; (h) otherwise acting so as to bother, annoy or disturb other reasonable residents or interfering with their right to the peaceful and quiet enjoyment of their property; or (i) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents. Pets in the Open Space area must be in a cage or on a leash and under the control of a responsible person.

9. Garbage and Refuse Disposal. No Lots shall be used or maintained as a dumping ground for rubbish, trash, refuse, garbage or other waste, which shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each Lot and its abutting street are to be kept free of rubbish, trash, refuse, garbage, waste, litter, weeds and other similar items by the Lot owner. Notwithstanding the foregoing, during construction of residences by the Declarant, construction related materials and incidental construction debris shall not be prohibited from existing upon any Lot during the period of construction of such a Unit.

10. Unightly Materials and Objects. No unsightly materials, items, objects or things which impair the aesthetics or value or use or utility of the Project are to be stored on any Lot in view of the general public.

11. Sight Distance at Intersections. Without approval of the Declarant, no fence, wall hedge, or shrub planting which obstructs sight lines at elevations between two (2') and six (6') feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25') feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

12. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

13. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility

company is responsible.

14. Fencing. Fencing on individual Lots by Lot Owners shall be permitted to be installed in rear and side yards only. Side yard fencing shall not be permitted in any side yard where the home contains a window well along the side in question.

15. Parking and Storage. All motor vehicles driven on or transported into the Project shall be subject to the following restrictions:

1. No damaged (in excess of \$2,000.00) or inoperative motor vehicle or transportation device of any kind shall be placed or remain on any Lot or adjacent street for more than forty-eight (48) hours.

2. No recreational, oversized, or commercial type vehicles and no tractor-trailer trucks shall be parked on the front yard setback of any Lot, or within the side yard building setback on the street side of a corner Lot, or on the residential street except while loading or unloading (no more than forty-eight (48) hours or more than one (1) time during any seven (7) day period), or engaged in transportation.

3. No pads used for the storage of vehicles or other materials either temporarily or permanently shall be constructed or installed, nor shall any trailers, mobile homes, trucks over three (3) quarter ton capacity, boats and watercraft, campers not on a truck bed, motor homes, buses, tractors, commercial, oversized or recreational vehicles, or maintenance and commercial equipment of any kind be parked or stored in the Project unless it is behind the front yard setback and without the side yard building setback on the street side of a corner Lot.

4. No motor or any other transportation device of any kind may be parked or stationed in a fire lane or in a red zone, in an unsafe or dangerous manner, or so as to obstruct or block access to any Lot, driveway, street, or other transportation device.

5. The storage or accumulation of junk, trash, manure, or other offensive or commercial materials is prohibited.

6. Facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view.

7. Any violations of Tooele City ordinances are expressly prohibited.

16. Pools, Spas, Game Courts, and Batting Cages. Pools, spas, game courts, and batting cages shall be located so as to avoid unreasonably impacting adjacent properties with balls, light or sound. Pool heaters and pumps must be screened from view from the street.

17. Unsightly Work, Hobbies or Unkempt Condition. The pursuit of hobbies or other

activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Project.

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

19. Business Use No commercial trade or business may be conducted in or from any Lot unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of safety of other residents of the Project as may be determined in the sole discretion of the Declarant and/or Association and (e) the business activity on the Lot is permitted by the ordinances and regulations of Tooele City.

20. Insurance. Nothing shall be done or kept in, on or about any Lot or the Open Space which may have result in the cancellation of or increase the premium (over what the Association would have paid but for such activity) for the insurance on the Property.

21. Laws. Nothing shall be done or kept in, on or about any Lot or the Common Elements, or any part thereof, which would be a violation of any statute, rule, law, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

22. Damage or Waste. No damage to or waste of the Open Space shall be committed by any Lot Owner, his family members, friends, guests, visitors or invitees. Each Lot Owner shall indemnify and hold the Declarant, Association, Board of Trustees, and other Owners harmless against all loss resulting from any such damage or waste caused by that Lot Owner or his family members, guests, visitors or invitees; provided, however, that any invitee, guest or visitor of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.

23. Maintenance. The Lots and Open Space, including without shall be maintained in a usable, clean, functional, aesthetic, attractive and good condition.

24. Landscaping. Each Lot Owner is responsible for the landscaping and maintenance of the landscaping on his Lot. The Association is responsible for the landscaping and maintenance of the Open Space. All demolition, clearing, grubbing, stripping of soil, excavation,

compaction and grading must be performed within the confines of the Lot. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Declarant and in accordance with community standards, as determined by the Association. Specific guidelines and restrictions on landscaping may be established by the Board of Trustees from time to time. All landscaping shall be maintained in an aesthetic, tasteful, clean, safe, sanitary, neat and orderly fashion. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed.

25. Default in Fulfillment of Landscaping Obligation. If any Lot Owner fails to fulfill his landscaping obligations, and fails to cure the default within thirty (30) days after written notice, the Board of Trustees shall have the right, but not the duty, without further notice or warning to perform the maintenance and the cost thereof shall constitute the Individual Assessment of that Lot Owner.

26. Storage of Commercial Equipment. No Lot shall be used or maintained as a storage area for commercial equipment of any kind for use in a trade or business except as permitted by this Declaration or county codes for a residential area and then it should be stored out of the general view.

27. Subdivision of Lots. No Lot Owner shall at any time be permitted to subdivide or attempt to subdivide his Lot.

ARTICLE IV. ARCHITECTURAL CONTROL COMMITTEE

1. Membership. The Architectural Control Committee (the "ACC") shall consist of the Declarant, so long as it shall own any of the Lots in the subdivision. Thereafter the Board of Trustees or its designees shall constitute the ACC. No member of the ACC shall be entitled to any compensation for services provided.

2. Procedure. The ACC's approval or disapproval as required in these covenants shall be in writing. In the event the ACC, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, the request shall be deemed to have approved and the related covenants shall be deemed to have been fully complied with.

ARTICLE V. RIGHT OF ENTRY

1. Right of Entry. Wherever sanitary sewer connections, water connections, electricity, gas, telephone or drainage facilities are installed within the subject property, the owners of any Lot or Lots served by said connections, lines or facilities shall have the right, and are hereby granted an easement to the full extent necessary thereof, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon which

said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below. Any premises so entered shall be restored by those entering to as near its original condition as is reasonably possible. Nothing in this section can be construed to grant any new easement without the express written authorization of the Lot Owner.

ARTICLE VI. OWNERSHIP, OPERATION AND MANAGEMENT

1. Ownership-Association of Lots Owners. The Lot Owners shall comprise the Association. The Association is created for the maintenance of the Open Space and enforcement of these protective covenants. Membership in the association is appurtenant to and runs with each Lot. All Common Expenses shall be shared and allocated equally among the Lots and Lot owners, unless a Common Expense is assessed against an individual Lot Owner for failure to comply with this Declaration in which case such an assessment shall be assessed only against the Lot Owner in question. Each Lot shall be considered to hold one (1) voting share in the Association for all purposes.

2. Maintenance Costs. The cost of maintenance of the Open Space shall be shared equally between all Lot Owners.

3. By-laws of Property Owners Association. The procedure for the administration and management of the Association and the subject property shall be governed by the By-Laws of the Association which are attached hereto and incorporated herein by reference.

4. Payment of Common Expenses. Each Lot Owner hereby agrees to pay to the Board of Trustees promptly his portion of all Common Expenses, including but not limited to the cost of maintaining, repairing and replacing the Open Space and improvements maintained thereon.

1. Purpose of Assessments. The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Lot Owners.

2. Budget. Before the Annual Meeting of the Association each year, the Board of Trustees shall prepare a budget which shall set forth an itemization of the anticipated Common Expenses for twelve (12) month calendar year, commencing with the following January 1. The budget shall be based upon advance estimates of cash requirements by Board of Trustees to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Open Space, which estimates shall include but are not limited to expenses of management, grounds maintenance, premiums for all insurance which the Board of Trustees is required or permitted to maintain, wages for employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which

may be incurred by said Association for the benefit of the Owners under and by reason of the Declaration.

3. Approval of Budget and Assessments. The proposed budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a Majority of the Members of the Association. Notwithstanding the foregoing, however, if the Membership disapproves the proposed budget and Assessments or the Board of Trustees fails for any reason to establish the budget and Assessments for the succeeding year, then and until such a time as a new budget and a new Assessment schedule shall have been established, the budget and the Assessments in affect for the then current year shall continue for the succeeding year. Annual meetings shall not be required during the period of Declarant control unless Declarant is proposing to increase the Assessments of Owners.

4. Method of Payment. The Board of Trustees has the sole authority and discretion to determine how and when the Assessments are to be paid.

5. Equitable of Changes. If the aggregate of all payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Board of Trustees may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days prior written notice of any proposed change before it becomes effective.

5. Personal Obligation of Owner. Lot Owners are jointly and severally liable to pay all Assessments and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust, who obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition.

6. Declarant's Rights. Declarant is not obligated to pay for any Assessment or Common Expenses on any Lots it may own or any other assessments that may be levied under this Declaration until the following events have occurred: (a) a home has been constructed on the Lot, (b) a permanent certificate of occupancy has been issued, and (c) the home has been sold or rented to a third party. Notwithstanding the foregoing and without any duty or obligation to do so, the Declarant may subsidize the costs of the Association for any period of time deemed desirable by the Declarant.

7. Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be otherwise entitled under Utah law, and to that extent the Owner, by accepting a deed to the Lot or as a party to any other type of conveyance, waives his right to claim the priority thereof.

8. Individual Assessments. In addition, individual assessments may be levied by the Board of Trustees against a Lot and its Owner to pay or reimburse the Association for: (a) fines

(after notice and hearing) levied and cost incurred in enforcing the Project Documents; (b) any other charge, fee, due, expense, or cost designated as an individual Assessment in the Project Documents; and (c) attorneys fees, interest, and other charges relating thereto as provided in the Declaration.

9. Lien. If any Lot Owner fails or refuses to make any payment of his portion of the Common Expense when due, in whole or in part, that amount constitutes a lien on the interest of the Lot Owner in the property, and upon the recording of a notice of lien upon the Lot Owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except: (1) tax and special assessment liens on the Lot in favor of any assessing entity or special improvement district; and (2) encumbrances on the interest of the Lot Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

10. Late Fees and Default Interest. Any Assessment for Common Expenses delinquent for a period of more than ten (10) days shall incur a late charge of Twenty Five and No/100th Dollars (\$25.00) of Five percent (5%) of the delinquent amount, whichever is greater. Interest at the rate of One and One-half (1.5%) per month shall accrue on the outstanding balance of all delinquent accounts.

11. Remedies. If any Assessments remain unpaid, the Board of Trustees, may elect to institute a lawsuit to obtain a judgment or foreclose the lien, or both..

12. Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board of Trustees. The sale or foreclosure shall be conducted in the same manner as foreclosure in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's Assessments, and reasonable rental for the Lot during the pendency of the foreclosure action. The Board of Trustees in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Association may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same. If the Board of trustees elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot or otherwise accepting conveyance of an interest in the Property, hereby irrevocably appoints the attorney of the Association (provided he is a member of the Utah State Bar) as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended or any successor provision. In addition, Owner hereby transfers in trust to said Trustee all of the right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

13. Indemnity. The Association and each Lot owner, by acceptance of a deed to a Lot or other document of conveyance, agrees to and shall indemnify every officer of the Association

and Member of the Board of Trustees against any and all expenses, including but not limited to attorney's fees reasonably incurred by or imposed upon any officer or member of the Board in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then said Board of Directors) to which he may be a party by reason of being or having been an officer of the Association or Member of the said Board. The officers and Members of Board of Trustees shall not be liable for any mistake of judgement, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct of bad faith. The officers of the Association and Members of said Board shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of said Association (except to the extent that such officers or Members of said Board may also be Members of said Association), and said Association shall indemnify and forever hold each such officer and Member of the said Board of Trustees free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall be exclusive of any other rights to which any officer or Member of the said Board, or former officer or Member of the said Board, may be entitled.

ARTICLE VII. INSURANCE

1. Insurance. The Association shall if reasonably available purchase and maintain if deemed necessary adequate property insurance, public liability insurance, directors and officers insurance, and a fidelity bond.

2. Deductible. The deductible on a claim made against the property insurance policy of the Association shall be paid for by the party responsible for the loss covered by the claim. If multiple parties are responsible then each shall pay his proportionate share and if no party or parties are clearly responsible, then the deductible shall be paid by said Association.

3. Individual Insurance. Each Owner and Resident shall purchase and maintain adequate liability and property insurance on his Lot, Dwelling Unit, personal property and contents; provided, however, no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association maintains.

4. Priority of Coverage. In the event of duplicate coverage of a claim or loss, the Owner's insurance shall be primary and the insurance of the Association shall be secondary.

5. Indemnity. Each Lot Owner shall indemnify, defend and hold the Association harmless for any injuries, losses or death suffered or incurred by a Lot Owner, its invitees and guests upon or relating to the use of the Open Space by such Lot Owner, its invitees and guests.

ARTICLE VIII. DURATION, ENFORCEMENT AND AMENDMENT

1. Duration of Restrictions. These covenants are to run with the Land and shall be

binding upon all Lot Owners and all persons claiming any right, title or interest in or to the Property by, through or under them for a period of forty (40) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least a majority of the then Lot Owners has been recorded, agreeing to change said covenants in whole or in part.

2. Enforcement. A Lot Owner or the Board of Trustees, shall be entitled to prosecute any proceeding, at law or equity, against any person, firm, entity, partnership, limited liability company, corporation or party violating, attempting or threatening to violate any of the terms, covenants, conditions and restrictions contained herein or interfere with the administration of the Project, and shall be entitled to recover from the defaulting party all reasonable attorney's fees and costs incurred thereby, regardless of whether a lawsuit is filed. Failure by the Board of Trustee or any Lot Owner to enforce any said covenants or restrictions shall in no event be deemed a waiver of the right to do so thereafter.

3. Amendment. With the express written consent of the Declarant during any period of Declarant control, this Declaration may be amended by a vote or written consent of the majority of then Lot Owners, except that any provision hereof relating to the rights, obligations and responsibilities of Perry Homes, Inc. or Perry Homes Utah, Inc. under this Declaration may not be amended or altered without their respective written consents. Following the period of Declarant control, this Declaration may be amended by a vote or written consent of the majority of then Lot Owners

ARTICLE IX, EXPANSION

1. Declarant hereby explicitly reserves an option until the twenty fifth (25) anniversary of the recording of this Declaration to expand the Property by adding any adjacent property located within 1 mile feet to the Property to be covered by this Declaration from time to time, without the consent of an Owner or any mortgagee ("Expansion Property"). The option to expand may be terminated prior to such anniversary only upon the filing by the Declarant of an amendment to this Declaration. Declarant expressly reserves for itself, its successors and assigns, to add any or all Expansion Property at any time, at different times, in any order, without limitation. Declarant is not required to own any portion of the Expansion Property so added to coverage by this Declaration. Rather, Declarant may consent to the additional of all or any Expansion Property to coverage by this Declaration by providing written consent to the owner of such Expansion Property stating that the owner may annex into coverage under this Declaration.

2. Assurances. Declarant makes no assurances as the location of buildings or other improvements or any densities constructed upon any portion of any Expansion Property. Declarant makes no assurances as to whether any building to be constructed on the Expansion Property will be compatible with the quality, materials, or style of the buildings contained within the initial Plat of the Property. No assurances are made by the Declarant whether any Units will be substantially identical or similar to those within the prior Plat or Plats. Declarant expressly reserves the right to create and designate open space on the Expansion Property and to add those

areas to coverage under this Declaration as Open Space. Declarant makes no assurances as to the type, size, or maximum number of such open space. In the event the Declarant decides not to itself add or to allow any Expansion Property to be added to the Property, Declarant shall nevertheless have the right to own, operate and develop the same without restriction. The maximum dwelling units per acre that may be created on any portion of the Expansion Property added to the Property shall be thirty (30) units per acre

3 No Obligation to Expand. Notwithstanding anything to the contrary herein, this Declaration is not intended, and shall not be construed so as, to impose upon the Declarant in any way with regard to: (i) the submission of any Expansion Property to the Declaration, (ii) the creation, construction, or addition to the Property of any plats; (iii) the carrying out in any particular way or within any particular time, any development which may be undertaken; or (iv) the taking of any particular action with respect to the Expansion Property, the Property, or any plat. Declarant may create on any property it owns and not made subject to this Declaration, any development which would be entirely independent and unrelated to the development created by this Declaration.

4 Annexation by Declarant or Others. The annexation of Expansion Property into the Property covered by this Declaration shall be effective upon the recordation in the office of the County Recorder of Tooele County, Utah, of a Supplementary Declaration which (a) describes the Expansion Property being annexed, (b) declares that the Expansion Property is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property subject to this Declaration, and (c) sets forth such additional limitations, restrictions, covenants and conditions that Declarant desires to apply to the Expansion Property. When such annexation becomes effective, the Expansion Property shall become part of the Property and shall be subject to the terms of the covenants, conditions and restrictions, which terms, covenants, conditions and restrictions run with the land, of this Declaration and any supplements or amendments thereto. Such annexation may be accomplished in one or more annexations or plats without limitation as to the size of the Expansion Property.

5 Limitations on Annexation. Declarant's right to annex the Expansion Property to the Property shall be subject to the following limitations:

- (a) Declarant's right to annex all or any portion of the Expansion Property shall expire twenty five (25) years from the date of the recordation of this Declaration.
- (b) Owners of Unit's constructed on Expansion Property shall be Members of the Association and shall have the same rights to the use and enjoyment of the Property and facilities of the Association as any other Member. The open spaces on any Expansion Property shall be deeded by the Declarant to the Association, free and clear of all encumbrances and liens within one year of

the conveyance of the first Lot contained in the Expansion Property and the Association must accept the deed to such open space.

- (c) Declarant shall not effectuate any annexation of land which would cause the total number of Residential Units existing or planned for the Property, including the Expansion Property to exceed six-hundred (600) total Units.
- (d) Declarant reserves unto itself and its assigns the right to create or not to create open space within any Expansion Property.

6 Supplemental Declaration. The annexation of the Expansion Property pursuant to this Declaration and this Article shall be made by filing and recording a Supplementary Declaration of Covenants, Conditions and Restrictions or similar instrument together with an official plat with respect to such portions of the Expansion Property which shall extend the plan of this Declaration to such Expansion Property. Such Supplementary Declaration may contain any complementary additions or modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Expansion Property. The recordation of such Supplementary Declaration and plat shall constitute and effectuate the annexation of said real property described herein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter all of the owners of Lots in said Expansion Property shall automatically be Members of the Association, with respect to the new Lots annexed to the Property.

7 Declarant's Right to Amend. Until the right to annex the Expansion Property to the Property expires, Declarant shall have, and is hereby vested with the right to unilaterally amend the Declaration or the Plat, or both as may be necessary, reasonable or desirable: (a) to adjust the boundaries of the Lots, including adding or deleting Open Space so as to accommodate design changes or changes in the type of Units to be constructed or to reconfigure the Lot configuration on the plats; (b) to more accurately express the intent of any provisions of the Declaration in the light of then existing circumstances or information, workability of the arrangement which is contemplated by the Declaration; or (c) to facilitate the practical, technical, administrative or functional integration of any Expansion Property into the Property.

8 Expansion of Definitions. In the event the Property is expanded through the annexation of all or any portion of the Expansion Property, the Definitions used in this Declaration automatically shall be expanded to encompass and refer to the Property as so expanded by the Expansion Property.

ARTICLE X. MISCELLANEOUS

1. Agent for Service of Process. The initial agent to receive service of process is William O. Perry, IV of 17 East Winchester Street, Murray, Utah 84107, which is also

the initial office of the registered agent. After transition, the President of an Association is the person to receive service of process and the office of the registered agent is the street address of the President of the Association.

2. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall only continue until twenty-one (21) years after the death of all lives in being on the date this instrument is recorded, at which time they shall automatically terminate or be terminated.

3. Binding Effect of Covenants. All Lot Owners shall, at all times, obey all such rules, covenants, conditions and restrictions, and see that the same are faithfully observed by those persons over whom they have or exercise control and supervision. It is understood and agreed that such rules, covenants, conditions and restrictions shall run with the land, and shall inure to the benefit of and be binding upon all Lot Owners and their heirs, successors and assigns.

4. Severability. Invalidation of any one of these covenants by judgement or court order shall in no wise affect any of the above provisions which shall remain in full force and effect.

5. Effective Date. This Declaration of Protective Covenants shall become effective the date it is recorded in the Office of the County Recorder of Tooele County, Utah.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed these covenants and restrictions the 19 day of October, 2016.

PERRY DEVELOPMENT, L.L.C.

By: [Signature]
Title: William O. Perry, IV, Manager

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

On the 19 day of October, 2016 personally appeared before me William O. Perry, IV, who by me being duly sworn, did say that he is the Manager of PERRY DEVELOPMENT, LLC, a Limited Liability Company, and that the within and foregoing instrument was signed in behalf of said company by authority, and said William O. Perry, IV, duly acknowledged to me that said Company executed the same.

[Signature]
NOTARY PUBLIC
Residing At: Salt Lake County
Commission Expires:

Feb 08, 2019



EXHIBIT "A"

The Land described in the foregoing document is located in TOOELE COUNTY, UTAH and is described more particularly as follows:

SEE ATTACHED

EXHIBIT B

BYLAWS

When incorporated as a non-profit corporation under Utah law, the Bylaws of the Association shall be substantially in the form contemplated as follows:

OVERLAKE 1L HOMEOWNERS ASSOCIATION, INC.

A Utah Nonprofit Corporation

Pursuant to the provisions of the Utah Nonprofit Corporation and Cooperative Association Act, the Board of Trustees of Overlake 1L Homeowners Association, Inc., a Utah nonprofit corporation, hereby adopts the following Bylaws for such nonprofit corporation.

ARTICLE I NAME AND PRINCIPAL OFFICE

1.01 **Name.** The name of the nonprofit corporation is Overlake 1L Homeowners Association, Inc., hereinafter referred to as the "Association".

1.02 **Offices.** The Principal Office of the Association shall be 17 E. Winchester St., Suite 200, Murray, UT 84107 until such time as the Board of Trustees changes such address.

ARTICLE II DEFINITIONS

2.01 **Definitions.** Except as otherwise provided herein or as may be required by the context, all terms defined in Article I of the Declaration of Protection Covenant, Overlake 1L Subdivision and any amendments thereto, hereinafter referred to as the "Declaration", shall have such defined meanings when used in these Bylaws.

ARTICLE III MEMBERS

3.01 **Annual Meetings.** The annual meeting of Members shall be held each year, the specific date, time, and place to be fixed by the Board of Trustees, beginning with the year following the year in which the Articles of Incorporation are filed, for the purpose of electing Trustees and transacting such other business as may come before the meeting. If the election of Trustees shall not be held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient.

The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members. During the period of Declarant control, Annual Meetings need not be held unless Declarant increases assessments.

3.02 **Special Meetings.** Special meetings of the Members may be called by the Board of Trustees, the President, the Declarant, or upon the written request of Members holding not less than twenty percent (20%) of the voting power of the Members of Association, such written request to state the purpose or purposes of the meeting and to be delivered to the Board of Trustees or the President.

3.03 **Place of Meetings.** The Board of Trustees may designate any place in Salt Lake County, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board. A waiver of notice signed by all of the Members may designate any place, either within or without the State of Utah, as the place for holding such meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the principal office of the Association.

3.04 **Notice of Meetings.** The Board of Trustees shall cause written or printed notice of the time, place, and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than sixty (60) nor less than thirty (30) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the Member at his registered address, with first-class postage thereon prepaid. Each Member shall register with the Association such Member's current mailing address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a Member's Lot address shall be deemed to be his registered address for purposes of notice hereunder.

3.05 **Members of Record.** Upon purchasing a Lot in the Property, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Lot has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of or to vote at any meeting of the Members, or any adjournment thereof, the Board of Trustees may designate a record date, which shall not be more than sixty (60) nor less than thirty (30) days prior to the meeting, for determining Members entitled to notice of or to vote at any meeting of the Members. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date as the owners of record of Lots in the Property shall be deemed to be the Members of record entitled to notice of and to vote at the meeting of the Members.

3.06 **Quorum.** At any meeting of the Members duly called and noticed, the Members and proxy holders present shall constitute a quorum for the transaction of business unless such other requirement for the constitution of a quorum is set forth in the Declaration.

3.07 **Proxies.** At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member himself or by his attorney thereunto duly authorized in writing. If a membership is jointly held, the instrument authorizing a proxy to act must have been executed in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

3.08 **Votes.** With respect to each matter submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Lot of such Member, as set forth in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law. The election of Trustees shall be by all owners of the Lots. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint Membership or as is otherwise set forth in the Declaration.

3.09 **Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and method of ascertaining Members present shall be deemed waived if no objection thereto is made before or at the meeting.

3.10 **Informal Action by Members.** Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

ARTICLE IV BOARD OF TRUSTEES

4.01 **General Powers.** The property, affairs, and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association, whether derived from law or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these Bylaws, or by the Declaration vested solely in the Members. The Board of Trustees may by written contract delegate, in whole

or in part, to a professional management organization or person such of its duties, responsibilities, functions, and powers as are properly delegable. However, any agreement for professional management of the Property, or any other contract providing for services of the Declarant, or any lease to which Declarant is a party which may be entered into by the Board of Trustees or the Association shall call for a term not exceeding three (3) years and shall provide that such agreement or lease may be terminated by either party thereto without cause and without payment of a termination fee upon not in excess of thirty (30) days written notice.

4.02 **Number, Tenure and Qualifications.** The number of Trustees of the Association shall be three (3). The initial Board of Trustees specified in the Articles of Incorporation, or their successors appointed by Declarant, shall serve until Declarant turns over to the Members, as provided in the Declaration, the responsibility for electing Trustees. At the first annual meeting of the Members held thereafter, the Members shall elect three (3) Trustees to serve for the following respective terms: One (1) Trustee to serve for a term of Three (3) years; one (1) Trustee to serve for a term of Two (2) years; and one (1) Trustee to serve for a term of One (1) year. At each annual meeting thereafter, the Members shall elect for a term of Three (3) years one Trustee to fill the vacancy created by the expiring term of a Trustee. Trustees may, but need not be, Members of the Association. Each Trustee shall hold office until his successor shall have been elected or appointed and qualified.

4.03 **Regular Meetings.** The regular annual meeting of the Board of Trustees shall occur annually and the Board of Trustees may provide by the resolutions adopted thereat the time and place for holding of the regular annual meeting without notice other than such resolution. Unless otherwise prohibited by law, annual meetings need not be held during the period of Declarant Control.

4.04 **Special Meetings.** Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within or without the State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, or by Telegram. If mailed, such notice shall be deemed to be delivered when deposited in the U. S. mail so addressed, with first-class postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to have been delivered when the telegram is delivered to the telegraph company. Any Trustee may waive notice of a meeting.

4.05 **Quorum and Manner of Acting.** A majority of the then authorized number of Trustees shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

4.06 **Compensation.** No Trustee shall receive compensation for any services that he may render to the Association as a Trustee; provided, however, that a Trustee may be reimbursed for expenses incurred in performance of his duties as a Trustee to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a Trustee.

4.07 **Resignation and Removal.** A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee, except a Trustee appointed by Declarant, may be removed at any time, for or without cause, by the affirmative vote of seventy-five percent (75%) of the voting power of the Members of the Association at a special meeting of the Members duly called for such purpose.

4.08 **Vacancies and Newly Created Trusteeships.** If vacancies shall occur in the Board of Trustees by reason of the death, resignation or disqualification of a Trustee (other than a Trustee appointed by Declarant), or if the authorized number of Trustees shall be increased, the Trustees then in office shall continue to act, and such vacancies or newly created Trusteeships shall be filled by a vote of the Trustees then in office, though less than a quorum, in any way approved by such Trustees at the meeting. Any vacancy in the Board of Trustees occurring by reason of removal of a Trustee by the Members may be filled by election at the meeting at which such Trustee is removed. If vacancies shall occur in the Board of Trustees by reason of death, resignation or removal of a Trustee appointed by Declarant, such vacancies shall be filled by appointments to be made by Declarant. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be.

4.09 **Informal Action by Trustees.** Any action that is required or permitted to be taken at a meeting of the Board of Trustees, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Trustees.

ARTICLE V OFFICERS

5.01 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be appointed by the Board of Trustees.

5.02 **Election, Tenure and Qualifications.** The officers of the Association shall be chosen by the Board of Trustees annually at the regular annual meeting of the Board of Trustees. In the event of failure to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise)

shall hold his office until the next ensuing regular annual meeting of the Board of Trustees and until his successor shall have been chosen and qualified, or until his death, or until his resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, Secretary and Treasurer shall be and remain Trustees of the Association during the entire term of their respective offices. No other officers need be a Trustee.

5.03 **Subordinate Officers.** The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time determine. The Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Members or Trustees of the Association.

5.04 **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

5.05 **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

5.06 **The President.** The President shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board of Trustees may require of him. The president shall be invited to attend meetings of each committee, but his attendance at committee meetings shall be optional and within his discretion.

5.07 **The Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

5.08 **The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board of Trustees may require him to keep. The Secretary shall also act in the place and stead of the President in the event of the President's and the Vice President's absence or inability

or refusal to act. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board of Trustees may require of him.

5.09 **The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

5.10 **Compensation.** No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI COMMITTEES

6.01 **Designation of Committees.** The Board of Trustees may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The Declaration may also designate specific committees to carry out the work of the Association. The membership of each such committee designated hereunder shall include at least one (1) Trustee or shall otherwise be comprised of membership as set forth in the Declaration. No committee member shall receive compensation for services that he may render to the Association as a committee member unless provided for in the Declaration; provided, however, that a committee member may be reimbursed for expenses incurred in performance of his duties as a committee member to the extent that such expenses are approved by the Board of Trustees and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as a committee member.

6.02 **Proceedings of Committees.** Each committee designated hereunder by the Board of Trustees may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine or as is set forth in the Declaration. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Trustees.

6.03 **Quorum and Manner of Action.** At each meeting of any committee designated hereunder by the Board of Trustees, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two

members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee unless otherwise set forth in the Declaration. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such unless otherwise set forth in the Declaration.

6.04 **Resignation and Removal.** Any member of any committee designated hereunder by the Board of Trustees may resign at any time by delivering a written resignation to the President, the Board of Trustees, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.05 **Vacancies.** If any vacancy shall occur in any committee designated by the Board of Trustees hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

ARTICLE VII INDEMNIFICATION

7.01 **Indemnification: Third Party Actions.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

7.02 **Indemnification: Association Actions.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Trustee or officer of the Association, or is or was serving

at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

7.03 Determinations. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 7.01 or 7.02 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 7.01 or 7.02 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 7.01 or 7.02 hereof. Such determination shall be made either (i) by the Board of Trustees by a majority vote of disinterested Trustees or (ii) by independent legal counsel in a written opinion, or (iii) by the Members by the affirmative vote of at least fifty percent (50%) of the voting power of the Members of the Association at any meeting duly called for such purpose.

7.04 Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article or otherwise.

7.05 Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or Trustees, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Trustees, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

7.06 **Insurance.** The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee, officer, employee, or agent or was or is serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit).

7.07 **Payments and Premiums.** All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute expense of the Association and shall be paid with funds from the Assessments referred to in the Declaration.

ARTICLE VIII FISCAL YEAR AND SEAL

8.01 **Fiscal Year.** The fiscal year of the Association shall begin on the first day of January each year and end on the 31st day of December next following, except that the first fiscal year shall be a partial year and shall begin on the date of incorporation.

8.02 **Seal.** The Board of Trustees may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, and the words "Corporate Seal".

ARTICLE IX RULES AND REGULATIONS

9.01 **Rules and Regulations.** The Board of Trustees may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Property, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees, and with copies of all amendments and revisions thereof.

ARTICLE X AMENDMENTS

10.01 **Amendments.** Except as otherwise provided by law, by the Articles of Incorporation, by the Declaration, or by these Bylaws, these Bylaws may be amended, altered, or repealed and new Bylaws may be made and adopted by the Members upon the affirmative vote of at least fifty-one percent (51%) of the voting power of the Members of the Association; provided, however, that such action shall not be effective unless and until a written instrument setting forth (i) the amended, altered, repealed, or new bylaw, (ii) the number of votes cast in favor of such action, and (iii) the total voting power of the Members of the Association, shall have been executed and verified by the current President of the Association. Notwithstanding the foregoing, the Declarant, its successors and assignees shall have the power and absolute right to

amend or prohibit the amendment of these Bylaws until such time as the period of Declarant Control terminates.

IN WITNESS WHEREOF, the undersigned, constituting all of the Trustees have executed these Bylaws on the ____ day of _____, 2016.

Trustee

Trustee

Trustee

MTC File No. 239506

Exhibit "A"

A portion of the NE1/4 of Section 17, Township 3 South, Range 4 West, Salt Lake Base & Meridian, located in Tooele, Utah, more particularly described as follows:

Beginning at the northwest corner of Phase 1B, OVERLAKE ESTATES Subdivision, according to the Official Plat thereof on file in the Office of the Tooele County Recorder, said corner being located South $89^{\circ}42'46''$ West (plat: South $89^{\circ}42'12''$ West) along the Section line 62.00 feet from the Northeast Corner of Section 17, Township 3 South, Range 4 West, Salt Lake Base & Meridian; thence South $0^{\circ}14'42''$ East 1,137.76 feet along the west line of said plat and parallel with, and 62.00 feet westerly of the east line of said Section 17; thence West 506.71 feet; thence North 103.57 feet; thence North $4^{\circ}19'56''$ East 66.19 feet; thence North 219.28 feet; thence North $2^{\circ}43'58''$ West 60.07 feet; thence North 102.00 feet; thence East 265.76 feet; thence North 264.00 feet; thence West 388.00 feet; thence North 102.00 feet; thence North $5^{\circ}46'05''$ West 60.31 feet; thence North 157.69 feet to the north line of said Section 17; thence North $89^{\circ}42'26''$ East along the Section line 628.01 feet to the point of beginning.

(Proposed Overlake Estates Phase 1L)

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