

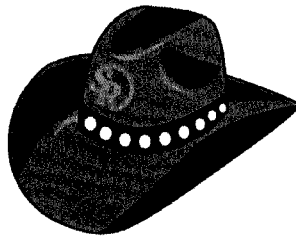
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Date: 06-AUG-2019 8:11:32AM  
Fee: \$50.00 Check Filed By: TC  
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Affected Parcel Nos.  
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00-0010-9855  
00-0010-9921  
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00-0020-9630  
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**MASTER DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
THE STRAWBERRY PHASE  
OF  
STRAWBERRY RANCH PLANNED  
COMMUNITY DEVELOPMENT**



**STRAWBERRY RANCH**  
**MOUNTAIN RESORT**

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**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**STRAWBERRY RANCH PLANNED COMMUNITY DEVELOPMENT**

**THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STRAWBERRY RANCH PLANNED COMMUNITY DEVELOPMENT** is made this 26th day of July, 2019 by, **FRAGOLA ENTERPRISES LLC, DBA STRAWBERRY RANCH MOUNTAIN RESORT**, a Utah limited liability company (hereinafter referred to as "Declarant"), and joined by **STRAWBERRY RANCH MASTER ASSOCIATION, INC.**, a Utah non-profit corporation (hereinafter referred to as the "Association").

A. Declarant holds title to that certain real property located in Wasatch County, Utah as defined in this Master Declaration as the "Property."

B. Declarant intends to develop, in stages, the Property (including any Additional Property added thereto) in accordance with this Master Declaration as a master planned residential community consisting of residential, commercial, recreational and other areas and uses to be known as Strawberry Ranch Planned Community Development, defined in this Master Declaration as the "Community."

C. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners, Institutional Mortgagees, Members, occupants or other holders of an interest in the Community, or any part thereof, certain easements (including Conservation Easements), rights and mutually beneficial covenants, restrictions and obligations with respect to the proper development, use, and maintenance of the various Villages, Lots and Common Areas within the Community.

D. Declarant has caused the Master Association to be formed for the purposes set forth in this Master Declaration and in the Articles of Incorporation for the Master Association.

**STATEMENT OF DECLARATION**

The Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, reservations, assessments and other provisions set forth in this Master Declaration, which shall run with the Property, shall bind all parties having any right, title, or interest in any part of the Property, their successors and assigns, and shall inure to the benefit of each Owner (as hereinafter defined) thereof and which shall read as follows:

**ARTICLE I  
DEFINITIONS**

**1. ADDITIONAL PROPERTY**

"Additional Property" shall mean the real property described on Exhibit "B" attached hereto and any real property located not more than one (1) mile from the exterior boundaries of the property described in Exhibit B, and which may be subjected to this Master Declaration by Declarant from time to time in accordance with the terms of this Master Declaration. Prior to the Turnover Date,

Declarant may unilaterally modify Exhibit "B" as Declarant, in its sole and absolute discretion may determine appropriate. This Master Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction or limitation upon any portion of the Additional Property unless and until such portion is added to the existing Community project in accordance with the provisions of this Master Declaration.

**2. ARCHITECTURAL REVIEW COMMITTEE OR ARC**

"Architectural Review Committee" or "ARC" shall mean the committee formed to promulgate design and development guidelines and application and review procedures for new construction upon the Property and any modifications to improvements and to review and approve the plans for same.

**3. AREA OF COMMON RESPONSIBILITY**

"Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Master Declaration, a resolution of the Board of the Master Association, or an agreement with the Resort, a Village Association or a governmental agency, shall become the responsibility of the Master Association, including without limitation any parks, trails, conservations areas, hunting areas, cattle ranch areas, gate houses, lakes, canals, reservoirs or other water bodies or public areas located within or adjacent to the Property designated by Declarant as part of the Area of Common Responsibility, in addition to those areas upon a Lot, the maintenance, repair or replacement of which is the responsibility of the Master Association.

**4. ARTICLES**

"Articles" shall mean and refer to the Articles of Incorporation of the Master Association, as the same may be amended from time to time.

**5. ASSESSMENT**

"Assessment" shall mean and refer to charges levied against Lots to fund Common Expenses, Village Expenses and any other expenses of the Master Association and shall include, without limitation, Common Assessments, Village Assessments, Special Assessments and Assessment Bonds.

**6. ASSESSMENT BOND**

"Assessment Bond" shall mean and refer to assessments levied in accordance with Article X, Section 7 hereof.

**7. BOARD**

"Board" shall mean and refer to the governing body of the Master Association.

**8. BUILDER**

"Builder" shall mean a Person who acquires one (1) or more Lots for the purpose of constructing a Unit on it for resale or who acquires one (1) or more parcels of land within the Community for further subdivision, development and/or resale in the ordinary course of business.



**9. BY-LAWS**

"By-Laws" shall mean and refer to the By-Laws of the Master Association, as the same may be adopted or amended from time to time.

**10. CODE**

"Code" shall mean shall mean and refer to Title 16 and other applicable provisions of the 2017 Wasatch County Code, under which this Property was planned and approved together with any amendments thereto, together with the settlement agreement entered into by Wasatch County in 2017 related to the Property

**11. COMMON AREA**

"Common Area" or "Common Areas" shall mean all of the real property owned by the Master Association, plus all property designated as Common Areas in any future Supplemental Declaration or any portion of a plat or replat of the Property dedicated to or for the Master Association, together with any improvements thereon and any personal property owned by the Master Association, and which are intended for the common use and enjoyment of all Members of the Master Association. Common Area shall also include the Exclusive Common Area unless the context otherwise requires.

**12. COMMON ASSESSMENTS**

"Common Assessments" shall mean those Assessments for which all Members of the Master Association are responsible to pay to defray Common Expenses.

**13. COMMON EXPENSES**

"Common Expenses" shall mean the actual and estimated costs and expenses incurred or to be incurred by the Master Association for the general benefit of all Owners, including, without limitation, any reasonable reserves for periodic construction, maintenance, repair or replacement of Common Area(s), payments for water services, bond payments, telecommunication services, and other reasonable expenses that the Board may find necessary or appropriate.

**14. COMMUNITY**

"Community" shall mean the master planned residential community to be known as Strawberry Ranch Mountain Resort.

**15. COMMUNITY RULES**

"Community Rules" shall mean Board-adopted Community Rules which establish administrative procedures for internal Association governance and operating procedures for use of the Common Area and property included within the Area of Common Responsibility.

**16. COMMUNITY-WIDE STANDARDS**

"Community-Wide Standards" shall mean the standards of conduct, maintenance or other activity generally prevailing throughout the Community. Such standards may be more specifically

determined by the Board and the Architectural Review Committee.

**17. CONSERVATION EASEMENT**

“Conservation Easement” shall mean easements granted by Declarant to an eligible Municipal Authority under the Wildlife Mitigation Plan and/or applicable federal, state, or County laws and ordinances for the preservation, protection, use, and maintenance of Open Space, in accordance with the policies and standards of said Wildlife Mitigation Plan, laws, ordinances, and the policies and standards of Municipal Authorities which are eligible and qualified to receive the easements

**18. DECLARANT**

“Declarant” shall mean and refer to Fragola Enterprises, LLC d/b/a Strawberry Ranch Mountain Resort, a Utah limited liability company, or one of its successors or assigns provided such successor or assign is designated as the Declarant by the immediately preceding Declarant in a recorded instrument executed in accordance with the terms of this Master Declaration. The Declarant may assign all or part of its rights hereunder by a Supplemental Declaration.

**19. DESIGN GUIDELINES**

“Design Guidelines” shall mean the architectural, design, landscape and construction guidelines and application and review procedures adopted pursuant to Article VII of this Master Declaration, as they may be amended or supplemented from time to time.

**20. DEVELOPMENT AGREEMENT**

“Development Agreement” shall mean and refer to the Strawberry Ranch Development Agreement entered into by and between Strawberry Highlands LLC, BFR Investment Company LLC, Marshall Farlen LLC, Utah limited liability companies, as the Developer, and Wasatch County, on or about April 25, 2017 and which is recorded on or about May 29, 2019 as Entry No. 464011, Book 1253, Pages 578-910 with the Wasatch County Recorder’s Office, as the same may be amended and supplemented from time to time.

**21. EXCLUSIVE COMMON AREA**

“Exclusive Common Area” shall mean and refer to certain portions of the Common Area, including any improvements and fixtures thereon, the use of which has been granted exclusively or primarily to one or more, but less than all, Units for the common use and enjoyment of Owners of such Units. Such Exclusive Common Area shall be designated by Supplemental Declaration, a Village Declaration or otherwise. All costs associated with the maintenance, repair, replacement and insurance of exclusive Common Area shall be assessed only against the Owners of the Units benefited by such Exclusive Common Area.

**22. GOVERNING DOCUMENTS**

“Governing Documents” means this Master Declaration, Village Declaration(s), Supplemental Declaration(s), the Bylaws, the Articles, the Community Rules, the Design Guidelines, the Community-Wide Standards and the Board’s resolutions, and any supplements, amendments, and restatements thereto.

**23. INSTITUTIONAL MORTGAGEE**

"Institutional Mortgagee" shall mean: (a) any generally recognized lending institution having a first mortgage lien upon a Lot or (b) such other lenders as the Board shall hereafter approve in writing which have acquired a first mortgage lien upon a Lot.

**24. LOT**

(a) "Lot" shall be an inclusive term referring to a portion of the Property, whether developed or undeveloped, intended for development, use, and occupancy as a residence and shall, unless otherwise specified, include within its meaning by way of illustration, but not limitation, condominium units, cabins, town homes, cottages, and single-family homes, as well as vacant land intended for development as such, all as may be developed, used and defined as herein provided or as provided in a Supplemental Declaration covering all or a portion of the Property. The term shall include all portions of the Lot owned as well as any structure thereon. In the case of a structure which contains multiple Units, each Unit shall be deemed to constitute a separate Lot.

(b) In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Lots designated for residential use for such parcel on the site plan approved by Declarant until such time as a subdivision plat has been recorded in the public records of Wasatch County, Utah, on all or a portion thereof. After a subdivision plat has been recorded on all or a portion thereof, the portion designated on that plat shall constitute a separate Lot or Lots as determined by paragraph (a) above and the number of Lots on the remaining land, if any, shall continue to be determined in accordance with this paragraph (b).

**25. MASTER ASSOCIATION**

"Master Association" or "Association" shall mean and refer to Strawberry Ranch Strawberry Phase Master Association, Inc. and its successors or assigns. The Master Association is the master Association for the entire Community. It is contemplated that separate sub-associations called "Village Associations" will be created for particular Villages within the Community.

**26. MASTER DECLARATION**

"Master Declaration" shall mean this document, as the same may be amended or supplemented from time to time.

**27. MASTER PLAN**

"Master Plan" shall mean and refer to the plan for the development of the Property, as the same may be amended or supplemented from time to time.

**28. MEMBER**

"Member" shall mean and refer to a Person entitled to membership in the Master Association. All Owners shall be Members of the Master Association; provided, however, that there shall be no more than one Member for each Lot. In addition, Declarant shall also be Member of the Master Association as described more fully in Article IX, Section 1 hereof and the By-Laws of the Master Association.

**29. MUNICIPAL AUTHORITY**

“Municipal Authority” shall mean and refer to the applicable governmental entity or municipality which has jurisdiction over some part or all of the Community including, without limitation, the County.

**30. MUNICIPAL AUTHORITY PROPERTY**

“Municipal Authority Property” means all real property which is from time to time conveyed, assigned, or transferred by Deed or other written instrument to the appropriate Municipal Authority, which may include but is not limited to community parks, mini parks, public streets including medians and enhanced parkways, retention basins and drainage facilities and portions or all of the Trail System or Open Space.

**31. OWNER**

“Owner” shall mean and refer to the record owner of fee simple title to a Lot (including Declarant and Builders, but specifically excluding any party holding an interest merely as security for the performance of an obligation). The term Owner may also include any other Person who owns any portion of the Property other than the Master Association.

**32. PERSON**

“Person” means any individual, corporation or other legal entity.

**33. PROPERTY**

“Property” shall mean and refer to the real property legally described on Exhibit “A” attached hereto, together with such Additional Property as is hereafter subjected to this Master Declaration by a Supplemental Declaration. Notwithstanding anything contained herein to the contrary, the term Property shall not be construed to include any portion of the Resort Property.

**34. RESORT**

“Resort” shall mean the Declarant or its successors or assigns, doing business as Strawberry Ranch Mountain Resort, LLC, which shall own and operate the Resort Property.

**35. RESORT PROPERTY**

“Resort Property” shall mean all of the real and personal property owned by the Resort and operated by the Resort, including without limitation, the various recreational facilities from time to time developed on such real property. THE RESORT PROPERTY IS NOT COMMON AREA AND IS NOT SUBJECT TO THE TERMS AND CONDITIONS OF THIS MASTER DECLARATION.

**36. SPECIAL ASSESSMENT**

“Special Assessment” shall mean and refer to assessments levied in accordance with Article X, Section 6 hereof.

**37. SUPPLEMENTAL DECLARATION**

"Supplemental Declaration" shall mean a supplement to this Master Declaration executed by or consented to by Declarant in accordance with Article II, Section 2 hereof.

**38. TURNOVER DATE**

"Turnover Date" shall mean the date on which the Class "B" Membership ceases to exist and is converted to a Class "A" Membership, as further described in Article VIII, Section 4 hereof.

**39. UNIT**

"Unit" shall mean and refer to any structure constructed on a Lot which is intended for use and occupancy as a residence, including without limitation, a condominium unit, cabin, town home, cottage and single-family home.

**40. VILLAGE**

"Village" shall mean and refer to any grouping of Lots which are designated as a Village by Declarant on the Master Plan or in a Supplemental Declaration, in which the Owners thereof may have common interests other than those common to all Owners, such as a common theme, entrance feature, development name and/or common area and facilities which are not available for use by all Owners. A Village may be governed by a separate Village Association, in addition to governance by the Master Association.

**41. VILLAGE ASSESSMENTS**

"Village Assessments" shall mean assessments levied by either the Master Association or a Village Association against the Lots in a particular Village or Villages to fund Village Expenses, as more particularly described in Article X, Section 5 of this Master Declaration.

**42. VILLAGE ASSOCIATION**

"Village Association" shall mean any village association or committee, condominium association or such other entity, its successors and assigns, which shall be responsible for administering any Village. A Village may, but shall not be required to, have a Village Association.

**43. VILLAGE DECLARATION**

"Village Declaration" shall mean the protective covenants, conditions, restrictions and other provisions (if any) imposed by a recorded instrument upon one or more Villages. A Village may, but shall not be required to, have a Village Declaration.

**44. VILLAGE DOCUMENTS**

"Village Documents" shall mean a Village Declaration together with the articles of incorporation, by-laws and any Community Rules of any applicable Village Association.

**45. VILLAGE EXPENSES**

"Village Expenses" shall mean and include those actual and estimated expenses incurred or to

be incurred by the Master Association primarily for the benefit of the Owners of Lots within a particular Village or Villages, which may include a reasonable reserve for periodic construction, maintenance, repairs, and replacements, all as may be specifically authorized from time to time by the Board of the Master Association or the applicable Village Association and as more particularly authorized herein.

#### 46. WILDLIFE MITIGATION PLAN

“Wildlife Mitigation Plan” shall mean and refer to that certain wildlife mitigation plan for Strawberry Creek that was approved by Wasatch County on or about April 25, 2017, and recorded as part of the Development Agreement on or about May 29, 2019 as Entry No. 464011, Book 1253, Pages 578-910 with the Wasatch County Recorder’s Office, as the same may be amended and supplemented from time to time, which obligates Declarant and/or the Master Association to implement certain wildlife management actions, perform certain work and development programs, and to meet other obligations to mitigate the potentially adverse impact of human activities and development on wildlife and natural habitats within the Community. The Wildlife Mitigation Plan requires that the Community comply with certain rules, regulations, restrictions, and other provisions contained therein, which are contained in this Master Declaration and the other Governing Documents as the Wildlife Mitigation Plan Regulations.

#### 47. WILDLIFE MITIGATION PLAN REGULATIONS

“Wildlife Mitigation Plan Regulations” are the rules, regulations, restrictions, and other provisions that are required by the Wildlife Mitigation Plan and which are set forth in the Governing Documents, as the same may be supplemented and amended from time to time.

## ARTICLE II GENERAL PLAN FOR DEVELOPMENT

### 1. PLAN FOR DEVELOPMENT

(a) In General. Declarant plans to develop the Property as a multi-phased residential community with various recreational amenities, common areas and limited retail areas in accordance with the Master Plan and subject to any required governmental approvals. Declarant reserves the right to modify the Master Plan in its sole discretion from time to time, and the consent of the Master Association, any Owner and any mortgagee of any Owner shall not be required in connection therewith.

(b) Declaration; Association. This Master Declaration is not a declaration of condominium. No portion of the Property is submitted by this Master Declaration to the condominium form of ownership. However, portions of the Property may be submitted to the condominium form of ownership by a Supplemental Declaration or a Village Declaration. Declarant has caused the Master Association to be formed to perform certain administrative and operational functions regarding the Property as set forth more fully in the Governing Documents.

(c) Villages. Declarant intends that Lots may, but need not be, grouped together in residential Villages, with different features and/or amenities in each. Villages may, but are not required, to be administered by Village Associations unless they contain Units that are subject to the

condominium form of ownership. These Village concepts, as anticipated as of the recordation of this Declaration, include, but are not limited to:

(1) **Lakeside Phase Village:** It is anticipated that Lakeside Phase Village may include 84 custom cabins, a Welcome Center Lodge, a Clubhouse and activity barn, a convenience store, a restaurant, a Reunion Meadow and storage facilities. Access may be all season year-round access. Lakeside Phase Village is anticipated to feature the entrance of the Community and may be the heart of the public area. The Lakeside Phase Village may also contain the Resort. The Reunion Meadow may be a large open space area that may be primarily used for, without limitation, family gatherings and events such as music festivals, pow-wows, lumberjack shows, antique boat shows, art festivals and other events that are meant to attract visitors and renters. The Reunion Meadow may be owned by the resort. Owners of Units in Lakeside Phase Village may have the option of putting their Units into a nightly rental pool managed by the Resort. The Units in the Lakeside phase are anticipated to be located within walking distance to Strawberry Reservoir and Aspen Grove Marina, as well as easy access to the clubhouse and other amenities. The convenience store and restaurant may be located in the vicinity of the Welcome Center or the Clubhouse area. Guests may be able to purchase essential grocery items and ready-to-cook meals, as well as fishing and camping supplies. The Restaurant may be a "boathouse" and "fishing" themed restaurant. Food selection may be based primarily on comfort foods; however, there may be a wood fired pizza oven offering pizzas all day. It is anticipated that the Clubhouse may house game rooms, family gathering areas, and an indoor gym serving as a multi-use facility for sports and receptions. There may be a swimming pool, a hot tub, pickle ball courts, a volleyball court and horseshoe pits, all of which may facilitate company parties and outdoor receptions. The Lakeside Phase may also include multiple individual storage units that can be rented by Owners. The Village Association may maintain the landscaping and sprinkling systems and provide snow removal on sidewalks and driveways on these Lots as determined by the Declarant or Village Association on a Phase-by-Phase basis. If Lots are maintained by the Village Association, Owners must allow entrance by the Village Association and its contractors to all non-fenced areas for such maintenance. In no event will the Village Association maintain any areas inside a fence, screen, or other enclosure, and such areas will be the responsibility of the Owner. Owners will pay a mandatory assessment for these services in addition to the basic Master Association assessment, and such assessment will not be reduced if an Owner elects to maintain certain portions of the Lot, whether by enclosing areas on the Lot or otherwise.

(2) **Strawberry Ranch RV Park Village:** It is anticipated that Strawberry Ranch RV Park Village may have multiple recreational vehicle pads, several of which may house a "Tiny Home" or "Cavco" type cabin available for rent. The RV Village may have a swimming pool and hot tub. The pads may have full hook-ups for recreational vehicles and access to Strawberry Reservoir and Aspen Grove Marina, which may be only a short walk away. The RV Village is anticipated to have beautiful views of Soldier Creek Bay and may be more popular in the summer for vacationers and in the fall for hunters. The "Tiny Home" cabins in the Village may be a favorite for winter ice fishermen and snowmobilers who desire a cozy setup. The RV Village is intended to be set on approximately 10 acres nestled in the aspens and pines with large open areas and attractive reservoir views. It is anticipated that the RV Village will be the finest recreational vehicle park at Strawberry Reservoir. The Village Association may maintain the landscaping and sprinkling systems and provide snow removal on sidewalks and driveways on these Lots as determined by the Declarant or Village Association on a Phase-by-Phase basis. If Lots are maintained by the Village Association, Owners must allow entrance by the Village Association and its contractors to all non-fenced areas for such maintenance. In no event will the Village Association maintain any areas inside a fence, screen, or other enclosure, and such areas will be the responsibility of the Owner. Owners will pay a mandatory assessment for these services in addition to the basic Master Association assessment, and such assessment will not be reduced if an Owner elects to maintain certain portions of the Lot, whether by enclosing areas on the

Lot or otherwise.

(3) **Club Strawberry Village:** It is anticipated that Club Strawberry Village may be a privately gated development with exceptional views of both the mountains and Strawberry Reservoir. Private amenities may be available exclusively to those in this Village. The Club Strawberry Village may consist of, without limitation, approximately 47 one-acre custom lots, approximately 80 townhomes or chalets, a private clubhouse and swimming pool, private storage units, pickle ball court, horseshoe pits, Private picnic areas and gazebos and certain exclusive Owner amenities, such as discounted rates on rentals and services. It is anticipated that the fire station may be located in Club Strawberry Village. The Village Association may maintain the landscaping and sprinkling systems and provide snow removal on sidewalks and driveways on these Lots as determined by the Declarant or Village Association on a Phase-by-Phase basis. If Lots are maintained by the Village Association, Owners must allow entrance by the Village Association and its contractors to all non-fenced areas for such maintenance. In no event will the Village Association maintain any areas inside a fence, screen, or other enclosure, and such areas will be the responsibility of the Owner. Owners will pay a mandatory assessment for these services in addition to the basic Master Association assessment, and such assessment will not be reduced if an Owner elects to maintain certain portions of the Lot, whether by enclosing areas on the Lot or otherwise.

## 2. SUPPLEMENTAL DECLARATION

(a) **In General.** Declarant shall have the right, alone and in its sole discretion, to execute and record in Wasatch County, Utah, Supplemental Declarations from time to time containing provisions which (a) assign a specific use to a portion of the Property; (b) designate a Village and any specific uses or provisions with respect to the Village; (c) impose additional restrictions or delete restrictions on a portion of the Property; (d) assign some or all of Declarant's rights and obligations hereunder; (e) subject some or all of the Additional Property to the effect of this Master Declaration; or (f) do anything else permitted by this Master Declaration.

(b) **Fractional Interests.** The Declarant reserves the right to offer fractional interests in Units. In such event, Declarant will execute and record in Wasatch County, Utah, a Supplemental Declaration providing for the rights and obligations of fractional interest owners, including without limitation, provisions governing the voting rights of fractional interest owners as well as provisions relating to the administration of a fractional interest program.

## 3. VILLAGE DECLARATION

Declarant, or another Person with Declarant's prior written consent, may record instruments subjecting a Village to a Village Declaration, upon which event the Lots in the Village shall then be subject to both this Master Declaration and such Village Declaration. Such Village Declaration may also create a Village Association and such Village Association may have the same, additional, or different rights, powers, duties or privileges with respect to such Village as the Master Association. In such event, the Lots in a Village will be subject to the jurisdiction of both the Master Association and the Village Association and the Owners of Lots within the Village will be members of the Master Association as well as members of the Village Association. The Village Declaration will provide the terms and conditions of membership in the Village Association, which may be the same as or substantially different from the terms and conditions of membership in the Master Association as provided in this Master Declaration. When in conflict, the Governing Documents shall prevail over Village Documents.



**4. ANNEXATION OF ADDITIONAL PROPERTY**

(a) Prior to the Turnover Date. Prior to the Turnover Date, Declarant shall have the unilateral right, privilege, and option, in its sole discretion, to subject any Additional Property to the provisions of this Master Declaration and to the administration of the Master Association by filing a Supplemental Declaration in Wasatch County, Utah. Such Supplemental Declaration shall not require the consent of any of the Owners, any mortgagee of any Owner or the Master Association, but shall require the consent of the owner of such Additional Property, if the owner of such Additional Property is other than Declarant. Any such annexation shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the right, in its sole discretion, to transfer to any other Person the right, privilege, and option to annex Additional Property which is reserved herein to Declarant, provided that such transfer is memorialized in a Supplemental Declaration.

(b) Following the Turnover Date. Following the Turnover Date, Declarant shall have the unilateral right, privilege and option, until all of the Additional Property has been subjected to this Master Declaration, to subject to the provisions of this Master Declaration and the jurisdiction of the Master Association from time to time and at any time all or any portion of the Additional Property. Such annexation shall be accomplished by filing in the public records of Wasatch County, Utah, a Supplemental Declaration annexing such Additional Property. Such Supplemental Declaration shall not require the consent of any of the Owners, any mortgagee of the Owners or the Master Association, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein.

Following the Turnover Date, the Master Association may not subject any property to the provisions of this Master Declaration and the jurisdiction of the Master Association without: (a) the affirmative votes of a majority of the Class "A" Members of the Master Association either in writing or present, in person or by proxy, at a meeting duly called for such purpose, (b) the consent of the owner of such property, (c) the consent of the Resort, and (d) the consent of Declarant so long as Declarant owns any portion of the Property or the Additional Property.

**5. WITHDRAWAL OF PROPERTY**

Declarant reserves the right to amend this Declaration, at any time prior to the Turnover Date, to remove any unimproved portion of the Property from the coverage of this Declaration. "Unimproved" means that no residential structure has yet been built on the applicable Lot(s). Such amendment shall not require the consent of any person other than the Owner(s) of the property to be withdrawn, if other than the Declarant.

**6. AMENDMENT OF ARTICLE**

This Article shall not be amended without the prior written consent of Declarant, so long as Declarant owns any portion of the Property or the Additional Property, and the consent of the Resort.

**ARTICLE III  
LAND DESIGNATION AND ADMINISTRATION**

**1. IN GENERAL**

The Property may be subjected to designated uses in accordance with the terms of this Master Declaration, by any Supplemental Declaration or by any other reasonable means by Declarant. Declarant may, in its sole and absolute discretion, establish any use for the Property consistent with the terms of the Master Plan, this Master Declaration and applicable law. Without limiting the foregoing, the Property may be used in the following manner:

(a) Residential Areas. Residential areas shall be those areas used for residential use, which shall include Lots and improvements associated with residential purposes and uses including, but not limited to streets, driveways, sidewalks, entranceways, street lighting, Open Spaces, parking spaces, landscaping, recreational facilities and other areas or amenities appurtenant to the Lots. Unless otherwise provided in a Supplemental Declaration or Village Documents, each Owner shall be responsible for the maintenance of his or her Lot.

(b) Common Area

(1) In General: Every Owner shall have a right and non-exclusive easement of use, access and enjoyment in and to the Common Area, subject to this Master Declaration as it may be amended from time to time, and to any restrictions or limitations contained in any deed conveying such property to the Master Association. Any Owner may delegate his or her right of use and enjoyment in the Common Area to the members of his or her family, lessees and invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee. Any leasing of a Unit shall be in compliance with the provisions of this Master Declaration.

Declarant shall determine the manner of making improvements to all Common Area and the use thereof so long as Declarant owns any portion of the Property or the Additional Property, and, thereafter, the Master Association shall have the same right provided the general quality of the Master Plan is not materially and detrimentally changed.

(2) Administration and Operation: The administration and operation of the Common Area shall be the responsibility of the Master Association, except that the Master Association with the prior consent of the accepting party may assign or delegate such responsibility, in whole or in part, exclusively or non-exclusively, and permanently or temporarily, for any portion of the Common Area to a Village Association, the Resort, a governmental entity or any other Person determined to be appropriate by Declarant so long as Declarant owns any portion of the Property or the Additional Property; or thereafter determined to be appropriate by a two-thirds (2/3) vote of the Board of the Master Association.

(3) Certain Declarant Rights: So long as Declarant owns any portion of the Property or the Additional Property, the Declarant shall have the right, in its sole and absolute discretion, to alter the boundaries of the Common Area and construct, develop, grant or modify the Common Area and any improvements, easements and use rights thereon or appurtenant thereto in a manner determined appropriate by Declarant, in its sole discretion, without the joinder or consent of any Person, including, without limitation, the Master Association, any Village Association, any

Owners or any mortgagee of any Owner, provided all applicable zoning requirements are met and applicable permits are obtained.

(4) Declarant Approval: The Master Association shall not abandon, partition, alienate, release, transfer, hypothecate, or otherwise encumber the Common Area so long as Declarant owns any portion of the Property or the Additional Property without the prior written approval of Declarant and, thereafter, without the prior approval of a majority of the votes eligible to be cast by the Class "A" Members. The preceding sentence shall not prohibit the Master Association from granting such easements over, under and above Common Area as are reasonably necessary or appropriate for the development and operation of the Property in a manner consistent with the provisions of this Master Declaration, nor shall the foregoing prohibit the Master Association from encumbering Common Area provided such encumbrances are solely to secure loans obtained for improving Common Area, and the lien of such encumbrance is not superior to the provisions of this Master Declaration.

(5) Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Areas and reserved for the exclusive use of Owners and occupants of Lots within a particular Village or Villages. By way of illustration and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Owners within a particular Village or Villages, and supported exclusively by Village Assessments.

(c) Wildlife Mitigation Plan Regulations. The Covenants in this Article 3(d) are Wildlife Mitigation Plan Regulations and are specifically required by the County in connection with the Wildlife Mitigation Plan. The Wildlife Mitigation Plan Regulations apply to the entire Property, Additional Property, and all Owners and other persons within the Community, and whether or not a Village Declaration or Supplemental Declaration has been recorded on said Property. The Wildlife Mitigation Plan Regulations cannot be changed, amended, or repealed without the formal consent and written approval from the Wasatch County Council or other appropriate Municipal Authority. In implementing these Wildlife Mitigation Plan Regulations, the Master Association shall cooperate and work in conjunction with the appropriate Municipal Authority or Authorities. Each Person described in this Article 3(d) acknowledges and agrees that Declarant and the Master Association shall not be held liable for any noncompliance with, or violation of, the Wildlife Mitigation Plan Regulations.

(1) Hunting. Declarant and the Master Association may enact any rules, regulations, or other provisions that would allow hunting on the Property. It is contemplated that managed hunts will be allowed on the Property to assist the appropriate Municipal Authority manage the deer, elk, and other animal herds within the Property and surrounding areas, and the Community Rules may contain provisions to effectuate this intent. This Article 3(d)(1) does not prohibit Declarant prior to the Turnover Date, and thereafter the Master Association, from enacting rules, regulations, or other provisions concerning safety, acceptable hours and seasons, access, hunter numbering, buffer zones, and other aspects of hunting, so long as such rules, regulations, and provisions comply with the Wildlife Mitigation Plan and governing County ordinances and Utah law.

(2) Grazing and Forage Management. As reasonably required and upon receiving notice in the manner required by this Master Declaration, Declarant and/or the Master Association shall review with the appropriate Municipal Authority grazing plans and cattle ranch operations to ensure that proper forage management is maintained for deer, elk, and cattle on the Property.

(3) Trash Containers and Collection. Garbage and trash may not be placed, kept,

stored, or collected on any Lot that is not designated by the Master Association as a trash collection location. Such trash collection locations must be in a centralized location, as determined by the Master Association. No on-street garbage or trash pickup is allowed for individual Lots or Units. All garbage and trash is to be secured in containers that the Master Association determines are "bear-proof" and which are to be cleaned regularly, on a basis and in a manner determined by the Master Association. Motion-activated lights, in an amount and type determined by the Master Association, shall be installed around trash collection locations to deter wildlife foraging. No outdoor incinerators shall be kept or maintained on any Lot.

(4) Safety from Bears and Cougars. In recognition of the presence of bears and cougars in and around the Property, the Master Association shall enact Community Rules that are designed to mitigate against the risk that bears and cougars pose to persons and property within the Community and ensure the preservation of the wildlife and natural setting of the Community. Such Community Rules shall ensure that persons on the Property have convenient access to bear spray, that educational posters and pamphlets concerning bear and cougar safety that are approved by the appropriate Municipal Authority are posted on the Property and made readily available to persons on the Property, and that classes about bears and cougars, and bear and cougar safety, are regularly offered and conveniently available to persons on the Property. Notwithstanding the foregoing, Declarant and the Master Association shall not be responsible or liable to any person for any injury or loss of property that results from the presence of bears and cougars within the Community, except if Declarant and/or the Master Association acted with gross negligence or was guilty of willful misconduct.

(5) Protection of Sage Grouse. The Master Association shall promulgate Community Rules that restrict the majority of snowmobiling, snow-cat excursions, and similar activities to trails as designed by Declarant. In connection with these Community Rules, less restricted snowmobile, snow-cat, and similar activities may take place on Additional Property that may be annexed in the future. If sage grouse become listed as a threatened or endangered species by the appropriate federal authority, the Master Association shall promulgate Community Rules that comply with any federal restrictions on recreational activities that are placed, or may be placed, on public lands adjacent to the Property, and that discourage persons from snowmobiling, using off-high vehicles, or performing similar activities, on public lands within the Strawberry Valley that contain sage grouse habitat.

(6) Feeding Wildlife. The feeding of any wildlife on the Property by persons not authorized to do so by the appropriate Municipal Authority, including the feeding of any birds through the use of bird feeders, is prohibited. The Master Association shall ensure that "no feeding wildlife" educational pamphlets approved by the appropriate Municipal Authority are posted within on the Property and made readily available to persons on the Property.

(7) Fencing. To maintain a sense of openness within the Community, fencing is only allowed under the following conditions: (i) except around garbage and trash containers or in Commercial Developments, fencing shall be buck and rail type fencing; (ii) the distance between the ground and the bottom rail of the fence shall be a minimum of sixteen (16) inches to allow wildlife and drainage to pass under the fence; (iii) the maximum height of the top rail from the ground shall be forty-two (42) inches to allow wildlife to jump over the fence; and (iv) the maximum width of the fence shall be fifty-six (56) inches between bucks to allow wildlife to jump across the fence.

(8) Service Districts. In connection with the development of the Community, one or more "Special Service Districts" may be formed to provide the Community with various services and facilities. By acceptance of a deed or other instrument of conveyance, each Owner hereby agrees and acknowledges that his, her, or its Lot and/or Unit is subject to those certain Special Service Districts known as the "Strawberry Ranch Special Service District" and the "Wasatch County Solid Waste Special Service District", which shall provide culinary water, irrigation water, trash removal, and sanitary sewer. These or other Special Service District may provide other services and facilities, including but not limited to storm drainage, sewage treatment, waste water treatment and disposal services, fire protection service, public road maintenance (specifically snowplowing on Highway 40), emergency services, special lighting facilities, and pumping stations. Subject to governing County ordinances and Utah law, the Special Service Districts shall have the right and authority to levy taxes, charges and/or assessments upon owners of taxable property within the Special Service Districts. The Special Service Districts will have the power, among other things, to contract to acquire and construct facilities and to finance the cost thereof by the issuance of bonds and to establish rates and charges that enable the Special Service Districts to operate such facilities as are necessary to fulfill its purposes. It is possible that all of the Community will be part of one or more Special Service Districts and each Owner will be subject to all charges levied by them.

(9) Other Uses. Declarant may use limited portions of the Property for retail business purposes in accordance with the Master Plan. Any such use shall be designated by Declarant in a Supplemental Declaration, and Declarant may, in any such Supplemental Declaration, set forth any restrictions, conditions and covenants that run with such portion of the Property. Declarant may also set forth any rights and obligations of the Owner of such portion of the Property, and the manner in which such portion of the Property shall be administered and assessed under this Master Declaration. Notwithstanding the foregoing, a portion of the Property may be used as a sales center for the sale, resale or rental of Lots and Units within the Community or other communities designated by Declarant and/or memberships relative to the Resort Property without designation in a Supplemental Declaration. Declarant may assign, in whole or in part, its rights under this Article III, Section 1(f).

## **2. DISPUTES AS TO USE**

If there is any dispute as to whether the designation of any portion of the Property complies with this Master Declaration, any Supplemental Declaration, or any other documents, the dispute shall be resolved by Declarant in its sole discretion for so long as Declarant owns any portion of the Property or the Additional Property. After Declarant no longer owns any portion of the Property or the Additional Property, the dispute shall be resolved by the Board. The determination rendered by Declarant or the Board, as the case may be, shall be final and binding on all Persons involved in the dispute.

## **ARTICLE IV DEVELOPMENT OF COMMON AREAS**

### **1. CONSTRUCTION AND INSPECTION OF COMMON AREA**

Declarant (or Builders) will construct, furnish and equip the Common Area at its sole cost and

expense. Upon completion of construction of the Common Area, Declarant (or the Builder, as the case may be) will engage independent licensed inspectors to inspect any Common Area improvements to determine if they were built in substantial accordance with the applicable plans and specifications as modified by any change orders. Any repairs indicated by the inspection reports shall be completed by Declarant (or by the Builder if the improvements were constructed by a Builder), at its sole cost and expense.

**2. TRANSFER OF COMMON AREA**

On or before the Turnover Date, Declarant agrees to convey, transfer, assign and deliver to the Master Association, and the Master Association shall accept same from Declarant, Declarant's interest in the Common Area as the same exists on the date of conveyance. Conveyances of Common Area to the Master Association may occur from time to time.

**3. DISCLAIMER OF WARRANTIES**

The Master Association and each Owner agree that the Common Area shall be conveyed in its "where is, as is" condition and without recourse, and Declarant DISCLAIMS AND MAKES NO REPRESENTATIONS, WARRANTIES OR OTHER AGREEMENTS EXPRESS OR IMPLIED WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND REPRESENTATIONS OR WARRANTIES REGARDING THE CONDITION, DESIGN, CONSTRUCTION, ACCURACY, COMPLETENESS, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO UTILIZATION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF THE COMMON AREA. No claim shall be made by the Master Association or any Owner relating to the condition, operation, use, accuracy or completeness of the Common Area or for incidental or consequential damages arising therefrom or relating thereto. Declarant will transfer and assign to the Master Association, without recourse or warranty, all warranties that it receives from manufacturers and suppliers relating to any of the Common Area which exist and are assignable.

**ARTICLE V  
USE RESTRICTIONS**

**1. IN GENERAL**

The Property shall be used only for residential, recreational, and related business and commercial purposes, purposes consistent with the Code and the Development Agreement, and any purpose designed by Declarant, in its sole and absolute discretion, which purposes may include, without limitation, offices for any property manager retained by the Master Association or business, sales, or real estate offices for Declarant or the Master Association and other businesses which serve and are a part of the Community, as may be more particularly set forth in this Master Declaration and any amendments hereto. Any Supplemental Declaration or additional covenants imposed on the property within any Village may impose stricter standards than those contained in this Article. The Master Association, acting through its Board, shall have standing and the power to enforce such standards. The Master Association, acting through its Board, shall have authority to make and enforce Community Rules governing the use of the Property in addition to those contained herein and in the Community-Wide Standards. Such Community Rules shall be binding upon all Owners, occupants, invitees and licensees. Notwithstanding anything to the contrary herein, Declarant, the Master

Association and the Resort shall be exempt from application of the provisions of this Article. In the event of a conflict between this Declaration or Supplemental Declaration, on the one hand, and the Code or Development Agreement, on the other hand, the more restrictive provisions will apply.

(a) Residential Use. Except as expressly provided herein, each Lot and Unit shall be occupied and used only as a dwelling for residential use by the Owner, the Owner's family, tenants, and social guests or in accordance with the rental restrictions.

(b) Accessory Structures. Dog houses, tool sheds, storage sheds or structures of a similar kind or nature are not permitted on any part of the Property without prior written approval of the ARC.

(c) Temporary Structures. No structure of a temporary nature or use, including but not limited to, a trailer, mobile or manufactured home, basement foundation, tent, shack, garage, or camper shall be used on any Lot at any time as a dwelling, either temporarily or permanently. No old or secondhand structures shall be moved onto any Lots for use as a dwelling or outbuilding, it being the intention that all dwellings erected on the Lots and within the Property shall be new construction of quality workmanship and materials. Animal shelters and loafing sheds must be approved by the ACC to ensure that they are not built in a temporary fashion or out of old, aluminum, or unsightly material.

(d) Air Conditioning Units. No window air conditioning units may be installed in any Unit without prior written approval of the ARC.

(e) Animals and Pets. No animals, reptiles, livestock, horses, wildlife or poultry of any kind shall be raised, bred or kept on any portion of the Property, unless provided for by the Board in its sole and absolute discretion or otherwise required by law (e.g., persons in need of a service or emotional support animal as defined by the Americans with Disabilities Act). No visible fencing shall be allowed.

(1) Feeding. Owners, occupants, guests and licensees shall refrain from feeding mammalian wildlife & nuisance avian species.

(2) Control. All pets, including cats, must be kept within an enclosure, an enclosed yard, or on a leash held by an individual capable of controlling the animal at all times. Pets must be kept on a leash no longer than 6 feet. No animal shall be permitted to roam at large in Common Areas, Resort Property or other areas owned or controlled by Declarant or the Master Association. No pet shall be left outdoors overnight.

(3) Nuisance. The Declarant and/or the Master Association may prohibit the keeping of any animal that constitutes, in the reasonable opinion of the Declarant or the Master Association, a nuisance to any Owner, any occupant, guest or invitee of any Unit or any other person on the Property.

(4) Litter. Any pet debris deposited on lawns, sidewalks, paths, or other Common Area shall be removed immediately by the Owner and/or person responsible for the animal. Owners are encouraged to carry litter bags when walking with pets. Owners must maintain their yards free of accumulated pet debris and odors.

(5) Number of Pets. No Unit may keep more than two ordinary pets, unless

approved by the Declarant and/or the Master Association.

(6) **Injury or Damage.** Owners are solely responsible and liable for any personal injury or property damage caused by their pets. EACH OWNER SHALL DEFEND, INDEMNIFY AND HOLD DECLARANT, THE RESORT, THE MASTER ASSOCIATION AND THE VILLAGE ASSOCIATIONS HARMLESS FROM AND AGAINST ANY CLAIM, LOSS, EXPENSE, DAMAGE OR INJURY ARISING OUT OF OR RELATING TO THE OWNER'S PET(S).

(f) **Antennas, Satellite Dishes.** Except as otherwise provided by law, standard TV antennas and satellite dishes which are one meter (3.33 feet) in diameter or less shall be permitted on the Property provided such over-the-air reception devices comply with all Design Guideline requirements, screening and landscaping requirements, and other applicable Community Rules pertaining to the location and manner of installation, including submission of an installation plan with the ARC. Declarant and the Master Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Property.

(g) **Artificial Vegetation, Exterior Decorations and Lighting.** No artificial vegetation shall be permitted on any Lot. Exterior decorations, including without limitation, sculptures, fountains, flag poles, and similar items must be pre-approved by the ARC. Exterior lighting must be pre-approved by the ARC prior to installation, except for reasonable seasonal decorative lights which may be displayed only between Thanksgiving Day and February 1. Owners of the Lots or Units served by exterior lighting will be responsible for maintaining the lighting and the Master Association shall have the right, at Owner's cost and expense, to maintain and repair such lighting in the event the Owner fails to do so.

(h) **Business Use.** No business, trade, garage sale, moving sale, rummage sale, or similar activity may be conducted in or from any Unit, except as provided in this subsection, and except that an Owner or Occupant residing in a Unit may conduct "discrete business activities" within the Unit so long as the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; the business activity does not involve regular visitation of the Unit or door-to-door solicitation of residents of the Property; and the business activity is consistent with the residential character of the Property and does not violate these use restrictions. Examples of "discrete business activities" include, but are not limited to, computer-based telecommunications and literary, artistic, or craft activities. The Board, in its sole and absolute discretion, may restrict any business activities in Units that it determines interfere with the use and enjoyment of the Property. However, the leasing of a Unit in accordance with these use restrictions and any Community Rules shall not be considered a business or trade within the meaning of this subsection.

(1) The terms "business" and "trade", as used in this provision, shall be construed 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: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

(2) This subsection shall not apply to any activity conducted by Declarant or a developer approved by Declarant with respect to its development and sale or lease of any portion of the Property or its use of any Units that it owns, including utilizing a Unit as a sales office, a show house or model home or the operation of a timeshare program, interval ownership or similar



program. The Declarant or its duly authorized agents may use any Unit, outbuilding, or sales trailer owned or leased by the Declarant as a sales office, sales model, office, parking lot, or for any other temporary marketing uses as deemed necessary by Declarant and for a period of time to be determined solely by the Declarant but not to go beyond the Turnover Date.

(i) Clotheslines, Garbage Cans, Tanks. Clotheslines and clothes racks are not permitted on any portion of the Common Areas or on any Lot. Further, no items may be hung to dry over balconies, railings or other such places. Garbage cans, storage tanks, mechanical equipment, including, without limitation, electrical meters, gas meters and air conditioning compressors, or other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets and the Resort Property. All rubbish, trash, and garbage shall be stored in approved containers with lids and regularly removed from the Property and shall not be allowed to accumulate thereon. Mechanical equipment, garbage can storage structures and other such items must be pre-approved by the ARC.

(j) Holiday Decorations. Owners shall ensure that lights, particularly blinking lights or bright lights, do not disturb other Owners. Decorations shall be in good taste in the reasonable opinion of the ARC and be maintained in good repair and safe working order. Holiday decorations may not be placed on any structure, tree or plant in any Common Area. Holiday decorations should be displayed no more than thirty (30) days prior to the day of the holiday and removed within thirty (30) days after the holiday.

(k) Conversion of Carport or Garage. No conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area of any Unit is permitted.

(l) Decks. Decks must be located and built in accordance with the Design Guidelines and must be pre-approved by the ARC.

(m) Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person, other than Declarant, the Resort or the Master Association, may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself, the Resort and the Master Association a perpetual easement across the Property for the purpose of altering drainage and water flow.

(n) Dumping. No Person may dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances anywhere on the Property, except that fertilizers may be applied to landscaping on Lots, provided care is taken to minimize runoff.

(o) Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot or Unit unless it is an integral and harmonious part of the architectural design of the Lot or Unit, as determined in the sole discretion of the ARC.

(p) Exterior Hardware. The style and design of all lettering and numbering, and exterior hardware must be in accordance with the Design Guidelines.

(q) Irrigation. No sprinkler or irrigation systems of any type which draw from any body of water within the Property shall be installed, constructed or operated by any Person, other than the

Master Association, Declarant or the Resort, without the pre-approval of the ARC.

(r) Motor Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or repaired on the Property, and no inoperable vehicle may be stored or parked on any Lot so as to be visible from any Lot, Unit, street in the Community or from any portion of the Resort Property.

(s) Maintenance of Lots.

(1) Vacant Lots. Vacant Lots shall be clean in appearance and free from refuse, debris, unsightly or noxious weeds and potential fire hazards. If construction will not commence immediately upon purchase of a Lot, Declarant recommends that "No Dumping" signs be posted on the Lot. Furthermore, Declarant reserves the right, during the period of Declarant Control, to place such signs in the event Owner fails to do so. Vacant Lots are not to be used as storage areas. The Association will notify Owners if Lot cleaning or maintenance is required. Upon the failure to maintain the premises as aforesaid to the satisfaction of the Master Association, the Master Association may, but shall not be required to, enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of fifteen percent (15%) of such amount shall be assessed against the affected Owner(s) as a Special Assessment in accordance with Article IX hereof.

(2) Landscaping. All Owners are required to install or cause to be installed landscaping based on the rules and restrictions described in the Design Guide. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Lot and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Lot. All landscaping, sprinkler systems and any property, structure, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition. Trees and shrubs shall be properly maintained to prevent impeding line of sight for traffic signs and vehicular traffic. They shall not impede passage on sidewalks or cause damage to sidewalks. Trees must not block Unit addresses. Rockscape stones and rock mulch must be contained and maintained within planter beds and not allowed to encroach onto other Lots or Common Areas. Unless otherwise provided in a Supplemental Declaration or Village Declaration, the Owner shall be responsible for the routine maintenance of the lawn and/or vegetation on each Lot. Upon the failure to maintain the premises as aforesaid to the satisfaction of the Master Association, the Master Association may, but shall not be required to, enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of fifteen percent (15%) of such amount shall be assessed against the affected Owner(s) as a Special Assessment in accordance with Article IX hereof.

(3) Painting/Staining. The exterior of all Units shall be maintained by each Owner and shall at all times be kept in good condition and repair and adequately painted, stained or otherwise finished, applied evenly, and no excessive cracks, peelings, or strippings shall be allowed to remain unremedied. Upon the failure to maintain the premises as aforesaid to the satisfaction of the Master Association, the Master Association may, but shall not be required to, enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of fifteen percent (15%) of such amount shall be assessed against the affected Owner(s) as a Special Assessment in accordance with Article IX hereof.

(4) Roofing. The roofs of all Units shall be maintained by each Owner in a clean, neat and attractive condition with a full complement of roof tiles or shingles, unless otherwise provided in a Village Declaration. Upon the failure to maintain the premises as aforesaid to the

satisfaction of the Master Association, the Master Association may, but shall not be required to, enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of fifteen percent (15%) of such amount shall be assessed against the affected Owner(s) as a Special Assessment in accordance with Article IX hereof.

**Other Exterior Structures.** All Owners are required to maintain other elements of the exterior of the Unit, including, but not limited to, to the exterior repair of patios and other structures, decks, walkways, entry doors, driveways, garage doors, walls and fencing and gates. This includes making repairs in a timely manner or replacing any damaged elements as necessary. Faded, chipped or peeling surfaces must be promptly repaired and/or refinished. Upon the failure to maintain the premises as aforesaid to the satisfaction of the Master Association, the Master Association may, but shall not be required to, enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of fifteen percent (15%) of such amount shall be assessed against the affected Owner(s) as a Special Assessment in accordance with Article IX hereof.

(t) **Nuisance.** No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding Units. No activity shall be conducted nor shall there be maintained any animal, plant, device or thing of any sort on the Property which is in any way noxious, dangerous, illegal, offensive, unsightly, unpleasant or of a nature that could diminish or destroy any portion of the Property. The playing of paintball games constitutes an activity that is prohibited. The Declarant or the Master Association shall have the right, in its reasonable discretion, to determine if any substance or activity constitutes a nuisance and give the Owner(s) written notice thereof. Upon the failure to remedy the nuisance to the satisfaction of the Master Association, the Master Association may, but shall not be required to, enter upon such premises and make such improvements or corrections as may be necessary, the costs of which along with an administrative surcharge of fifteen percent (15%) of such amount shall be assessed against the affected Owner(s) as a Special Assessment in accordance with Article IX hereof.

(u) **On-Site Fuel Storage.** No on-site storage of gasoline or other fuels in excess of five (5) gallons for operation of lawn maintenance and similar equipment and/or emergency purposes shall be permitted on any part of the Property except that the Master Association shall be permitted to store fuel for operation or maintenance vehicles, generators and similar equipment. Notwithstanding this provision, fuel tanks for storage of fuel for ranges, ovens, dryers, water heaters, dwellings, pools, gas grills and similar equipment may be permitted if installed underground or appropriately screened and pre-approved by the ARC.

(v) **Unsightly Storage and Materials.** All storage and refuse containers, compost piles, utility pipes, etc., must be stored or placed at the rear of the Unit or located so as to not be visible from any roadway. Air conditioning equipment, electric panels and gas meters must be located on the sides or the rear of the Unit, never in the front yard. To preserve and protect the appearance of the Property, trash piles, broken or unfinished buildings, unused building materials, broken or inappropriate fencing, and any or all unsightly objects must not be allowed to accumulate and must be disposed of in a timely fashion. Livestock feed shall be stored in a permanent covered structure. Brightly colored tarps and/or plastic covers are not acceptable for livestock feed, wood piles, vehicles or other items

(w) Parking.

(1) **No Street Parking.** It is the intent of Declarant to restrict on-street (public and private) parking as much as possible. Vehicles of all Owners and occupants and their guests, licensees or invitees, as applicable, are to be kept in garages, residential driveways of the Owner, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot or Parcel; provided, however, this Section shall not be construed to permit the parking in the above described areas of any vehicle whose parking on the Community is otherwise prohibited or the parking of any inoperable vehicle.

(2) **Commercial Vehicles.** No person shall park, store, or keep any disabled, unregistered, unlicensed, or large commercial-type vehicle (including, without limitation, dump trucks, cement mixers, oil or gas delivery trucks, and other similar vehicles) anywhere on Lots other than fully enclosed within the garage. Commercial Vehicles as used herein means every vehicle designed, maintained or used for the furtherance of commercial enterprise. A commercial vehicle may be parked on a street for the reasonable purpose of prompt loading, unloading, delivery, maintenance/repair and or landscaping. No person shall park, store or keep anywhere with the Community any vehicles that have toxic or hazardous materials or are deemed a nuisance concern in the reasonable judgment of the Declarant or Master Association.

(3) **Recreational Vehicles.** No boat, camper, recreational vehicle, trailer, van, or motor home of any type shall be kept, placed, maintained, constructed, reconstructed or repaired, nor shall any motor vehicle be constructed, reconstructed or repaired, upon any property or street (public or private) within the Community in such a manner as will be visible from a neighboring Lot or Unit, except temporarily for the purpose of loading and unloading as determined by the Board and promulgated as part of the Community Rules.

(4) **Garages.** Garages must be maintained for their intended purpose and cannot be converted to living or office space without the prior written approval of the ARC. Garage doors shall be kept closed for safety and security and must be maintained in good working order.

(5) The Supplemental Village Declarations for each Village may designate specific allowances, restrictions and information on parking and parking pads applicable to each Village Area.

(x) **Equipment.** All unsightly structures, facilities, equipment, objects, and conditions, including sporting equipment (such as skis, snowboards, bikes, mountain bikes, kayaks, and so forth), and snow removal, garden or maintenance equipment, except when in actual use, shall be kept in an enclosed structure or in a screened area approved by the ARC. Notwithstanding the above, the Board may, but shall not be obligated to, permit swing sets and similar permanent playground equipment to be erected within the Property provided they are pre-approved by the ARC. Any playground or other play areas, equipment or sport courts furnished by the Master Association or erected anywhere within the Property shall be used at the risk of the user, and neither the Declarant nor the Master Association shall be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

(y) **Pools.** No above-ground pools, spas or Jacuzzis shall be erected, constructed or installed on any Lots, except as may be permitted and pre-approved by the ARC.

(z) **Roadways, Sidewalks, Driveways.** All utilities within the Property shall be installed

underground, unless otherwise specifically pre-approved by Declarant or the ARC. To the extent possible, utility lines, including without limitation cable television and gas lines, should be installed, repaired or replaced under existing roadways, sidewalks and driveways by a method which will not disturb the paved surface of such roadway, sidewalk or driveway. This restriction is intended to preserve the aesthetic nature of the paved surfaces.

(aa) Signs and Flagpoles. No flagpoles or "for rent" signs or signs identifying contractors of any kind shall be erected on the Property. A "for sale" sign is permitted on a Lot provided the sign style and location of the sign comply with the requirements of the ARC, which may include, without limitation, use of a standard sign. No other signs, billboards or advertisements shall be erected on the Property except as pre-approved by the ARC. However, the Master Association shall have the right to erect such signage as it deems necessary or appropriate.

(bb) Smoking. Smoking, vaping and similar conduct shall not be permitted anywhere on the Property except by an Owner, its guests, licensees or invitees on the Owner's own Lot.

(cc) Alcohol. The Declarant and the Board reserves the right, in its sole discretion, to restrict the consumption of alcohol on the Property.

(dd) Subdivision of Unit. No Lot shall be subdivided or its boundary lines changed except by Declarant or by Owners with the prior written approval of the Board. This paragraph shall not prohibit ownership of a Unit by up to four joint tenants or tenants-in-common.

(ee) Occupants Bound. All provisions of the Governing Documents or any use restrictions promulgated pursuant thereto that govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Unit. Every Owner shall cause all occupants of his or her Unit to comply with the Governing Documents and shall be responsible for all violations and losses to the Common Area caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Governing Documents. All Owners, by acquiring and retaining a Lot or Unit specifically agree that in the event of resale, the new Owner, as a condition thereof, shall agree to and abide by the terms of the Governing Documents, and any and all amendments or changes that may be made to the foregoing.

## 2. LEASING OF UNITS

(a) Definition. "Leasing", for purposes of this Master Declaration, is defined as regular, long term, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or payment of any kind.

(b) Leasing Provisions. Units may be leased only in their entirety; no fraction or portion may be leased. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Master Association. All leases shall be in writing in a form approved by the Master Association and shall be for a minimum term of one hundred and twenty (120) days. The Master Association reserves the right to limit the maximum number of times a particular Unit may be rented in any given year. The Master Association may charge each Owner an administrative fee for reviewing and approving proposed leases. The Owner must make available to the lessee copies of the Governing Documents. All leases shall require that the tenant acknowledge receipt of the Governing Documents and provide that, in the event of non-compliance, the Board may, in addition to other

remedies available to it, evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the tenant. All Leases and the occupancy thereunder are subject to compliance with County Ordinance Section 11.08 and all other governing County ordinances and Utah law. Except as expressly authorized herein, a Unit cannot be leased for any business or commercial use. This paragraph shall not apply to leasing by Declarant or its successors, assigns or affiliates.

### 3. RENTAL OF UNITS

(a) Definition. "Rental", for purposes of this Master Declaration, is defined as regular, nightly or short term, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or payment of any kind.

(b) Rental Provisions. Declarant, in its sole and subjective discretion, may designate particular Units for which Rentals shall be allowed on a nightly or short-term basis not to exceed a maximum term of thirty (30) days. A Unit shall not be rented for less than two (2) consecutive days, which shall include at least one (1) overnight period. Units may be rented only in their entirety; no fraction or portion may be rented. All Rentals shall be overseen and managed exclusively by the Resort and are subject to the terms and conditions of a written rental and management agreement or program, approved by Declarant in its sole and absolute discretion, between the Resort and the Owner of the Unit, and which shall include fees charged by the Resort relating to Rentals. The Master Association shall have no right to limit the maximum number of times a particular Unit may be rented in any given year. All Rentals and the occupancy thereunder are subject to compliance with County Ordinance Section 11.08 (Short Term Home Rentals), as amended or where hereinafter codified, and all other governing County ordinances and Utah law, and it shall be the sole responsibility of Owner to ensure such compliance, including securing and maintaining any necessary business license(s). Except as expressly authorized herein, a Unit cannot be rented for any business or commercial use.

(c) Time Share. No time-sharing of Units is allowed.

### 4. COMPLIANCE WITH THE DOCUMENTS

Every Owner shall cause all occupants of his or her Lot to comply with the Governing Documents, and shall be responsible for all violations and losses to Common Area caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Governing Documents.

### 5. EXCULPATIONS AND APPROVALS

Declarant, the Master Association, the ARC, the Resort and any of their agents may grant, withhold or deny their consent, permission or approval in any instance when their consent, permission or approval is permitted or required at their sole discretion and without any liability of any nature or kind to any Owner or any other Person for any reason whatsoever and shall be indemnified and held harmless by such Owner or other Person from any and all damages resulting therefrom, including, but not limited to, court costs and reasonable attorneys' fees. Every consent, permission or approval by Declarant, the Master Association, the ARC, the Resort or any of their agents under this Master Declaration shall be in writing and binding upon all Persons.

### 6. COMMUNITY-WIDE STANDARDS, COMMUNITY RULES

The Master Association, through the Board, shall have the right to promulgate and impose further Community-Wide Standards or any Community Rules of the Master Association and thereafter to modify, alter, amend, rescind and augment any of the same with respect to the use, operation and enjoyment of all or a portion of the Property, the Common Area, the Exclusive Common Area and any improvements located thereon including, but not limited to, establishing reasonable fees for the use of facilities and establishing hours and manner of operation.

**7. NOTICE TO PURCHASERS AND OWNERS ACKNOWLEDGEMENT**

All Owners and occupants of Lots are given notice that use of their Lots is limited by the Governing Documents as they may be amended and any Supplemental Declarations. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Governing Documents may be amended and changed from time to time.

**ARTICLE VI  
DESIGN REVIEW AND ARCHITECTURAL CONTROL**

**1. ARCHITECTURAL CONTROL**

No construction or development activities, including, without limitation, staking, clearing, landscaping, excavation, grading or other site work, shall be commenced or maintained on any Lot or the Common Areas, no building, structure or other improvement of any kind, including, without limitation, fences, walls, mailboxes, decks, porches, gazebos, pools and hot tubs shall be commenced, erected or maintained within the Property, and no exterior addition, change or alteration of any nature to the Lots, Units or other existing improvements within the Property, including, without limitation, changes in color, changes or additions to driveway or walkway surfaces and landscaping modifications (hereinafter, individually and collectively referred to as "Improvements"), shall be made until and unless the requirements of this Article VI have been fulfilled.

**2. INITIAL CONSTRUCTION**

To the extent the Declarant has reserved rights of architectural review, approval or control over all or any portion of the Community pursuant to any contract, deed, covenant or other agreement, then the provisions of such other contract, deed, covenant or other agreement shall control and supersede any other matter otherwise within the scope of this Article and the approval by the Declarant pursuant to such other contract, deed, covenant or other agreement of any other matter otherwise within the scope of this Article shall be deemed full and complete compliance with this Article. To the extent the Declarant has expressly assigned in writing any or all of its reserved rights pursuant to this Article to the ARC, then any such assigned rights shall be exercisable by the ARC, as set forth herein.

**3. DESIGN REVIEW**

(a) Design Review by the Declarant. Each Owner, by a deed or other instrument conveying an interest in any portion of the Property, acknowledges that, as the developer and initial owner of the Property, the Declarant has a significant and substantial interest in ensuring that the improvements within the Property enhance the Community and do not adversely impact the ability of

the Declarant to market, sell or lease any portion of the Property. Each Owner, by acceptance of a deed or other instrument conveying an interest in any portion of the Property, agrees that no Improvements shall be commenced within or upon a Lot unless and until the Declarant has given its prior written approval for such Improvements, which approval may be granted or withheld in the sole discretion of the Declarant. In reviewing and acting upon any request for an approval, the Declarant shall be acting in its own interest and shall owe no duty to any other Person, including, without limitation, the Master Association or any of its Members.

The rights reserved to the Declarant pursuant to this Article shall be applicable for the duration of the Declarant's Rights Period (defined below), unless earlier assigned or terminated by a written instrument executed by the Declarant.

(b) Architectural Review Committee. The Declarant may, but shall not be obligated to, assign all or a portion of its reserved rights under this Article to the ARC, subject to (i) the right of the Declarant to revoke such assignment at any time and thereafter resume jurisdiction over the matters previously assigned to the ARC and (ii) the right of the Declarant to veto any decision of the ARC which the Declarant believes, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as the Declarant has retained any rights under this Article, the authority of the ARC shall be limited to such matters as are specifically assigned to it by the Declarant. Unless and until such time as the Declarant assigns all or a portion of its reserved rights, neither the ARC nor the Master Association shall have any authority over design matters and upon any such assignment, the ARC shall accept and exercise the authority so assigned strictly in accordance with this Article and in accordance with any such assignment.

The ARC, if and when appointed, shall consist of at least three members who shall serve and may be removed and replaced in the discretion of the Board. The members of the ARC need not be Members of the Master Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The duties of the ARC established under this Article shall be exercised by the Board in the event that an ARC is not appointed by the Board or to the extent any such duties are not delegated by the Board to the ARC.

(c) Design Review by the ARC. Upon expiration or termination of the rights of the Declarant under this Article, the ARC shall assume responsibility for design matters hereunder and shall be entitled to exercise all those powers previously reserved to the Declarant pursuant to this Article.

(d) Application Fees and Reimbursements. The Declarant and thereafter the ARC may establish and charge reasonable fees for review of applications and plans hereunder. In addition, the Declarant or the ARC may retain architects, engineers or other design professionals to assist in the review of any application and plans, and the Declarant or the ARC may require reimbursement by the applicant of fees charged by any architect, engineers or other design professionals. Fees must be paid at the time the plans are submitted for approval.

(e) Architectural Performance Bond. A bond is required to be posted to ensure timely and full completion of all proposed building plans ("Architectural Performance Bond"). The amount of the Architectural Performance Bond shall be established by the ARC and must be in place to receive final approval from the ARC before plans are submitted to Wasatch County for a building permit.



(1) Approval. When all the required landscaping is complete, the Owner shall notify the ARC. Within thirty (30) days of receiving notification from the Owner, an inspection will take place, and if the approved landscaping has been completed in accordance with the approved plan, the Landscape Bond will be released. Any changes to the approved plan must be approved by the ACC, but the ARC is under no obligation to approve any changes and may require specific performance of the approved plan. Owners are required to complete all landscaping and auto-matic sprinkling systems in a timely manner. The ARC is authorized to use the Landscape Bond if it becomes necessary to enforce timely compliance of the approved landscaping design plans, whether specific performance or other legal remedies of the plans are sought in court or whether the Owner completes the improvements in accordance with the approved plans. Any additional charges incurred by the ARC and/or the Association shall be an Assessment against the Owner and a lien against such Lot enforceable in the manner(s) set forth in the Governing Documents.

(2) Notice to Perform. If the deadline for the completion of landscaping has passed and Owner has failed to complete the landscape plan and sprinkler system as approved by the ARC, the ARC shall serve Owner with a written "Notice to Perform". If upon the thirtieth day after the Notice to Perform is mailed, the Owner continues to be out of conformity with the approved plan, with conformity being defined as completion of the landscaping and automatic sprinkling system, mailbox and all other improvements approved by the ARC in conjunction with such landscape plan, the ARC and/or the Association will then have the right to enter upon the property of the Owner and to complete the landscaping plan originally submitted to the ARC by the Owner. The ARC and/or the Association shall have the right to pay for all the required landscaping and sprinkling system using either the Landscape Bond or assessing the Owner to fund such improvements, or both if so necessary. In addition, the ARC and/or Association may seek specific performance of these obligations. Any additional charges incurred by the ARC and/or the Association shall be an Assessment against the Lot Owner and a lien against such Lot enforceable in the manner provided as set forth elsewhere in the Governing Documents.

(f) Landscape Performance Bond. To ensure speedy and proper completion of landscaping and sprinkling systems, a landscape and sprinkler bond must be deposited with the ARC ("Landscape Performance Bond"). The amount of the Landscape Performance Bond shall be established by the ARC and must be in place to receive final approval from the ARC. The ARC must receive and approve the landscaping design and automatic sprinkling plans, which plans must include mailbox design and placement, plant materials, species, sizes, sprinkling system layout, acceptable hard surface materials and proposed changes to natural grade, any retaining by rocks, blocks, or concrete and how the proposed landscaping affects adjoining properties. This bond will be released upon written request of the Owner and after a final inspection of the property to determine compliance of the approved plan. When construction is completed as approved, the ARC will issue a release letter to be taken to Wasatch County to obtain a certificate of occupancy.

(1) Strict Compliance. In order to ensure the quality and value of the Property, all Improvements, and remodeling or alterations must strictly comply with what the ARC has approved. Simultaneously with ARC approval of the plan, or with any construction going forward at a future date, of any Improvements, remodeling or alteration, and to ensure completion, an Owner must post the cash Architectural Performance Bond to be held by the ARC. The ARC is authorized to use the funds if it becomes necessary for the ARC to enforce the approved plans, complete or modify the Improvements or alterations, as well as to cover any legal fees related to the enforcement of the ARC requirements in accordance with this Declaration. If an Owner fails to keep the construction site and roads in front of the site clean and clear from mud and debris, the ARC may use the Architectural Performance Bond to

remedy these violations. If the ARC uses any portion of the Architectural Performance Bond to remedy any violations, construction must cease and the Owner must deposit additional fees, as determined in the reasonable discretion of the ARC, to recharge and/or increase the bond amount before any construction may resume.

(2) **Unauthorized Construction.** If variations to what has been approved by the ARC occur, or if construction, remodeling or alterations are undertaken without compliance with these CC&R's, such construction, remodeling or alterations of an Improvement will be deemed to have been undertaken without the required approval of the ARC. If the ARC becomes aware that construction is not adhering to what has been approved or that construction has not been approved, the ARC will notify the Owner and may file a cease and desist order with Wasatch County to stop construction.

(3) **ARC Dispute Resolution.** If notification occurs, the Owner shall have fifteen (15) days to communicate in writing with the ARC to resolve the issue. After a period of thirty (30) days from the notice date, the ARC shall have authority to record a notice of interest or notice of lien in the office of the Wasatch County Recorder. Thereafter, mediation or legal proceedings may be instituted to enforce compliance. If it is necessary for the ARC to seek an injunction, the ARC is not required to follow the dispute resolution restrictions herein but can file for an injunction directly in a court of law. Any additional charge incurred by the ARC and/or the Association shall be an Assessment against the Owner and a lien against such Lot, enforceable as set forth elsewhere in the Governing Documents.

#### **4. DESIGN REVIEW GUIDELINES AND PROCEDURES**

(a) **Design Guidelines.** The Design Guidelines that have been adopted by the Declarant and the Master Association and are incorporated herein by reference. The Design Guidelines provide guidance to Owners and Builders regarding matters deemed to be of relevance or importance to the ARC in considering applications for design approval and set forth minimum requirements for all Improvements with the Property and are available upon request by an Owner to the Master Association. The Design Guidelines shall not be the exclusive basis for decisions hereunder and compliance with the Design Guidelines shall not guarantee approval of an application. The Design Guidelines may contain general provisions applicable to all of the Community, as well as specific provisions which vary from one portion of the Community to another, depending upon the location, type of construction or use, and unique characteristics of the property.

The Design Guidelines adopted pursuant to this Article shall be subject to modification and amendment from time to time in the sole discretion of the ARC. Modifications and amendments to the Design Guidelines shall not apply to or require modifications to or removal of Improvements previously approved once such Improvements have commenced. There shall be no limitation on the scope of modifications or amendments to the Design Guidelines. All modifications and amendments to the Design Guidelines shall be published in Association newsletters, electronic bulletin boards, by e-mail, or by other means calculated to give reasonable notice to Owners of such modifications or amendments; provided, however, that the failure of any Owner to actually receive any Design Guideline or modification or amendment to the Design Guidelines pursuant to this Article, shall not affect the validity of any such Design Guideline or modification or amendment thereto.

The ARC shall make copies of the Design Guidelines available to Owners and Builders and may charge a reasonable fee to cover the costs of providing the Design Guidelines.

(b) **Procedures.** As part of the Design Guidelines, the ARC shall make and publish such

Community Rules as it may deem appropriate to govern its proceedings. Appeals shall be conducted as provided in the Bylaws. After the Declarant Rights Period, the ARC shall act by a majority vote of those present in any meeting called for conducting the official business of the ARC.

(c) ARC Decisions. The ARC shall endeavor to approve the location of each Dwelling, Outbuilding, and Improvement to ensure minimum interference with the views of other Lots insofar as is practical. Understanding that it cannot control all interference with views of other Units or aesthetic objections, the ARC will strive to accommodate the Owners' interests consistent with each Owner's concerns, but does not guaranty that each concern will be resolved. The Owners will be bound by the ARC's decision.

(d) Variances. The ARC has authority to deviate from the requirements contained herein and in other Governing Documents when, in the reasonable opinion of the ARC, extenuating circumstances exist, or if strict compliance would create an unreasonable hardship or burden for a Lot or Unit Owner. Variance requests must be in line with accomplishing the overall intent of the CC&R's, as well as to maintain property values. A majority of the members of the ARC must approve any variance. The ARC does not, however, have authority to allow deviation from governmental requirements and restrictions. Furthermore, the approval of the ARC of any plans or specifications submitted for approval as herein specified for use on any Unit shall not be deemed to be a waiver by the ARC of its rights to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided for use on other Unit and Improvements. In other words, approving a variance for one or more Lots does not mean that the ARC is bound in any way to approve the same variance for other Lots.

## 5. LIMITATIONS OF LIABILITY

The ARC shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither Declarant, the ARC, nor any individual ARC member, shall be liable to any person for any official act of the ARC in connection with submitted plans and specifications, except to the extent the ARC or any individual ARC member acted with gross negligence or was guilty of willful misconduct. Approval by the ARC does not necessarily assure approval by the appropriate Municipal Authority. The ARC is separate from, not affiliated with, and not governed by any Municipal Authority. Notwithstanding that the ARC has approved plans and specifications, neither the ARC nor any of its members shall be responsible or liable to any Owner, developer, or contract holder with respect to any loss, liability, claim, or expense which may arise by reason of such approval of the construction of any Improvements. The Board, the ARC, or any agent thereof, or Declarant or any of its shareholders, employees, agents, or consultants shall not be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Governing Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the ARC and its members shall be defended and indemnified by the Master Association in any such suit or proceeding which may arise by reason of the ARC's decision. The Master Association, however, shall not be obligated to indemnify each member of the ARC to the extent any such member of the ARC shall be adjudged to be liable for gross negligence or willful misconduct in the performance of his, her, or its duty as a member of the ARC, unless and then only to the extent that the court in which such action or suit may be 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 indemnification for such expense as such court shall deem proper.

**6. CERTIFICATE OF COMPLIANCE**

Upon payment of a reasonable fee established from time to time by the Board, and upon written request of any Owner or his, her, or its agent, an existing or prospective Mortgagee, or a prospective grantee, the ARC shall issue an acknowledged certificate, in recordable form, setting forth generally, to the best of the ARC's knowledge, that the Owner is not in violation of any of the terms and conditions of the Governing Documents. Unless such request shall be complied with within sixty (60) days after receipt of the request, it shall be conclusively presumed that the Owner and the Owner's Improvements are in conformance with all the terms and conditions subject to the control of the ARC.

**7. RIGHTS OF THE RESORT**

The Resort shall be given 15 days prior written notice of all meetings of the ARC wherein the Improvement under consideration (or any portion thereof) is contiguous to the Resort Property or in the direct line of sight from the Resort Property for the depth of one Lot. If in the reasonable opinion of the Resort the Improvement being reviewed has a material adverse impact on recreational amenity, whether by restriction of view, hazards to person or otherwise, then, in that event, the Resort may disapprove the proposed Improvement irrespective of the approval of same by the ARC and the Owner shall resubmit to the ARC the proposed Improvement so as to take into account the objection of the Resort, which shall be submitted in writing to the Owner by the ARC.

**8. IMPROVEMENTS BY DECLARANT; AMENDMENT**

This Article VI shall not apply to any Improvements to the Property made by the Declarant or on behalf of the Master Association. This Article may not be amended without the Declarant's prior written consent and the Resort's prior written consent so long as the Declarant owns any portion of the Property or the Additional Property.

**ARTICLE VII  
VILLAGES AND VILLAGE ASSOCIATIONS**

**1. VILLAGES**

A parcel of land intended for development as a residential area may constitute a Village, subject to further division into more than one Village upon further development. Declarant may designate Villages by the Master Plan or by Supplemental Declaration. The Lots within a particular Village may be subject to additional covenants. Owners of Lots within a Village may be members of a Village Association in addition to the Master Association, but no such Village Association shall be required except in the case of a condominium or as otherwise required by law. Each Village, upon the affirmative vote, or written consent, or a combination thereof, of a majority of Owners within the Village, may request that the Master Association provide a higher level of service or special services for the benefit of Lots in such Village, the cost of which shall be assessed against the benefited Lots as a Village Assessment. The Master Association may, but is not required to, provide such higher level of services. The Board of the Master Association may consult on an advisory basis with the Board of a Village Association on maintenance of Exclusive Common Area and other issues affecting the Village.

**2. EXCLUSIVE COMMON AREA**

(a) Village Expense. All costs and expenses of the Exclusive Common Area shall be borne by the Owners of Lots located in the Village benefited by such Exclusive Common Area, as set forth in a Supplemental Declaration or a Village Declaration, if any.

(b) Operation of Village Association. A Village Association shall have the right, subject to Declarant's prior consent if prior to the Turnover Date, to contract with the Master Association to provide for the operation and maintenance of its Exclusive Common Area.

**3. CERTAIN RIGHTS OF DECLARANT REGARDING VILLAGE ASSOCIATIONS**

Declarant hereby reserves the right, and the power, but neither the duty nor the obligation, without the consent of any other Person:

(a) to determine consistency of any Village Documents with this Master Declaration, and approve and consent to any Village Documents and any amendments thereto prior to their recordation in Wasatch County, Utah. Village Documents shall not be effective until Declarant approves and consents to them in writing;

(b) to require that specific provisions be included in Village Documents as Declarant reasonably deems appropriate, including, without limitation, any provisions required to render such Village Documents consistent with this Master Declaration;

(c) to require that the fiscal year of any Village Association be the same as that of the Master Association;

(d) to require that the Master Association approve the budget of any Village Association prior to the approval by the Village Association;

(e) to create additional Village Associations for the operation, administration and maintenance of any Village, or groups of Villages; and

(f) to approve or disapprove the merger of any two or more Village Associations.

**4. CERTAIN RIGHTS OF ASSOCIATION REGARDING VILLAGE ASSOCIATIONS**

(a) Enforcement. If any Village Association fails to comply with this Master Declaration or any of the other Governing Documents or any Village Documents, the Master Association shall have the right and power, but neither the duty nor the obligation, to enforce the provisions of this Master Declaration or the Village Documents, or to perform the Village Association's duties and responsibilities, or to seek judicial relief or remedy to require compliance with same, and to obtain payment of the cost of such performance or enforcement, plus a reasonable administrative charge equal to ten percent (10%) of such amount.

(b) Special Assessments. The Master Association shall have the right, in addition to any other rights of the Master Association, to specially assess the members of a Village Association and such Village Association for expenses incurred by the Master Association for such Village Association.

(c) Collection of Assessments. Upon request by the Master Association, each separate

Village Association shall collect from each Owner (other than the Declarant) the Common Assessments for the Master Association for each Lot within the Village and shall promptly remit such amounts to the Master Association. In the event that any Owner shall fail to pay to the Village Association his or her Common Assessments as levied by the Master Association, the Master Association shall have the right to collect such Assessments directly from such Owner.

(d) Entry Rights. The Master Association shall have the right, for itself, its designee, or any agent or employee, to enter upon any property administered by a Village Association to carry out the provisions of the Governing Documents or the applicable Village Documents and the same shall not constitute a trespass.

(e) Delegation. The Master Association shall have the right and power, but neither the duty nor the obligation, to assign in whole or in part, exclusively or non-exclusively, and on a permanent or temporary basis, to any Village Association any obligation of maintenance or repair created under this Master Declaration or by assignment from Declarant. If a Village Association does not accept such rights and obligations in a manner consistent with the standards established by the Master Association, then the Master Association shall have the right, but not the obligation, by its sole act, to terminate such assignment, and again fulfill such rights and obligations.

(f) Right to Maintain Exclusive Common Area. The Master Association shall have the right to maintain the Exclusive Common Area of a Village, including in particular, all landscaping within the Village, and may assess the cost of such maintenance as a Village Expense.

(g) Priority. When Village Documents are in conflict with this Master Declaration, or any of the other Governing Documents, the latter shall prevail.

## ARTICLE VIII MEMBERSHIP AND VOTING RIGHTS

### 1. CLASSES OF MEMBERSHIP AND VOTING RIGHTS

The Master Association shall have two classes of membership, Class "A" Membership and Class "B" Membership as follows:

(a) Class "A" Membership. Class "A" Members shall be all Owners of fee title to Lots other than Declarant. The total number of memberships that may be issued in Class "A" shall be equal to the maximum number of Lots that are permitted be constructed in the Community.

(b) Class "B" Membership. The Class "B" Member shall be Declarant. The Class "B" Member shall be entitled to appoint all of the members of the Board prior to the Turnover Date. On the Turnover Date, the Class "B" Membership shall terminate and, notwithstanding anything else contained herein, Declarant shall become a Class "A" Member. The total number of memberships that may be issued in Class "B" shall be one.

### 2. VOTING

Each Class "A" Member shall be entitled to one vote for each Lot owned in any vote of the Class "A" Members. The Class "B" Member shall be entitled to five votes for each Lot owned by the

Class B Member.

**3. JOINT OWNERSHIP**

Voting rights may be exercised by a Member or the Member's spouse. In any situation where more than one Person holds an interest in a Lot, the vote for that Lot shall be exercised by any such Person; provided, however, the Persons holding the interest in the Lot can notify the Secretary of the Master Association, in writing, prior to or during any meeting of the manner in which the vote for the Lot is to be exercised and, in the absence of such notice, the Lot's vote shall be suspended if more than one Person seeks to exercise it. The voting rights of a Member that is a company or other form of entity ownership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Master Association.

**4. TURNOVER DATE**

The Turnover Date shall occur within 60 days of the occurrence of the earliest of the following conditions:

(a) the sale of all of the Lots intended to be developed within the Property and the Additional Property to initial retail purchasers; or

(b) such earlier date, as determined by the Declarant, in its sole and absolute discretion by providing written notice to the Master Association.

**5. THE RESORT'S APPROVAL RIGHTS**

The Resort shall have the right to disapprove actions of the Board and any committees which in its reasonable judgment materially and adversely affect the use of the Resort Property or its rights or obligations under this Master Declaration. This right may be exercised by the Resort at any time within 10 days after the Resort's receipt of written notice of such proposed action. This Article VIII, Section 5 may not be amended without the prior written consent of the Resort.

**6. TRANSFER OF MEMBERSHIP**

The rights and obligations of any Member other than Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership of the Lot. A transfer of ownership of a Lot may be effectuated by Deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Each purchaser of a Lot shall notify the Master Association of its purchase of such Lot.

**ARTICLE IX  
ASSESSMENTS**

**1. AFFIRMATIVE COVENANT TO PAY ASSESSMENTS**

There is hereby imposed upon each Owner and each Lot, the affirmative covenant and

obligation to pay to the Master Association all Assessments in respect of the Lot. Each Owner, by acceptance of a deed or other instrument conveying title to a Lot, whether or not it is so expressed in such deed or instrument, shall be obligated and agrees to pay all Assessments, regardless of their nature, including, but not limited to, any then past-due Assessments in accordance with the provisions of this Master Declaration and consents and agrees to the lien rights hereunder against the Lot. The liability for Assessments is personal to the Owner and may not be avoided by waiver of the use or enjoyment of Common Area or Exclusive Common Area, or by abandonment of the Lot for which the Assessments are made. Neither the liability for Assessments, nor the amount of Assessments, shall be reduced or avoided due to the fact that all or any portions of the Common Area, Exclusive Common Area or other portions of the Property are not completed. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Master Association or the Board to take some action or perform some function required to be taken or performed by the Master Association or the Board under this Master Declaration, the Articles of Incorporation, or the By-Laws or for inconvenience or discomfort arising from the making of repairs or improvements, or from any action taken to comply with any law or with any order or directive of any municipal or other governmental authority. BY PURCHASING A LOT WITHIN THE PROPERTY, EACH OWNER HEREBY ACKNOWLEDGES ITS AFFIRMATIVE COVENANT AND OBLIGATION TO PAY TO THE MASTER ASSOCIATION ALL ASSESSMENTS (INCLUDING, WITHOUT LIMITATION, COMMON ASSESSMENTS, VILLAGE ASSESSMENTS, SPECIAL ASSESSMENTS AND ASSESSMENT BONDS) IN RESPECT OF THE LOT.

## 2. CREATION OF ASSESSMENTS

There are hereby created Assessments for expenses of the Master Association as the Board may authorize from time to time to be commenced at the time and in the manner set forth in Article IX, Section 3 hereof. There shall be three types of Assessments:

- (a) Common Assessments. Common Assessments shall be levied equally on all Lots.
- (b) Village Assessments. Village Assessments shall be levied equally on all Lots within the Village for whose benefit Village Expenses are incurred as provided in Article IX, Section 5, below; and
- (c) Special Assessments. Special Assessments shall be levied as provided in Article IX, Section 6, below.
- (d) Assessment Bonds. Assessments Bonds shall be levied as provided in Article IX, Section 6, below.

No Assessment, of any kind, shall be assessed against the Resort Property.

## 3. PAYMENT OF ASSESSMENTS

Assessments shall be paid in such manner and on such dates as may be fixed by the Board, which may include, without limitation, an acceleration of the annual Common Assessment and any Village Assessment for delinquent payments. Unless the Board provides otherwise, the Common Assessment and any Village Assessment allocated to a Lot shall be paid in advance on a quarterly basis. Following the Turnover Date, Declarant shall pay Assessments on any Lot it owns, as and when such Assessments become due. The Master Association shall, upon demand at any time, furnish to



any Owner liable for any type of Assessment a certificate, in writing, signed by an officer of the Master Association, setting forth whether such Assessment has been paid in respect of any particular Lot. Such certificate shall be conclusive evidence that the Assessment stated therein has been paid to the Master Association. The Master Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

#### **4. COMPUTATION OF ASSOCIATION ASSESSMENTS**

It shall be the duty of the Board to prepare a budget annually that shall reflect the estimated revenues and Common Expenses of the Master Association for the ensuing fiscal year, including but not limited to, fees and charges for Telecommunication Services, defined below, and use of Common Area charged by the Master Association, if any; the estimated surplus or deficit; and the estimated funds necessary to maintain the accounts established by the Board in accordance with the By-laws (including any capital replacement reserve accounts provided for in the Master Association's budget). The Common Assessment levied against each Lot which is subject to the Common Assessment shall be computed by dividing the budgeted Common Expenses by the total number of Lots which are subject to Common Assessments plus the total number of Lots reasonably anticipated to become subject to Common Assessments during the fiscal year, subject to the provisions of Section 1 of Article XVIII hereof. The budget and the amount of the Common Assessment shall be determined by the Board, in its sole and absolute discretion.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied for the following year to be delivered to each Owner at least 30 days prior to the beginning of the fiscal year. The budget adopted by the Board shall become effective automatically. After the Turnover Date, the budget adopted by the Board shall automatically become effective unless disapproved by at least seventy-five percent (75%) of the Class "A" Members. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for calling special meetings, which petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment. Notwithstanding the foregoing, in the event the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue; provided, however, that upon the adoption of a new budget, the same shall be deemed retroactive to the beginning of the then current budget year and each Owner shall pay the increase, if any, in the Common Assessment for the beginning of such year at the time the next installment is due.

#### **5. COMPUTATION OF VILLAGE ASSESSMENTS**

It shall be the duty of the Board annually to prepare a separate budget reflecting the estimated Village Expenses to be incurred by the Master Association for each Village on whose behalf Village Expenses are expected to be incurred for the ensuing fiscal year. The Board shall be entitled to set such budget in its sole and absolute discretion limited only to the extent that this Master Declaration or a Supplemental Declaration specifically authorizes the Board to assess certain costs as a Village Assessment. Any Village may request that additional services or a higher level of services be provided by the Master Association, and in such case, any additional costs shall be added to the Village's budget. This budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Village, as appropriate. The Village Assessment levied against each Lot in that Village which is subject to the Village Assessment shall be computed by dividing the budgeted Village Expenses for that Village by the total number of Lots within such Village which are subject to the Village Assessments plus the total number of Lots in that Village reasonably anticipated to

become subject to the Village Assessments during the fiscal year. The Board shall cause a copy of such budget and notice of the amount of the Village Assessment to be levied on each Lot for the coming year to be delivered to each Owner of a Lot in the benefited Village at least 30 days prior to the beginning of the fiscal year. The budget shall become effective automatically. After the Turnover Date, the budget adopted shall become effective automatically unless disapproved at a meeting of the Village by Owners of a majority of the Members in the Village to which the Village Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members in such Village required for calling special meetings which petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment. This right to disapprove shall only apply to those line items in the Village budget which are attributable to services requested by the Village and shall not apply to any item which the Governing Documents require to be assessed as a Village Assessment. In the event the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue.

## 6. SPECIAL ASSESSMENTS

(a) As to All Members. The Board, upon the affirmative vote of a majority of votes cast by the Class "A" Members of the Master Association and the consent of the Class "B" Member so long as the Class "B" Membership exists, may levy Special Assessments for unbudgeted expenses or expenses in excess of those budgeted for, including but not limited to, capital improvements and repairs. However, no membership vote shall be required for Special Assessments due to budget shortfalls in any year, as a result of an emergency to protect, preserve or repair the Common Area from any casualty or threat thereof or as otherwise provided in subsection (b) hereof. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may, if the Board so determines, be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

(b) Less Than All Members. Without a membership vote, the Master Association may levy a Special Assessment against any Member individually and against such Member's Lot to reimburse the Master Association for costs incurred in bringing a Member and the Lot into compliance with the provisions of the Government Documents, which Special Assessment may be levied upon the vote of the Board after notice and an opportunity for a hearing has been given to the Member. Further, Special Assessments may be levied to cover the costs, including overhead and administrative costs, of providing services to Units or Owners upon request of Owners pursuant to a menu of special services that may be offered by the Master Association, without any vote of the Board. Such Special Assessments may be levied in advance of the provision of the requested service. The Master Association may also levy, without a membership vote, a Special Assessment against the Lots in any Village to reimburse the Master Association for costs incurred in bringing the Village into compliance with the provisions of the Governing Documents, which Special Assessment may be levied upon the vote of the Board after notice and an opportunity for a hearing has been given to the Members from such Village. For any Special Assessment levied for failure to comply with the Governing Documents, the Master Association may add an administration charge equal to ten percent (10%) of such amount.

(c) Resort Charges. Resort Charges (defined below) remaining unpaid for thirty (30) days or more shall be delinquent and deemed to constitute a Special Assessment for which no vote of the Members is required.

## 7. ASSESSMENT BONDS

Assessment Bonds. Declarant shall have the right, in its sole and absolute discretion, to create and/or issue bond(s) to raise capital to fund capital improvements on the Property for publicly-owned infrastructure or other improvements (e.g., sewer system, water lines, storm drains, public roads, public trails, fire station, etc.) that the Declarant may deem necessary or advisable. Payment for the bond(s) shall be assessed without a membership vote against the affected Owner(s) as a Special Assessment in accordance with this Article. No Assessment Bond shall be levied for the sole benefit of the Resort Property, and the Resort shall be obligated to contribute to the costs of maintaining the Common Areas that are the subject of an Assessment Bond as provided in this Article IX, Section 13.

#### **8. DECLARANT'S RIGHT TO SUBSIDIZE THE MASTER ASSOCIATION**

Notwithstanding any other provision of this Master Declaration to the contrary, no Assessments of any kind shall be levied against Lots owned by Declarant. In lieu of paying such Assessments, prior to the Turnover Date, Declarant shall subsidize the Master Association for the amount by which the actual Common Expenses incurred by the Master Association for each Assessment period exceeds the total amount of Assessments payable by Owners other than Declarant. The subsidy required of Declarant under this Article may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed. Declarant shall make payments or contributions in respect of its subsidy obligations under this Article at such times as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly). At the end of each fiscal year of the Master Association, either:

Declarant shall pay or contribute to the Master Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's subsidy obligations under this Article for such fiscal year; or

The Master Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total subsidy obligation of Declarant for such fiscal year under this Article.

#### **9. ESTABLISHMENT OF LIEN**

The Master Association shall have a lien against each Lot to secure payment of any and all delinquent Assessments (including without limitation, delinquent Resort Charges, which constitute Special Assessments) as well as interest at a rate not to exceed the highest rate allowed by applicable usury law as computed from the date the delinquency first occurs, and such late charges and fines as may be established by the Board and costs and reasonable attorneys' fees, upon compliance with applicable law. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first mortgage of record (meaning any recorded mortgage with first priority over other mortgages made in good faith and for value). In the event of delinquency, such lien may be enforced by suit, judgment and foreclosure in the same manner as mortgages on real property are foreclosed under Utah law. Each Assessment, together with interest, late charges and costs and reasonable attorneys' fees, shall

also be the personal obligation of the Person who was the Owner of such Lot at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. All payments shall be applied first to costs and attorneys' fees, then to late charges, then interest, then to delinquent Assessments, then to any unpaid installments of the Common Assessment or Special Assessment in the order of their coming due.

The Master Association, acting on behalf of its Members, shall have the power to bid for the Lot (or the other portions of the property so affected) at a foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which the Lot or the other property so affected is owned by the Master Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged against such Lot had it not been acquired by the Master Association. Suit to recover a money judgment for unpaid Common Expenses, costs and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the Assessment lien or relieve such Lot from the lien for any subsequent Assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first mortgage shall extinguish the lien as to any installments of such Assessments due prior to the mortgagee's foreclosure. The subsequent Owner of the foreclosed Lot shall not be personally liable for Assessments on such Lot due prior to such acquisition of title. Such unpaid Assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to Assessment, including the new Owner, its successors and assigns.

#### **10. RESERVE BUDGET**

The Board may include in the budget each year a capital replacement reserve, which reserve may take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

#### **11. CAPITAL CONTRIBUTION**

Upon the initial conveyance of each Lot after the date of the recording of this Master Declaration and each conveyance thereafter, a capital contribution shall be made by the purchaser of such Lot to the Master Association in an amount to be determined by the Board from time to time. In the event the initial conveyance of the Lot is to a Builder, a capital contribution in an amount determined by the Board from time to time may be payable to the Master Association. This contribution shall be payable at the time the sale of the Lot is closed. The contribution required by this paragraph shall constitute an Assessment against the Lot and shall be subject to the same lien rights as any other Assessment under this Master Declaration.

#### **12. REINVESTMENT FEE**

The Master Association reserves the right, but not the obligation, to charge a reinvestment fee when a Lot is transferred to a new Owner. The amount of the reinvestment fee will be determined by the Declarant or Board and will not exceed the legal allowable limit.

#### **13. EXEMPT PROPERTY**

Notwithstanding anything to the contrary herein, all Common Area, Exclusive Common Area,

Open Space, all property owned by Declarant (other than Lots following the Turnover Date), and all property dedicated by Declarant to Municipal Authorities, shall be exempt from payment of Common Assessments, Village Assessments, and Special Assessments.

**14. COST-SHARING ARRANGEMENT WITH RESORT**

The Resort Property is not subject to Assessments. However, the Resort and the Master Association shall enter into a cost-sharing agreement pursuant to which, among other things, the Resort shall contribute to the costs of maintaining the Common Areas and pay for any maintenance or other services provided by the Master Association with respect to the Resort Property.

**ARTICLE X  
MAINTENANCE**

**1. ASSOCIATION'S RESPONSIBILITY**

The Master Association shall maintain and keep in good repair all Area of Common Responsibility, such maintenance to be funded as herein provided. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement of including, but not limited to, the landscaping, walkways, open space, riding paths, parking areas, drives, recreational facilities and the roofs, interiors and exteriors of the structures and improvements which otherwise form the Common Area, and such portions of any additional property included within the Area of Common Responsibility as may be dedicated by this Master Declaration, a resolution of the Board, in deeds, or by an agreement for maintenance by the Master Association. The failure to properly identify such areas shall not affect the Master Association's rights or responsibilities with respect to such Area of Common Responsibility and other areas intended for the general benefit of the Community. For all purposes hereunder, the Master Association and its agents and designees shall have an easement over and across every Lot for ingress and egress and to perform maintenance as provided herein.

All costs associated with maintenance, repair and replacement of Areas of Common Responsibility shall be a Common Expense to be allocated among Lots as part of the Common Assessment. All costs associated with maintenance, repair and replacement of Exclusive Common Area of a particular group of Lots shall be an expense of and shall be assessed against the Lots that are benefited by Exclusive Common Area.

The Master Association shall also be responsible for exterior grounds maintenance within any Village and maintenance, repair and replacement of other property within any Village to the extent designated herein and in any Supplemental Declaration affecting the Village. As provided in this Master Declaration, or any other written agreement, the Master Association may also assume maintenance responsibilities with respect to any Village in addition to those designated by Supplemental Declaration.

The Master Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standards. The costs of such maintenance shall be allocated among the benefited Lots as a Common Assessment, Village Assessment, or Special Assessment against a particular Lot or Lots, as the Board determines appropriate.

**2. VILLAGE ASSOCIATION'S RESPONSIBILITY**

Any Village Association having responsibility for maintenance of all or a portion of the Property within a particular Village pursuant to Village Documents shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standards. If any such Village fails to perform its maintenance responsibility as required herein and in any Village Documents, the Master Association may perform it and assess the costs against all Lots within such Village as provided in Article IX of this Master Declaration.

**3. OWNER'S RESPONSIBILITY**

Each Owner shall maintain his or her Lot, including all parking areas and other improvements in connection therewith in accordance with Article V hereof and the Community-Wide Standards.

**4. FIRE HYDRANTS AND FUEL BREAKS; NO LIABILITY**

As applicable and required, the Declarant or Builder shall provide fire hydrants and fuel breaks, in accordance with County requirements. The Master Association shall maintain all hydrants and fuel breaks in the Community, in accordance with County requirements. Nevertheless, it is recognized that the Community is located in a remote natural area where fires may be more difficult to prevent, and substantially more difficult to fight if a fire were to occur. Consequently, Declarant, the Master Association, the Board, any Village Association or its Village Board, or Builder shall not be liable for any loss or damage to persons or property resulting from fire or any other natural disaster.

**5. ASSESSMENTS**

All maintenance required by this Article X shall be performed in a manner consistent with the Community-Wide Standards. If any Owner or Village Association fails to perform his or her or its maintenance responsibility in accordance with the Community-Wide Standards, the Master Association may perform it and assess all costs incurred by the Master Association plus an administrative surcharge equal to ten percent (10%) of the amount assessed against the Owner or the Village Association, as the case may be, as a Special Assessment. Prior to entry, the Master Association shall afford the Owner or Village Association 10 days' written notice to remedy a condition inconsistent with the Community-Wide Standards, except when entry is required due to an emergency. All costs of maintenance benefiting all Lots within a particular Village shall be assessed as a Village Assessment against the Lots within the Village to which the services are provided. The provisions of services in accordance with this paragraph shall not constitute discrimination within a class.

**ARTICLE XI  
INSURANCE AND CASUALTY LOSSES**

**1. INSURANCE**

The Master Association acting through its Board, or its duly authorized agent, shall obtain and continue in effect blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This

insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to casualty insurance on the Common Area, the Master Association may, in its discretion or upon request of a Village Association obtain and continue in effect adequate blanket all-risk casualty insurance, if reasonably available, on all insurable improvements on the Exclusive Common Area within such Village. If all-risk insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board deems appropriate for one hundred percent (100%) of the replacement cost of all improvements to be insured. The costs thereof shall be charged to the Owners of Lots within the benefited Village as a Village Assessment.

Insurance obtained on the improvements within any Village, whether obtained by the Village Association or the Master Association, shall at a minimum comply with the applicable provisions of this Article XI with regard to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance to be furnished to the Master Association and to the Village Association.

The Master Association shall also obtain a public liability policy covering the Common Area, the Master Association and its Members for all damage or injury caused by the negligence of the Master Association or any of its Members or agents. The public liability policy shall have the liability limits established by the Board from time to time.

Premiums for all insurance on the Common Area shall be Common Expenses of the Master Association and shall be included in the Common Assessment; premiums for insurance provided to Village Associations shall be Village Expenses and included in Village Assessments. The policies may contain a reasonable deductible and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement costs. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Master Association shall be written in the name of the Master Association as trustee for the respective benefited parties, as further identified in subsection (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in the State of Utah.

(b) All policies on the Common Area shall be for the benefit of the Master Association, its Members and Institutional Mortgagee, if any, as their interests may appear; all policies secured at the request of a Village shall be for the benefit of the Village Association, if any, the Owners of Lots within the Village, and their Institutional Mortgagees, as their interests may appear.

(c) Exclusive authority to adjust losses under policies obtained by the Master Association on the Property shall be vested in the Board; provided, however, no Institutional Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Master

Association hereunder be brought into contribution with insurance purchased by individual Members, occupants, or their Institutional Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified Persons.

(f) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Board, the Master Association's manager, Members, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Members;

(iv) a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of the conduct of any director, officer, or employee of the Master Association or its duly authorized manager without prior demand, in writing, delivered to the Master Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, its manager, any Member, or Institutional Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Members' policies from consideration; and

(vi) that the Master Association will be given at least 30 days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Master Association's funds, if reasonably available and such other insurance as the Board, in its business judgment determines advisable to obtain. The amount of fidelity coverage shall be determined in the Board best business judgment but, if reasonably available, may not be less than three months' Assessments on all Lots, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least 30 days' prior written notice to the Master Association of any cancellation, substantial modification, or non-renewal.

Each insurance policy maintained pursuant to this Master Declaration shall be written by insurance carriers which are licensed to transact business in the State of Utah and which have a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which are written by Lloyd's of London or which are otherwise approved by the Board.

## **2. DAMAGE AND DESTRUCTION**



(a) Filing Claims. Immediately after damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Master Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to the Common Area or to Exclusive Common Area shall be repaired or reconstructed unless the Declarant (as long as Declarant owns any portion of the Property or Additional Property) and at least seventy-five percent (75%) of the total votes eligible to be cast by the Class "A" Members of the Master Association if Common Area is damaged shall decide within 60 days after the casualty not to repair or reconstruct. Any damage or destruction to Exclusive Common Area shall be repaired or reconstructed unless the Declarant (as long as Declarant owns a portion of the Property or Additional Property) and at least seventy-five percent (75%) of the total votes eligible to be cast by the Class "A" Members of the Village whose Exclusive Common Area is damaged shall decide within 60 days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Master Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed 60 additional days. No Institutional Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area, Exclusive Common Area or Lots shall be repaired or reconstructed. In the event that it should be determined in the manner described above that the damage or destruction to the Common Area or Exclusive Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to its natural state and maintained by the Master Association in a neat and attractive condition consistent with the Community-Wide Standards.

### **3. DISBURSEMENT OF PROCEEDS**

If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area or the Exclusive Common Area shall be retained by and for the benefit of the Master Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Members and their Institutional Mortgagees as their interests may appear, shall be retained by and for the benefit of the Master Association and placed in a capital improvements account. This is a covenant for the benefit of any Institutional Mortgagee of a Lot and may be enforced by such Institutional Mortgagee.

### **4. REPAIR AND RECONSTRUCTION**

If the damage or destruction to the Common Area or to Exclusive Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are less than the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a Special

Assessment against all Owners on the same basis as provided for Common Assessments, provided, if the damage or destruction involves the Exclusive Common Area, only the Owners of Lots in the affected Village shall be subject to Assessment therefor. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

#### **5. OWNER INSURANCE**

By virtue of taking title to a Lot, each Owner covenants and agrees to carry property insurance to the full replacement cost of all insurable improvements on the Lot, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of any portion of the Lot, the Owner shall promptly proceed to repair or to reconstruct the Lot in a manner consistent with the original construction or with such other plans and specifications approved in writing by the ARC. Alternatively, the Owner shall clear and maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standards. The Owner shall be responsible for payment of any costs that are not covered by insurance proceeds.

### **ARTICLE XII CONDEMNATION**

Whenever all or any part of the Common Area shall be taken, or conveyed under threat of condemnation by the Board by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Master Association as trustee for all Members to be disbursed as follows:

(a) If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within 60 days after such taking Declarant (as long as Declarant owns any portion of the Property or Additional Property) and at least sixty-seven percent (67%) of the total votes eligible to be cast by the Class "A" Members of the Master Association (or at least seventy-five percent (75%) of the total votes eligible to be cast by the Class "A" Members of the Village if Exclusive Common Area is damaged) shall otherwise agree, the Master Association shall restore or reconstruct such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of the Master Association. If such improvements are to be repaired or reconstructed, the above provisions of Article XII, Sections 3 and 4 regarding the disbursement of funds, and any required Assessments, in respect to casualty damage or destruction which is to be repaired shall apply.

(b) If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, then such award or net funds shall be disbursed to the Master Association and used for such capital improvements as the Board of the Master Association shall determine.

(c) If all of the Community is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Master Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas shall be distributed to Owners based upon the relative value of the Lots and Units (as applicable) prior to the condemnation.

**ARTICLE XIII  
EASEMENTS AND OTHER RIGHTS**

**1. EASEMENTS OF ENJOYMENT**

Every Member shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Suspension. The right of the Master Association to suspend the voting rights and right to the use of the Common Areas by any Member:

(i) For any period during which any Assessment against his, her, or its Lot or Parcel remains delinquent;

(ii) For a period not to exceed sixty (60) days for any infraction of the Governing Documents; and

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

(b) Dedicate. The right of the Community Association to dedicate or transfer all or any part of the Common Area to any public agency, Municipal Authority, or utility for such purposes and subject to such conditions as may be agreed to by the Master Association.

(c) Regulate. The right of the Master Association to regulate the use of the Common Areas through the Community Rules and to prohibit access to those Common Areas not intended for use by the Members. The Community Rules shall be intended, in the sole and subjective discretion of the Board, to enhance the preservation of the Common Areas and the safety and convenience of the users thereof, and to otherwise promote the best interests of the Owners.

(d) Municipal Access. The right of the appropriate Municipal Authority and any other governmental or quasi-governmental body having jurisdiction over the Community to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Community for purposes of providing police, medical and fire protection, transporting school children and providing other governmental or municipal service.

**2. EASEMENT FOR UTILITIES**

There is hereby created an easement at specific locations approved by, or to be approved by, Declarant upon, across, over and under the Common Areas, and a blanket easement upon, across, over and under each Lot, for reasonable ingress to, egress from, and the installation, replacement, repairing or maintenance of all utility and service lines and systems, including, but not limited to, gas, water, sewer, telephone, fiber optic cable, cable television and electricity or communication lines and systems, as such utilities and systems are installed in connection with the initial development of the Common Area or Lot and the construction of the first Unit or other Improvement thereon. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary facilities and equipment on the property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Lots. Notwithstanding anything to the contrary contained in this Article, no sewers, electrical lines, water lines, or other

utilities or service lines may be installed or relocated on any Common Area or Lot except as initially programmed and approved by Declarant or the ARC, or, if installed after a Declaration or Supplemental Declaration is recorded, as approved by the Builder of such property and the ARC.

### **3. EASEMENTS FOR INGRESS AND EGRESS**

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

### **4. DITCH EASEMENTS**

There are hereby created, granted and reserved for the use and benefit of the Master Association and Owners perpetual, non-exclusive easements along the irrigation systems, ditches, ditch laterals, ponds or other water storage facilities that may exist from time to time within the Community (and of the water rights therein) as such easements may be shown on the Plat, and if not shown on the Plat then along the courses of said ditches and laterals and in the locations of said systems, ponds and facilities, as they may be realigned or relocated from time to time, subject to the specific provisions set forth in easement grants for any such facilities and/or on the Plat.

### **5. UTILITY, DRAINAGE, AND/OR IRRIGATION EASEMENTS**

There are hereby created, granted and reserved to the Master Association, the County, and appropriate public utilities, perpetual, non-exclusive easements over, upon, across and under those portions of the Community that are designated, or may be designated, "Utility Easement," "Irrigation Easement," "Drainage and Irrigation Easement," or "Utility, Drainage and Irrigation Easement" on the Plat. Utility Easements may be used for the installation, operation, maintenance, repair, removal or replacement of underground utility lines (and related surface facilities). Drainage and Irrigation Easements may be used for the installation, operation, maintenance, repair, removal or replacement of drainage and irrigation systems and facilities. Except as may otherwise be provided in any agreement between Declarant and the County or in any other separate agreement between Declarant and a utility supplier, the party causing the disturbance shall be obligated to restore, repair, reseed and/or re-landscape any area disturbed by the exercise of these easement rights to as close to its original condition as possible, as promptly as possible following the completion of any work within

such easement.

**6. GRANT OF ADDITIONAL EASEMENTS**

Declarant reserves for itself the right to create, grant, use, and enjoy additional non-exclusive easements, and to relocate the existing easements described in this Article, upon or across any portion of the Community, as may be required, in Declarant's sole and subjective discretion, for the completion of any Improvements within the Community or the effective exercise by Declarant of any rights reserved unto Declarant in this Master Declaration.

**ARTICLE XIV  
DECLARANT'S RIGHTS**

**1. PURPOSE**

The purpose of this Article XIV is to set forth certain Declarant rights, and to refer, for ease of reference, to certain other Declarant rights set forth in this Master Declaration. The purpose of this Article XIV shall in no way be a limitation of any rights of Declarant otherwise set forth in this Master Declaration. It is expressly understood that Declarant shall not be obligated to exercise any of these reserved rights.

**2. DURATION OF RIGHTS**

Except as expressly limited in this Master Declaration, all of Declarant's rights reserved in this Article XIV or elsewhere in this Master Declaration may be exercised, in the sole and subjective discretion of Declarant, at any time and from time to time through the time period ending when Declarant no longer owns any portion of the Property or the Additional Property or such earlier date as determined by Declarant, in its sole and absolute discretion ("Declarant's Rights Period").

**3. DECLARANT'S RIGHTS IN THE MASTER ASSOCIATION**

Prior to and after the Turnover Date and until Declarant no longer owns any portion of the Property or the Additional Property, whether Declarant exercises the right to appoint a majority of the Board or not, the Master Association shall have no authority to, and shall not, without the written consent of Declarant, which may be withheld for any or no reason whatsoever, undertake any action which shall:

- (a) prohibit or restrict in any manner the sales and marketing program of Declarant or the leasing activities of Declarant;
- (b) decrease the level of maintenance services provided by the Master Association;
- (c) change the membership of the ARC or diminish its powers as stated herein;
- (d) alter or amend this Master Declaration, the Articles of Incorporation or the By-Laws;
- (e) terminate or waive any rights of the Master Association under this Master Declaration;

(f) convey, lease, mortgage, alienate or pledge any easements on Common Area or Exclusive Common Area;

(g) accept the conveyance, lease, mortgage, alienation or pledge of any real or personal property to the Master Association;

(h) terminate or cancel any easements granted hereunder or by the Master Association;

(i) terminate or impair in any fashion any easements, powers or rights of Declarant hereunder;

(j) restrict Declarant's rights of use, access and enjoyment of any of the Property;

(k) cause the Master Association to breach or default on any obligation of it under any contract or this Master Declaration; or

(l) prohibit or restrict in any manner the business operations of the Resort or terminate or impair in any fashion the rights of the Resort under this Master Declaration.

In any such matter, Declarant's consent may be exercised by its representative on the Board or other Person designated to so act by Declarant.

#### **4. RIGHT OF DECLARANT TO DISAPPROVE ACTIONS**

From the Turnover Date and until the Declarant no longer owns any portion of the Property or the Additional Property, Declarant shall have a right to disapprove actions of the Board and any committees, as is more fully provided in this Section. This right shall be exercisable only by Declarant, its successors, and assigns who specifically take this power in a recorded instrument, or who become a successor Declarant pursuant to a recorded assignment or court order. No action authorized by the Board or any committee shall become effective, nor shall any action, policy or program be implemented until 10 days following Declarant's receipt of notice of the action taken at the meeting held pursuant to the terms and provisions hereof. At any time prior to the expiration of such 10-day period, Declarant may exercise its right to disapprove actions of the Board and any committees and the Master Association shall not take any action or implement any policy, program or rule or regulation previously approved by the Master Association that Declarant has disapproved.

This right to disapprove shall not extend to the requiring of any action or counteraction on behalf of any committee or the Board or the Master Association. Declarant shall not use its right to disapprove to reduce the level of services which the Master Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

#### **5. RECOGNITION BY OWNERS OF DECLARANT'S RIGHTS TO DEVELOP AND CONSTRUCT IMPROVEMENTS ON THE PROPERTY**

Each Owner on his, her or its own behalf and on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns acknowledges and agrees that the completion of the development of the Community may occur over an extended period of time and that incident to such development and the construction associated therewith, the quiet use and enjoyment of the Property and each portion thereof may be temporarily interfered with by the

development and construction work occurring on those portions of the Property and the Additional Property owned by Declarant or its successors and assigns. Each Owner, on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns does hereby waive all claims for interference with such quiet enjoyment and use as a result of the development and construction of any portion of the Property or the Additional Property. Each Owner on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns agrees that the development, construction and completion of the Property and the Additional Property may interfere with such Owner's original and existing views, light and air and diminish the same and each such Owner on such Owner's behalf and on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns does hereby release Declarant and its successors in interest and others involved from all claims that they may have in connection therewith.

#### **6. DECLARANT'S RIGHTS IN CONNECTION WITH DEVELOPMENT**

Declarant and its successors or assigns or its or their contractors or subcontractors and their representatives will undertake the work of site development, constructing buildings and dwellings and improvements related thereto, including the Resort. The completion of that work and the sale, resale, rental and other disposal of Lots is essential to the establishment and welfare of the Community. In order that said work may be completed and the Community established as a fully occupied Community as rapidly as possible, no Owner or the Master Association shall do anything to interfere with Declarant's or any Builder's activities. Without limiting the generality of the foregoing, nothing in this Master Declaration or the Articles of Incorporation or the By-Laws or any amendment thereto shall be understood or construed to prevent Declarant, its successors or assigns, or its or their contractors or subcontractors and their representatives from:

(a) doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration of its construction plans and designs as Declarant or any Builder deems advisable in the course of development (all models or sketches showing plans for future development may be modified by Declarant at any time and from time to time, without notice); or

(b) erecting, constructing and maintaining on any property owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing Strawberry Ranch as a community and disposing of the same by sale, lease or otherwise; or

(c) conducting on any property owned or controlled by Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements on such property and of disposing of Lots therein by sale, resale, lease or otherwise, including, but not limited to, placing signs and directional posts of any kind, shape or size, on any portion of the Property in Declarant's sole discretion.

Declarant hereby retains an easement over, under and through the Property, including without limitation each and every Lot, for development of the Community and to accomplish the purposes set forth herein, provided no such easement shall materially interfere with the use of a Lot by the Owner of such Lot. Declarant expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as Declarant owns any portion of the Property or the Additional Property primarily for development and/or resale, provided no such easement shall materially interfere with the use of Common Area by the Members.

## **7. FUTURE EASEMENTS, MODIFICATIONS AND CONVERSIONS**

Declarant reserves for itself the right to grant, modify or enter into easements, dedications, agreements, licenses, restrictions, reservations, covenants and rights of way, to subdivide any Declarant-owned Lot, to change the designated use of portions of the Property and the Additional Property, to modify the boundary lines and to plat or replat portions of the Property and the Additional Property, for development of the Community. Declarant further reserves for itself the right to convert one or more Lots into Common Areas, to convert Common Areas into one or more Lots, and to create additional Common Areas. Declarant also reserves for itself the right to vary the timing, mix, type, use, style, and numbers of Units and Lots, and other such details of construction or modifications in adding phases to this Master Declaration. The Master Association and each Owner and mortgagee of a portion of the Property agree to execute and deliver any and all agreements, documents, plats and instruments that are necessary or desirable to accomplish the same.

## **8. CONSTRUCTION; MARKETING**

In recognition of the fact that Declarant will have a continuing and substantial interest in the development and administration of the Property and the Additional Property, Declarant hereby reserves for itself, its successors, designees and assigns, the right to grant easements over, under and through and use the Common Area and use all other portions of the Property owned by Declarant or the Master Association in conjunction with and as part of its program of selling, leasing, constructing, marketing and developing any property owned or controlled by Declarant or its successors, designees or assignees including, but not limited to, the right to enter and transact business, maintain management offices, maintain models and sales, resales and rental offices, place signs, employ sales and rental personnel, carry on construction, store construction materials and construct and assemble construction components, show Lots owned by Declarant, and use any portion of the Property, Common Area, Lots and other improvements owned by Declarant or the Master Association for purposes set forth above without any cost to Declarant and its successors, designees and assigns for such rights and privileges.

In addition, Declarant, its successors, designees and assigns, shall have the right to construct, maintain and use sales, resales, rental, management and construction offices within the Community. Any models, sales areas, sales, resales or rental centers, management offices, parking areas, construction offices, signs and any other designated areas or other property pertaining to the sale, construction and marketing efforts of Declarant shall not be part of the Common Area or Exclusive Common Area and shall remain the property of Declarant or its designees, as the case may be.

Declarant shall have the right to construct, maintain and repair structures and landscaping and other improvements to be located on any portion of the Property owned by Declarant or the Master Association as Declarant deems necessary or appropriate for the development of any portion of the Property or the Additional Property. Declarant's use of any portion of the Property or the Additional Property as provided in this Section shall not be a violation of the Governing Documents. Notwithstanding anything to the contrary herein, the right of Declarant to maintain a resale office on any portion of the Property or the Additional Property owned by Declarant or the Master Association and to use the Common Area in connection therewith shall be for a term coterminous with the term of the Declaration and shall not terminate at the expiration of the Declarant's Rights Period.

## **9. ESTABLISHMENT OF USE RIGHTS**



Declarant reserves for itself the right to impose restrictions, conditions, and limitations upon Owners, occupants, guests, licensees or invitees and all other Persons within the Community, or to grant to the Master Association the right to impose the same, in connection with the usage of some or all portions of the Community, including but not limited to the amenities, Improvements, and easements (including Conservation Easements). Specifically, these rights include, but are not limited to: (1) restricting or limiting access or usage of guests, licensees or invitees to all or part of the Community; (2) imposing and collecting a fee, charge, or other remuneration from guests, licensees or invitees for access to or use of all or part of the Community; (3) limiting the number of times annually that the same guest, licensee or invitee may access or use all or part of the Community; and (4) limiting or otherwise regulating the number of guests, licensees or invitees that an Owner may annually invite to access or use all or part of the Community.

Declarant furthermore reserves the right to create and maintain, or to grant to the Master Association the right to create and maintain, different usage tiers, categories, descriptions, or requirements for all Persons within the Community, including Owners, occupants, guests, licensees or invitees. Such tiers, categories, descriptions, or requirements may assign varying fees, charges, priorities for use, reservation preferences, schedules, or other limits based on whether a Person is classified as an Owner, occupant, guest, licensee or invitee.

#### **10. OPEN SPACE**

Declarant reserves for itself the right to designate certain Lots or other divisions, areas, or sections of land within the Community as "Open Space." Such designation may be made on one or more plats, or by other maps or documents adopted and distributed by Declarant. Notwithstanding any such designation, Declarant reserves the right to build appropriate facilities, Amenities, and Improvements within or upon any area designated as Open Space, and reserves the right to amend, relocate, reduce, or otherwise change the areas designated as Open Space so long as the designated Open Space complies with the open space requirements imposed by the County and the Wildlife Mitigation Plan. Permitted uses within any Open Space shall be limited to: (1) cross-county skiing, hiking, biking, horseback riding, fishing, camping, snowmobiling, hunting, and other summer and winter recreational activities that do not involve excessive use of motorized vehicles; (2) construction, operation, use, and maintenance of any appropriate amenities; (3) buildings and other structures, facilities, and Improvements for the private use of Declarant, the Master Association, the Owners and their guests, but not the general public, including any licensees or invitees; and (4) any additional activities, improvements, or development consistent with the Community and approved by Declarant in its sole and subjective discretion.

Declarant may adopt, or authorize the Master Association to adopt, Community Rules governing use of the Open Space and operation of any facilities, amenities, or Improvements therein or thereon, provided that such Community Rules comply with the open space requirements imposed by the County and the Wildlife Mitigation Plan.

#### **11. TRAIL SYSTEM**

Declarant reserves for itself the right to construct, modify, relocate, maintain, and use the Trail System as it may exist from time to time. Declarant may coordinate the Trail System with the appropriate Municipal Authority and designate certain portions thereof for use by the public. Declarant may adopt rules and regulations for use and operation of the Trail System, including without limitation restrictions on types of vehicles that may operate on the Trail System.

**12. CONSERVATION EASEMENTS**

Declarant hereby reserves to itself and to the Master Association the right to establish and convey Conservation Easements on all or part of the Open Space, by conveying a Conservation Easement to the appropriate Municipal Authority under governing County ordinances and Utah law, including County Ordinance Section 16.29.06, which requires that a minimum of eighty percent (80%) of the gross land area within the Community be preserved as Open Space with the County as holder of the Conservation Easement to such Open Space, and that all such Open Space be dedicated as a Conservation Easement with the first phase of the Community and recorded as part of the first phase's Plat. Notwithstanding the foregoing, the conveyance of a Conservation Easement shall not materially impair the uses in any Open Space permitted by the sale, grant, transfer, or assignment of a Conservation Easement by Declarant, or negatively affect the property rights of a grantee of any such Conservation Easement. The location and extent of the Conservation Easements shall be determined in the sole and subjective discretion of Declarant and/or the Master Association. Except as otherwise required by governing County ordinances and Utah law, the right to grant Conservation Easements reserved herein is permissive and not mandatory. Nothing in this Master Declaration shall require Declarant and/or the Master Association to establish a Conservation Easement, but either Declarant before the Turnover Date, and thereafter the Master Association, in its sole and subjective discretion, shall have the right to do so if it considers such action to be required by governing County ordinances or Utah law, or in the best interests of a majority of the Owners.

**13. TRANSFER**

Any or all of the special rights and obligations of Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded. Nothing in this Master Declaration shall be construed to require Declarant or any successor to develop any Additional Property in any manner whatsoever. So long as Declarant continues to have rights under this Article XIV, no person or entity shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or timeshare or similar instrument affecting any portion of the Community without Declarant's review and written consent thereto, which consent Declarant may withhold in its sole and subjective discretion. Any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration or condominium or timeshare or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

Declarant reserves for itself the right to convey to the Master Association title to the Common Area, free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities) before the closing of the last sale of a Lot within the Community. In the event Declarant exercises its right to convey the Common Area to the Master Association, then the Master Association shall be obligated to accept such conveyance. The Master Association shall not lease or sublease the Common Area or any portion thereof to a third party without the written consent of Declarant, which consent Declarant may withhold in its sole and subjective discretion.

**14. AMENDMENT; TERMINATION**

This Article XIV may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Article XIV or elsewhere in this Master Declaration

shall terminate upon the earlier of: (1) thirty (30) years from the date this Master Declaration is recorded; or (2) upon recording by Declarant of a written statement that all sales activity has ceased.

## **ARTICLE XV MORTGAGEE PROVISIONS**

The following provisions are for the benefit of Institutional Mortgagees. The provisions of this Article XV apply to both this Master Declaration and to the Articles of Incorporation, notwithstanding any other provisions contained therein.

### **1. NOTICE OF ACTION**

An Institutional Mortgagee who provides written request to the Master Association (such request to state the name and address of such holder, insurer, or guarantor and the number of the Lot or Unit held, insured or guaranteed by the Institutional Mortgagee, as the case may be, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which a first mortgage is held, insured or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by any Owner of a Lot subject to the mortgage held, insured or guaranteed by such eligible holder, which default remains uncured for a period of sixty (60) days;

(c) any lapse, cancellation or material modification of any insurance policy maintained by the Master Association.

### **2. NOTICES TO ASSOCIATION**

Upon request, each Owner shall be obligated to furnish to the Master Association the name and address of the holder of any mortgage encumbering such Owner's Lot.

## **ARTICLE XVI STAWBERRY RANCH MOUNTAIN RESORT**

### **1. MANDATORY RESORT MEMBERSHIP**

All Owners (excluding the Declarant, Builders and the Master Association) must acquire and maintain in good standing an "Associate Membership" in the Resort.

Membership in the Resort is subject to the terms and conditions of and is governed by the Strawberry Ranch Mountain Resort Membership Plan, the Community Rules and the Membership Agreement, as the same may be amended from time to time (the "Membership Plan Documents").

Membership in the Resort requires the payment of a membership purchase price called a

membership deposit and membership dues, fees and other amounts (the "Resort Charges") the purposes of which are to fund the common expense of an associate membership in the Resort and to provide its members access to the Resort Property, including amenities, for their health, use and enjoyment, and to help ensure the long-term financial viability of the Resort and its facilities in order to maintain the beauty of the Community, the quality of the Strawberry Ranch community lifestyle and the value of real estate within the Community. Resort Charges shall be determined by the Resort and are subject to change as contemplated by the Membership Plan Documents. Delinquent Resort Charges are deemed to constitute Special Assessments. The Master Association shall have a lien against each Lot for all unpaid Special Assessments in accordance with the lien and foreclosure provisions set forth in Article IX. In the event that the Master Association does not enforce its rights hereunder with respect to a Special Assessment resulting from delinquent Resort Charges, the Master Association hereby consents and authorizes the Resort to enforce the lien and foreclosure provisions of Article IX. Transfer, if any, of a Resort membership shall be in accordance with the Membership Plan Documents.

In consideration of the payment of Resort Charges, an Associate Membership when maintained in good standing shall entitle all Owners to the benefits described in the Membership Plan Documents, which may include the following, without limitation: (a) management of Rentals; (b) access to the Resort clubhouse; (c) access to the Resort pavilions; (d) access to the Resort swimming facilities; (e) access to other Resort amenities and facilities including sport courts and playground areas; (f) certain priority rights to rent storage units in the Community; (g) certain priority rights to rent boat slips in the Community; and (h) discounts on certain Resort products and services, such as horseback riding, amphitheater tickets, concierge services and hunting tags. The foregoing items are intended for illustrative purposes only. The benefits of an Association Membership are described in, and expressly subject to the terms and conditions of, the Membership Plan Documents.

## **2. THE RESORT PROPERTY**

The Resort Property is privately owned and operated by the Resort, is not a part of the Common Area hereunder and is not subject to this Master Declaration. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant or any other Person with regard to the continuing existence, ownership or operation of the Resort Property, and no purported representation or warranty in such regard, either written or oral, shall be effective without an amendment to this Master Declaration executed or joined into by Declarant. The Resort has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Resort Property shall be used. OWNERSHIP OF A LOT OR ANY PORTION OF THE PROPERTY OR MEMBERSHIP IN THE MASTER ASSOCIATION DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE RESORT PROPERTY AND DOES NOT GRANT ANY OWNERSHIP OR MEMBERSHIP INTEREST IN THE RESORT OR THE RESORT PROPERTY.

## **3. ACKNOWLEDGEMENTS REGARDING RESORT PROPERTY**

Each Owner, by acceptance of a deed or recorded contract of sale to a Lot acknowledges:

(a) That access and privileges to use the Resort Property shall be subject to and governed by the terms and conditions of the Membership Plan Documents.

(b) That the Community is a resort community with resort-type activities, which may include, without limitation: hiking trails, mountain biking trails, open spaces, wildlife, rugged terrain,

tennis courts, horses and horseback riding, outdoor concerts, indoor and outdoor theater, art activities, festivals, children's events, games and activities, running, mountain bike courses and/or races and/or other competitions of various kinds, and other resort-type amenities, facilities, events, activities and programs (collectively, "Resort Activities"), and each such Owner expressly assumes the risk of noise, nuisances, hazards, personal injury, or property damage related to any and all Resort Activities, including, without limitation: (i) noise from maintenance equipment (it being specifically understood that such maintenance may take place at any time(s) of the day or night); (ii) noise caused by Resort Activities and participants; (iii) construction and development activities; (iv) view restrictions caused by installation, relocation and maturation of trees and shrubbery; (v) reduction in privacy, including that related to maintenance activities; and (vi) errant equipment.

(c) Notwithstanding the fact that the Resort Property may be open space or a recreation area for purposes of applicable zoning ordinances and regulations, each Owner by acquisition of title to a Lot releases and discharges forever the Declarant, the Resort, the Master Association nor any of their affiliates, successors and assigns or their respective members (in the case of limited liability company only), partners, shareholders, officers, directors, employees and agents from: (1) any claim that the Resort Property is, or must be, owned and/or operated by the Master Association or the Owners, and/or (2) any claim that the Owners are entitled to use the Resort Property by virtue of their ownership of a Lot without acquiring a membership in the Resort, paying the applicable membership contribution or membership deposit and dues, fees and charges established by the Resort from time to time, maintain said membership in good standing and complying with the terms and conditions of the Membership Plan Documents.

(d) That any entry upon the Resort Property without permission of the Resort may be deemed a trespass and each Owner shall refrain from, and shall cause all occupants of such Owner's Lot, their guests and invitees to refrain from any unauthorized entry upon the Resort Property;

(e) That the Resort may, but is not obligated to, assign to the Master Association the right to collect any or all Resort Charges on behalf of the Resort. In such case, the Master Association will collect all Resort Charges for a particular calendar month and remit same to the Resort, together with a statement of accounts receivable itemized in reasonable detail and in such format as may be reasonably acceptable to the Resort and the Master Association, setting forth the status of payment of each Resort member, within ten (10) days following the end of the applicable calendar month. The Resort shall have the right, at the Resort's expense, upon reasonable notice to the Master Association to audit the Master Association's books and records relating to the collection of and remittance of the Resort Charges. The Master Association shall, on behalf of the Resort, take such actions to collect unpaid Resort Charges as the Master Association customarily takes with respect to other delinquent Assessments or other amounts owed to the Master Association by Owners pursuant to the terms hereof and shall be reimbursed by the Resort for all costs incurred by the Master Association for such action, within 30 days of the Master Association's written request to the Resort for such reimbursement;

(f) That the Resort and its designees may add to, remove or otherwise modify the landscaping, trees, and other features of the Resort Property, including changing the location, configuration, size and elevation of bunkers, fairways and greens and constructing fences, and that neither the Resort, Declarant, nor the Master Association, shall have any liability to Owner as a result of such modifications to the Resort Property;

(g) That no representations or warranties which are inconsistent with this Section, either verbal or written, have been made or are made by Declarant or the Master Association or by any

person acting on behalf of any of the foregoing; and

(h) That the Resort may own one or more lakes, water retention ponds or other water features on the Property. Notwithstanding the ownership of such lakes or water retention ponds, the Resort may use any and all lakes, water retention ponds or other water features on the Property for the purpose of irrigating and maintaining the Resort Property with the result that the water level in such lakes, water retention ponds or other water features may from time to time vary. Each Owner of a Lot in the Community acknowledges such right on the part of the Resort and agrees not to commence any cause of action or other proceeding involving the Resort based on the exercise of such right or otherwise interfere therewith.

In the event there are insufficient water levels to provide the necessary irrigation needs of the Resort Property and all other areas of the Property, subject to applicable governmental permits and requirements, the Resort Property shall have first priority of irrigation, followed by the Common Area, any other Area of Common Responsibility, and any Exclusive Common Area within a Village.

#### **4. WAIVER OF CLAIMS**

Each such Owner agrees that Declarant, the Master Association, any committee created by the Master Association, the Resort, and their affiliates, successors and assigns and their respective members, partners, shareholders, officers, directors, employees and agents, shall not be liable to an Owner or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, economic loss, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to: (a) the proximity of an Owner's Lot or Unit to any trail, amenity or other Resort Property; (b) any claim arising in whole or in part from the negligence or breach of duty of Declarant, the Resort, the Master Association nor any of their affiliates, successors and assigns or their respective members (in the case of limited liability company only), partners, shareholders, officers, directors, employees and agents; or (c) any Resort Activity or amenity; (d) any claim that because the Resort Property is deemed to be open space or a recreation area for purposes of applicable zoning ordinances and regulations, the Resort Property must be owned and/or operated by the Master Association or the Owners and/or that Owners may use the Resort Property without acquiring a membership in the Resort pursuant to the Resort's Membership Plan Documents and paying the membership contribution or membership deposit, and dues, fees and charges established by the Resort from time to time or otherwise maintaining a membership to the Resort in good standing (collectively, "Waived Claims").

#### **5. ASSUMPTION OF RISK AND INDEMNIFICATION**

Each Owner by its purchase of a Lot expressly assumes the risks associated with the Resort Property (regardless of whether the Owner is using the Resort Property) and agrees that neither Declarant, the Resort, the Master Association nor any of their affiliates, successors and assigns or their respective members (in the case of limited liability company only), partners, shareholders, officers, directors, employees and agents nor any other entity designing, constructing, owning or managing the Resort Property or planning or constructing the Owner's Lot or Unit shall be liable to Owner or any other person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, loss of view, noise pollution or other visual or audible offenses or trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the Waived Claims. Each Owner hereby agrees to indemnify and hold harmless Declarant, the Resort, the Master Association, their

affiliates, successors and assigns or their respective members (in the case of limited liability company only), partners, shareholders, officers, directors, employees and agents and any other entity owning or managing the Resort Property against any and all Waived Claims asserted by such Owner and any and all claims whatsoever by Owner's guests and invitees. Each Owner further covenants that the Declarant, the Master Association, any committee created by the Master Association, the Resort, and their affiliates, successors and assigns and their respective members, partners, shareholders, officers, directors, employees and agents shall have the right, in the nature of an easement, to subject all or any portion of the Community to nuisances incidental to the maintenance, operation or use thereof, and to the carrying out of such Resort Activities.

**6. RIGHTS OF ACCESS AND PARKING**

The Resort and members of the Resort (regardless of whether such Persons are Members hereunder), their guests and invitees and the employees, agents, contractors and designees of the Resort shall at all times have a right and a non-exclusive easement of access and use over all roadways located within the Property reasonably necessary to travel to and from the entrance of the Property from and to the Resort Property, respectively and further over those portions of the Property (whether Common Area or otherwise) reasonably necessary for the use operation, maintenance, repair and replacement of the Resort Property.

**7. LANDSCAPE EASEMENT**

By recordation of this Master Declaration, Declarant does hereby reserve for itself and the Resort and the members of the Resort, a perpetual alienable and transferable easement over, across and upon each and every Lot which abuts or is contiguous to the Resort Property for the purpose of operation and maintenance of the Resort Property, including but not limited to, the use of usual and common equipment for irrigation, maintenance and landscaping thereof, which easement shall specifically constitute a part of the Resort Property. By way of example and not limitation, such easement shall permit, but shall not require, entry into any Lot for the purpose of planting grass, applying fertilizer, mowing and edging and removing any underbrush, trash, debris and trees.

**8. THE RESORT'S APPROVAL RIGHTS**

The Resort shall have the right to disapprove actions of the Board and any committees which in its reasonable judgment materially and adversely affects the use of the Resort, the Resort Property or the Resort's rights or obligations under this Master Declaration. This right may be exercised by the Resort at any time within 10 days after the Resort's receipt of the notice of such proposed action. This Article XVI may not be amended without the written consent of the Resort.

**ARTICLE XVII  
DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

**1. INITIATION OF LITIGATION BY ASSOCIATION**

The Master Association shall not initiate any judicial or administrative proceedings unless first approved by a vote of the Members entitled to cast seventy-five percent (75%) of the total Class "A" votes in the Master Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated prior to the Turnover Date;
- (b) initiated to enforce the provisions of this Master Declaration, including collection of Assessments and foreclosure of liens;
- (c) initiated to challenge property taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for service or supplies; or
- (e) to defend claims filed against the Master Association or to assert counterclaims in proceedings instituted against it.

In the event any claim is made against Declarant or the Resort by the Master Association or any litigation is instituted against Declarant or any of its affiliates by the Master Association, then the Master Association shall assess all Members (other than the Declarant) for the costs of pursuing the claim or litigation, including without limitation attorneys' fees incurred, and funds from Common Assessments shall not be used for any such claim or litigation. In any judicial or administrative proceeding, the prevailing party shall be entitled to receive reasonable attorney's fees and costs.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

The Master Association may, but shall not be obligated to, take action: (a) to enforce any provision of the Governing Documents which the Board reasonably determines is inconsistent with law; (b) with respect to any violation of the Governing Documents which the Board reasonably determines to be so minor or unobtrusive as not be objectionable to a reasonable person; or (c) in any case in which the Board reasonably determines that the Master Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or to estop the Master Association from enforcing any other covenant, restriction or rule.

The foregoing approval requirement concerning the initiation of a judicial action or administrative proceeding by the Master Association shall also apply to the initiation of a proceeding pursuant to the following sections of this Article.

## **2. ALTERNATIVE METHOD FOR RESOLVING DISPUTES**

The Declarant, the Master Association, its officers, directors, and committee members, all Persons subject to this Master Declaration, any Builder, and any Person not otherwise subject to this Master Declaration who agrees to submit to this Article XVII (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Property, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Article XVII, Section 3 ("Claims") to the procedures set forth in Article XVII, Section 4 prior to filing suit in any court.

## **3. CLAIMS**

Unless specifically exempted below, all Claims arising out of or relating to the interpretation,



application or enforcement of the Governing Documents, the rights, obligations and duties of any Bound Party under the Governing Documents, or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Article XVII, Section 4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Article XVII, Section 4:

(a) any suit by the Master Association against any Bound Party to enforce the provisions of Article IX (Assessments);

(b) any suit by the Master Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other equitable remedies as only a court may deem necessary in order to maintain the status quo and to preserve the Master Association's ability to enforce the provisions of Article V (Use Restrictions), Article VI (Design and Architectural Control), and Article XIII (Easements and Other Rights);

(c) any suit between Owners, which does not include Declarant or the Master Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(d) any suit in which any indispensable party is not a Bound Party; and

(e) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Article XVII, Section 4(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Article XVII, Section 4.

#### 4. MANDATORY PROCEDURES

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) Claimant's proposed remedy; and

(iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(v) The Parties shall make every reasonable effort to meet in person and confer

for the purpose of resolving the Claim by good faith negotiation. If requested in writing accompanied by a copy of the Notice, the Board may, but is not obligated to, appoint a representative to assist the Parties in negotiation.

(vi) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of a mediation agency retained by the Master Association to provide such services within the community, or, if the Parties otherwise agree, to an independent agency providing dispute resolution services in the Wasatch County area.

(vii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be forever released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(viii) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(ix) Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of the American Arbitration Association. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This subsection (c) is an agreement to arbitrate and is governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA") and not state arbitration laws, provided that Utah law shall govern to the extent that state law is relevant under the FAA in determining the enforceability of this Arbitration Provision. The arbitrator shall be obligated to follow applicable substantive laws, statutes of limitations and privilege rules related to any Claim. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Utah.

(iii) Class Action Ban. NO BOUND PARTY MAY PARTICIPATE IN A CLASS ACTION

IN COURT OR IN CLASS-WIDE ARBITRATION, EITHER AS A REPRESENTATIVE, CLASS MEMBER OR OTHERWISE. NO BOUND PARTY MAY PARTICIPATE IN A PRIVATE ATTORNEY GENERAL PROCEEDING IN COURT OR IN ARBITRATION. NO CLAIMS BY OR AGAINST A BOUND PARTY MAY BE JOINED OR CONSOLIDATED WITH CLAIMS BY OR AGAINST ANY OTHER PERSON (EXCEPT FOR CLAIMS INVOLVING THE HEIRS AND SUCCESSORS OF SUCH CONSUMER PARTIES). THE ARBITRATOR SHALL HAVE NO AUTHORITY TO CONDUCT A CLASS-WIDE ARBITRATION, PRIVATE ATTORNEY GENERAL ARBITRATION OR MULTI-PARTY ARBITRATION INCONSISTENT WITH THIS SECTION. Notwithstanding any language in this Arbitration Provision to the contrary, any dispute about the validity or effect of the above Class Action Ban shall be resolved by a court and not an arbitrator or the Administrator.

(iv) **Opt-Out Right.** IF AN OWNER DOES NOT WANT SUBSECTION 4(C) TO APPLY, THE OWNER MUST SEND A LETTER TO DECLARANT, SIGNED BY THE OWNER (AND ANY CO-OWNER OF THE SAME LOT) AND ADDRESSED TO FRAGOLA ENTERPRISES LLC, 345 WEST 600 SOUTH, SUITE 106, HEBER CITY 84032, ATTN: ARBITRATION OPT-OUT. THE LETTER MUST BE SENT WITHIN THIRTY (30) DAYS AFTER THE DATE OF THE OWNER'S EXECUTION OF SAID OWNER'S REAL ESTATE PURCHASE CONTRACT, AND MUST STATE THAT THE OWNER DOES NOT WANT ARBITRATION TO APPLY TO THE MATTERS DESCRIBED IN THIS SUBSECTION 4(C), ARTICLE XVII. ANY OPT-OUT WILL RENDER THIS ARBITRATION PROVISION NULL AND VOID BUT WILL HAVE NO OTHER EFFECT ON THE OWNER'S RIGHTS.

(v) **Jury Trial Waiver.** THE PARTIES EACH AGREE TO, AND THEY HEREBY DO KNOWINGLY AND VOLUNTARILY WAIVE, TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS MASTER DECLARATION, THE DECLARANT, THE COMMUNITY AND/OR ANY CLAIM OF INJURY OR DAMAGE, AND ANY STATUTORY REMEDY.

## **5. ALLOCATION OF COSTS OF RESOLVING CLAIMS**

(a) Subject to Article XVII, Section 5(b), each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

## **6. ENFORCEMENT OF RESOLUTION**

If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Article XVII, Section 4 and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with an Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Article XVII, Section 4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

**7. PREREQUISITES TO ACTIONS AGAINST BUILDERS**

Prior to filing a civil action against Declarant or any Builder of any portion of the Community, the Master Association must notify the Declarant or Builder (as appropriate), participate in alternative dispute resolution, and give the Declarant or Builder (as appropriate) an opportunity to inspect and make a settlement offer prior to instituting a suit.

**ARTICLE XVIII  
GENERAL PROVISIONS**

**1. TERM**

This Master Declaration shall be effective upon the date of recording hereof and shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by Declarant, the Master Association or the Owner of any portion of the Property subject to this Master Declaration, their respective legal representatives, heirs, successors, and assigns for a term of thirty (30) years from the date of the recording of this document; after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument in writing signed by eighty percent (80%) of the then Owners of the Lots has been recorded within the year preceding the beginning of each successive period of 10 years, agreeing to change said covenants, in whole or in part or to terminate the same, in which case this Master Declaration shall be modified or terminated as specified therein.

**2. AMENDMENT**

Prior to the Turnover Date, Declarant may amend this Master Declaration in its sole and absolute discretion. After the Turnover Date, Declarant may amend this Master Declaration in its sole and absolute discretion at any time and from time to time if such amendment is: (a) necessary to bring any provisions hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination, (b) necessary to enable any reputable title insurance company to issue title insurance coverage on a Lot, (c) required by an institutional lender or a government mortgage agency or purchaser of mortgage loans, to enable the same to make, insure or purchase mortgage loans on a Lot, (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on a Lot subject to this Master Declaration, or (e) correct any stenographic, scrivener's or surveyor's error or any error of a like nature; provided however, any such amendment shall not adversely affect the title to a Lot unless the Owner thereof shall consent thereto in writing.

After the Turnover Date and so long as it still owns any part of the Property or the Additional Property for development, Declarant may amend this Master Declaration in its sole and absolute discretion for any other purpose, provided such amendment shall not materially and adversely affect the rights of any Owner of a Lot, without the approval of such Owner.

After the Turnover Date, any non-Declarant initiated amendment or any Declarant initiated amendment which has a materially adverse effect upon the rights of an Owner of a Lot, shall require the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of the Members (other than Declarant) representing sixty-seven percent (67%) of the total votes in the Master Association, and the consent of Declarant so long as Declarant owns any portion of the

Property or the Additional Property. However, the percentage of votes necessary to amend a specific clause shall be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke or modify any right or privilege of the Declarant or the Resort without the written consent of the Declarant or the Resort, as the case may be, or the assignee of such right or privilege. It is the desire of Declarant to retain control of the Master Association and Village Association(s) and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Article XVIII deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Master Declaration and Village Association(s) to restore such control.

**3. INTERPRETATION OF COVENANTS**

Except for judicial construction, the Master Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Master Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Master Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by the covenants and provisions hereof. It is Declarant's intent, and all Owners who take subject to this Master Declaration covenant and agree and are thereby estopped to deny, that any reserved right or function of Declarant or the Master Association, and any other covenant within this Master Declaration, is intended to promote the use and enjoyment of the Community, is intended to foster the creation, preservation, or enhancement of economic or intangible value associated with the Community, and does touch and concern, benefit and burden, and run with the Community.

**4. ALL USERS SUBJECT TO GOVERNING DOCUMENTS**

All present or future Owners and any other Person that might use the facilities, Improvements, or amenities of the Community in any manner, are subject to the Governing Documents and any authorized amendments thereto.

**5. SEVERABILITY**

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**6. USE OF COMMUNITY TERM**

No person shall use the words "Strawberry Ranch" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant, which consent may be withheld for any reason in Declarant's sole and subjective discretion. However, Owners may use the term "Strawberry Ranch" in printed or promotional materials where such term is used solely to specify that a particular property is located within the Community.

**7. ASSIGNMENT OF RIGHTS**

Declarant shall have the right, in its sole and absolute discretion, to assign all or part of its rights under this Master Declaration.

**8. NOTICE OF MORTGAGEE ACTION**

In the event any Owner desires to mortgage his or her Lot, such Owner shall require that the mortgage specifically provide that in the event of foreclosure or the exercise of any remedy set forth in the mortgage, the mortgagee shall acquire the Lot subject to this Master Declaration.

**9. PROVISION OF SERVICES**

The Master Association shall be authorized but not obligated to enter into, in the Board's discretion, contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Members of the Master Association and their guests, lessees, and invitees and to charge use and service fees for such services and facilities. By way of example, some services and facilities which might be offered include courier service, secretarial service, grocery services, maid services, care taker services, home repair services, and similar services and facilities. The cost of such services and facilities may be included as a Common Expense if offered in bulk to all members or as a Village Assessment or Special Assessment if offered to Villages or individuals, as appropriate.

**10. POWER OF ATTORNEY**

Each Owner hereby unconditionally and irrevocably appoints the Master Association and the Declarant as its true and lawful attorney-in-fact, coupled with an interest, to execute any and all documents and take any and all actions necessary or desirable to fulfill the purposes and intentions of this Master Declaration.

**11. NON-WAIVER**

No provision contained in this Master Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**12. VENUE; JURISDICTION; CHOICE OF LAWS**

The exclusive venue and jurisdiction of any such action at law, arising in connection with this Master Declaration, any of the other Governing Documents, or the Community, shall be Fourth Judicial District Court, Wasatch County. This Master Declaration shall be governed by and construed in accordance with the laws of the State of Utah.

**13. SUCCESSORS AND ASSIGNS OF DECLARANT**

Any reference in this Master Declaration to Declarant includes any successors or assigns of Declarant's rights and powers hereunder. Declarant may assign any or all of such rights by recording an assignment of Declarant's rights with the office of the County Recorder.

**14. REFERENCE TO COVENANTS IN DEEDS**

Deeds or any instruments affecting any Lot or any other part of the Property may contain the covenants herein set forth by reference to this Master Declaration. Regardless of whether any such reference is made in any deed or instrument, each and all of the covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his, her, or its heirs, executors,

administrators, successors and assigns.

**15. SUBJECT TO GOVERNING DOCUMENTS**

All Owners are given notice that the use of their Lot or Unit and the Common Areas is limited by the Governing Documents, as the same may be amended, expanded, and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his, her or its Lot or Unit can be affected by this provision and that the Governing Documents may change from time to time. All purchasers of Lots or Units are on notice that Declarant or the Board may adopt changes to the Governing Documents from time to time. Copies of the Governing Documents may be obtained from the Master Association.

**16. DECLARANT'S DISCLAIMER OF WARRANTIES**

Anything to the contrary in this Master Declaration notwithstanding, and except as otherwise may be expressly set forth on a Plat or other instrument recorded in the office of the County Recorder, as applicable, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Community can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Master Declaration, or that any such land (whether or not it has been subjected to this Master Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect.

**17. WARRANTIES; CONSTRUCTION DEFECTS**

All Lots and Units have been or will be sold without any warranties of Declarant, except for any such warranties required to be provided under governing County ordinances and Utah law. Declarant disclaims any and all express or implied warranties, whether established by statutory, common, case law or otherwise, as to the design, construction, sound and odor transmission, existence and development of molds, mildew, toxins, or fungi, furnishing, and equipping of the Community, including, without limitation, any implied warranties of habitability, fitness for a particular purpose or merchantability, and compliance with plans or warranties imposed by statute (other than any which may be imposed under governing County ordinances and Utah law, and then only to the extent applicable and not yet expired). Declarant has not given, and each Owner has not relied on or bargained for, any such warranties. Each Owner, by accepting a Deed, shall be deemed to represent and warrant to Declarant that in deciding to acquire a Lot or Unit that the Owner relied solely on such Owner's independent inquiry or investigation, as applicable, of the Lot or Unit.

**18. REFUND OF TAXES, FEES AND OTHER CHARGES**

Unless otherwise provided in this Master Declaration, the Master Association agrees that any taxes, fees, or charges paid by Declarant to any Municipal Authority, utility company, or any other entity which at a later date are refunded in whole or in part, shall be returned to Declarant in the event said refund is received by the Master Association.

**19. WILDLIFE AND RURAL ANIMALS**

ALL OWNERS, RESIDENTS, TENANTS, GUESTS AND INVITEES OF ANY OWNER OR RESIDENT, AND DAY USER, AS APPLICABLE, ACKNOWLEDGE that the Community is located in a rural location and is surrounded by wildlife and rural animals. Owners should expect that wildlife and rural animals may

frequent the area and cause damage to vegetation and landscaping on Common Areas and Lots and/or property damage to Units and other structures. Owners should take measures to protect themselves, families, guests, pets, landscaping, etc. using methods that will not injure or affect the property rights of other Owners. No hunting is allowed on any developed phases or undeveloped land, whether or not the land is owned by the Declarant, on the Property without prior written consent of Declarant and/or the Board. NEITHER THE MASTER ASSOCIATION, ANY VILLAGE ASSOCIATION NOR DECLARANT SHALL IN ANY WAY BE LIABLE IN ANY WAY, UNDER ANY THEORY, FOR INJURY, LOSS OR DAMAGE TO ANY PERSON OR PROPERTY ARISING FROM OR RELATING TO THE FOREGOING CONDITIONS.

## **20. DECLARANT'S DISCLAIMER OF WARRANTIES**

Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a Recorded Plat or other instrument recorded in the office of the County Recorder of Wasatch County, Utah, DECLARANT MAKES NO WARRANTIES OR REPRESENTATIONS WHATSOEVER THAT THE PLANS PRESENTLY ENVISIONED OR THE COMPLETE DEVELOPMENT OF THE PROPERTY CAN OR WILL BE CARRIED OUT, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration or any other declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect. Not as a limitation of the generality of the foregoing, Declarant expressly reserves the right at any time and from time to time to amend the development plans for the Community.

## **21. NO WARRANTY OF ENFORCEABILITY**

While Declarant has no reason to believe that any of the provisions contained 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 of the provisions of this Declaration. Any Owner acquiring a Lot in the Property in reliance on one or more of the provisions in this Declaration shall assume all risks of the validity and enforceability thereof and by acquiring any Lot agrees that Declarant shall have no liability therefore.

## **22. MARKETING AND SALES ACTIVITIES**

Notwithstanding anything in the Governing Documents to the contrary, Declarant, its agents, and builders may construct and maintain upon portions of the Common Area and other property they own, such facilities, activities, and things as, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots or Units. Such permitted facilities, activities, and things shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant, Declarant's agents, and builders may park vehicles in areas other than garages or driveways, including on streets. Builder's rights under this Section are subject to Declarant's approval.

## **23. COMMUNITY SYSTEMS**

Declarant reserves for itself, its agents, successors, and assigns, a perpetual right and easement to install and operate within the Community such improvements as Declarant, in its sole discretion, deems appropriate to service the improvements and the structures within any Lot or other portion of the Property. Such right shall include, without limitation, Declarant's right to select and contract with



companies licensed to provide telecommunications, cable television, and other services in the Property, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

#### **24. SECURITY**

The Master Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. NEITHER THE MASTER ASSOCIATION, ANY VILLAGE ASSOCIATION NOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMUNITY, HOWEVER, AND NEITHER THE MASTER ASSOCIATION, NOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, RESIDENTS, TENANTS, GUESTS AND INVITEES OF ANY OWNER OR RESIDENT, AND DAY USER, AS APPLICABLE, ACKNOWLEDGE THAT DECLARANT, THE COMMUNITY, ITS BOARD, AND THE ARCHITECTURAL REVIEW COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR BURGLAR ALARM SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE ARCHITECTURAL REVIEW COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE NOR THAT FIRE PROTECTION OR BURGLARY ALARM SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, RESIDENT, TENANT, GUEST, LICENSEE OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT DECLARANT, THE MASTER ASSOCIATION, ITS BOARD, AND THE ARCHITECTURAL REVIEW COMMITTEE ARE NOT INSURERS AND THAT EACH OWNER, RESIDENT, TENANT, GUEST, LICENSEE OR INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT DECLARANT, THE MASTER ASSOCIATION, ITS BOARD AND ARCHITECTURAL REVIEW COMMITTEE HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, RESIDENT, TENANT, GUEST, LICENSEE OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE COMMUNITY.

***[Signature Pages Follow]***

IN WITNESS WHEREOF, the undersigned Declarant has executed this Master Declaration on the date set forth at the top hereof.

DECLARANT:

FRAGOLA ENTERPRISES LLC,  
D/B/A STRAWBERRY RANCH MOUNTAIN RESORT,  
a Utah limited liability company

By: [Signature]  
Name: Burke Roney  
Its: Manager

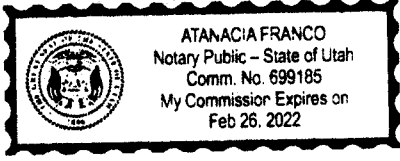
STATE OF UTAH                    )  
  :SS.  
COUNTY OF WASATCH         )

The foregoing instrument was acknowledged before me this 26th day of July, 2019, by Burke Roney, Manager of Fragola Enterprises, L.L.C., d/b/a Strawberry Ranch Mountain Resort.

Atanacia FRANCO  
Notary Public

Residing at: Feb 26, 2022  
302 E Gateway Drive  
Suite 201, Heber City, UT  
84032

My Commission Expires:  
Feb 26, 2022



JOINDER

The undersigned hereby joins in this Master Declaration this 26th day of July, 2019.

MASTER ASSOCIATION:

STRAWBERRY RANCH STRAWBERRY PHASE  
MASTER ASSOCIATION, INC.,  
a Utah Non-Profit Corporation

By: [Signature]  
Name: Burke Roney  
Its: President

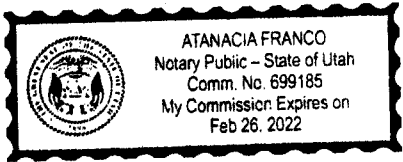
STATE OF UTAH                    )  
  )  
COUNTY OF Wasatch        )        :SS.

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of July, 2019, by Burke Roney, the President of Strawberry Ranch Strawberry Phase Master Association, Inc., a Utah non-profit corporation.

Atanacia Franco  
Notary Public

Residing at: 322 E Gateway Drive  
Suite 201  
Heber City, UT 84032

My Commission Expires:  
Feb 26, 2022



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

The Property which is subject to this Master Declaration shall refer to the real property legally described as follows, as the same may be supplemented from time to time by a Supplemental Declaration filed in accordance with the Declaration:

Attached.

STRAWBERRY PHASE CC&R's

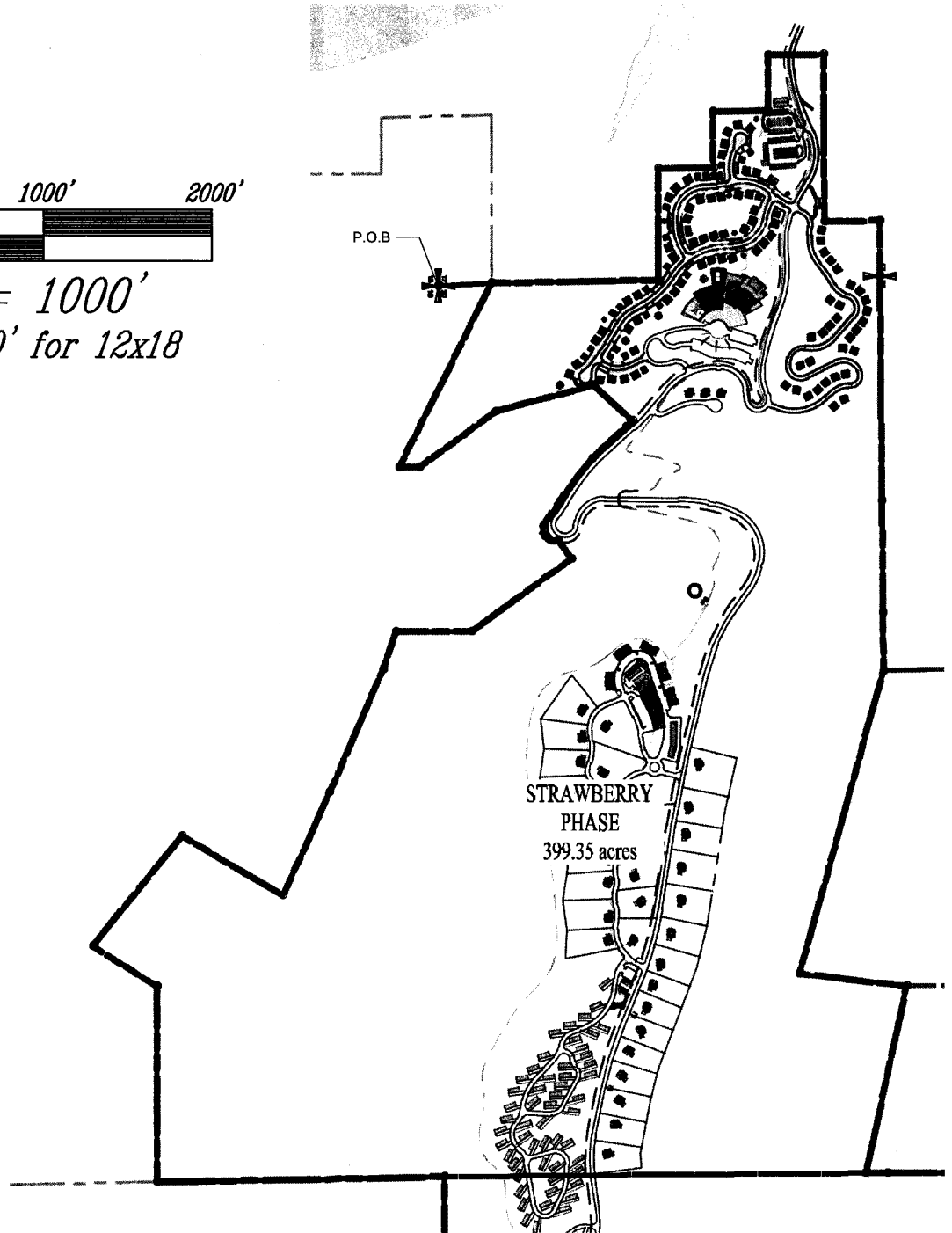
BOUNDARY - EXHIBIT

**Boundary Legend:**

TOTAL PROJECT	7,013.83 ACRES
TOTAL STRAWBERRY PHASE	399.35 ACRES



Scale 1" = 1000'  
Scale 1" = 2000' for 12x18



# Strawberry Phase Boundary

## STRAWBERRY PHASE CC&R's

### BOUNDARY - EXHIBIT

### Strawberry Phase Boundary Description:

PORTIONS OF LAND IN SECTIONS 17, 19, AND 20 IN TOWNSHIP 4 SOUTH RANGE 10 WEST, UINTAH BASE AND MERIDIAN AS FOLLOWS: BEGINNING AT A BUREAU OF RECLAMATION (BOR) MONUMENT THAT IS SOUTH 87°08'57" WEST 317.85 FEET FROM THE U.S. FOREST SERVICE ALUMINUM MONUMENT AT THE NORTHWEST CORNER OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 10 WEST, UINTAH BASE AND MERIDIAN (BASIS OF BEARINGS IS SOUTH 01°19'00" EAST BETWEEN THE NGS TRIANGULATION STATION NAMED "SPRINGS" AND THE SOUTHEAST CORNER OF SAID SECTION 20, IN CONFORMANCE WITH THE UTAH COORDINATE SYSTEM 1983 CENTRAL ZONE BEARINGS); AND RUNNING THENCE N88°56'53"E 990.51 FEET ALONG THE NORTH LINE OF SAID SECTION 20 AND THE USFS BOUNDARY TO A BOR MONUMENT, THENCE N00°12'34"W 648.73 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE N89°03'54"E 329.84 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE N00°13'38"W 324.03 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE N89°07'01"E 329.65 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE N00°16'20"W 323.71 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE N89°10'24"E 329.58 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE S00°17'24"E 970.11 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE N89°00'45"E 330.17 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE S00°20'39"E 323.02 FEET ALONG THE USFS BOUNDARY TO A BOR BRASS CAP MONUMENT FOR THE NORTH QUARTER CORNER OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 10 WEST, UINTAH BASE AND MERIDIAN; THENCE S00°26'34"E 1313.09 FEET ALONG THE USFS BOUNDARY AND FOLLOWING THE CENTER OF SECTION LINE FOR SECTION 20 TO A REBAR WITH SURVEYOR CAP MARKED "145796," THENCE S00°26'34"E 654.05 FEET ALONG THE USFS BOUNDARY TO A BOR MONUMENT; THENCE S00°21'33"E 327.78 FEET ALONG THE USFS BOUNDARY; THENCE N89°01'54"E 2.74 FEET MORE OR LESS TO THE WESTERN BOUNDARY OF THE 40 DAM ACRES SUBDIVISION; THENCE S15°52'40"W 1851.77 FEET ALONG THE WESTERN BOUNDARY OF THE 40 DAM ACRES SUBDIVISION, ON FILE AND OF RECORD IN THE OFFICE OF THE WASATCH COUNTY RECORDER; THENCE S83°29'57"E 642.29 FEET ALONG THE BOUNDARY OF SAID SUBDIVISION TO THE WESTERN BOUNDARY OF THE HUNDLEY PROPERTIES LC PROPERTY; THENCE S12°28'15"W 1120.33 FEET MORE OR LESS AND ALONG THE WESTERN BOUNDARY OF THE HUNDLEY PROPERTIES LC PROPERTY TO THE SOUTH LINE OF SECTION 20, TOWNSHIP 4 SOUTH RANGE 10 WEST; THENCE S89°33'54"W 2504.65 FEET ALONG THE SOUTH LINE OF SECTION 20 TO THE 1966 BLM MONUMENT FOR THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 10 WEST; THENCE S88°56'32"W 1713.33 FEET ALONG THE SOUTH LINE OF SECTION 19, TOWNSHIP 4 SOUTH, RANGE 10 WEST; THENCE N00°06'19"E 1146.35 FEET ALONG THE EASTERLY BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N58°31'23"W 448.36 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N39°23'15"E 835.32 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE S60°11'02"E 695.18 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N24°58'17"E 663.24 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N23°55'03"E 783.50 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N19°16'36"E 232.76 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE S89°59'36"E 448.51 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N54°27'14"E 731.65 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N35°32'46"W 136.22 FEET TO THE WEST RIGHT-OF-WAY LINE FOR A COUNTY ROAD KNOWN AS FOREST ROAD 090; THENCE ALONG SAID RIGHT-OF-WAY LINE (ALSO THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION) THE FOLLOWING EIGHT COURSES: NORTHWESTERLY 151.43 FEET ALONG A 65.58 FOOT RADIUS CURVE TO THE LEFT WITH CENTRAL ANGLE OF 132°18'01" AND CHORD BEARING N47°43'35"W 119.96 FEET; THENCE 59.80 FEET ALONG A 128.03 FOOT RADIUS CURVE TO THE RIGHT WITH CENTRAL ANGLE OF 26°45'42" AND CHORD BEARING N31°48'16"E 59.26 FEET; THENCE 85.88 FEET ALONG A 328.98 FOOT RADIUS CURVE TO THE LEFT WITH CENTRAL ANGLE OF 14°57'25" AND CHORD BEARING N37°42'25"E 85.64 FEET; THENCE 26.91 FEET ALONG A 949.76 FOOT RADIUS CURVE TO THE LEFT WITH CENTRAL ANGLE OF 01°37'24" AND CHORD BEARING N31°02'24"E 26.91 FEET; THENCE 46.93 FEET ALONG A 949.76 FOOT RADIUS CURVE TO THE RIGHT WITH CENTRAL ANGLE OF 02°49'52" AND CHORD BEARING N33°16'02"E 46.93 FEET; THENCE 274.37 FEET ALONG A 1902.74 FOOT RADIUS CURVE TO THE RIGHT WITH CENTRAL ANGLE OF 08°15'43" AND CHORD BEARING N38°48'50"E 274.13 FEET; THENCE 268.78 FEET ALONG A 1902.74 FOOT RADIUS CURVE TO THE RIGHT WITH CENTRAL ANGLE OF 08°05'37" AND CHORD BEARING N46°59'29"E 268.56 FEET; THENCE 52.84 FEET ALONG A 1160.86 FOOT RADIUS CURVE TO THE RIGHT WITH CENTRAL ANGLE OF 02°36'29" AND CHORD BEARING N49°44'04"E 52.84 FEET; THENCE N47°47'41"W 312.09 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE S75°13'06"W 601.60 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE S54°27'14"W 557.87 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N89°59'36"W 121.00 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION; THENCE N27°07'23"E 1205.74 FEET ALONG THE BOUNDARY OF THE STRAWBERRY PINES SUBDIVISION TO THE POINT OF BEGINNING.

CONTAINS 399.4 ACRES

# Strawberry Phase Description

**EXHIBIT B**  
**LEGAL DESCRIPTION OF THE ADDITIONAL PROPERTY**

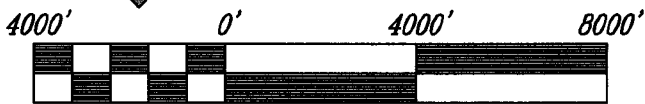
Attached.

STRAWBERRY PHASE CC&R's

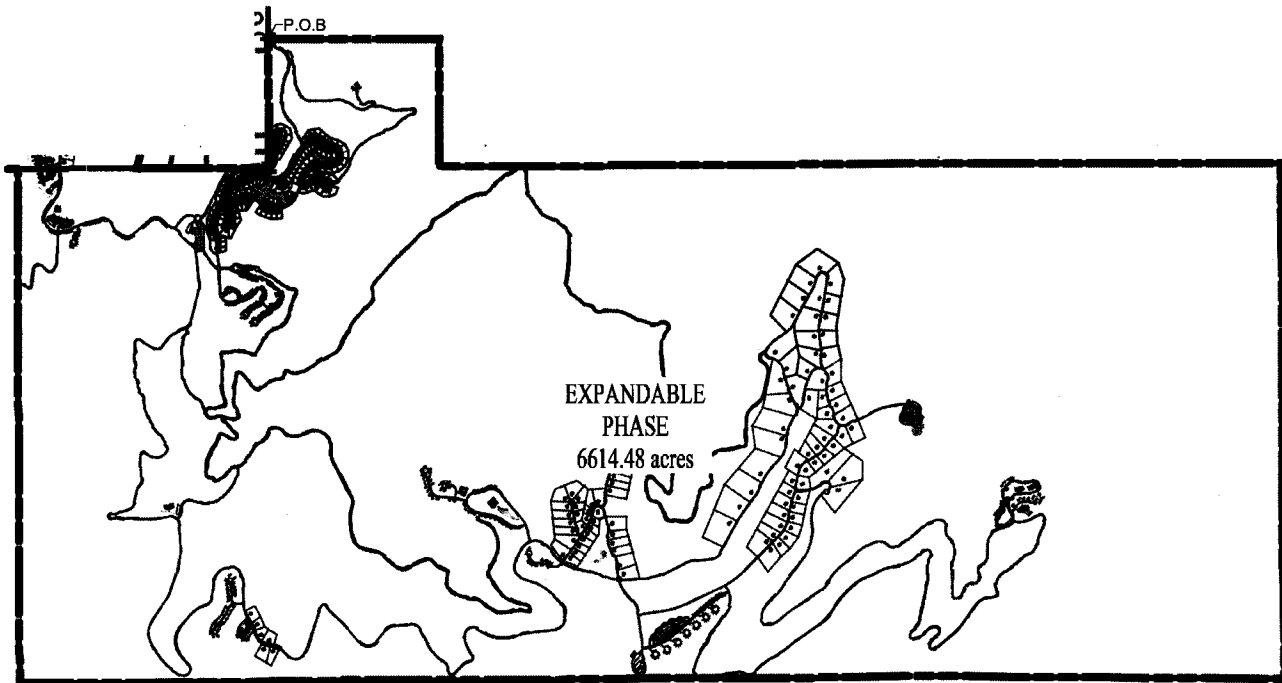
EXPANDABLE BOUNDARY -  
EXHIBIT

**Boundary Legend:**

TOTAL PROJECT	7,013.83 ACRES
TOTAL EXPANDABLE PHASE	6,614.48 ACRES



*Scale 1" = 4000'*  
*Scale 1" = 8000' for 12x18*



# Expandable Phase Boundary



EXPANDABLE PHASE CC&amp;R's

BOUNDARY - EXHIBIT

**Expandable Phase Boundary Description:**

BEGINNING AT A POINT WHICH IS THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER SECTION 21 TOWNSHIP 4 SOUTH RANGE 10 WEST, UINTA BASE AND MERIDIAN. THENCE EAST 3581.44 FEET; THENCE SOUTH 00°10'40" WEST 2632.32 FEET; THENCE NORTH 89°41'11" EAST 1730.31 FEET; THENCE NORTH 89°41'33" EAST 2640.22 FEET; THENCE NORTH 89°46'38" EAST 2626.13 FEET; THENCE NORTH 89°16'54" EAST 2654.75 FEET; THENCE EAST 7971.75 FEET; THENCE SOUTH 00°06'07" EAST 7851.86 FEET; THENCE SOUTH 00°53'45" EAST 2732.09 FEET; THENCE NORTH 89°31'11" WEST 5306.71 FEET; THENCE NORTH 89°31'10" WEST 2682.10 FEET; THENCE SOUTH 88°55'57" WEST 1114.26 FEET; THENCE SOUTH 88°50'19" WEST 1497.72 FEET; THENCE SOUTH 89°58'00" WEST 2639.93 FEET; THENCE SOUTH 89°19'13" WEST 1146.85 FEET; THENCE SOUTH 89°19'13" WEST 1496.02 FEET; THENCE SOUTH 89°57'56" WEST 2661.33 FEET; THENCE SOUTH 89°24'01" WEST 1159.24 FEET; THENCE SOUTH 89°24'01" WEST 1475.45 FEET; THENCE SOUTH 89°24'01" WEST 2634.69 FEET; THENCE SOUTH 89°54'45" WEST 1114.40 FEET; THENCE SOUTH 89°54'45" WEST 1533.50 FEET; THENCE NORTH 00°13'30" WEST 5271.00 FEET; THENCE NORTH 00°13'30" WEST 5271.00 FEET; THENCE NORTH 89°33'54" EAST 2505.46 FEET; THENCE NORTH 89°33'54" EAST 127.70 FEET; THENCE NORTH 89°47'06" EAST 2631.33 FEET; THENCE NORTH 00°19'17" WEST 2651.65 FEET; TO THE POINT OF BEGINNING.

CONTAINING: 6,614.48 ACRES

**Expandable Phase Description**