

**MASTER DECLARATION
OF
COVENANTS, CONDITIONS, AND
RESTRICTIONS
FOR
NORTHSTAR RANCH**

**A Master Planned Development
In
Tooele County, Utah**

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FOR
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THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR NORTHSTAR RANCH ("Declaration") is adopted by Northstar Ranch, LLC, a Utah limited liability company, its successors and assigns (the "Declarant"), and is effective as of the date it is recorded in the Tooele County Recorder's Office.

RECITALS

- A. Declarant is the developer of certain real property Tooele County, which is more particularly described on Exhibit A attached hereto and made a part hereof (the "Property"). The Declarant is the owner of the Property. By signing this Declaration, the Declarant consents to subjecting the Property to the terms, covenants, conditions, and restrictions set forth in this Declaration.
- B. By executing and recording this Declaration, the Declarant declares that the Property described in Exhibit A and any additional property made subject to this Declaration in the future by amendment or supplement, shall constitute the master planned mixed use community of "Northstar Ranch" (the "Project").
- C. The Declaration, and any amendment or supplement thereto, shall run with the title to the Property, shall govern the Project and use of such Property, and shall be binding upon current and future owners of any portion of the Property and their respective heirs, successors, and assigns, and any other person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of the Property. By taking title to Property in the Project, all Owners join in and accept the intent, purposes, and objectives of this Declaration and agree to be bound by it.
- D. In furtherance of the development plan for the Project, Declarant, has created or will create the NR Master HOA (the "Master Association") to which the Declarant in due course will delegate and assign, among other things, (1) the powers of owning, maintaining, and administering the Common Areas, (2) the duties of administering and enforcing this Declaration, (3) the duties of collecting and disbursing the assessments and charges hereinafter created in connection with the operation, maintenance, repair, and replacement of the Common Area; and (4) other functions and obligations of the Master Association.
- E. This Declaration is adopted to define the rights of the Master Association, the Owners, and the Declarant in and to the Project, and provide for a general plan for managing the Project in furtherance of the effort to efficiently and economically provide a quality living environment and protect and enhance the value of the Project.
- F. Declarant reserves the right to amend and supplement this Declaration from time to time, in the discretion of Declarant, to formally include additional real property within the Project and to cause such additional property to become subject to the terms and conditions of this Declaration, or to accomplish any other purpose desired by Declarant.
- G. The Bylaws of the Master Association are attached hereto as Exhibit B and are incorporated herein by reference.

H. The Association and Project are not a cooperative.

NOW, THEREFORE, Declarant does hereby declare that the Property, as defined and described herein, shall be held, sold, conveyed, transferred, leased, subleased, used and occupied subject to the covenants, conditions, restrictions, and easements set forth herein, all of which shall run with the Property and all portions thereof and shall be binding upon all parties having or acquiring any right, title, or interest in and to all or any portion of the Property, and the respective heirs, successors, and assigns of such parties.

ARTICLE 1: DEFINITIONS

The capitalized terms used in this Declaration shall have the meanings set forth in this Article 1. Unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

1.1 **"Act"** shall mean the Community Association Act codified beginning at Utah Code § 57-8a-101 *et seq.*, in effect at the time this Declaration is recorded, and as such may be amended from time to time.

1.2 **"Additional Land"** shall mean without limitation, any parcel of land that is annexed into the Project in accordance with the provisions outlined in this Declaration.

1.3 **"Allocated Interest"** shall mean the interest of that Owner which shall be applicable for the purposes of voting, the payment of Common Expenses, and for other purposes indicated in this Declaration or the Act.

1.4 **"Articles"** shall mean the Articles of Incorporation for the Master Association filed with the Utah Division of Corporations and Commercial Code, or the chartering document of any other legal entity, if any shall be formed for the Master Association.

1.5 **"Assessment"** shall mean any monetary charge imposed or levied on an Owner by the Master Association as provided for in this Declaration.

1.6 **"Board Member"** or **"Director"** shall mean a duly-qualified and elected or appointed member of the Board of Directors.

1.7 **"Board of Directors"** or **"Board"** shall mean the governing board with primary authority to operate and manage the affairs of the Master Association.

1.8 **"Builder"** shall mean a Person, other than Declarant or Declarant affiliate, who purchases one or more unimproved or improved lots or parcels of land within the Project for further subdivision or development and resale to the public. Builders have the same privileges and responsibilities as Owners during the time that they own Lots or Units for construction and resale, including the privileges of membership in the Association. In addition, to further the purposes of this Declaration and to enhance the development of specific Neighborhoods, Declarant may extend any of the rights and exemptions it has reserved under this Declaration with respect to development, construction, marketing, and sale of property in the Project to such Builders as it may designate from time to time.

1.9 **"Bylaws"** shall mean the bylaws of the Master Association attached as Exhibit B and all amendments thereto. No amendment to the Bylaws shall be effective until it is recorded.

1.10 **"Common Area"** shall, unless otherwise more specifically provided in this Declaration, mean the common area within the Project as reflected on the recorded Plats of the Master Association, and any improvements thereon, and specifically including, but not necessarily limited to: (a) open space lots not privately held; (b) trails, boundary fences, sidewalks, streetlights, parking areas, or other improvements located within the designated Common Areas on the Plats; (c) structures built within the Common Areas on the Plats including any clubhouse, swimming pool, or other common amenities or facilities; (d) all Limited Common Areas; and (e) all other parts of the Project outside of the Lots not dedicated to the public or which are necessary or convenient to the Project's existence, maintenance, safety, or normally in common use. In accordance with the Plat, the Common Areas and facilities are owned by the Master Association.

Common Area shall not include (i) any roads and associated utilities dedicated to and accepted by the City; (ii) any roads owned or controlled by a Neighborhood Association; (iii) any open space and/or parks dedicated to and accepted by the City; and (iv) any open space, parks, or other landscaped areas owned or controlled by a Neighborhood Association.

1.11 **"Common Expenses"** shall mean the actual and estimated costs incurred for the general benefit of all Owners including: (a) maintenance, management, operation, repair, and replacement of the Common Area which is maintained by the Master Association; (b) maintenance, repair, and replacement of those aspects of the Lots which are maintained by the Master Association; (c) management and administration of the Master Association, including, but not limited to, compensation paid by the Master Association to managers, accountants, attorneys, consultants, and employees; (d) extermination, security, gardening, common utilities, and other related services; (e) insurance and bonds required or allowed by this Declaration; (f) the establishment of reserves; (g) other miscellaneous charges incurred by the Master Association as provided for or allowed in the Act or the Governing Documents; and (h) any other expenses of the Master Association arising from the operation of the Master Association and not otherwise defined or precluded by the Governing Documents or any applicable law.

1.12 **"Control Period"** shall mean the period of time during which the Declarant may act as the Board of Directors, appoint Board Members, or exercise other rights as designated herein. Such period of time shall commence on the date this Declaration is recorded and terminate on the occurrence of the earliest of the following events: (1) six months after the date on which all Lots, and all of the Additional Land that may be annexed, have been conveyed to purchasers other than Declarant or its successors, assigns, and affiliates; or (2) the Declarant executes and records a written waiver of its right to control. The Special Declarant Rights contained within this Declaration may last beyond the Period of Declarant Control for the maximum length permitted by law. If the Declarant elects to waive one or more, but not all, of its Special Declarant Rights, then all Special Declarant Rights not waived shall remain in full force and effect.

1.13 **"Declarant"** shall mean Northstar Ranch, LLC, 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. The Declarant may assign all or part of its rights hereunder.

1.14 **"Declaration"** shall mean this Master Declaration of Covenants, Conditions and Restrictions for Northstar Ranch, including all attached exhibits, which are incorporated by reference, and any and all amendments to this Declaration.

1.15 **"Design Guidelines"** shall mean those requirements governing the site location and architectural design of Dwellings, buildings, and other structures and improvements within the Project.

1.16 **"Design Review Committee"** shall mean the Northstar Ranch Master Association Design Review Committee as set forth herein.

1.17 **"Development Agreement"** shall mean any agreement executed by and between the Declarant and the governmental entity with jurisdiction over the development of the Project which places restrictions, limitations, or guidance on the development of any portion of the Project.

1.18 **" Dwelling "** shall mean any residential structure built or to be built on any Lot or Unit within the Project, including the attached garage.

1.19 **"Election District"** shall mean the geographical area which may constitute any portion or portions of the Project from which the Members within that Election District shall elect one or more Board Members.

1.20 **"Governing Documents"** shall mean and refer to the Declaration, the Plat, the Bylaws, the Rules, the Articles, and any other written instrument by which the Master Association may exercise power, manage, maintain, or otherwise affect the Project.

1.21 **"Landscaping"** shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants and like improvements located within the Project, as well as the appurtenant sprinkling and irrigation systems.

1.22 **"Lender"** shall mean a holder of a mortgage or deed of trust on a Lot.

1.23 **"Limited Common Area"** shall mean a portion of the Common Area specifically designated in this Declaration or the Plat for the exclusive use of Owners of one or more Lots to the exclusion of other Owners. Conveyance of a Lot includes the use of the Limited Common Area designated for the use of the Owner of the Lot.

1.24 **"Lot"** shall mean any numbered building lot or parcel shown on the Plats within the Project. The term Lot as used in this Declaration shall include all separately owned and identified parcels of real property including but not limited to commercial lots, single family lots, multi-family lots, townhome lots, and condominium Units.

1.25 **"Manager"** shall mean any entity or Person engaged by the Board of Directors to manage the Project.

1.26 **"Master Association"** or **"Association"** shall refer to the NR MASTER HOA, the membership of which shall include each Owner in the Project. The Master Association may be incorporated as a nonprofit corporation. If the Owners are ever organized as another type of entity or if the Owners act as a group without legal organization, "Master Association" as used in this Declaration shall refer to that entity or group.

1.27 **"Neighborhood Association"** shall mean an independent homeowners association or condominium association comprised of Owners of Lots within the Project and created by the Declarant or the Master Association. Each Neighborhood Association shall be organized pursuant to Utah law and shall be subject to this Declaration. All Neighborhood Associations are subordinate to the Master Association.

1.28 **"Occupant"** shall mean a Person or Persons, other than an Owner, in possession of, using, entering into, or living in a Dwelling on the Project, including, without limitation, family members, tenants, guests, and invitees of an Owner or an Occupant.

1.29 **"Owner"** shall mean the Person or Persons who are vested with record title to a Lot, and whose interest in the Lot is held (in whole or in part) in fee simple, according to the records of the Tooele County Recorder; however, Owner shall not include a trustee for a deed of trust.

1.30 **"Person"** shall mean a natural individual, corporation, estate, limited liability company, partnership, trustee, association, government, governmental subdivision or agency, or any other legal entity with the legal capacity to hold title to real property.

1.31 **"Plat"** shall mean, and refer collectively to all record of survey maps of the Northstar Ranch Project, recorded in the records of the Tooele County Recorder and all amendments and supplements thereto.

1.32 **"Project"** shall mean the Property and all land, structures, and improvements thereon including the residential and commercial Lots, roads, open spaces, Common Areas, and Limited Common Areas.

1.33 **"Property"** shall mean the property legally described and identified in Exhibit A (and any supplements thereto) and all easements and rights appurtenant thereto. Property shall also include any Additional Land annexed into the Master Association and made subject to this Declaration.

1.34 **"Rules"** shall mean and refer to the rules and regulations adopted by the Board for the Master Association.

1.35 **"Service Area"** shall mean a portion of the Project in which the Lots receive special benefits or services from the Master Association that the Master Association does not provide to all Lots within the Project.

1.36 **"Supplement"** or **"Supplemental Declaration"** shall mean a document recorded with the Tooele County Recorder by the Declarant or Master Association to make additional real property subject to the terms of this Declaration, or which withdraws real property from the restrictions of this Declaration.

1.37 **"Terms and Conditions"** shall mean any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.

1.38 **"Unit"** shall mean a condominium Unit within the Project as identified on a plat which may be independently owned and conveyed.

ARTICLE 2: THE PROJECT

2.1 **Binding Effect of Governing Documents.** The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Declarant hereby confirms that all of the Property is part of the Project and declares and agrees that the Project and any Lot, Unit, or parcel of land within the Project shall be held, transferred, mortgaged, encumbered, occupied, used, and improved subject to the Terms and Conditions, which Terms and Conditions shall, to the extent they are included in recorded documents, constitute equitable servitudes and covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association, the Declarant, and each Owner, including their respective heirs, executors, administrators, personal representatives, successors, and assigns. By acquiring any interest in a Lot, Unit or parcel of property within the Project, such Owner consents to, and agrees to be bound by, each and every Term and Condition in the Governing Documents.

2.2 Purpose. Declarant intends that this Declaration establish a governance structure and a system of standards and procedures for the development, expansion, administration, maintenance, and preservation of Northstar Ranch as a master planned community. Northstar Ranch is intended to be a mixed-use master planned community consisting of multiple housing types, along with recreational, civic, and commercial properties surrounded by open space and parks. The Master Association is intended to be an integral part of the Project as it will own, operate, and maintain various Common Areas and improvements and shall administer and enforce this Declaration and the other Governing Documents referenced in this Declaration for the common benefit of all owners of the Project.

2.3 Nature of the Project. The Project is a mixed-use master planned community consisting which may include in excess of 1,000 acres of land in Tooele County. The densities for the Project will be set forth on the Plat and may generally be defined or clarified in a Development Agreement with governmental authorities. The Project is general in nature and is subject to refinement by Declarant, or as required by local governmental ordinances.

2.4 Project Name. The Project is named "Northstar Ranch" and is located entirely in Tooele County, Utah. The name used by the Declarant for the Project may be different than the name identified in this Declaration and on the Development Agreement and Plats.

2.5 Supplement and Exclusions to Declaration. At any time during the Control Period, Declarant may add or remove any real property to or from the terms of this Declaration by recording with the Tooele County Recorder a Supplement or Exclusion to this Declaration which (i) describes such property, (ii) declares that such property is or is not subject to this Declaration, and (iii) is signed and acknowledged by Declarant. Supplements by which real property is submitted to the terms of this Declaration may be necessary when new Neighborhoods are added to the Project. Exclusions may be necessary for schools, churches, commercial property, and other lots that shall be governed by other declarations or are otherwise not subject to this Declaration for residential Lots.

2.6 Conversion of Commercial Property. In the event that a parcel or building within the Project is designated or operated for commercial purposes, and such parcel or building is later converted or operated for residential purposes, then the owner of such property may submit the property to the provisions of this Declaration upon approval of the Master Association or Declarant. Any such addition to the Project shall be effective upon recording of a supplement to this Declaration with the Tooele County Recorder.

ARTICLE 3: PROJECT STRUCTURE & ORGANIZATION

3.1 The Declarant. The Declarant shall mean Northstar Ranch, LLC, a Utah Limited Liability Company, and its successors and assigns. The Declarant has established the Project and has set forth a governance structure for the Project through the Governing Documents. The Declarant has reserved various rights in the Governing Documents with respect to the development and administration of the Project. The Declarant may exercise these rights throughout the period of time that the Declarant or any of its affiliates own real property in the Project or has an unexpired option to expand the Project pursuant to the Governing Documents. The Declarant may assign its status and rights as the Declarant under the Governing Documents to any affiliate, or person who takes title to any portion of the property subject to this Declaration for the purpose of development and/or sale.

3.2 The Master Association. The Declarant has established or will establish the NR Master HOA as the primary entity responsible for administering the Project in accordance with the Governing Documents. The Master Association may exercise all rights and powers

that the Governing Documents and Utah law expressly grant to it, as well as any right and powers that may reasonably be implied under the Governing Documents. The Members of the Master Association shall be the Owners of Lots and Units within the Project, including the Declarant. The duties and powers of the Master Association shall relate the Project as a whole and the ownership, use, and maintenance of the Common Areas, including the imposition of assessments for such purposes.

3.3 Neighborhood Associations. The Declarant or the Master Association may create one or more Neighborhood Associations within the Project from time to time to serve the special needs of Owners within such Neighborhoods. Neighborhood Associations may be planned unit developments or created under a condominium form of ownership. Nothing in this Declaration requires the creation of a Neighborhood Association, and the jurisdiction of any Neighborhood Association shall be subordinate to that of the Master Association. Any Neighborhood Association shall be responsible for administering the additional covenants applicable to the property within its jurisdiction and for maintaining any property which it owns or which its covenants designate as being for the common benefit of its Members. The declarant of each Neighborhood Association shall be considered that Neighborhood Association's developer. A Neighborhood Association's declaration of covenants, conditions, and restrictions shall be approved by Declarant before it may become effective.

3.4 Election Districts. The Declarant or the Master Association may (but is not required to) designate "Election Districts," consisting of one or more Neighborhood Associations or Lots, for the purpose of electing directors to the Board of the Master Association. The Master Association's Bylaws shall set forth the method of establishing Election Districts. The number of Election Districts shall not exceed the total number of Board of Directors. The purpose of Election Districts is to provide for representation on the Board by groups with potentially dissimilar interests and to avoid a situation in which particular groups are able to elect the entire Board. Notwithstanding anything to the contrary, the Declarant shall have the sole discretion to establish, modify, or terminate the Election Districts until the Control Period ends.

3.5 Service Areas. The Declarant or the Master Association may create and place Lots into one or more Service Areas in which the Lots share Limited Common Areas or receive special benefits or services from the Master Association that it does not provide to all Lots within the Project. A Lot may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Lots of more than one housing type and may include Lots that are not contiguous. The Declarant may designate Service Areas and assign Lots to a particular Service Area at any time prior to the Change in Control Date. Declarant may also unilaterally amend this Declaration or any Supplement to change Service Area boundaries. Following the Control Period, the Master Association Board may, by a resolution, designate Service Areas and assign Lots to them upon the affirmative vote of Owners exceeding sixty-seven percent (67%) of the Lots affected by the proposed designation.

After the expiration of the Control Period, the Owners of Lots within each Service Area may elect a "Service Area Committee" of no more than five (5) members to represent and act on behalf of the Owners with respect to the services and benefits that the Master Association provides to the Service Area. Any assessment or action taken by the Master Association Board directed at or primarily affecting a Service Area shall be made in consultation with such Service Area Committee.

3.6 The Owners. Each Person, including Declarant, which holds record title to a Lot,

is referred to in the Governing Documents as an Owner. Every owner is automatically a Member of the Master Association. However, there shall be only one membership per Lot. Every Owner has a responsibility to comply with the Governing Documents.

3.7 Common Area. Common Area shall, unless otherwise more specifically provided in this Declaration, mean the real property and facilities that the Master Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Lot. The Common Area also includes any property that the Master Association holds under a lease and any easements in favor of the Master Association. The Common Area is owned by and title thereto is hereby granted to the Master Association.

3.8 Limited Common Area. Certain portions of the Common Area may be designated as Limited Common Area and assigned for the exclusive use or primary benefit of less than all Lots. The Declarant may designate property as Limited Common Area and assign it to particular Lots or Neighborhoods on a recorded plat depicting such property. At any time during the Control Period, the Declarant may modify or assign use of the same Limited Common Area to additional Lots.

The right to and interest in the Limited Common Area assigned to a Lot shall be appurtenant to each respective Lot and may not be severed from the ownership of the Lot.

3.9 Allocated Interest of Each Lot in the Votes of the Association. Each Lot is entitled to a vote equal to its Allocated Interest for all matters related to the Master Association that Owners are permitted or required to vote or approve, and such votes shall be cast in accordance with the Bylaws. The Allocated Interest may be expressed as a fraction or as a decimal number. The Allocated Interest of each Lot shall have a permanent character and shall not be altered without the express affirmative written consent of at least sixty-seven percent (67%) of the total Allocated Interest of the Project and the Master Association shall be required to record an amendment or Supplement to this Declaration describing any approved changes in Owners' Allocated Interests.

Notwithstanding the foregoing, the Declarant shall have the power to unilaterally adjust the Allocated Interest of each Lot as additional property or Lots are added or withdrawn from the Project through an amendment or supplement to this Declaration.

3.10 Declarant Voting Rights. The Declarant shall be entitled to a vote equal to twenty-five (25) times the Allocated Interest assigned to each Lot the Declarant owns in the Project for all matters in which Members are entitled to vote. Declarant's voting rights shall extend beyond any termination of the Control Period, so long as the Declarant owns one or more Lots in the Project. The foregoing voting rights are to be in addition to all Special Declarant Rights contained in the Governing Documents during the Control Period including, but not limited to, Declarant's unilateral right to control the Board, expand the Project, act as the DRC, and amend the Governing Documents.

3.11 Plat. The Declarant shall have the right to annex property to the Project and record plats for the development of property within the Project. The dimensions, descriptions, and identification of boundaries of any plat made subject to this Declaration, are hereby incorporated into and made a part of this Declaration. If any conflict exists between a Plat and this Declaration, the Declaration shall control.

ARTICLE 4: ORGANIZATION & GOVERNANCE OF MASTER ASSOCIATION

4.1 Organization of Association. The Master Association shall serve as the governing organizational body for the Project.

4.2 Legal Organization. The Master Association may be organized as a non-profit corporation. In the organization, reorganization, or amendment of any documents related to the legal organization of the Master Association, the terms in all such documents shall, to the extent possible under the applicable law, be consistent with the terms in the Declaration and the Bylaws attached hereto or any lawful amendment thereto. If the legal entity should ever expire or be dissolved for any reason as required or permitted by law, in any reorganization or reinstatement of the entity, the Association shall, to the extent possible and subject to any then-existing legal requirements, adopt documents consistent with the terms of the Declaration and Bylaws.

4.3 Membership. Membership in the Master Association shall at all times consist exclusively of Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Lot within the Project and such membership shall automatically terminate when the Owner ceases to have an ownership interest in a Lot. Upon the transfer of an ownership interest in a Lot, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Lot is held.

4.4 Record of Ownership. Every Owner shall promptly file the conveyance document (or in the case of contract buyer, a copy of the sales contract) for his Lot with the secretary of the Association who shall maintain a record of ownership of the Lots. Any Owner who mortgages his Lot or any interest therein by a mortgagee which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an "Individual Assessment" in accordance with the provisions of Article 8.

4.5 Member Voting. Each Lot is entitled to a vote based on its Allocated Interest in the Master Association, subject to any limitations on voting set forth in this Declaration and other Governing Documents. Member voting shall be conducted as set forth in the Bylaws.

Due to the number of Lots that may be developed in the Project, the Governing Documents allow for the establishment of Election Districts. If Election Districts are created, then the Owners of Lots in each Election District shall be entitled to elect one or more Board Members and conduct Election District voting in the manner provided in the Bylaws.

4.6 Board of Directors or Board. The governing body of the Master Association shall be the Board of Directors. The Board of Directors shall make all decisions and take all actions on behalf of the Master Association unless a decision or action is specifically required by the Governing Documents to be subject to Owner vote. During the Control Period, the Declarant shall have the sole authority to act as the Board of Directors, or to appoint all Board members. After the Control Period ends, the Board of Directors shall be elected by the Members of the Association pursuant to the election provisions of the Bylaws. The Bylaws may also set forth qualification requirements for serving on the Board. Except as otherwise provided in this Declaration, Bylaws, or the Articles of Incorporation, the Board of Directors shall act, in all instances, on behalf of the Association. Any reference to an act, right, or obligation of the Association in the Governing Documents may only be exerted or complied with through an action of the Board of Directors. Except as may be specifically provided in the

Declaration, Bylaws, Articles of Incorporation, or by applicable law, no Owner or group of Owners other than the Board of Directors may direct the actions of the Association. The Board may retain professionals, including, without limitation, attorneys, accountants, managers, and bookkeepers to assist in any Board function.

Notwithstanding anything to the contrary in this Section, Declarant appointed Board members shall not be bound by qualification requirements or any other requirements in the Bylaws.

4.7 No Reliance on Actions Contrary to Governing Documents. No one may rely upon any authorization (from the Board of Directors or anyone else) contrary to the terms of the Governing Documents regardless of the circumstances under which it is given, and no claim or defense of estoppel, waiver, or similar equitable or legal claim or defense may be raised by anyone related to any alleged reliance. It is the responsibility of anyone interacting with, visiting, occupying, or purchasing a Lot in the Master Association to verify that anything that the Master Association does, does not do, or authorizes related to the Project or the Master Association is in compliance with the terms of the Governing Documents.

4.8 Liability. To the fullest extent permitted by applicable law, Board Members and officers of the Master Association shall not be liable to the Master Association or any Member thereof for any damage, loss, or prejudice suffered or claimed on account of any act, error, negligence, or failure to act in the performance of his or her duties, except for intentional or willful bad acts or acts of recklessness. If a Board Member or any officer of the Master Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law, except where the Board member or officer is found by a court of law to have engaged in willful or intentional misconduct in carrying out his/her duties.

4.9 Registration with the State. In compliance with Utah Code § 57-8a-105, the Master Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required by law. The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

ARTICLE 5: RIGHTS & RESPONSIBILITIES OF THE MASTER ASSOCIATION

5.1 Rights and Responsibilities of the Master Association. The Master Association shall have the following rights and responsibilities in addition to any others set forth in the Governing Documents or provided by law. The Master Association may also take any action reasonably necessary to effectuate any such right, privilege, or purpose.

5.2 Maintenance. The Board shall make provisions for completing all maintenance, repair, and replacement requirements of the Master Association. This shall include the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area and Facilities. The Master Association shall do all such other and further acts that the Board of Directors deems necessary to preserve and protect the Common Area and the Project, in accordance with the general purposes specified in this Declaration. The Master Association may set maintenance standards for all areas within the Project and may assess any Neighborhood Association for the costs of maintenance or repair that the Master Association, in its reasonable discretion, determines is necessary to bring such areas in compliance with the Project's standards.

5.3 Paying Expenses. The Master Association shall provide for the payment of Common Expenses and any other obligations incurred by the Master Association.

5.4 Setting and Collecting Assessments. The Master Association shall establish, collect, and account for Assessments as necessary to operate the Project consistent with the requirements of the Governing Documents.

5.5 Title to Common Areas. The Master Association shall hold title to all Common Areas conveyed to it by the Declarant and pay all real property taxes and assessments levied upon any portion of the Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments. Upon approval of sixty-seven percent (67%) or more of the Allocated Interest of the Master Association, the Board shall have the authority to transfer title to Common Area real property owned by the Master Association to governmental entities for public use, or to individual third parties for private use. Any transfer of title to Common Area real property during the Control Period, shall also require Declarant approval.

5.6 Entering Lots. The Master Association shall have the right at all times and upon reasonable notice of at least 48 hours (and at any time in case of an emergency) to enter into any Lot, without trespass, and regardless of whether or not the Lot Owner or Occupant thereof is present at the time, to abate any infractions, to make repairs, to correct any violation of any of the Terms and Conditions, or to abate any condition that threatens the health or property of any Owner or Occupant, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such Assessment to be secured by a lien as provided in Article 9. Notice shall not be necessary in case of an emergency originating in or threatening such Residence or any other part of the Project, including the sound or sight of running water, the smell or sight of smoke, abnormal or excessive noises, and foul smell. Owners shall also maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot under this Section and shall indemnify and hold harmless the Association for all damages related to such entry, except for such damages resulting from recklessness or bad faith.

5.7 Adopting and Enforcing Rules. The Master Association may adopt Rules for the regulation and operation of the Project. If they are adopted, they shall be consistently and uniformly enforced. The Rules may address any issues including those addressed in any other Governing Document. The Rules may supplement, clarify, and add detail to issues addressed in other Governing Documents so long as they do not contradict the same. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive, subject to a judicial determination if any is timely sought. The standard for adoption of Rules is one of reasonableness. A Rule must be reasonable in light of the circumstances pertaining to the situation or issue addressed by the Rule.

5.8 Hiring Managers and Delegating Responsibilities. The Master Association shall hire a Manager to assist the Board in the management and operation of the Project and may delegate its powers and obligations in the Governing Documents to the Manager, employees, or other agents as it deems appropriate; provided, however, that only the Board shall have the right to approve Association budgets, fines to Owners, and regular and special Assessments. Any powers and duties delegated to any Manager or other Person may be revoked by the Board at any time, with or without cause. Any management agreement must be terminable without penalty and with or without cause upon thirty (30) days' notice. The Board

has no authority to enter into any management agreement or contract inconsistent with the terms of the governing documents or that provides for a termination fee or requirement for termination for cause.

5.9 Enforcement Rights. In addition to any other remedies allowed or provided in the Governing Documents for any violation of the Governing Documents, the Master Association may: (1) impose fines; (2) suspend Owners' rights to utilize the amenities within the Project; (3) collect rents directly from tenants if Owners fail to pay Assessments; (4) bring suit for legal or equitable relief for any lack of compliance with any provisions of this Declaration or Rules promulgated by the Board or DRC; (5) exercise self-help or take action to abate a violation in any situation which requires prompt action, or within a reasonable time in a non-emergency situation after notice has been given to the offending Owner; and (6) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.

5.10 Authority Over Neighborhood Associations. The Master Association shall have the power to veto any action that a Neighborhood Association proposes to take if the Board reasonably determines the proposed action to be adverse to the interests of the Master Association or its Members or inconsistent with the Project's standards. The Master Association shall also have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated. If a Neighborhood Association fails to comply with the Master Association's requirements after reasonable notice, then the Master Association shall have the right to effect any remedial action and shall levy a Special Assessment on the Neighborhood Association to cover the enforcement costs incurred by the Master Association.

5.11 Discretion in Enforcement. Subject to the discretion afforded in this section, the Board shall uniformly and consistently enforce and implement the Terms and Conditions in the Governing Documents.

(a) The Board shall use its reasonable judgment to determine whether to exercise the Master Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, and may include in this analysis: (1) whether to compromise a claim made by or against the Board or the Master Association, and (2) whether to pursue a claim for an unpaid Assessment.

(b) The Master Association may not be required to take enforcement action if the Board determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances: (1) the Master Association's legal position does not justify taking any or further enforcement action; (2) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (3) a technical violation has or may have occurred and the violation is not material as to a reasonable Person or does not justify expending the Master Association's resources; or (4) it is not in the Master Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.

(c) Subject to Subsection (e), if the Board decides under Subsection (c) above to forego enforcement, the Master Association is not prevented from later taking enforcement action.

(d) The Board shall not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.

5.12 Reserve Fund. The Master Association shall establish and fund a reserve fund and shall obtain and update a Reserve Analysis as required in this Declaration and the Act. The Declarant shall have no duty to obtain a Reserve Analysis or to maintain a reserve fund during the Control Period pursuant to Utah Code § 57-8a-211(10).

5.13 Conflicts with Service Providers and Vendors. The Master Association shall not permit any paid services or materials obtained by the Association to be performed or provided by: (1) any Board Member; (2) any relative of any Board Member, Manager, or of any officer, employee, or owner of the Manager; (3) any business or entity in which any Board Member, Manager, or employee, officer, or owner of any Manager or any relative of the same is employed or has more than a one percent (1%) ownership or beneficial interest; or (4) any business, entity, or Person with any familial or financial relationship with any Board Member, Manager, or of any officer, employee, or owner of the Manager, or any relative of the same, without proper disclosure of such relationship or affiliation and approval by a majority of the disinterested Board Members. A relative is any natural individual known to be related by blood or marriage. The provision of services and materials for purpose of this provision shall include Managers, insurance brokers, investment or financial advisors, accountants, landscapers, contractors, and all other companies and Persons providing services to the Association. Notwithstanding the foregoing, this Section shall not apply during the Control Period.

5.14 Establishing Hearing Procedures. The Board of Directors shall have the authority to create a reasonable hearing process applicable in case the Master Association shall take adverse action related to any particular Owner or group of Owners or in case a hearing process is required by law. The Board shall not be under any obligation to offer a hearing process, except as required by law or by the Governing Documents and in any such process shall have the authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process. The Board may establish the hearing process on an as-needed basis for particular matters as they arise or may set forth a process in the Rules applicable generally to such matters that it designates. Any such hearing process shall provide, at a minimum for: (1) at least two weeks' notice of the hearing to the Owners, and (2) a reasonable time period under the circumstances for the Owner(s) to present their own testimony, the testimony of others, argument, authority, evidence, and other information the Owner deems relevant to the disputed issue. The Board may rely on any reasonable information and evidence in determining whether or not a violation of the Rules has occurred both initially and after a hearing.

5.15 Bulk Services Agreements. The Master Association shall have the right to enter into agreements, as the Board deems appropriate, for the provision of cable, television, internet, telephone, or other similar services for all of the Lots or groups of Lots. Such services shall be assessed to the Owners pursuant to the provisions of this Declaration and in any Assessment, may be broken out as a separate line item on invoices, statements, or notices of Assessment.

5.16 Meetings. The Master Association shall arrange for and conduct an annual meeting as provided for in the Bylaws and shall arrange for and conduct such other meetings of the Members as shall be properly requested pursuant to the Governing Documents or law.

5.17 Reinvestment Fee Covenant. The Board shall have the right (but shall not be required) to establish a Reinvestment Fee assessment in accordance with this Section and Utah Code § 57-1-46. If established, the following terms and conditions shall govern Reinvestment Fees:

(a) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the County Recorder, regardless of whether it is pursuant to the a sale of the Lot or not (as applicable, a "Transfer"), but excluding the initial sale or Transfer by or to Declarant or an affiliate or successor of Declarant, the party receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount to be established by the Board in the Rules, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.

(b) The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted by Utah Code § 57-1-46.

(c) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

(d) All transfers of Lots from Declarant to a Declarant related entity shall be exempt from a Reinvestment Fee. The Declarant shall have the sole discretion to determine whether such Transferee is a related entity and if a Reinvestment Fee applies.

5.18 **Litigation.** The Board may instigate litigation to enforce the provisions of this Declaration or any other Common Law or statutory right which the Association is granted subject to the limitations set forth in Article 17.

5.19 **Other Necessary Rights.** The Master Association shall have any other right that is reasonably necessary to carry out the terms of the Governing Documents.

ARTICLE 6: MAINTENANCE, REPAIR AND REPLACEMENT

6.1 **Maintenance by Owners.** Each Owner shall furnish and be responsible for, at the Owner's own expense, all of the maintenance, repair, and replacement of all structures, landscaping, and other improvements comprising the Owner's Lot, unless such maintenance responsibility is otherwise assumed by, or assigned to, the Master Association or a Neighborhood Association pursuant to this Declaration, or any Declaration governing a Neighborhood Association.

In the event of damage or destruction of any structure or improvement on a Lot, the Owner of the Lot shall rebuild the same within 90 days or such reasonable time as the Board determines. If the Owner determines that rebuilding is unreasonable, then the Owner shall raze the remains of any structure or improvement and landscape the Lot to prevent any unsightly or dangerous condition.

Vacant Lots shall be maintained by the Owner in a clean, sanitary and attractive condition. The Master Association may adopt rules and standards for the maintenance of vacant Lots including limitations on excavation or alteration prior to construction of a Dwelling or structure. No Owner may alter the topography of a vacant Lot without the prior written consent of the DRC or the Board.

Owners shall be responsible to ensure adequate design, installation, maintenance, and repair of the grading and water drainage system for their Lot and Dwelling to ensure storm water, groundwater, and/or runoff are properly directed away from Dwellings, foundations, and structures so as to not cause damage to the Lot or its improvements. This maintenance duty shall include the obligation to routinely clean and clear all drain connections including the Lot Owner's yard drain and roof drain connections, if any. Owners shall take precautions to prevent debris from entering any storm drain system. Owner's surface water drainage system

shall not discharge surface water onto lower Lots in an unreasonable location or manner. Unless reasonable factors necessitate a different design, each Owner shall direct the drainage of surface water to the point(s) of lowest elevation of their Lot prior to discharging water onto an adjacent Lot or parcel.

6.2 Maintenance by the Master Association. The Master Association shall repair, maintain, replace, clean, and pay all expenses associated with the Common Area as that area is defined in this Declaration and/or identified on the Plat. The Master Association retains the absolute right to remove and replace any structure, item, fixture or condition in the Common Area. The Master Association shall do all such other and further acts that the Board deems necessary to preserve and protect the Common Area, in accordance with the general purposes specified in this Declaration.

(a) The Board of Directors may determine, in its sole discretion, the appropriate maintenance standard for the Common Area within the Project, so long as those areas are maintained in the best interests of the Owners and the Project.

(b) The Master Association shall not be responsible for the repair and maintenance of any Neighborhood Association common area, but the Master Association may assume the maintenance responsibility for property in a Neighborhood Association, either upon designation of the Neighborhood Association as a Service Area pursuant to Section 3.5 or upon the Board's determination, pursuant to Section 5.2, that the level and quality of maintenance then being provided is not consistent with the standards set forth for the Project. The Master Association may also make Special Assessments to any Neighborhood Association for any maintenance or repair to Neighborhood Association common property if the Board in its reasonable discretion determines that such maintenance or repair is necessary to bring the property in compliance with the standards set forth for the Project. The Master Association need not treat all similarly situated Neighborhood Associations the same.

(c) Notwithstanding the foregoing and anything to the contrary in this Declaration, the Association shall not be obligated to maintain any road, utility, or utility system or component which is maintained by a municipality.

6.3 Maintenance of Neighborhood Associations. Each Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, and the standards for the Project set forth by the Master Association's Board of Directors.

6.4 Assessment of Maintenance to Specific Owner. If the need for maintenance or repair is caused by an Owner, guest, or Occupant, the Master Association shall assess the Owner the actual cost of such maintenance or repair to the extent the repair costs are not paid for by any applicable insurance.

6.5 Default in Maintenance. If an Owner or Occupant fails to: (1) maintain a Lot as required in the Governing Documents or (2) make repairs otherwise required of the Owner in such a manner as may be deemed reasonably necessary in the judgment of the Board to preserve and protect the structural integrity, attractive appearance, good condition, and value of the Lots in the Project, then the Master Association may take any action allowed for a failure to comply with the Governing Documents and may give written notice to such Owner or Occupant stating with particularity the nature of the default and the corrective action that the Board determines to be required and requesting that the same be carried out within a period of at least thirty (30) days or a greater length of time if determined by the Board. If the Owner or

Occupant fails to carry out such action within the period specified by the notice, then the Master Association may take any action allowed for a default of the Governing Documents. In addition, the Master Association may cause corrective action to be taken (which may include completing the repairs and replacements) and may assess the Owner for all costs associated therewith.

ARTICLE 7: ARCHITECTURAL STANDARDS

7.1 **General.** All, landscaping, structures, Dwellings, improvements, and other items placed on a Lot in a manner or location visible from outside of the Lot are subject to the standards for design, landscaping, and aesthetics adopted pursuant to this Article and the approval procedures set forth in this Article.

7.2 **Architectural Review Required.** Without the prior approval of the Master Association, an Owner may not (1) install or build any new structure, fence, landscaping, or Dwelling; (2) make alterations, upgrades, repairs, or modifications to any part of the exterior of any structure or Dwelling; and (3) install or alter any new or existing exterior feature such as a driveway, walkway, fence, landscaping or anything else that alters the exterior appearance of the Lot. This provision is intended to be read as broadly as possible to require approval before any exterior work to a Lot, including changes to landscaping.

Notwithstanding anything to the contrary herein, prior to the end of the Control Period, the Declarant shall have sole authority and responsibility to approve the plans for the construction of all Dwellings and landscaping of each Lot.

7.3 **Design Guidelines.** The Design Guidelines are intended to provide guidance to Owners, Builders, and contractors. The purpose of the Design Guidelines is to maintain a consistent character and quality of appearance for the improvements within the Project.

(a) The Declarant may prepare initial Design Guidelines which may contain general provisions applicable to the entire Project as well as specific provisions that vary among uses, housing types, or locations within the Project.

(b) The Declarant shall have sole and full authority to amend the Design Guidelines during the Control Period. The Declarant's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the DRC. Upon termination or delegation of the Declarant's right to amend, the Board shall have the right to amend the Design Guidelines.

(c) The Design Guidelines may designate:

- the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board and DRC
- landscaping requirements and may require complete landscaping of Lots prior to occupancy
- Size and style of homes and garages as well as detached structures
- Design or style and materials of other visible improvements including, but limited to fencing, hardscapes, pools, fountains, flags, etc.

(d) Amendments to the Design Guidelines shall apply prospectively only to homes and other structures not previously approved. They shall not require modifications to or removal of any structures previously approved once the approved

construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

7.4 Design Review Committee.

(a) During the Control Period, the Declarant shall act as the Design Review Committee for the Project.

(b) A Design Review Committee ("DRC") may be appointed by the Board. Such committee shall consist of an uneven number of persons of at least three (3) members, but may include more members at the discretion of the Board.

(c) The DRC need not be composed of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. Board members may serve on the DRC. The DRC shall be a Sub-Committee as defined in the Bylaws, and shall act in accordance with the requirements of Sub-Committees.

(d) The DRC shall have the Board's right of entry to verify compliance with this Article. The DRC shall have no duty or obligation to make inspections; however, nothing herein shall prevent the DRC from making inspection prior to, during, or after construction. The DRC may inspect any work performed in the Project to determine its compliance with the Design Guidelines and the Governing Documents.

(e) Members of the DRC shall serve for a term of one (1) year, and may serve for consecutive terms of service as appointed by the Board. Any vacancy on the Committee may be filled by the Board to serve the remainder of the term of the originally appointed member(s). The Committee may act even though a vacancy has not been filled. Any member of the DRC may be removed at any time by the Board with or without cause.

(f) The Master Association may compensate DRC members in such manner and amount, if any, as the Board may determine appropriate.

(g) The Board need not appoint a Design Review Committee. If no such committee is appointed, the Board shall have all powers of the DRC and may act in all ways and have all powers otherwise given to the DRC.

(h) The Design Review Committee shall serve as an architectural review board and shall regulate the external design, appearance, and location of any structure and landscaping on any Lot so as to enforce the architectural provisions of the Declaration or Design Guidelines as may be adopted by the Board.

7.5 Design Review Approval Procedures. Unless the Design Guidelines provide otherwise, no structure, improvement, or exterior remodel of any kind whatsoever shall be erected, placed, moved onto, or commenced without the prior written approval of the DRC.

(a) The Declarant or the Board may adopt Rules relating to the submission of plans and specifications in the Design Guidelines. Unless and until the Board adopts such Rules, an Owner must submit such plans and specifications as the DRC may reasonably require, but shall in all cases include the following:

- (1) A complete set of plans and specifications;
- (2) A site plan showing the location of all proposed and existing structures on the Lot;
- (3) Exterior elevations for the proposed structures;

(4) Specifications of materials, color scheme, and other details affecting the exterior appearance of the proposed structures; and

(5) Description of the plans and provisions for landscaping and grading.

(b) The DRC shall consider the materials to be used on the external features of Dwellings and structures, including exterior colors, harmony of external design and existing structures within the Project; the building bulk or mass of any buildings or structures within the Project, their location with respect to topography, existing trees, finished grade elevations, and harmony of landscaping with the natural setting and surroundings; and shall ascertain whether the Improvements conform to the Design Guidelines then in effect, under this Declaration.

(c) In reviewing each application, the DRC may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. DRC decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

(d) The DRC shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to judicial review so long as they are made in good faith and in accordance with required procedures.

(e) No approval is required for interior modifications that do not affect the exterior of Dwellings or structures, although the Board may still adopt Rules relating to the use of Common Area or roadways for staging and other construction needs.

(f) An Owner may complete any maintenance to the exterior of a Dwelling or other approved structure on a Lot, to the extent that such maintenance obligation is the responsibility of the Owner, if such maintenance will not change the appearance of the already-built and approved Dwelling or structure.

(g) Construction is required to commence within twelve (12) months of any DRC approval unless a longer time period is expressly authorized by the DRC. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion.

(h) If the DRC, or Board if no DRC has been established, shall fail to act upon any written request submitted to it within thirty (30) days after a complete submission of documents in a form acceptable to the DRC, such request shall be deemed to have been approved as submitted, and no further action shall be required. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted.

7.6 Appeals. An applicant may appeal any disapproval of its application to the Board. To request an appeal, the applicant must submit to the Association's Secretary, no later than 15 days after the delivery of the notification of disapproval, a copy of the original application, the notification of disapproval, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval listed in the DRC's notification of disapproval. The Board may (i) affirm the DRC's decision, (ii) affirm a portion and overturn a portion of the DRC's decision, or (iii) overturn the

DRC's entire decision. The Board shall notify the applicant and the DRC in writing of its decision no later than 30 days after its receipt of the request for appeal with all required information. The Board's decision shall include a description of its reasons for overturning the DRC's decision. During the appeal process the Owner shall not commence any work requiring approval hereunder.

7.7 Noncompliance. If at any time the DRC or Board find that any work was not done in substantial compliance with the approved plans and was undertaken without first obtaining approval from the DRC, written notice shall be sent by the DRC to such Owner specifying the noncompliance and requiring the Owner to cure such noncompliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the noncompliance or to enter into an agreement to cure on a basis satisfactory to DRC within said thirty (30) day period or any extension thereof as may be granted, the Board may, at its option, cause the non-complying improvement to be removed or the noncompliance to be cured. Upon demand, the Owner shall reimburse the Master Association for all costs and expenses incurred by the DRC and/or the Board in taking corrective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs. The Owner shall be personally liable for all such costs and expenses, and the Master Association also shall have a lien against the noncomplying Lot for the amount of all such costs and expenses. Any amounts not paid, without waiver of any other right or remedy, may be collected as a Special Assessment.

7.8 No Waiver of Future Approvals. The approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval. Any failure of the DRC or Board to enforce the requirements of this Article or the Design Guidelines shall not preclude any future actions to enforce such requirements.

7.9 Landscaping and Water Drainage Systems. The Declarant and/or the DRC may require that the landscaping on each Lot be completed within a certain period of time following the completion of construction of a Dwelling. Such requirements may be set forth in the Rules or Design Guidelines. Landscaping and all grading and drainage shall be designed in such a way to control water run-off so that any Lot within the Project will not be adversely affected by another. Owners shall be responsible for the design, installation, maintenance, and repair of all landscaping and drainage systems located on their Lot or benefitting such Owner's Lot. Owners shall not impede or retain water flow in any of the natural drainage ditches. The Project may contain drainage easements on subdivision plats and the DRC may require drainage plans as part of the approval process. However, the DRC is not intended to provide engineering or construction advice. Neither the DRC, the Declarant, nor the Association shall have any liability or responsibility for the design, installation, maintenance, or repair of any storm water or drainage system or facilities. Owners are solely responsible to ensure their Lot is graded and landscaped in a manner that will direct water away from Dwellings and foundations.

7.10 Expenses of Design Review Committee. The DRC may charge reasonable fees to Owners for the processing of any request, plans, or specifications including consultation with a professional. The Association shall pay any ordinary or reasonable expense of the architectural review.

7.11 Delegation of Authority. The Board may delegate any of the DRC's responsibilities to the design review committee or board of a Neighborhood Association when it reasonably believes the Neighborhood Association will carry out the intent of any Design

Guidelines and the Declaration. Any such delegation may be revoked at any time by the Board.

7.12 Variances. The DRC may authorize variances from compliance with any of the Design Guidelines and any procedures when it determines that circumstances such as topography, natural obstruction, hardship, or aesthetic or environmental considerations justify such a variance, however, the DRC shall under no circumstances be obligated to grant variances. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the DRC from denying a variance in other similar circumstances. A variance requires the Declarants written consent during the Control Period and thereafter, requires the Board's written consent.

7.13 No Liability. Neither the DRC, the Declarant, the Board, the Association, nor any of its Members shall be liable for damages to any person submitting any plans for approval, or to any Owner within the Project, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such plans. The DRC shall have no liability or responsibility for any representations made to any Owner or prospective owner by any third parties. The DRC shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building codes, zoning, or other land use regulations, (b) the accuracy or content of any construction documents or specifications prepared by any architect, engineer, or any other person, (c) construction means, methods, techniques, sequences, or procedures, safety precautions, or subsequent loss, damage, or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure to carry out any construction in accordance with plans or specifications.

7.14 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant (or a Builder if so assigned by Declarant), or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of this Declaration which prohibit or restrict non-residential use of Lots, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of Dwellings within the Project so long as the location of such model homes and the opening and closing hours are approved by the DRC or Board, and the construction, operation, and maintenance of such model homes otherwise complies with all of the provisions of this Declaration. The DRC may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with City or County ordinances and any Association Rules.

ARTICLE 8: BUDGET & ASSESSMENTS

8.1 Purpose of Assessments. Money collected by the Master Association shall be used for the purposes of: promoting the health, safety, and welfare of the Owners; the management, maintenance, care, preservation, operation, and protection of the Project; enhancing the quality of life of the Owners in the Project; enhancing and preserving the value of the Project; and in the furtherance of carrying out or satisfying any other duty or power of the Association.

8.2 Budget. The Board is authorized and required to adopt a budget no later than thirty (30) days prior to the beginning of each fiscal year. The Board may revise that budget from time to time as the Board deems appropriate.

(a) The budget shall estimate the total Common Expenses to be incurred for the next fiscal year (or that fiscal year for a revised budget), which shall be broken down into reasonably detailed expense categories. The budget shall include a line item that identifies the amount to be placed into the reserve fund. The budget may include contingencies and estimates as the Board deems appropriate.

(1) Common Expenses shall mean all of the expenses the Master Association incurs in connection with the ownership, maintenance, and operation of the Common Area and otherwise for the benefit of all Owners. Common Expenses include the funding of reserves for the repair and replacement of Common Areas, but shall not include expenses incurred by the Declarant for the initial development of the Project unless such expenses are approved by a majority of the Allocated Interest in the Association.

(b) The budget shall track and estimate the expenses association with each designated Service Area (if any) in separate sub-categories within the total Common Expenses in order to allocate these expenses as set forth in Section 8.7 below.

(1) Service Area Expenses shall mean and include those actual and estimated expenses incurred or to be incurred by the Association primarily for the benefit of each designated Service Area which may include costs of snow removal, landscaping, construction, insurance, maintenance, and any repair and replacement of the Common Area facilities appurtenant to the Service Area, structures and adjacent areas. Service Area Expenses may include a reasonable administrative charge, provided that any such administrative charge is applied at a uniform rate per Lot among all Service Areas receiving the same or similar services. If the Service Area responsibilities require the maintenance or repair of long-term Common Area facilities, then the Service Area Expenses shall include a capital contribution establishing a reserve fund for the repair and replacement of such facilities. Service Area reserves shall be accounted for and kept separate from the Association's primary reserve fund. Separate accounting and financial reporting shall be maintained for each Service Area. Each Service Area Committee shall be consulted in the determination of the budget for their respective Service Area.

(c) The Board shall present a copy of the budget to Owners no later than thirty (30) days after the adoption of the proposed budget or any revised budget.

(d) The Board shall determine the amount of the Regular Assessments to be paid by the Owners of each Lot by multiplying the total budgeted amount by the Allocated Interest for each Lot.

(e) During the Control Period, Owners may not disapprove a budget.

8.3 Payment of Assessments. Unless otherwise established by the Board and communicated to each Owner, each Owner shall pay to the Master Association the Owner's Regular Assessment and any applicable Service Area Assessment in equal monthly installments. In the discretion of the Board, the Master Association may require Neighborhood Associations to collectively pay for all Regular Assessments attributable to the Lots within each respective the Neighborhood Association.

8.4 Adjustments to Assessments. In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet Common Expenses or Service Area Expenses for any reason, it may then revise the budget and each

Owner's share of the new budget total based on the Owner's Allocated Interest. Upon notice of the adjustment, and unless modified by the Board, each Owner shall thereafter pay to the Master Association the Owner's adjusted Assessment.

8.5 Personal Obligation for Assessment. Each Owner, by acceptance of a deed or other instrument creating in such Owner the interest required to be an Owner, whether or not it shall be so expressed in any such deed or other instrument and regardless of any lien rights or lack thereof, hereby personally covenants and agrees with each other Owner and with the Master Association to pay to the Master Association any Assessments as provided for in the Governing Documents, including any Assessments assessed and unpaid prior to the date the Owner became an Owner. Each such Assessment, together with such interest, collection charges, costs, and attorney fees, shall also be the personal obligation of the Owner of such Lot at the time the Assessment becomes due.

8.6 Capital Improvements. Expenses for capital improvements may be included in the budget, paid for through Special Assessments, or paid for in any other manner as determined by the Board of Directors.

8.7 Regular Assessment. The Regular Assessment shall be paid by all Lots within the Project that are subject to assessment. The Regular Assessment shall be computed by subtracting the Service Area Expenses from the total Common Expenses of the Association and then allocating this figure to all Lots subject to assessment based on the Allocated Interest of each Lot.

8.8 Service Area Assessment. The Service Area Assessment shall be paid by all Lots within a designated Service Area that are subject to assessment in addition to the Regular Assessment. There is no requirement that Service Area Assessments be uniform between Service Areas. The amount of the Service Area Assessment shall be determined by allocating the budgeted Service Area Expenses to all Lots within the Service Area that are subject to assessment based on the Allocated Interest of each Lot. At no time shall a Service Area Assessment be charged or assessed to Lots outside of the designated Service Area. The amounts the Master Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area from which they were collected.

8.9 Special Assessments. The Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Regular Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice. Notwithstanding the foregoing, Declarant may levy Special Assessments in any amount deemed necessary during the Control Period without Owner approval. Special Assessments shall be allocated based on each Lot's Allocated Interest.

8.10 Individual Assessments. Individual Assessments may be levied by the Master Association against a particular Lot and its Owner for: (a) Costs of providing services to the Lot upon request of the Owner; (b) Costs incurred in bringing an Owner or the Owner's Lot or Dwelling into compliance with the provisions of the Governing Documents; (c) Fines, late fees, collection charges, interest, and all other costs incurred in enforcing the Governing Documents against an Owner or his Occupants; (d) Any other charge designated as pertaining to an individual Lot in the Governing Documents; and (e) Attorney fees, costs, and other expenses

relating to any of the above, regardless of whether a lawsuit is filed. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Owner's or his/her Occupants' negligence.

8.11 Rate of Assessment. Assessments for Lots in which the construction of a Dwelling has been commenced or completed shall be fixed at a uniform rate based on each Lot's Allocated Interest. The rate for Lots owned by a party other than the Declarant which construction of a Dwelling has not been commenced shall equal two-thirds (2/3) of the uniform rate set for Lots upon which construction has been commenced.

Regardless of whether a Dwelling has been constructed or not, no Lot(s) owned by the Declarant, or a Declarant affiliated entity, shall pay Assessments until such time as the Declarant elects to pay Assessments, and only for so long as the Declarant elects to pay Assessments. The Declarant shall have the sole discretion to determine whether a Lot is owned by one of its affiliates and whether such Lot is subject to assessment.

8.12 Rules Regarding Billing and Collection Procedures. The Board shall have the right and responsibility to adopt Rules setting forth procedures applicable to Assessments provided for in this Declaration and for the billing and collection of all Assessments, provided that such procedures are not inconsistent with the provisions herein. Such procedures and policies may include, but are not limited to, the date when Assessment payments are due and late, establishing late fees and collection charges, and establishing interest (per annum or compounded) that may be charged on unpaid balances. The failure of the Master Association to send a statement to an Owner or an error in any such statement (other than a Statement described in Section 8.10 below) shall not relieve any Owner of liability for any Assessment or charge under the Governing Documents.

8.13 Statement of Unpaid Assessment. An Owner may request a statement from the Master Association showing an accounting of all unpaid assessments and charges to the Owner's account. For any valid request, the Master Association shall provide a written statement of account within a reasonable time. A written statement from the Association is conclusive in favor of a Person who relies on the written statement in good faith. The Master Association may charge the requesting Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot a reasonable fee as permitted under Utah Code § 57-8a-206.

8.14 Account Payoff Information. The Master Association may charge a fee for providing account payoff information in connection with the closing of an Owner's financing, refinancing, or sale of a Lot as provided in Utah Code § 57-8a-106. The Board may set forth the amount of the fee in the Rules, but such fee shall not exceed the maximum amount allowed pursuant to Utah law.

8.15 Acceptance of Materials or Services. In the event the Master Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Project, which benefit individual Lots, and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof may be a special Assessment pertaining to that Lot, at the discretion of the Board of Directors.

8.16 Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board of Directors in its discretion may retain the excess in the Association's operating account as working capital, apply the excess to reserves, credit the excess against future Assessments, refund the excess to the Owners in proportion to the

Allocated Interests of each Lot, or take other action with the funds permitted under this Declaration, as the Board of Directors deems appropriate. The decision of the Board of Directors shall be binding and conclusive. In addition, the Master Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

8.17 No Offsets. All Assessments shall be payable at the time and in the amount specified by the Master Association, and no offsets against such amounts by Owners shall be permitted for any reason, including, without limitation, a claim that the Board is not properly exercising its duties and power, a claim in the nature of offset or that the Master Association owes the Owner money, or that the Master Association is not complying with its obligations as provided for in the Governing Documents.

8.18 How Payments Are Applied. Unless otherwise provided for in the Rules, all payments for Assessments shall be applied to the earliest (or oldest) charges first. Owners shall have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts.

8.19 Loans. During the Control Period, the Master Association may borrow money upon receiving Declarant's consent. Following the Control Period, the approval of Owners holding more than thirty percent (30%) of the Allocated Interests in the Master Association is required for the Master Association to borrow money. If a loan is obtained, the Master Association may provide such security as necessary for the loan, including but not limited to securitizing, pledging, or assigning the Master Association's right to assess Owners. Notwithstanding anything to the contrary, no Lot shall be security for any loan to the Master Association without that Owners' consent.

ARTICLE 9: NONPAYMENT OF ASSESSMENTS & LIABILITY

9.1 Delinquency. Assessments not paid within the time required shall be delinquent. Whenever an Assessment is delinquent, the Board of Directors may, at its option, invoke any or all of the remedies granted in this Article.

9.2 Collection Charges and Interest. If the Master Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply: Assessments shall be due and payable on the first (1st) day of each month and shall be considered late if not received by the tenth (10th) day of the month. Accounts with an unpaid balance after the tenth (10th) of each month shall be charged a late fee of thirty-five dollars (\$35.00). In addition to late fees, interest may accrue on all unpaid balances, including unpaid prior attorney fees, interest (resulting in compounding of interest), late fees, and Assessments, at one and one-half percent (1.5%) per month. The Master Association may also assess to the Owner a collection charge, late fee, and any other reasonable charge charged by a Manager related to collections.

9.3 Joint and Several Liability of Owner and Future Owners. The Owner and any future Owners of a Lot are jointly and severally liable for all Assessments accruing related to that Lot prior to and during the time that an Owner is an Owner. An Owner is not liable for any Assessments accruing after he/she has lawfully transferred the Lot to another Owner. The recording of a deed to a Person that has not agreed to take ownership of the Lot shall not be considered a legal conveyance of title. The obligation in this paragraph is separate and distinct from any lien rights associated with the Lot.

9.4 Lien. The Master Association has a lien on each Lot for all Assessments, which include but are not limited to interest, collection charges, late fees, attorney fees, court costs,

and other costs of collection (which shall include all costs and not be limited by those costs that may be awarded under the Utah Rules of Civil Procedure). This lien shall arise and be perfected as of the date of the recording of this Declaration and shall have priority over all encumbrances recorded after this Declaration is recorded, except as otherwise required by law. If an Assessment is payable in installments, the lien is for the full amount of the Assessment from the time the first installment is due, unless the Master Association provides otherwise in the notice of Assessment. The Master Association also has a lien on each Lot for all fines imposed against an Owner by the Master Association. This lien for fines shall arise when (1) the time for appeal described in Utah Code § 57-8a-208(5) has expired and the Owner did not file an appeal; or (2) the Owner timely filed an appeal under Utah Code § 57-8a-208(5) and the district court issued a final order upholding the fine. The Master Association's lien shall have priority over every other lien and encumbrance on a Lot except: (1) a lien or encumbrance recorded before this Declaration is recorded; (2) a first or second security notice of lien by or on behalf of the Master Association; and (3) a lien for real estate taxes or governmental assessments or charges against the Lot. The Master Association may, but need not, record a notice of lien on a Lot.

9.5 Action at Law. The Master Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay the same or by foreclosure of the Assessment lien. In addition, the Master Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise any other remedy. Any attorney fees and costs incurred in this effort shall be assessed against the delinquent Owner and the Owner's Lot, and reasonable attorney fees and costs will thereafter be added to the amount in delinquency (plus interest and collection charges, if appropriate). Each Owner vests in the Master Association, or its assigns, the right and power to bring actions at law or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.

9.6 Foreclosure Sale. The Master Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code sections 57-1-20 and 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lots in trust, with power of sale, to the Master Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Master Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

9.7 Homestead Waiver. Pursuant to Utah Code section 57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Owner waives the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

9.8 Termination of Delinquent Owner's Rights. The Master Association shall have all rights provided for in the Act to terminate a delinquent Owner's: (1) rights to vote, (2) access to the amenities in the Project, and (3) rights to receive a utility or other service paid for as a Common Expense.

9.9 Requiring Tenant to Pay Rent to Master Association. Pursuant to and as provided for in the Act, the Master Association shall have a right to demand and collect rent from any Occupant in a Dwelling for any delinquent Assessment balance more than sixty (60) days late. Each Occupant, by moving into the Project, agrees to be personally liable and

responsible to the Master Association for all rent payments after the Master Association gives proper notice that rent payments shall be paid to the Master Association.

9.10 Attorney Fees. In addition to any attorney fees and costs provided for herein, the Master Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner's failure to timely pay Assessments, including but not limited to attorney fees and costs incurred to: (1) obtain advice about a default; (2) collect unpaid Assessments; (3) file lawsuits or other legal proceedings related to a default in an effort to collect unpaid Assessments; (4) file pleadings, notices, objections, and proofs of claim in any bankruptcy proceeding; (5) examine the debtor or others related to collections; (6) monitor any bankruptcy proceedings including but not limited to regular monitoring of an Owner's progress in a chapter 13 or chapter 11 plan for the duration of the plan; (7) file any motions, objections, or other adversary proceedings in a bankruptcy matter and all related activities including seeking and responding to discovery; taking depositions or examinations; introducing evidence, hiring and paying expert witnesses; filing motions, pleadings, and other papers; attending trials, hearings, or other court proceedings, including as reasonably necessarily related to assert any non-dischargeability of debts, to assert claims against the estate or co-debtors, to challenge exemptions, to pursue any appropriate adversary proceeding, or for any other reason related to the ultimate attempt to collect unpaid Assessments; and (8) foreclose a lien, secure lien rights, or prepare any notice of lien. This provision is to be construed broadly to permit the Association to recover any reasonable fees and costs in any way related to an Owner's default in the payment of Assessments and the ultimate collection of those Assessments.

9.11 Association Responsibility after Foreclosure. If the Master Association takes title to a Lot pursuant to a foreclosure (judicial or non-judicial), it shall not be bound by any of the provisions related to the Lot that are otherwise applicable to any other Owner, including but not limited to obligations to pay assessments, taxes, or insurance, or to maintain the Lot. By taking a security interest in any Lot governed by this Declaration, Lenders cannot make any claim against the Master Association for nonpayment of taxes, Assessments, or other costs and fees associated with any Lot if the Master Association takes title to a Lot related to any failure to pay Assessments.

ARTICLE 10: PROPERTY RIGHTS IN LOTS & COMMON AREA

10.1 General Easements to Common Area and Lots.

(a) Subject to all other terms of the Governing Documents, each Owner shall have the right and a nonexclusive license for use and enjoyment of the Common Area and facilities, subject to any other restrictions related to such use. Such right and nonexclusive license shall be appurtenant to and shall pass with title to each Lot and in no event shall such appurtenant rights be separated therefrom. Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable under the Governing Documents. All such rights shall be subject to any Rules established by the Board of Directors.

(b) The Master Association (and Declarant during the Control Period) shall have nonexclusive easements with the right of access over and across each Lot, to make inspections, to prevent or mitigate damage to Common Area and to maintain, repair, replace, or effectuate the restoration of the Common Area and facilities that the Master Association is responsible for maintaining which are accessible from such Lot. Such rights shall be exercised only after the notice required in this Declaration. The

Master Association shall have a nonexclusive right to grant permits, licenses, and easements upon, across, over, under, and through the Common Area and facilities for purposes necessary for the proper operation of the Project.

10.2 Public Utilities. Easements and rights-of-way over the Project for the installation and maintenance of electricity lines, telephone lines, cable television lines, fiber optics, water lines, gas lines, sanitary sewer lines, drainage facilities, telecommunication fixtures and equipment, utility fixtures and equipment, and such lines, fixtures, or equipment needed or determined by the Board of Directors to be helpful in serving the Project, Lots, or Lot Owners in the Project are hereby established and dedicated; provided, however, use of said easements and rights-of-way shall not unreasonably interfere with the use of the Common Area and facilities and the Lots by the Owners or Occupants. The Master Association shall have the power to grant and convey, in the name of the Master Association or all of the Owners as their attorney-in-fact, to any Person, easements and rights-of-way in, on, over, or under the Common Area and facilities or Lots for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, wireless transmission or reception equipment, conduits, or other devices for electricity, cable television, power, telecommunications, internet, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes and any other public, quasi-public, or private improvements or facilities. Each Owner in accepting the deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Master Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. Such Owner and those claiming by, through, or under an Owner agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Master Association. However, no easement can be granted pursuant to this paragraph if it would permanently and materially interfere with the use, occupancy, or enjoyment by any Owner of such Owner's Lot.

10.3 Easements for Future Development. The Declarant hereby reserves for itself and its duly authorized agents, successors, and assigns the non-exclusive right and power to grant any homeowners or condominium association it may designate and their respective members an easement over the Common Areas for the purpose of enjoyment, use, and access. Any homeowners or condominium association granted such rights shall be obligated to share in the costs of the maintenance of such areas as reasonably determined by the Declarant.

10.4 Easements Reserved by Declarant. The Declarant hereby reserves to itself and its assigns the following easements:

(a) The right to install, inspect, maintain, repair, and replace any utilities and infrastructure to serve the Project, including without limitation natural gas, electricity, water, sewer, phone, communications cables, and storm water drainage systems for the Project and land that becomes part of the Project.

(b) The right to establish and construct facilities and improvements on, over, across, under, and through the Common Areas of the Project including, but not limited to, access roads, streets, sidewalks, pathways, trails, clubhouse, pool, playgrounds, mailbox structures, sprinkler systems and other landscaping changes, improvements and appurtenances (including without limitation, removal of trees and other vegetation subject to any necessary governmental approvals), ponds, drainage facilities, monuments, recreational areas and amenities, parking areas, conduit installation areas,

storage facilities for supplies and equipment, earth walls and other roadway supports, lights, and signage.

(c) The right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition that may exist on any property within the Project, including Dwellings and condominium units and a perpetual non-exclusive easement of access throughout the Project reasonably necessary to exercise such right.

(d) The right to revegetate and maintain the landscaping in all areas of the Project to the extent necessary, in Declarant's judgment, to beautify the Project, to preserve and protect its appearance, to control erosion, or to restore the property within the Project to its natural condition. Declarant shall also maintain an easement to construct, operate, maintain, repair and replace storm detention and water quality structures in the Project to adequately control surface water.

(e) The right to construct and maintain offices, prefabricated structures, or other structures for administrative, sales and promotional purposes relating to the Project during the Control Period.

(f) Declarant may extend any of the rights it has reserved under this Master Declaration with respect to development, marketing, and sale of property in the Project to such Builders as it may designate from time to time.

10.5 Right to Designate Sites for Governmental & Public Interests. The Declarant may, but is not obligated to, designate sites within the Project for government, education, or religious activities and interests. The development of any such property shall be in accordance with the Design Guidelines and any other reasonable conditions as the Declarant may require to protect the interests of the Members. If such sites include previously designated Common Area, the Master Association shall take whatever action is required to permit such use, including dedication or conveyance of the site, if necessary.

10.6 Easements for Encroachments. If any portion of the Common Area or any common improvement encroaches upon any Lot, or if any structure or fixture encroaches unintentionally upon any other Lot or the Common Area as a result of the manner in which improvements are constructed or due to settling, shifting, alteration, replacement, repair, or restoration by the Master Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement or structure. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

10.7 Trail Easements. Certain Lots may be subject to an easement permitting public access trails, paths, or walkways within the boundaries, or adjacent to such Lots. Any such Trail Easement shall be shown and described on a Plat and no Trail Easement shall be newly created on a Lot without the written consent of the Owner of the Lot. The Declarant hereby grants the Master Association a perpetual, non-exclusive easement on, over, under, through, and across any such Trail Easement for maintenance and repair purposes. The use of any Trail Easement shall be subject to the Rules and Regulations adopted by the Board. The Master Association shall have the discretion to limit certain Trail Easements to certain Owners and is not obligated to provide public access to all Trail Easements within the Project. No Person shall place or construct any improvement or fixture within a Trail Easement without the Master Association's prior written consent.

10.8 Public Access. Certain facilities and areas within the Project may be open for use and enjoyment of the public. Such facilities and areas may include, but are not limited to, trails, parks, lakes, roads, sidewalks, and medians. The Declarant may designate such facilities and areas as open to the public at the time the Declarant makes them part of the Project, or the Board may so designate at any time thereafter.

10.9 Limitation on Easement. An Owner's equal, undivided interest, right and easement of use and enjoyment concerning the Common Area shall be subject to any other limitation in the Governing Documents and the following:

(a) The right of the Master Association to suspend the Owner's right to the use of any recreational facilities included in the Common Area: (i) for any period during which an Assessment on such Owner's Lot remains unpaid; (ii) for a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Declaration or any Master Association Rule; and (iii) for successive 60-day periods, if any such infraction is not corrected during any prior 60-day suspension period;

(b) The right of the Master Association to impose reasonable limitations on the number of Occupants per Owner who at any given time are permitted to use the Common Area; and

(c) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access, and to have rights of ingress and egress over and across any street, parking areas, walkway, or open areas contained within the Common Area for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal services.

(d) The right of the Association to dedicate or transfer any part of the Common Area to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Declarant during the Control Period, or afterwards by the Association; provided that such dedication or transfer following the Control Period must first be approved by the affirmative vote or written consent of a majority of all Owners

10.10 Views. Views from Lots and the Project are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Project and each Owner and Occupant in such Owner's Lot acknowledges and agrees that there are no view easements or view rights appurtenant to any Lot or the Project. The Declarant and the Master Association shall have the right to add trees and other landscaping throughout the Project without being subject to maintaining any Owners view.

ARTICLE 11: USE LIMITATIONS & CONDITIONS

11.1 Rules. The Master Association shall have authority to promulgate and enforce such reasonable Rules and procedures as may aid the Master Association in carrying out any of its functions and to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners. This provision is intended to be interpreted broadly and permit the Master Association to adopt rules governing all activities and uses within the Project which the Master Association may legally enforce. Pursuant to Utah Code § 57-8a-218(15), the requirements of Utah Code § 57-8a-218(1) through (13), except subsection (1)(b)(ii), are hereby modified to not apply to the Master Association. During the Declarant Control Period, the Declarant shall be exempt from the requirements of Utah Code § 57-8a-217 when adopting, modifying, cancelling, or expanding the Rules of the Master Association.

11.2 Signs. The Master Association may regulate and restrict signs in the Project, to the extent permitted by law, in the Rules and Regulations. Unless the Master Association adopts additional rules regulating signs in the Project, no signs or any other device with the apparent purpose of communicating any message to someone outside of a Lot shall be hung or displayed on a Dwelling or Lot except as permitted herein, or by the Board in writing. "Signs" shall include any type of object (including but not limited to flags, billboards, banners, plaques, a-frames, easel signs, poly-bag signs, corrugated plastic signs, lawn signs, window signs) used to convey a message, symbol, idea, identification, or for any other purpose that signs are typically used, that is placed in, on, or outside of a Lot with the apparent purpose, in whole or in part, of making it visible to people outside of the Lot.

(a) Occupants may display one reasonably sized American flag on the exterior of a Dwelling consistent with the Freedom to Display the American Flag Act of 2005, the Utah Display of Flag Act, and Utah Code § 57-8a-219. American Flags, if displayed, must be displayed in accordance with United States Code Title 4, Chapter 1.

(b) Occupants may display political signs related to a particular election. Political signs are permitted for a period of 60 days before and two days after any election. One sign per candidate or ballot measure of no more than 20 by 24 inches in size is permitted for each Lot.

(c) Occupants may display one "for sale," "for rent," or "yard sale" sign in front of a Dwelling or Lot.

11.3 Nuisance. No noxious or offensive activity shall be carried on within the Project, nor shall any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Lots. No Owner or Occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule, or regulation of any local, city, county, state, or federal body. The Board may adopt rules that further describe the activities that are deemed to be nuisances within the Project and the Board shall have the authority and discretion to determine whether a particular activity is a nuisance. Any violation of the Governing Documents shall be deemed a nuisance.

11.4 Temporary Structures. No structure or building of a temporary character, including a tent, trailer, or shack, shall be placed upon the Project or used therein unless it is approved by the Board of Directors. The Declarant shall be exempted from this provision during the Control Period. Trailers, temporary construction offices, sheds, and other similar temporary structures may be permitted for construction purposes during the actual construction of structures or improvements if approved by the DRC.

11.5 Parking. The Master Association is hereby empowered to establish Rules and Regulations governing the parking within the Project including the designation of "no parking" areas. The Master Association is not obligated to treat all areas equally and may adopt different parking rules for different areas. Rules relating to the parking of vehicles may include, but are not limited to: (1) Rules allowing or causing to be removed any vehicles that are improperly parked, (2) restrictions on the type and condition of vehicles in any customary or temporary parking, (3) restrictions on the time period and duration of temporary parking, (4) restrictions on performing vehicle maintenance or repair outside of enclosed garages, (5) restrictions on recreational vehicle parking, and (6) the assessment of fines to Owners who violate the Rules or the assessment of fines to Owners whose guests violate such Rules

11.6 Unsightly Items. The Board may adopt Rules regulating the removal, accumulation, and placement of any rubbish, debris, or unsightly material, conditions, or items. Unless and until the Board has adopted Rules, the following shall apply:

7.1 All areas outside of Dwellings shall be kept in a clean and orderly fashion.

7.2 All refuse, garbage and trash shall be kept at all times in a covered, noiseless container when left outside of a Dwelling, and any such container shall be kept within an enclosed structure or appropriately screened from view of the street.

7.3 Occupants may leave their garbage cans outside of their Dwelling or enclosed structure for pick-up for no more than 24 hours.

7.4 No metals, bulk materials, building supplies, scrap, refuse, trash or non-operable vehicles shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or when appropriately screened from view.

7.5 No aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used as a blind, shade, or cover on the inside of any exterior window in any Dwelling or structure. Windows may only be covered with coverings that are specifically designed for windows, such as blinds, curtains, and drapes.

7.6 No repairs of any detached machinery, equipment, or fixtures, including without limitation, motor vehicles, shall be performed outside an enclosed garage.

7.7 Holiday decorations may be displayed on the outside of Dwellings within a reasonable amount of time before and after the related holiday. The Association may adopt additional Rules to regulate holiday decorations in the Project, to the extent permitted by law.

7.8 External laundering is prohibited on any area of a Lot that is seen from any street or other Lot.

11.7 Animals. Unless otherwise designated in the Rules or permitted by the governing documents of a Neighborhood Association, no animals of any kind shall be raised, bred, or kept in any Lot, except those animals of a type generally kept in households such as dogs, cats, birds, fish, and hamsters. No animals may be raised, bred, kept, or maintained for any commercial purposes. No animal may be kept that causes a nuisance or threatens the health or safety of other Owners. All fecal matter shall be immediately cleaned up from any exterior area of a Dwelling, Lot, Common Area, or Limited Common Area within the Project. Animals shall not be permitted to make unreasonable noise at any time. The Association may adopt additional rules concerning animals including but not limited to the use of Common Areas by animals, the liability of individual Owners for damage caused by their animals, registration requirements, the use of leashes, and fines for the violations of such rules.

11.8 Residential Occupancy. No trade or business may be conducted in or from any Dwelling unless:

(a) The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell, from any other Dwelling or Lot;

(b) The business activity conforms to all zoning and legal requirements for the Project and the business activity;

(c) The business activity does not involve the solicitation of Occupants or Owners of the Project;

(d) The business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other Owners and Occupants of the Project;

(e) The business activity will not result in the increase of the cost of any of the Association's insurance;

(f) The Owner of the Lot resides in the Dwelling in which the business activity is proposed for the entire time any business activity is conducted; and

(g) The Board's ongoing requests for information related to the business as necessary to determine compliance with this paragraph are responded to fully and completely.

11.9 Leases. The leasing of Lots and Dwellings is permitted unless prohibited within a Neighborhood Association declaration. Any agreement for the leasing, rental, or occupancy of a Lot (hereinafter in this Section referred to as a "lease") shall be in writing, a copy of which may be required to be provided to the Board along with the name and contact information for all adult tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. Pursuant to Utah Code § 57-8a-218(8), the Master Association may adopt a Rule that requires a minimum lease term. All leases shall provide that the tenant is subject to and shall abide by the Governing Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. Within ten (10) days after delivery of written notice of a tenant's creation of a nuisance or violation of the Governing Documents, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions. In the event that the Owner fails to act accordingly, the Board may, without obligation to, initiate eviction proceedings on behalf of the Owner, and through this Declaration the Owner hereby assigns the Association the authority to do so

11.10 No Subdivision or Timeshare. No Lot or Dwelling shall be split, subdivided, separated, or timeshared into two (2) or more Lots or Dwellings or property interests (whether temporally or spatially), and no Owner of a Lot shall sell a part thereof. No subdivision Plat or covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any one Lot. No subdivision Plat or covenants, conditions, or restrictions related to any Lot, any Dwelling, or the Project shall be recorded on the Project unless the Declarant, Board, and/or Owners (as required in this Declaration) have first approved the Plat or the proposed covenants, conditions, or restrictions. Any Plat or covenants, conditions, or restrictions recorded in violation of this Section shall be null, void, and of no legal effect.

11.11 Landscape Maintenance. The Association may adopt Rules regulating Owner's obligation for the landscape maintenance of their Lots including standards for repairs, weed control, etc.

11.12 Lighting. The Board may adopt rules setting forth exterior lighting standards and regulation throughout the Project. If such rules are adopted, then exterior lighting fixtures and walkway and landscaping lights shall be allowed only to the extent approved by the Board.

11.13 Solar Energy Equipment. Solar energy systems and attendant hardware or other energy conservation equipment shall be prohibited from being constructed or installed on any Lot or Residence in the Project. Notwithstanding the forgoing, if the Board or the DRC elects to allow energy conservation equipment in the Project, then the Board may adopt Rules and regulations for the installation of solar panels or other energy conservation equipment in the Design Guidelines. Any such Rules must require that the installation be an integral and harmonious part of the architectural design of the Lot or Residence. Solar panels or other

equipment shall not be installed so as to be visible from any Lot or street in the Project without prior approval from the DRC as a variance. The DRC or the Board shall have the sole discretion to determine compliance with the Design Guidelines and this Section.

11.14 Variances. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (1) either that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such Term and Condition obsolete and unreasonable to enforce; and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act. No variance may be granted that relates to the payment of Assessments unless it clearly appears after reasonable investigation under the circumstances that the Owner is incapable of paying the Assessment and the Lot is being or has been transferred to a new Owner either voluntarily or involuntarily through foreclosure.

11.15 Hazardous Substances. Owners shall comply with applicable environmental laws, and shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, on or within the Project, that are not properly controlled, safeguarded, and disposed of. No one shall permit anything to be done or kept on a Lot or Dwelling which will result in the cancellation of insurance or which would be in violation of any public law, ordinance, or regulation. Each Owner shall indemnify, defend, and hold the Association and each and every other Owner harmless from and against any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment, or any other injury or damage resulting from or relating to any Hazardous Substances located under or upon or migrating into, under, from, or through the Project, which the Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner.

11.16 Neighborhood Restrictions. As approved by Declarant, a Neighborhood declaration may provide additional restrictions, or restrictions more stringent than those provided in this Declaration. This includes, without limitation, pet restrictions, leasing restrictions, and parking restrictions.

ARTICLE 12: INSURANCE

NOTICE: The Master Association's Insurance Policy does not cover the personal property or personal liability of the Owners or their Occupants.

12.1 Insurance Requirement. The Master Association shall obtain insurance as required in this Declaration and as required by applicable law. The Master Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and stand-alone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies. The Association's insurance premiums shall be a Common Expense.

12.2 Property Insurance. To the extent that any structure that is normally insured under a property insurance policy is installed or erected on the Common Area and is the Master Association's obligation to maintain, the Master Association shall maintain a policy of

property insurance covering the Common Area, including all buildings and improvements, building service equipment, and fixtures thereon.

(a) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to or otherwise permanently part of or affixed to Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, and windows.

(b) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft and (2) all perils normally covered by "special form" property coverage.

(c) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(d) The Master Association shall set aside an amount equal to the amount of the Master Association's property insurance policy deductible or, if the policy deductible exceeds ten thousand dollars (\$10,000), an amount not less than ten thousand dollars (\$10,000).

(e) The Neighborhood Associations within the Project shall be required to maintain property insurance on condominium and townhome buildings, and any other buildings with attached residential Dwellings.

12.3 Earthquake Insurance. The Master Association may purchase earthquake insurance as the Board deems appropriate.

12.4 Flood Insurance. If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Board may purchase flood insurance covering the Project or that portion of the Project located within the Special Flood Hazard Area. If the Project is not situated in a Special Flood Hazard Area, the Master Association may nonetheless, in the discretion of the Board, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

12.5 Comprehensive General Liability (CGL) Insurance. For so long as the Master Association has any obligation to maintain Common Area, the Master Association shall obtain CGL insurance insuring the Master Association, the agents and employees of the Master Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Area and the Owners' membership in the Master Association. The coverage limits under such policy shall not be less than one million dollars (\$1,000,000) covering all claims for death of or injury to any one individual or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Master Association or another Owner.

12.6 Directors' and Officers' Insurance. The Master Association shall obtain Directors' and Officers' liability insurance protecting the Board Members, the officers, and the Master Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing

Documents, and breach of contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any Manager and any employees of the Manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.

12.7 Theft and Embezzlement Insurance. The Master Association shall obtain insurance covering the theft or embezzlement of funds that shall provide coverage for: (1) an amount of not less than the sum of three months regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) theft or embezzlement of funds by: (a) Officers and Board members, (b) employees and volunteers of the Association, (c) any Manager of the Master Association, and (d) officers, directors, and employees of any Manager of the Master Association.

12.8 Workers' Compensation Insurance. The Board shall purchase and maintain in effect workers' compensation insurance for all employees, if any, of the Master Association to the extent that such insurance is required by law and may purchase workers' compensation insurance even if the Master Association has no employees, as the Board deems appropriate.

12.9 Right to Negotiate All Claims & Losses & Receive Proceeds. Insurance proceeds for a loss under the Master Association's property insurance policy shall be payable to the Master Association and shall not be payable to a holder of a security interest. The Master Association shall hold any insurance proceeds in trust for the Master Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Master Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary and is related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Master Association as attorney-in-fact for the purpose of negotiating all losses related thereto, including: (1) the collection, receipt of, and appropriate disposition of all insurance proceeds; (2) the execution of releases of liability; (3) the execution of all documents; and (4) the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of an Owner.

12.10 Certificates. Any insurer that has issued an insurance policy to the Master Association shall issue a certificate of insurance to the Master Association and, upon written request, to any Owner or Lender.

12.11 Named Insured. The named insured under any policy of insurance shall be the Master Association. Each Owner shall also be an insured under all property and CGL insurance policies.

12.12 Waiver of Subrogation Against Owners & Master Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Master Association, the Owners, any person residing with a Lot Owner if an Owner resides in the Lot, and the Master Association's agents and employees.

12.13 **Right of Action.** Nothing in this Declaration shall prevent an Owner suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against any Person or entity at fault for the loss.

12.14 **Applicable Law.** This Declaration is specifically subjecting the Master Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Master Association.

12.15 **Owner Insurance.** Each Owner shall be responsible to purchase and maintain in force appropriate hazard, content, and liability insurance as such Owner shall determine to be appropriate to the Owner's needs and circumstances. The Association is not required to file claims on any of its policies for any damage or liability claim that either should or would have been covered under any Owner's policy.

ARTICLE 13: DESTRUCTION OF IMPROVEMENTS

13.1 **Reconstruction.** In the event of partial or total destruction of any Common Area structure, improvement or fixture within the Project, the Board may contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Common Area in conformance with the original plans and specifications, or if the Board determines that adherence to such original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes, or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements. In doing so, the Board shall determine and liquidate the amount of insurance proceeds, if any. All costs of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

13.2 **Negotiations with Insurer.** The Master Association shall have full authority to negotiate in good faith with representatives of the insurer with regard to any totally or partially destroyed Common Area structure or improvement, and to make settlements with the insurer for less than full insurance coverage on the damage to such building or any other portion of the Common Area. Any settlement made by the Master Association in good faith shall be binding upon all Owners and Lenders.

13.3 **Repair of Lots.** Installation of improvements to, and repair of any damage to those structures, improvements, facilities and elements of privately owned Lots shall be made by and at the individual expense of the Owner of each affected Lot and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practicable, and in a lawful and workmanlike manner.

13.4 **Priority.** Nothing contained in this Article shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Lot as to any portion of insurance proceeds allocated to such Lot.

ARTICLE 14: EMINENT DOMAIN

14.1 **Taking of Common Area.** If a portion of the Common Area and Facilities is taken by eminent domain, or sold under threat thereof, and is not comprised of and does not include any Lot, the Board of Directors shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Master Association.

14.2 Total Taking of a Lot. If a Lot is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Lot and Allocated Interest regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Lot's Allocated Interest automatically shall be reallocated to the remaining Lots in proportion to their respective interests immediately before the taking. Upon such a taking, the Master Association shall prepare, execute, and record an amendment to the Declaration that accomplishes the adjustment required for this Section.

14.3 Partial Taking of a Lot. If part of a Lot is taken by eminent domain, or sold under threat thereof, so that such Lot may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of the Owner's Lot. Upon such a taking, that Lot's Allocated Interest in the Common Area shall remain the same.

14.4 Priority and Power of Attorney. Nothing contained in this Article shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Lot as to any portion of any condemnation award allocated to such Lot. Each Owner hereby appoints the Master Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area or any part thereof.

ARTICLE 15: TERMINATION

15.1 Required Vote. Except as otherwise provided in Articles 13 and 14, the Project may be terminated only by the approval of Owners holding at least seventy-five percent (75%) of the Allocated Interests.

15.2 Termination Agreement. An agreement to terminate shall be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, shall be recorded in the records of the Tooele County Recorder and is effective only on recordation.

15.3 Sale of Project Following Termination. A termination agreement may provide that the Master Association's entire interest in the Project be sold following termination. If, pursuant to such agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale. The proceeds of any sale of real estate or assets of the Master Association shall be held by the Master Association as trustee for Owners and Lenders as their interests may appear. Proceeds of the sale shall be distributed to Owners and Lenders according to their Allocated Interest. The interest of any Owner in such proceeds shall not be distributed to such Owner except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds. Following termination, Lenders holding notes on the Lots that were recorded before termination may enforce those liens in the same manner as any lien holder.

ARTICLE 16: AMENDMENTS

16.1 Amendments by Declarant. So long as the Declarant owns one or more Lots in the Project or any part of the Additional Land, the Declaration and the Plat may be amended or supplemented solely by the Declarant without any additional approval required. In addition, no

other amendment shall be valid or enforceable without the Declarant's prior written consent so long as Declarant owns one or more Lots in the Project or any part of the Additional Land

16.2 Amendments by Association. After all Additional Land has been annexed into the Project, all of Declarant's Lots have been sold to third parties, and after the expiration of the Control Period, this Declaration and the Plat may be amended upon the affirmative vote of at least sixty-seven percent (67%) of the Allocated Interests of the Master Association. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the Tooele County Recorder. In such instrument, the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for voting shall be required. Notwithstanding, the foregoing, the Members' authority to amend Article 17 of this Declaration is subject to the amendment restrictions set forth therein, and any amendment purporting to modify the provisions of Article 17 shall be null and void unless such amendment is in compliance with the amendment provisions and restrictions therein.

16.3 Changes to Plat or Boundaries of the Association. During the Control Period, the Declarant may unilaterally adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Project, including any boundary to any Lot or Lots. Following the Control Period, the Master Association may adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Project, including any boundary to any Lot or Lots upon the approval by vote of sixty-seven percent (67%) of Owners in the same manner as required to amend this Declaration. Any such Plat may make material changes to the existing or prior Plat including deleting, adding, or modifying Common Area, or other changes in the layout of the Project. If any such amendment affects any boundary of a Lot, that Owner of the modified Lot must consent in writing. If the approval required herein is obtained, each and every Owner: (1) shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of or consented to the change in the Plat, (2) grants the Master Association power of attorney to sign necessary documents on each Owner's behalf as necessary for the agreement, amendment, or correction, and (3) consents that the president of the Master Association, on behalf of the Master Association and its Board, has the authority to execute any such amended Plat, supplemental Plat, or correction to the Plat on behalf of the Master Association and all Lot Owners in the Project.

ARTICLE 17: SPECIAL DECLARANT RIGHTS

17.1 Improvements. Declarant hereby reserves the right, without obligation, to construct:

- (a) Any Improvements shown on the Plat;
- (b) Any buildings, Dwellings, or structures upon all or any portion of any additional land added to the Property; and
- (c) Any other buildings, structures, or improvements that Declarant desires to construct on the Property, or any other real estate owned by Declarant, regardless of whether the same ever becomes part of the Property or Project.

17.2 Expandable Property. The Declarant herewith expressly reserves the right and option to expand the Property by the annexation of Additional Land, or portions thereof, and Dwellings to be constructed thereon, all in accordance with the provisions of this Section.

(a) The Project may be expanded by the addition of other real property, such real property or portions thereof where applicable being referred to as "Additional Land".

(b) Expansion or contraction of the Project by the Declarant is without limitation, except as set forth in this Section, and shall be effective without prior approval of the Association or any Owner.

(c) Declarant's right to expand or contract the Project shall last as long as Declarant owns a Lot within the Project and owns any Additional Land that may be annexed into the Project.

(d) Additional Land may be added or withdrawn in total or in part, in any order, buy using any procedure or manner as Declarant may determine.

(e) To submit or withdraw Additional Land to or from the Project, the Declarant shall record a Supplemental Declaration in the office of the Tooele County Recorder setting forth that an expansion or contraction of the Project has occurred. Such Supplemental Declaration shall include: (i) a description of the Additional Land added or withdrawn from the Project; and (ii) shall reference this Declaration and state that the provisions of this Declaration apply to the Additional Land, or that the Additional Land is no longer subject to the provisions of this Declaration.

17.3 Special Declarant Rights. Special Declarant Rights are those rights reserved for the benefit of the Declarant in this Declaration and the Governing Documents and shall include, among others, and regardless of anything in the Declaration to the contrary, the following rights which shall remain in effect for the maximum period allowed by law:

(a) the right to maintain sales offices, model Dwellings, and signs advertising the Property or any Dwelling at any location in the Property;

(b) the right to use easements throughout the Common Areas as set forth in this Declaration;

(c) the right to dedicate the roads and streets within the Project for and to public use, to grant road easements with respect thereto, and to allow such street or road to be used by owners of adjacent land;

(d) the right to transfer Common Areas, including parks, trails, open space or other parcels of real property to the local government or municipality;

(e) the right to designate parcels for religious use and convey title to those properties to religious institutions.

(f) the right to convert any part of the Project to a different regime of residential or commercial ownership;

(g) the right to create or designate additional Common Area or Limited Common Area within the Project;

(h) the exclusive right to act as the Board, or appoint or remove Board Members during the Control Period, and shall not be bound by Board Member qualifications or requirements;

- (i) unless expressly and specifically bound by a provision of the Governing Documents, the Declarant, and all Lots owned by the Declarant or its affiliates, shall be exempt from the provisions of the Governing Documents;
- (j) the right to set all Assessments for the Master Association including Regular, Special, Individual and Service Area Assessments;
- (k) the right to set all fines and fees for the Association including but not limited to collection fees, reinvestment fees, architectural review fees, and fines for violations of Association Rules;
- (l) the right to create Service Areas and assign Lots thereto;
- (m) the right to withdraw land from the Project at any time during the Control Period;
- (n) the right to amend the Declaration, Bylaws, and Rules of the Master Association without approval from any Members;
- (o) the right to make and adopt Master Association Rules without being subject to the requirements of Utah Code § 57-8a-217.
- (p) the right to create, amend, change, or modify any Plat, subject to necessary approvals from any applicable municipality or government agency; and
- (q) the right to exert any right allowed to the Board or the Association pursuant to the Act and this Declaration.

17.4 Exercising Special Declarant Rights. Declarant may exercise the Special Declarant Rights at any time prior to the expiration of the Control Period. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise them. If Declarant exercises any Special Declarant Right with respect to any portion of the Property, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Property. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Declaration, without the consent of the Association or any of the Owners.

17.5 Interference with Special Declarant Rights. Neither the Association nor any Owner may take any action or adopt any Rule that interferes with or diminishes any Special Declarant right contained in this Declaration without Declarant's prior written consent. Any action taken in violation of this Section shall be null and void and have no force or effect.

17.6 Limitation on Improvements by Association. Until the expiration of the Control Period, neither the Association nor the Board shall, without the written consent of Declarant, make any Improvement to or alteration in any of the Common Area created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Area as originally constructed or created by Declarant.

17.7 Transfer of Special Declarant Rights. The Declarant may transfer, convey, or assign all or some of its rights created or reserved under this Declaration to any Person in whole or in part. The Declarant's successor shall enjoy any and all Declarant rights set forth in the Declaration regardless of whether such rights are stated to be transferable. All references in the Governing Documents to Declarant shall equally apply to its successor. A contract

transferring a Declarant's rights may, but shall not be required to, be recorded in the office of the Tooele County Recorder.

17.8 Changes by Declarant. Nothing contained in this Declaration shall be deemed to affect or limit in any way whatsoever the right of the Declarant, its successors or assigns, to sell or to change the location, design, method of construction, grade, elevation, or any other part or feature of a Dwelling prior to the contracting for the conveyance of the Dwelling to a purchaser.

17.9 Voting. During the Period of Declarant Control, any matter voted upon by the Owners shall not become effective unless the matter is approved in writing by the Declarant.

17.10 Easements Reserved to Declarant.

(a) The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Plat as "Public Utility Easement," or otherwise designated as an easement area over any road or Common Area on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Plat.

(b) An easement for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

(c) Easement granting the privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

(d) The reservation to the Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the storage of building supplies and materials, parking of construction vehicles, erection of temporary structures, trailers, improvements or signs necessary or convenient to the development of the Project, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services, and related services and facilities.

(e) The Declarant reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way, or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Declarant.

(f) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

17.11 No Modification of Declarant Rights. Any Declarant Rights in the Governing Documents, and specifically in this Article shall not be substantively or procedurally altered without the written consent of the Declarant until six (6) years have passed after the Control Period has ended, at which time the Declarant's approval shall no longer be required. Any document or amendment attempted without obtaining proper consent shall be void *ab initio* to the extent it attempts to alter the rights of the Declarant or any provision of this Article without the consent of the Declarant.

17.12 Declarant Exemption from Statutory Obligations. Pursuant to Utah Code § 57-8a-217(6), Declarant is hereby exempt from the provisions of § 57-8a-217. Pursuant to Utah Code § 57-8a-211(10), Utah Code § 57-8a-211(2) through (9), shall not apply or have any effect during the Declarant Control Period and, as allowed specifically by law, the Declarant shall have no duty whatsoever to obtain a Reserve Analysis, or to fund any Reserve Fund during the Declarant Control Period.

17.13 Dispute Resolution. Declarant, the Master Association, its officers and directors, and all Owners (each a "Bound Party" as used in this Section) agree to encourage the amicable resolution of any disputes, grievances, and claims regarding the initial management of the Association or the design, initial construction, condition, or sale of any part of the Property and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to the following mandatory procedures for resolving any Claim. Notwithstanding the Amendment procedures contained herein, this Section may not be amended or removed from this Master Declaration without the written consent of the Declarant for a period extending ten (10) years after the end of the Control Period.

(a) Any Bound Party initiating a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and Respondent referred to herein being individually referred to as a "Party" or collectively referred to as the "Parties") shall notify each Respondent in writing ("Notice"), stating plainly and concisely:

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

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

(3) The proposed remedy;

(4) The fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim; and

(5) that the Person alleged to be responsible for the acts giving rise to the Claim shall have one hundred and eighty (180) days to cure or resolve the Claim.

(b) Within sixty (60) days of providing the Notice, 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 appoint a representative to assist the Parties in negotiation.

(c) In the event that the Claim is not resolved following the meeting, or if the meeting fails to take place within the sixty (60) day period required above despite good faith efforts, except for any Claim that may be filed by the Association against the Declarant or an affiliate of the Declarant, the Claimant may proceed with legal

proceedings against the Respondent following the conclusion of the one hundred and eighty (180) day cure period provided in the Notice.

(d) Before initiating any legal proceeding for any Claim against the Declarant or an affiliate of Declarant, the Association shall:

(1) Provide full disclosure in writing to all Owners of all material information relating to the Claim, which includes without limitation, a statement describing the nature of the Claim, the manner in which the Claim will be funded and a statement describing any demands, notices, offers to settle or responses to offers to settle made either by the Association or the Declarant or its affiliate, if applicable;

(2) The disclosures to the Owners shall include a written assessment from an attorney licensed to practice in the state of Utah certifying the following: (i) the likelihood that the legal action will succeed; (ii) the amount in controversy in the legal action; (iii) the likely cost of resolving the legal action to the Association's satisfaction; and (iv) the likely effect the legal action will have on a Lot Owner's or prospective Lot buyer's ability to obtain financing for a Lot while the legal action is pending;

(3) Call and hold a special meeting of the Owners to discuss the Claim and disclosures, and provide at least seventy-two (72) hours' notice to each Bound Party of such meeting, and permit a representative of each Bound Party to attend the special meeting;

(4) Receive approval at the special meeting from more than fifty-one percent (51%) of the Allocated Interest of all Owners in the Master Association to initiate any legal proceeding of the Claim against the Declarant and/or its affiliate, if applicable;

(5) Establish a trust for funding the legal action and place an amount equal to fifty percent (50%) of the cost estimated to resolve the legal action in the trust, which funds may only be used to pay the costs to resolve the legal action; and

(6) Allow the one hundred and eighty (180) day right to cure period to expire.

(e) Any post-turnover litigation involving the Bound Parties shall strictly comply with each of the provisions of this Section. The parties hereby covenant, stipulate, and agree that in the event the Bound Parties fail to satisfy the prerequisites set forth herein, the non-compliant party will indemnify, defend, hold harmless, and exculpate the other Bound Party to the fullest extent permissible by law, and the non-breaching Bound Party shall be entitled to recover any and all attorneys' fees and costs expended as a result of enforcing this Section, which fees and costs may include, without limitation, pre-litigation attorneys' fees, costs incurred in connection with investigation of potential claims, including expert and consultant fees, testing fees, contractor fees, and insurance deductibles. The Bound Parties further covenant, stipulate, and agree that failure to comply with this Section herein will result in damages to Declarant including, without limitation, reputational harm, and may result in damages to Declarant including lost revenues, and loss of business and sales opportunities.

(f) Any provision in this Declaration notwithstanding: (1) other than as set forth in this Section, the Association shall have no power whatsoever to institute,

prosecute, maintain or intervene in any proceeding of a Claim, (2) any institution, prosecution or maintenance of, or intervention in a proceeding of a Claim by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section, shall be unauthorized and *ultra vires* (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Association, and shall subject any Director who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section to personal liability to the Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution or maintenance of, or intervention in, the proceeding of a Claim; and (3) this Section may not be amended or deleted at any time without the express prior written approval of both: (a) sixty-seven percent (67%) of Owners, and (b) not less than seventy-five percent (75%) of the Directors; and any purported amendment or deletion of this Section or any portion hereof, without both of such express prior written approvals shall be void.

(g) ALL PARTIES HEREBY AGREE TO RESOLVE ANY CLAIM ACCORDING TO THE PROVISIONS OF THIS SECTION AND SUCH PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO PURSUE THE CLAIM IN ANY MANNER OTHER THAN AS PROVIDED IN THIS SECTION.

17.14 Owner Warranties. The Declarant may have provided certain warranties to the Owners related to a Dwelling purchased. The first Owner of a Dwelling to whom any warranty is issued, or with whom a legal warranty arises, and only that Owner, shall have the right to directly enforce and seek performance from the Declarant of any terms of the warranty, and only consistent with the warranty itself. The Master Association shall have no right to seek the performance of or take assignment of any rights in any warranties from the Declarant to any Owner, and the Owner shall have no right to assign any rights of any kind to the Master Association related to pursuing litigation against the Declarant.

17.15 Neighborhood Association Developers. The Declarant shall not be considered the developer of any Neighborhood Association or of any development or building constructed within the Northstar Ranch Project unless the Declarant explicitly assumes such duties.

ARTICLE 18: INTERPRETATION, CONSTRUCTION, & APPLICATION OF DECLARATION

18.1 No Waiver. Failure by the Master Association or by any Owner to enforce any Term and Condition in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to that breach and any such future breach of the same or any other Term and Condition.

18.2 Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Declaration, the Plat, the Articles, the Bylaws, and then the Rules.

18.3 Interpretation of Declaration and Applicability of the Act. The Project shall be governed by the Act, except where (in compliance with the Act) the Master Association has included specific provisions in this Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Declaration that are contrary to the Act shall govern the Project to the extent allowed by the Act. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow this Declaration to contain provisions contrary to the Act, the Act shall control and this Declaration shall be deemed modified accordingly, but only to the extent necessary to come into compliance with the Act.

18.4 Cumulative Remedies. All rights, options, and remedies of the Master Association and the Owners in the Governing Documents are cumulative, and none shall be exclusive of any other, and the Master Association and the Owners shall have the right to pursue any one or all of such rights, options, and remedies or any other remedy or relief that may be provided by law simultaneously, consecutively, or alternatively.

18.5 Severability. Invalidation of any one or a portion of the Terms and Conditions by judgment or court order shall in no way affect any other Terms and Conditions, all of which shall remain in full force and effect.

18.6 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential community and for the maintenance of the Project. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. References in this Declaration to article and section numbers, unless otherwise expressly provided, are to the article and section in this Declaration. To the extent permitted by law, the provisions of the Governing Documents shall not be interpreted for or against or strictly for or against the Master Association, any Owner, or any other Person subject to their terms.

18.7 Applicable Law. The Master Association is specifically made subject to the Act and the law as it is constituted and exists at the time this Declaration is recorded. Amendments to the Act after the date of recording of this Declaration shall not be applicable to the Master Association or the Project unless they are applicable as a matter of law or unless the Master Association makes those amendments applicable by amendment to the Declaration.

18.8 Gender and Number. Whenever the context of the Governing Documents requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

18.9 Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration, and the Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations, and the like applicable thereto. The Master Association shall have no liability whatsoever if any Term and Condition is determined to be unenforceable in whole or in part for any reason.

ARTICLE 19: GENERAL PROVISIONS

19.1 Enforcement. The Master Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Terms and Conditions including the right to prevent the violation of any such Terms and Conditions and the right to recover damages and other sums for such violation.

19.2 Attorney Fees. If the Master Association utilizes legal counsel to enforce any Term and Condition after notice to the Owner that the Master Association intends to enforce the Term and Condition or after the Owner communicates or demonstrates an intent not to comply with the Term and Condition, the Master Association may assess all reasonable attorney fees and costs associated with such enforcement to the Owner, regardless of whether a lawsuit is initiated or not. The term "costs" as used in this Section shall include all costs including but not limited to copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this

Declaration to be broader and to include costs that are not included in costs as the term is used in the Utah Rules of Civil Procedure.

19.3 Notices. Any notice required or permitted to be given to any Owner or Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email or mailing address for such Person appearing in the records of the Association at the time notice is sent. If no email or mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes.

Unless an Owner notifies the Association in writing that they desire to receive notices via USPS mail, each Owner shall provide to the Board, or the Association's Manager, an email address that the Association may use to affect notice as described herein, along with a telephone number that can receive texts. Any notice sent via email or text shall be deemed to be delivered once the notice has been sent to the email address or phone number on file with the Association. Any notice sent by mail shall be deemed delivered when deposited in the United States mail. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners. The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been sent to any Owner or Owners, in any manner that this Section allows, shall be deemed conclusive proof of such delivery.

Notice to the Association shall be delivered by registered or certified United States mail postage prepaid, addressed to the office of the Manager of the Association (if any); or if there is no Manager, the Registered Agent with the Utah Department of Commerce (if any); or if there is none, to the President of the Association. The Association shall have the right to designate an email or USPS mailing address for receipt of notices hereunder by Rule.

19.4 No Liability of Officials. To the fullest extent permitted by applicable law, neither the Board of Directors nor any officer of the Master Association shall be liable to any Owner or the Master Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence.

19.5 Use of Funds Collected by the Association. All funds collected by the Master Association, including Assessments and contributions to the Master Association paid by the Owners, if any, shall be held by the Master Association in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Association in managing, maintaining, caring for, and preserving the Common Area and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Master Association managing, maintaining, caring for, and preserving the Common Area and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

19.6 Owner Liability and Indemnification. Each Owner shall be liable to the remaining Owners and to the Master Association for any damage to the Common Area and Facilities that may be sustained by reason of the negligent or intentional act that Owner or any intentional or negligent act of any Occupant of that Owner's Dwelling, to the extent such losses and damages are either under the Deductible of the Master Association or not covered by the Master Association's insurance. Each Owner, by acceptance of a deed to a Lot, agrees personally to indemnify each and every other Owner and Occupant in such other Owner's Lot and to hold such other Persons harmless from, and to defend such Persons against, any claim

of any Person for personal injury or property damage occurring within the Lot of that particular Owner, except to the extent that: (a) such injury, damage, or claim is covered and defended by the Master Association's or such other Owner's liability insurance carrier; or (b) the injury or damage occurred by reason of the intentional act of the Master Association.

19.7 Consent, Power of Attorney, and Waiver. By acceptance of a deed, lease, or other conveyance of an interest in a Lot, each Owner or Occupant consents to the rights reserved to the Master Association in this Declaration, including but not limited to the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat, and the Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Master Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Master Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

19.8 Security. The Master Association shall in no way be considered an insurer, guarantor, or provider of security from criminal conduct within or relating to the Project, including any Common Area and Facilities that the Master Association may have an obligation to maintain. The Master Association shall not be held liable for any loss or damage by reason of criminal conduct arising for any reason including any failure to provide security or any ineffectiveness of security measures undertaken. Each and every Owner or Person entering the Project acknowledges that the Master Association has no duty to any Owner or Occupant related to security or criminal conduct and expressly acknowledges that no duty is owed to anyone such as that of a landlord or retail business. By purchasing a Lot in this Master Association and/or residing in this Master Association, Owners and Occupants agree that the Master Association and the Board of Directors are not insurers of the safety or well-being of Owners or Occupants or of their personal property as it relates to criminal conduct, and that each Owner or Occupant specifically waives any such claim and assumes all risks for loss or damage to Persons or property resulting from criminal conduct, to the extent any such damages are not covered by insurance.

19.9 Reasonable Accommodations. Notwithstanding anything to the contrary in this Declaration, the Master Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate a Person with a disability (as defined by Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, the Common Area and Facilities, or the buildings, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this Section shall not act as a waiver of the provisions of the Governing Documents with regard to any other Person or Owner.

19.10 No Representations and Warranties. EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE PROJECT THAT THE MASTER ASSOCIATION AND THE BOARD OF DIRECTORS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE PROJECT AND THAT EACH OWNER OR OCCUPANT HAS NOT

RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.

19.11 **Exhibits.** All exhibits to this Declaration are incorporated herein by this reference.

19.12 **Effective Date.** This Declaration and any amendment hereto, shall take effect upon its filing in the office of the Tooele County Recorder.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the day and year written below.

DATED as of the 7 day of January, 2019.

DECLARANT
Northstar Ranch, LLC
a Utah Limited Liability Company

By: Westates Companies, LLC
Its: Manager

By: [Signature]
Name: Stan T. Rowland
Its: Manager

STATE OF UTAH)
COUNTY OF Devis) ss.

On the 7, day of January, 2019, personally appeared before me Stan T. Rowland, who by me being duly sworn, did say that she/he is an authorized representative of Northstar Ranch, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public [Signature]

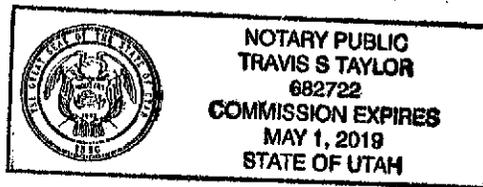


EXHIBIT A
LEGAL DESCRIPTION

**NORTHSTAR RANCH PHASE 1A As Recorded In The Office Of
The Tooele County Recorder**

INCLUDING LOTS 1 THROUGH 25, PARCEL NUMBERS 20-039-0-0001 THROUGH
20-039-0-0025

PART OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 6 WEST OF THE SALT LAKE BASE
AND MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, TOWNSHIP 3 SOUTH,
RANGE 6 WEST OF THE SALT LAKE BASE AND MERIDIAN MONUMENTED WITH A
BRASS CAP THENCE S 00°06'13" W 2467.49 FEET ALONG THE WEST LINE OF THE
NORTHWEST QUARTER OF SAID SECTION 1; THENCE EAST 500.09 FEET TO THE POINT
OF BEGINNING AND RUNNING

THENCE N 21°15'02" W 64.37 FEET;
THENCE N 11°48'02" W 293.45 FEET;
THENCE S 74°48'53" E 253.71 FEET;
THENCE N 26°10'31" E 147.61 FEET;
THENCE N 23°29'35" E 194.25 FEET;
THENCE NORTHEASTERLY, 9.21 FEET ALONG A CURVE TO THE RIGHT HAVING A
RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 04°03'29" AND A CHORD THAT
BEARS N 25°31'19" E 9.21 FEET;
THENCE N 48°26'44" W 208.71 FEET;
THENCE NORTHEASTERLY, A DISTANCE OF 158.56 FEET ALONG A NON TANGENT
CURVE TO THE LEFT OF WHICH THE RADIUS POINT LIES N 23°02'39" W A RADIUS OF
865.00 FEET, AND HAVING A CENTRAL ANGLE OF 10°30'10" AND A CHORD THAT BEARS
N 61°42'16" E 158.34 FEET;
THENCE N 56°27'11" E 104.31 FEET;
THENCE NORTHEASTERLY, 206.21 FEET ALONG A CURVE TO THE RIGHT HAVING A
RADIUS OF 760.00 FEET AND A CENTRAL ANGLE OF 15°32'44" AND A CHORD THAT
BEARS N 64°13'33" E 205.57 FEET;
THENCE N 17°23'55" W 80.00 FEET;
THENCE EASTERLY, A DISTANCE OF 256.33 FEET ALONG A NON TANGENT CURVE TO
THE RIGHT OF WHICH THE RADIUS POINT LIES S 17°56'38" E A RADIUS OF 840.00 FEET,
AND HAVING A CENTRAL ANGLE OF 17°29'02" AND A CHORD THAT BEARS N 80°47'53" E
255.34 FEET;
THENCE N 89°32'24" E 27.31 FEET;
THENCE N 00°12'27" E 59.31 FEET;
THENCE S 89°55'19" E 686.42 FEET TO THE WESTERLY RIGHT-OF-WAY OF MORMON
TRAIL ROAD THE FOLLOWING THREE COURSES:
1) THENCE SOUTHERLY, A DISTANCE OF 49.82 FEET ALONG A NON TANGENT CURVE
TO THE RIGHT OF WHICH THE RADIUS POINT LIES N 81°51'03" W WITH A RADIUS OF
667.00 FEET, AND HAVING A CENTRAL ANGLE OF 04°16'48" AND A CHORD THAT BEARS
S 10°17'21" W 49.81 FEET;

2) THENCE S 12°25'45" W 46.35 FEET;
3) THENCE SOUTHERLY, 62.53 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1,107.00 FEET AND A CENTRAL ANGLE OF 03°14'11" AND A CHORD THAT BEARS S 14°02'50" W 62.52 FEET;
THENCE N 79°00'29" W 63.64 FEET;
THENCE WESTERLY, 91.94 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 460.00 FEET AND A CENTRAL ANGLE OF 11°27'07" AND A CHORD THAT BEARS N 84°44'02" W 91.79 FEET;
THENCE S 89°32'24" W 437.11 FEET;
THENCE S 00°46'22" E 488.73 FEET;
THENCE S 01°17'27" W 131.85 FEET;
THENCE S 19°30'56" W 388.63 FEET;
THENCE S 10°35'44" W 153.84 FEET;
THENCE S 89°59'27" W 460.86 FEET;
THENCE N 00°00'33" W 140.00 FEET;
THENCE S 89°59'27" W 264.99 FEET TO THE POINT OF BEGINNING, CONTAINING 19.46 ACRES, MORE OR LESS.

EXHIBIT B
BYLAWS
OF
NR MASTER HOA

These BYLAWS OF NR MASTER HOA, are effective upon recording in the Tooele County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

A. The Association is organized for any and all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted in order to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as the Northstar Ranch Subdivision and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

ARTICLE I
DEFINITIONS

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Master Declaration of Covenants, Conditions and Restrictions for Northstar Ranch.

ARTICLE II
APPLICATION

2.1 All present and future Owners, Mortgagees, Occupants, and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws, the Declaration, and Rules. The mere acquisition or rental of any of the Dwellings or the mere act of occupancy or use of any said Dwellings or the Common Areas will signify that these Bylaws, the Declaration, and the Rules are accepted, ratified, and will be complied with by said persons.

ARTICLE III
OWNERS

3.1 **Annual Meetings.** The Annual Meeting of the Owners shall be held each year on a day and time established by the Board of Directors. The purposes of the Annual Meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board Members cannot be held during the Annual Meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a Special Meeting of the Owners to

be convened as soon thereafter as may be convenient or at the next Annual Meeting. The Board may from time to time by resolution change the month, date, and time for the Annual Meeting. Annual Meetings shall not be required during the Control Period, but the Declarant may hold Annual Meetings at its discretion.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of the Board, the Declarant, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of a valid Owner request. During the Period of Declarant Control, Special Meetings may only be called by the Declarant.

3.3 **Place of Meetings**. The Board may designate any place in Tooele or Salt Lake County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. If no designation is made, or if a Special Meeting is otherwise called, the place of the meeting shall be held at the office of the Association.

3.4 **Notice of Meetings**. The Board shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Dwelling shall be deemed to be the Owner's registered address and notice to the Dwelling address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Board stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters**. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she has fully paid his or her Assessment account (together with interest or other fees) at least 48 hours prior to the commencement of the meeting.

3.6 **Record Date for Notice Purposes**. The Board may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as

the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum.** Those Owners present in person or by proxy at any duly called meeting of the Master Association that is called and held in compliance with the requirements of this Article, shall constitute a quorum for the adoption of decisions. The vote of the Owners representing a majority of the Allocated Interest of the Owners in attendance in person or by proxy, shall decide any question or action brought before the meeting. Notwithstanding the foregoing, if the Act, the Articles of Incorporation, the Declaration (as amended), or these Bylaws require a fixed percentage of Owners' Allocated Interests to approve any specific action (e.g., amending Governing Documents), that percentage shall be required to approve such action.

3.8 **Proxies.** At each Owner meeting, each Owner entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been in writing, dated, signed by the Owner or by the Owner's attorney, and notarized. A proxy may be written on paper or received via email, facsimile, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Lot or the Owner's attorney. Such instrument authorizing a proxy to act may set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes.** With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, a vote equivalent to the Allocated Interest of each Lot of such Owner. The Declarant shall be entitled to a vote equal to twenty-five (25) times the Allocated Interest assigned to each Lot the Declarant owns in the Project. The affirmative vote of a majority of the votes entitled to be cast by the Declarant and Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by these Bylaws, the Declaration, the Act, or the Utah Revised Nonprofit Corporations Act. The election of Board Members shall be by secret ballot. When more than one (1) Owner holds an interest in a Lot, any Owner may exercise the vote for such Lot on behalf of all co-Owners of the Lot. In the event of two (2) conflicting votes by co-Owners of one (1) Lot, no vote shall be counted for that Lot but it shall be counted for the purposes of establishing a quorum. In no event shall fractional votes be exercised with respect to any Lot.

3.10 **Establishment of Election Districts.** Unless or until Election Districts are established, the Owners within the Project shall vote on Board member elections according to each Owner's Allocated Interest.

The Declarant shall establish Election Districts, if at all, not later than the expiration of the Control Period by filing with the Master Association and recording a Supplement to the Declaration identifying the Lots and/or Neighborhood Associations comprising each Election

District. The Declarant, acting alone, may amend and change such designation at any time prior to the expiration of the Control Period.

After the expiration of the Control Period, the Board shall have the right to record or amend any such Supplement designating the Election Districts upon the vote of a majority of the Board members and upon approval of a majority of the Allocated Interest of all Owners within the Master Association. Any such Supplement or amendment thereto shall become effective upon recording.

Any and all portions of the Project that are not assigned to a specific Election District shall constitute a single Election District.

3.11 **Election Districts.** In order to promote representation from all areas within the Project, the Association may establish Election Districts for the purpose of electing Board Members. Each Election District may consist of one or more Neighborhood Associations and one or more Lots that are not part of a Neighborhood Association. Each Election District may elect the number of Board member positions as assigned to the Election District in the Declaration or supplement thereto. Each Election District shall have the right to elect at least one Board member and the total number of Election Districts within the Project shall not exceed the total number of Board members to be elected pursuant to these Bylaws.

3.12 **Election District Voting.** The Master Association shall conduct Election District voting for each open Board Member position at the Annual Meeting. If the Master Association is unable to hold Board Member elections at the Annual Meeting, then a Special Meeting shall be held in accordance with these Bylaws whereby the Members within each Election District shall vote on Board Member candidates for election to the Master Association Board. Each Member's vote in the Election District voting shall be equal to their Allocated Interest. Board Members will be elected by a simple majority vote of the Owners from the Election District present at the meeting. If two (2) candidates have equal votes, then the issue shall be resolved by a coin toss. All Board Member elections shall be subject to any and all appointment powers granted to the Declarant in the Declaration.

3.13 **Waiver of Irregularities.** All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board or of the Owners shall be deemed waived if no objection is made at the meeting. For those Members who are not in attendance at the meeting, the right to challenge inaccuracies and irregularities in calls, notices, voting, and decisions shall be waived if no objection is made within thirty (30) days of the date of the meeting.

3.14 **Action Taken Without a Meeting.** Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code §16-6a-707 or § 16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

3.15 **Minutes of Meetings.** The Secretary shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that

is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each annual meeting of the Owners shall be made available to all Owners within thirty (30) days of the annual meeting.

ARTICLE IV BOARD OF DIRECTORS

4.1 **General Powers.** The Project and the affairs and business of the Association shall be managed by the Board of Directors. The Board may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications.** The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of either five (5) or seven (7) persons, as determined by the Board. Board Members must be at least 18 years old and must be an Owner or the spouse of an Owner of a Lot in the Project. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manager, agent, trustee, or beneficiary of such Owner may be a Board Member.

Notwithstanding the foregoing, during the Control Period, the Declarant and its authorized agents shall act as the Board. If the Declarant chooses to have a Board of Directors, then the Declarant shall have the sole authority to appoint Board Members and such Board Members shall not be bound by the qualification requirements of these Bylaws. The Declarant appointed Board may consist of as few as one (1) person.

4.3 **Election.** During the Control Period, Board Members shall be appointed by Declarant. Following the Control Period, the election of Board Members shall be made by the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

4.4 **Term of Office.** During the Control Period, Board Member terms shall be determined exclusively by Declarant. Following the Control Period, the terms of the Board Members shall be three (3) years. The terms of Board Members shall be staggered and overlap so that elections for Board Member positions are held each year. Board Members may serve consecutive terms if elected.

4.5 **Regular Meetings.** The Board shall hold meetings at least quarterly or more often at the discretion of the Board. During the Period of Declarant Control, Board Meetings shall be held at the discretion of the Declarant so long as at least one Board Meeting is held each year and a Board Meeting is held each time the Association increases a fee or raises an Assessment.

4.6 **Special Meetings.** Special meetings of the Board may be called by the President or a majority of Board Members on at least two (2) business days' prior notice to each Board Member. The person or persons authorized to call special meetings of the Board may fix any place, within Tooele County, as the place for holding the meeting and shall provide a conference call-in number for Board Members not able to attend in person.

Notice shall be given personally, by email, or by telephone, including text message. By unanimous consent of the Board, special meetings may be held without call or notice.

4.7 **Meeting Notice.** Notice of any special meeting shall be given at least two (2) days prior thereto by written notice delivered personally, by email, or by telephone to all Board members and any Lot Owners who have requested notice. Any Director may waive notice of a meeting.

4.8 **Owner Attendance.** Any Owner may request notice of Board meetings by requesting such notice from a Board member and providing a valid email address at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific time period during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

4.9 **Quorum and Manner of Action.** A majority of the then authorized number of Board Members shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Board Members present at any meeting at which a quorum is present and for which proper notice was provided shall be the act of the Board. The Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

4.10 **Open Meetings.** Except as provided below in (a) through (f), following the Control Period, Board meetings shall be open to Owners. The Board may hold a closed executive session during a meeting of the Board if the purpose of the closed executive session is to:

- (a) Consult with legal counsel to obtain legal advice and discuss legal matters;
- (b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;
- (c) Discuss a labor or personnel matter;
- (d) Discuss a matter relating to the initial contract negotiations, including the review of a bid or proposal;
- (e) Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or
- (f) Discuss a delinquent assessment.

During the Control Period, Board meetings may be closed to Owners, unless the Board, in its sole discretion and without obligation, determines to open the meeting (or a portion thereof) to the Owners. Notwithstanding the foregoing, the Board meetings required under Utah Code § 57-8a-226(6)(b) shall be open to all Owners.

4.11 **Board Meeting Location.** The Board may designate any place in Tooele County as the place of meeting for any regular or special Board meeting. The Board may allow attendance and participation at any Board meeting by telephone or any other electronic means that allows for Board Members to communicate orally in real time. Following the Period of Declarant Control, if a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

4.12 **Board Action**. Notwithstanding noncompliance with any provision within this Article IV, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with this Article may not bring the challenge more than sixty (60) days after the Board has approved the minutes recording the Board action.

4.13 **Compensation**. No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.14 **Resignation and Removal**. A Board Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member who is appointed by the Declarant may only be removed by the Declarant. The Declarant may remove a Board Member it appoints at any time. A Board Member elected by the Owners after the Period of Declarant Control may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association.

4.15 **Vacancies**. If vacancies shall occur in the Board for any reason during the Control Period, the Declarant shall appoint a Board Member to fill the vacancy. Following the Control Period, if vacancies shall occur in the Board for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.16 **Action Without a Meeting**. Board Members have the right to take any action in the absence of a meeting which they could take at a meeting subject to the requirements of Utah Code §16-6a-813 and any other applicable sections of the Acts. Any action so approved shall have the same effect as though taken at a meeting of the Board.

4.17 **Waiver of Notice**. Before or at any meeting of the Board, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Board Member or Owner at any meeting thereof shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

4.18 **Adjournment**. The Board may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.19 **Meeting**. A Board meeting does not include a gathering of Board Members at which the Board does not conduct and vote on Association business.

ARTICLE V OFFICERS

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

5.2 **Election, Tenure, and Qualifications.** The officers of the Association shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers.** The Board may appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may determine.

5.4 **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to any member of the Board or to any managing agent of the Association. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

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

5.6 **President.** The President shall be the chief executive of the Association. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board.

5.7 **Vice President.** The Vice President shall perform all duties of the President when the President is absent or unable or refuses to act at any meeting of the Board or Owners. The Vice President shall perform such other duties as required by the Board.

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

5.9 **Treasurer.** The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall perform such other duties as required by the Board.

5.10 **Compensation.** No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

ARTICLE VI COMMITTEES

6.1 **Designation of Committees.** The Board may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. No member of such committee shall receive compensation for services rendered to the Association as a member of the committee; provided, however, that the committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate any committee at any time.

6.2 **Proceeding of Committees.** Each committee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.

6.3 **Quorum and Manner of Acting.** At each meeting of any committee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event fewer than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board hereunder shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Board.

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

6.5 **Vacancies.** If any vacancy shall occur in any committee designated by the Board due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII

INDEMNIFICATION

7.1 **Indemnification.** In addition to the indemnification provisions and requirements set forth in the Declaration, no Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification.** The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under the Acts or under any agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all Board Members, officers, and committee members be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, committee member, or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance.** The Board, in its discretion, may direct that the Association purchase and maintain Directors and Officers insurance on behalf of any person who is or was a Board Member, officer, committee member, or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article.

7.4 **Settlement by Association.** The right of any person to be indemnified shall be subject always to the right of the Association through the Board, in lieu of such indemnity, to settle any such claim, action, suit or proceeding at the expense of the

Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

**ARTICLE VIII
RULES AND REGULATIONS**

8.1 **Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and residents. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least ten (10) days prior to the effective date thereof.

**ARTICLE IX
AMENDMENTS**

9.1 **Amendments by Declarant.** So long as the Declarant owns one or more Lots in the Project or any Additional Land, the Declarant acting alone may amend the Bylaws for any reason, without Owner approval. Declarants unilateral amendment right as designated herein may continue past the expiration of the Control Period. No other amendment shall be valid or enforceable during the Control Period unless the Declarant has given written consent to such amendment. Any amendment during the period Declarant owns at least one Lot or any Additional Land shall be executed by Declarant on behalf of the Association and shall become effective upon recordation in the office of the Tooele County Recorder.

9.2 **Amendments by Association.** After the Declarant has annexed all Additional Land, has sold all of the Lots to third parties, and after the Control Period has expired, the Bylaws may be amended by the Owners upon the affirmative vote of more than sixty-seven percent (67%) of the voting interest of the Association. Any amendment(s) shall be effective upon recordation in the office of the Tooele County Recorder. In such instrument a Board Member shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any Owner signature shall be required. No amendment shall in any way restrict, limit, or impair any Declarant rights without the express written consent of the Declarant.

**ARTICLE X
MISCELLANEOUS PROVISIONS**

10.1 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws 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 thereof which may occur.

10.2 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the

balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.3 **Conflicts**. These Bylaws are intended to comply with the Declaration. In

case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

IN WITNESS WHEREOF, the Declarant has executed and adopted these Bylaws on behalf of the Association.

DATED this 7 day of January, 2019.

By: Westates Companies, LLC Northstar Ranch, LLC
Its: Manager a Utah Limited Liability Company

By: [Signature]
Its: Manager

State of Utah)
County of Davis) ss.

On the 7 day of January, 2019, personally appeared before me Stacy T. Rowland who by me being duly sworn, did say that she/he is an authorized representative of Northstar Ranch, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public [Signature]

