

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR CANYON VILLAGE-RUST PHASE 1
CONDOMINIUMS**

THIS DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS for Canyon Village-Rust Phase 1 Condominiums affects the following real property, all located in Tooele County, State of Utah:

Parcels A & B

See Exhibit A

(The property described in Exhibit A is hereinafter referred to as "Property")

RECITALS:

- A. On May 14, 2018, the Declarant Mountain Vista Development, Inc., a Utah corporation, caused to be recorded the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Canyon Village-Rust Subdivision as Entry No. 467715 in the official records of Tooele County, State of Utah (with said Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Canyon Village-Rust Subdivision – and as may be further amended and supplements from time to time – being hereinafter referred to as "**Master Canyon Village-Rust Declaration**") to govern the Canyon Village-Rust Subdivision and further as governed by the Canyon Village Owners Association governing documents as amended and supplemented from time to time.
- B. Pursuant to Section 2.9 of the first amendment to the Master Canyon Village-Rust Declaration, Declarant may establish separate owners' association(s) to administer additional covenants applicable to a particular Property within the Canyon Village-Rust Subdivision.
- C. Declarant has developed or will develop the real property described above as condominium numbered units 101 through 124 as identified on the Plat for Canyon Village-Rust Phase 1 Condominiums within the Canyon Village-Rust Subdivision and is or will be the owner of said units within the subdivision.
- D. Declarant has established or will establish the "Canyon Village-Rust Phase 1 Condominium Owners Association" and this Association will be vested with powers of owning, maintaining and administering the Common Area and Limited Common Area and with administering and enforcing the covenants and restrictions pertaining to

Property, promulgating Rules and Regulations through its Board, and collecting and disbursing the assessments and charges hereinafter created.

- E. The Declarant intends that the Property shall be maintained, developed and conveyed pursuant this Declaration and the Master Canyon Village-Rust Declaration and subject to certain protective covenants, easements, equitable servitudes, liens and charges, all running with the Property as hereinafter set forth.
- F. The Condominium Project on the Property is and will be subject to the terms, conditions, covenants and restrictions set forth in the Master Canyon Village-Rust Declaration and the Covenant, and will be governed by the Canyon Village-Rust Phase 1 Condominium Owners Association.
- G. The Declarant hereby declares that all of the Property shall be maintained, held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Property or any portion thereof. The covenants, conditions restrictions, rights, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Property and shall be binding upon all persons having or acquiring any right, title, or interest in the Property, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon and may be enforced by Declarant, the Canyon Village-Rust Owners Association, the Canyon Village-Rust Phase 1 Condominium Owners Association (or Association) as hereinafter defined, each owner and their respective heirs, executors and administrators, and successors and assigns.
- H. These Recitals shall be deemed covenants as well as recitals.

ARTICLE I

DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings specified in the Master Canyon Village-Rust Declaration or as hereinafter specified. All terms defined in the Recitals shall have the meanings set forth in the Recitals and in this Article.

- 1.1 **Act.** Act shall mean the Condominium Ownership Act, codified at Sections 57-8-1 through 57-8-60, Utah Code Annotated, pertaining to the creation, ownership and management of a condominium project in the State of Utah, as the same may be amended.
- 1.2 **Allocated Interest.** Allocated Interest shall mean the interest in the Common Area appurtenant to a Unit on the Property.

- 1.3 **Articles.** Articles shall mean the Articles of Incorporation of the Property within Canyon Village-Rust Phase 1 Condominium Owners Association (or Association) filed in the office of the Secretary of State of the State of Utah, as such Articles may be amended from time to time.
- 1.4 **Assessment.** Assessments shall include Annual Unit Assessments, Corrective Assessments, and Special Assessments. Annual Unit Assessment shall mean the annual charge against each Owner of a Condominium or Unit, representing a portion of the Common Expenses for the Property, which are to be paid by each Owner to the Association in the manner and proportions provided herein. Said Annual Unit Assessment may be in addition to the Canyon Village-Rust Owners Association Annual Assessment.
- 1.5 **Association.** Association shall mean the CANYON VILLAGE-RUST PHASE 1 CONDOMINIUM OWNERS ASSOCIATION, a corporation formed under the Nonprofit Corporation Law of the State of Utah, its successors and assigns.
- 1.6 **Association Rules.** Association Rules shall mean and refer to the rules and regulations adopted by the Association pursuant to this Declaration and in furtherance of the Bylaws and Section 57-8-8 of the Act.
- 1.7 **Board.** Board shall mean the Board of Directors of the Association, appointed by the Declarant and/or elected pursuant to the Bylaws of the Association and shall comprise the Management Committee as contemplated by the Act.
- 1.8 **Budget.** Budget shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration.
- 1.9 **Bylaws.** Bylaws shall mean the Bylaws of the Association, as adopted by the Board, as such Bylaws may be amended by the Board from time to time pursuant to Section 57-8-15 of the Act.
- 1.10 **Corrective Assessments.** Corrective Assessments shall mean a charge against a particular Owner and his Condominium representing the costs to the Association for corrective action set forth in Sections 2.9, Section 5.7, and Article VII.
- 1.11 **Common Area.** Common Area means that portion of property owned by the Association, shown on the Plat as Common Area/Open Space or otherwise not private area and not limited common area and thus dedicated to the common use and enjoyment of the owners and all improvements constructed thereon, and shall include and mean:
- a. The land included within the Property, whether leasehold or in fee simple;
 - b. As applicable, the foundations, columns, girders, beams, supports, main walls, roofs, external stairs or stairways on the Property;

- c. As applicable, yards, gardens, parking areas, and storage spaces not part of the Limited Common Area or part of a Unit (or Private Area);
- d. All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Property and intended for the common use of all Owners, such as telephone, electricity, natural gas, water, cable television, and sewer;
- e. All other parts of the Condominium Project (excepting the Units) necessary or convenient to its existence, maintenance, and safety, or normally in common use.

- 1.12 **Common Expenses.** Common Expenses shall mean the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Common Area which is maintained by the Association; (b) deficiencies arising by reason of unpaid Assessments; (c) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; (d) utilities consumed in the Common Area or in Units (other than separately metered utilities for the Units), including, common lighting and heating, water charges, trash collection and sewer service charges, extermination, security, gardening and other related services; (e) insurance and bonds required by this Declaration or any additional insurance and bonds obtained by the Board in its discretion; (f) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion for the periodic maintenance, repair and replacement of the Common Area, which shall in no event be less than two (2) months of the estimated Assessments for each Unit; (g) expenses agreed upon as Common Expenses by the Association; and (h) other miscellaneous charges incurred by the Association or Board, this Declaration, the Bylaws or the Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association.
- 1.13 **Condominium.** Condominium means and refers to the entire ownership of any unit as platted on the Property.
- 1.14 **Dwelling Unit or Unit Owner's Unit.** Dwelling Unit or Unit or Owner's Unit shall mean each unit comprising a Dwelling Unit for said Property according to a "Condominium Plat" made and recorded for the Property.
- 1.15 **Limited Common Area.** Limited Common Area shall mean a portion of the Common Area specifically designated as a Limited Common Area in this Declaration or the Plat and allocated by this Declaration or the Plat for the exclusive use of one or more Units to the exclusion of other Units.
- 1.16 **Manager.** Manager shall mean the Person appointed by the Association, if any, hereunder as its agent and delegated certain duties, powers or functions of the

Association as further provided in this Declaration and in the Bylaws.

- 1.17 **Management Committee.** Management Committee shall mean the Management Committee of the Association elected pursuant to the Bylaws and serving as the management body of the Association and shall also be referred to herein as Board.
- 1.18 **Member, Membership.** Member shall mean any Person holding a membership in the Association, as provided in this Declaration. Membership shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in this Declaration and the Articles, Bylaws and Association Rules.
- 1.19 **Owner.** Owner shall mean the Person or Persons, including Declarant, who is the owner of record (in the office of the County Recorder of Tooele County, Utah) of condominiums once constructed on the Property. Notwithstanding any applicable theory relating to a Mortgage, the term Owner shall not mean or include a Mortgagee unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.20 **Person.** Person shall mean a natural individual or any other entity with the legal right to hold title to real property.
- 1.21 **Plat.** Plat shall mean the Condominium Plat executed and acknowledged by Declarant for the Property and recorded in the records of the Tooele County Recorder, as the same has been modified or amended.
- 1.22 **Special Assessments.** Special Assessments shall mean a charge against each Owner and his Property or Condominium, representing a portion of the costs to the Association of defraying any extraordinary expenses incurred or special projects approved as set forth in Article V.

ARTICLE IA

DESCRIPTION OF PROPERTY

The real property which is associated with the Property (as described above) and which has been and shall hereafter continue to be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of all the property described above as the Property; TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which effect the above-described land or any portion thereof, including without limitation, any Mortgage; all visible easements and rights-of-way; all easements

and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described land at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, line, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through, and under the Property, and any Improvements now or hereafter constructed thereon, as may be reasonably necessary for Declarant (in a manner which is reasonable and consistent with the provisions of this Declaration):

- (i) To construct and complete the Improvements as Declarant deems to be appropriate, and to do all things reasonably necessary or proper in connection therewith; and
- (ii) To improve portions of the Property with such other or additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners or Declarant or as such assignee or successor may reasonably determine to be appropriate.

If, pursuant to the foregoing reservations, the Property, or any Improvement thereon, is traversed or partially occupied by a permanent Improvement or utility line, a perpetual easement for such Improvement or utility line shall exist. Such easement shall be in favor of such person as is providing the service or owner of said easement. All sewer, water, and electric lines shall be owned by the respective utilities serving the Property.

For a period of ten (10) years from the date of recording of this Declaration in the office of the Tooele County Recorder, County of Tooele, State of Utah, Declarant reserves the right at its sole election to expand the Properties to include additional property more particularly described below by unilateral action of Declarant without the consent of owners.

ARTICLE IB

CREATION OF CONDOMINIUMS ON PROPERTY

Declarant hereby submits and subject the Property to be a Condominium Project pursuant to the Act, and in furtherance thereof, makes and declares the Restrictions contained in this Declaration, and Declarant hereby declares and agrees that the Condominium Project and all of the Units shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of Declarant, the Association, and each Owner, as their interests may appear, including their respective heirs, executors, administrators, personal representatives, successors and assigns. The Condominium Project shall be named and known as CANYON VILLAGE-RUST PHASE 1 CONDOMINIUMS; provided, however, that in Declarant's sole discretion, the Condominium Project may be

commonly or popularly referred to, for marketing, advertising, and other purposes, by Canyon Village-Rust Units or something similar. The Condominium Project is located in Tooele County, Utah, and the legal description of the real estate included in the Condominium Project is set forth above. The name of the Association is Canyon Village-Rust Phase 1 Condominium Owners Association, Inc. Declarant intends that the Condominium Project shall be governed by the Act, except where (in compliance with the Act) Declarant has included specific provisions in this Declaration which legally vary, supersede or supplement the Act, in which event such specific provisions of this Declaration which are contrary to the Act shall govern the Condominium Project. The Agent for Service of Process to receive service of process for the Condominium Project pursuant to Section 57-8-10(2)(d)(iii) of the Act shall be Derek Ellis, located at 668 East 12225 South, Suite 201, Draper, Utah 84020 until such time as the Management Committee shall duly appoint a new agent and file a Supplemental Declaration.

Exhibit A includes an Initial schedule of the Units, square footage, votes, and undivided interests per unit in common areas. It is anticipated that the Condominium Project shall be stick built and other than the primary building on the Property, there is not anticipated to be any other significant improvements on the Property.

ARTICLE II

UNITS, COMMON AREA, ALLOCATED INTERESTS AND PLAT, MAINTENANCE AND UTILITIES

2.1 **Description of Boundaries of Each Unit and Unit Number.** The cubic content space and Unit Number of each of the Units within the Condominium Project are set forth on the Plat. The vertical boundaries of each Unit shall be the underside of the finished but undecorated ceiling of the second floor of the Unit and the top of the finished but undecorated floor of the first floor or basement of the Unit, as applicable, as shown on the Plat. The horizontal boundaries of each Unit shall be the interior of the finished but undecorated walls located on the perimeter lines of the respective Units as shown on the Plat. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and other materials constituting any part of the finished surfaces are part of the Unit, and all other materials constituting any part of the finished surfaces are part of the Unit, and all other and structural portions of the walls, floors, columns, or ceilings are part of the Common Area. If any pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures lies partially or wholly within or outside the designated boundaries of a Unit, any portion serving only that Unit is a Limited Common Area allocated solely to that Unit and any portion serving more than one Unit or any portion of the Common Area is part of the Common Area. Subject to the preceding sentence, each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat, and all interior partitions and other fixtures and improvements within such boundaries shall be part of the Unit. Conveyance of a Unit includes the use of the limited common area appurtenant to the Unit.

2.2 **Description of Limited Common Area for Patios, Balconies, Entryways, and Storage Areas.** The patio, porch, deck, balcony (or balconies), exterior screens and shutters and

entryway, and rear yards, if any, which are adjacent to each respective Unit as set forth and depicted on the Plat shall be exclusive Limited Common Area for the Unit. The Limited Common Area shall be appurtenant to each respective Unit where so identified and may not be severed from the ownership of the Unit. The Plat delineates and defines areas of Limited Common Area through the area so defined on the key on said Plat.

2.3 **Division into Units, Minimum and Maximum Ownership Interests.** The Condominium Project is hereby divided, initially into twenty-four (24) Units as set forth on the Plat, each such Unit consisting of a Unit and an equal appurtenant undivided interest in and to the Common Area and Limited Common Area. The Plat and/or Exhibit A hereto contain the Unit number and undivided interest of each Unit in the Condominium Project. Parcel B on the Plat shall include Units 101 through 108 and Parcel A on the Plat shall include Units 109 through 124.

2.4 **Allocated Interest of Each Unit in the Votes of the Association.** The designation of the Allocated Interest which each Unit has in the votes of the Association is one vote for each Unit; thus, if the minimum number of Units in the Condominium Project is constructed, each Unit will have, initially, one vote for all matters of the Association.

2.5 **Allocated Interest of Each Unit in the Common Expenses of the Condominium Project.** The designation of the Allocated Interest which each Unit bears in the Common Expenses of the Condominium Project is deemed to be equally divided; thus, if the minimum number of Units in the Condominium Project is constructed, each Unit will, initially, have a 1/24th Allocated Interest in the Common Expenses.

2.6 **Plats.** The Plats are hereby incorporated into, and made an integral part of, this Declaration and all requirements and specifications set forth on the Plats and which are required by the Act are deemed included in this Declaration.

2.7 **Maintenance of Units and Exclusive Limited Common Area.** Each Owner shall furnish and be responsible for, at the Owner's own expense, all of the maintenance, repairs and replacements within the Owner's Unit and within any Limited Common Area appurtenant to the Owner's Unit, subject to Sections 2.8.5 and 2.8.6 below. Such obligation shall include, without limitation: (a) the maintenance of all interior and exterior doors, including thresholds and door jams, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, fireboxes of fireplaces and any other materials constituting the finished surfaces of floors, ceilings, or interior walls (all other portions of the walls, floors, or ceilings are part of the Common Area); (b) the repair and replacement of all windows, skylights, and door glass or equivalent materials and the interior and exterior cleaning of such windows and door glass; (c) the maintenance, in an open and unobstructed condition, of all sewer and drainage pipes, water and other utility lines serving an Owner's Unit between the points at which the same enter the Owner's Unit and the points where the same join the utility lines serving other Units; (d) the maintenance, replacement, repair and restoration of all of the following which serve an Owner's Unit exclusively: lighting fixtures (except exterior building mounted lights and walkway lights which are not located within patios and balconies), fans, plumbing fixtures, stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers and forced air units), intercoms, security systems, and such other appliances, fixtures and decorations as an Owner may install; (e) subject to Sections 2.8.5 and 2.8.6

below, the maintenance of the Unit and all exclusive Limited Common Area, such as enclosed parking, patios, backyards, fencing and balconies (including all materials above or upon the support structure, and railings and posts), exterior screens, shutters, and chimney flues, that are within an Owner's exclusive control in a clean and sanitary condition, free of pests and rodents, and in good order and repair; and (f) the maintenance of the driveways (including all snow removal from limited common areas driveways as detailed in Section 2.8.5 below) and patios or balconies. An Owner may make nonstructural alterations within the Owner's Unit, but an Owner shall not make any structural or exterior alterations of the Common Area or the Limited Common Area without the prior written approval of the Management Committee. Each Owner shall be liable to the Association or other Owners for damages to person or property in the Condominium Project caused by such Owner's negligence or the negligence of his family members, guests, visitors or invitees.

2.8 **Maintenance of Common Area and Some Limited Common Area.** The Association, or its fully delegated representative, shall:

- 2.8.1 Maintain and otherwise manage the Common Area and nonexclusive Limited Common Area, including, but not limited to, Condominium Project building exteriors, the landscaping, open areas and recreational facilities, if any, located thereon and maintain all open areas and exterior building mounted, walkway and landscape area lights (located outside enclosed parking areas, patios and balconies), the structural support components of patios and roofs and flashings and other materials on patios and roofs that were installed to exclusively function as a roof, excluding skylights;
- 2.8.2 Replace injured and diseased trees or other vegetation in any Common Area, and plant trees, shrubs and ground cover to the extent that the Management Committee deems necessary for the conservation of water and soil or for aesthetic purposes;
- 2.8.3 Place and maintain upon any Common Area, such signs, markers and lights as the Management Committee may deem appropriate for the proper identification use and regulation thereof, subject to the approval of the Management Committee;
- 2.8.4 Pay all electrical, water, natural gas, sanitary sewer, and other utility charges or fees for services furnished to the Common Area (or any shared utilities of Owners, subject to reasonable and equitable allocation of the same as to such Owners), as the same become due and payable;
- 2.8.5 Remove snow from sidewalks running throughout the Condominium Project (but snow removal within Limited Common Area driveways and walkways in front of each Unit shall be the exclusive responsibility of the Unit Owner);
- 2.8.6 It is anticipated that rear yards, even though Limited Common Area, may or will be partially fenced; regardless of this, the Association shall perform all maintenance on all rear yard limited common areas that are lawn (and shall

have no obligation to maintain gardens or non-lawn areas within the rear yard limited common area, and each Unit Owner shall ensure that there is access to the rear yard limited common lawn areas for each unit for that maintenance; and

- 2.8.7 Do all such other and further acts which the Management Committee deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration.

2.9 **Default in Maintenance.** If an Owner or Occupant fails to maintain a Unit or exclusive Limited Common Area pursuant to Section 2.7 above, or make repairs thereto in such a manner as may be deemed reasonably necessary in the judgment of the Management Committee to preserve and protect the attractive appearance and value of the Condominium Project, or if an Owner or Occupant fails to observe any Restrictions imposed on such Owner or Occupant by the terms of this Declaration, the Management Committee or its authorized representative shall give written notice to such Owner or Occupant stating with particularity the nature of the default and the corrective action which the Management Committee determines to be required and requesting that the same be carried out within a period of fourteen (14) days after the giving of such written notice. The Owner or Occupant shall be deemed to have waived any objection to the notice if the Owner or Occupant does not, within such fourteen (14) day period, deliver a written objection to the Management Committee. The Owner's or Occupant's right to object to the requested corrective action is governed by the provisions of Section 3.12 of this Declaration. If the Owner or Occupant fails to carry out such action within the period specified by the notice or as required following hearing before the Management Committee under Section 3.12, the Management Committee may cause corrective action to be taken and may levy a special Assessment for the cost thereof on the Owner. The special Assessment shall be due and payable within thirty (30) days after the Management Committee gives written notice thereof and shall be secured by the Assessment lien created in Section 5.1 of this Declaration.

2.10 **Utilities.** All utilities for individual Units (except those utility costs which are metered collectively and paid by the Association as a Common Expense item), to the extent practicable, will be metered separately to each Unit and such utility charges shall be the responsibility of the respective Owners. If any utilities are not separately metered, metered collectively and serve more than one Owner, such utilities shall be paid by the applicable Owners based on a good faith equitable allocation of the same made by the Association, as determined in its reasonable discretion.

2.11 **Fenced Rear Yards.** Each Unit Owner may fence two sides (not the back) of his rear yard as detailed on the Plat provided that there remain access for maintenance of the rear yard through the back portion of the rear yard. All fencing shall be tan vinyl and shall be maintained by the unit owner. The Association shall maintain all common areas, including limited common area fenced areas, but the Unit Owner may exclude other owners from using fenced backyard spaces.

ARTICLE III

MANAGEMENT & ASSOCIATION

3.1 **Organization of Association.** The Association will be organized no later than the date the first Unit in the Condominium Project is conveyed to an Owner other than Declarant. The Association shall serve as the governing body for all Owners. The Association shall make provision for the maintenance, repair, replacement, administration and operation of the Common Area, assessment of expenses, payment of losses, division of profits, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in the Act, this Declaration and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration, the Articles and Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles and the Bylaws.

3.2 **Membership.** Membership in the Association shall at all times consist exclusively of the Owners and each Owner shall be a member of the Association so long as such Owner owns a Unit and such membership shall automatically terminate when the Owner ceases to own a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If title to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held. The Association shall make available to the Owners, Lenders and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of this Declaration, Articles, Bylaws and other rules governing the Condominium Project and other books, records and financial statements of the Association. The term "available" as used in this Section 3.2 shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

3.3 **Voting.** At any meeting of the Association, each Owner of a Unit, including Declarant, either in person or by proxy, shall be entitled to one vote for each Unit owned. When more than one Person owns an interest in a Unit, such Persons shall designate to the Association, in writing, a representative who shall exercise the vote for such Unit on behalf of all co-Owners of the Unit. In no event shall fractional votes be exercised in respect to any Unit. The voting rights appurtenant to each Unit shall vest upon execution and recording of this Declaration and, except as otherwise permitted in this Declaration for expansion or otherwise, shall not be altered without the unanimous consent of all Owners expressed in a duly recorded Supplemental Declaration. Notwithstanding anything contained herein to the contrary, the Declarant shall be entitled, at its sole discretion, to amend the Articles of Incorporation, and, in addition, shall be entitled to appoint a majority of the members of the Board of Directors, during the Control Period, as defined herein. The Control Period shall terminate upon the earlier of the (i) unilateral resignation of the Declarant; (ii) one hundred twenty (120) days after the time when one hundred percent (100%) of the units constructed on the Property are sold to parties other than the Declarant; or (iii) December 31, 2025.

3.4 **Management Committee.** The governing body of the Association shall be the Management Committee elected pursuant to the Bylaws. Cumulative voting shall not apply for the purpose of electing Committee Members. The Management Committee shall consist of not less than one (1) members and not more than three (3) members. Except as otherwise provided in this Declaration, the Bylaws, or Association Rules, the Management Committee may act in all instances on

behalf of the Association. The Management Committee may, as it deems appropriate, recommend amendments to the Bylaws and adopt, amend and repeal the Association Rules.

3.5 **Qualification of Committee Members.** Except for Committee Members elected or appointed by Declarant, each Committee Member shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership, limited liability company, or trust, a Committee Member may be an officer, partner, member, manager, trustee or beneficiary of such Owner). If a Committee Member ceases to meet such qualifications during the Committee Member's term, such person, in the discretion of the Management Committee, may continue to serve as a Committee Member until such Person's replacement has been duly qualified and approved by the remaining Committee Members. The replacement shall serve for the remainder of the departing Committee Member's term.

3.6 **Action by Owners.** Except as specifically provided herein, the Management Committee may not act on behalf of the Association to amend or terminate this Declaration, to elect Committee Members, except in filling vacancies in its membership for the unexpired portion of any term, or to determine the qualifications, powers and duties or terms of the Management Committee.

3.7 **Annual Meeting.** The Association shall conduct an annual meeting as provided in the Bylaws.

3.8 **Right of Association to Enter Units.** The Association acting through the Management Committee or its duly authorized agent shall have the right at all times upon reasonable notice (and at any time in case of an emergency) to enter upon or into any Unit to abate any infractions, to make repairs or correct any violation of any of the Restrictions herein set forth, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such assessment to be secured by the lien provided in Section 5.1.

3.9 **Association Rules.** The Management Committee may adopt and administer the Association Rules in furtherance of the Bylaws for the regulation and operation of the Condominium Project and as contemplated herein.

3.10 **Availability of Condominium Project Documents.** The Association will maintain current copies of this Declaration, the Articles, the Bylaws and the Association Rules concerning the Condominium Project and the Association's own books, records and financial statements available for inspection, upon request, during normal business hours by any Owner or Lender (or any insurer or guarantor of a Lender), and by any prospective purchaser of a Unit.

3.11 **Managing Agent.** The Management Committee may contract with a professional management agent to assist the Management Committee in the management and operation of the Condominium Project and may delegate such of its powers and duties to the management agent as it deems appropriate; provided, however, that only the Management Committee shall have the right to approve Association budgets, to impose a special Assessment and to authorize foreclosure of a lien for unpaid Assessments. Any management agreement must be terminable for cause upon thirty (30) days' notice, have a term not to exceed two years, and may be renewed with the consent of the manager and the Management Committee.

3.12 **Hearing before Management Committee.** In the event the Management Committee, under the terms of this Declaration, proposes to take action against an Owner, Occupant or Unit for a violation of the terms of this Declaration or the Association Rules, the Management Committee shall first give the applicable Owner or Occupant written notice of the proposed action and afford the Owner or Occupant the right to file an objection in writing to the proposed action. Unless otherwise provided in this Declaration, the Owner or Occupant shall have not less than twenty (20) days to respond in writing to the notice received from the Management Committee. If the Owner or Occupant timely objects to any proposed action by the Management Committee, the Management Committee shall, within the next twenty (20) days at a regular meeting of the Management Committee or at a special meeting convened for such purpose, consider the matter. The Owner or Occupant shall have an opportunity to appear before the Management Committee and provide testimony or evidence in support of the Owner's or Occupant's position. The Management Committee shall have authority to resolve the matter.

3.13 **Declarant Control of Association.** There is hereby established a period of Declarant control of the Association, during which period Declarant or persons designated by Declarant shall have the authority to appoint and remove the Association officers and Committee Members. The period of Declarant control shall terminate no later than the earlier of: (a) The last to occur of (i) one hundred twenty (120) days after the time when one hundred percent (100%) of the units constructed on the Property are sold to parties other than the Declarant; or (ii) six (6) years after the recordation of this Declaration; or (iii) When, in its discretion, the Declarant so determines and declares in a written instrument.

3.14 **Loss of Voting rights.** Subject to applicable law, in the event that a Member fails to pay any assessments when due, that Member's voting rights shall be suspended until all assessments are paid in full, together with any late fees and accrued costs and interest.

ARTICLE IV

JURISDICTION OF ASSOCIATION

The Association has been organized to provide for the operation, maintenance, preservation and architectural control of the Properties and Improvements and to administer the Common Areas of the Association. The Association shall have jurisdiction and authority over the Properties and the Members of the Association to the full extent allowed by law and also as provided for in this Declaration and in the Articles, Bylaws, and Rules and Regulations, as such documents may be modified from time to time.

ARTICLE V

COVENANT FOR ASSESSMENTS

5.1 **Creation of Assessment Obligation.** Each Owner of any Condominium by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments for Common Expenses, (2)

Special Assessments, (3) Corrective Assessments, and (4) any other amount or assessment levied by the Board (Management Committee) pursuant to this Declaration; all such assessments to be established and collected as provided in this Declaration. The Association shall not levy or collect any Annual Assessment, Special Assessment or Corrective Assessment that exceeds an estimated amount necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be charge on the Condominium and shall be a continuing lien upon the Condominium against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, if applicable, shall also be and remain the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Condominium or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments liability shall not pass to any new Owner ("Purchaser") successors in title unless expressly assumed by such Purchaser. For the purpose of assessment, the term "Owner" shall exclude the Declarant, provided that the Declarant or its assigns shall have the obligation to subsidize the Association until control of the Association passes to the Owners. Subsidization shall be defined as the payment of the reasonable cash needs of the Association for ordinary and necessary maintenance expenses (not including reserves or capital replacement). The determination of the reasonable cash needs for ordinary and necessary maintenance expenses shall be within the sole discretion of the Board and Declarant shall have no liability to the Association if subsequent Boards shall disagree with the determination of the Board which made such determination. In no event, however, shall the subsidy exceed the monthly assessments.

5.2 **Purpose of Annual and Special Assessments.** The Annual and Special Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit and welfare of the Owners and for the improvement and maintenance of the Common Area, including establishing and funding a reserve to cover major repair or replacement of Improvements within the common Area and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles.

5.3 **Annual Assessments.** Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws. The initial Annual Assessment shall be determined by the Association, all payable in twelve (12) equal monthly installments due on the first day of each month. There will be no assessments until a unit or condominium has been constructed and conveyed by the Declarant to a third-party. The Annual Assessment shall be based upon the Budget prepared by the Board. The Common Expenses of the Association, and therefore the Annual Assessment, may increase because of, among other reasons, Common Facilities constructed in the sole discretion of Declarant. Nothing herein shall obligate Declarant to construct any Common Facilities.

5.4 **Special Assessments.** In addition to the Annual Assessment, a Special Assessment can be assessed to pay the costs of any one or more of the following:

- 5.4.1 Approved by Board. Special Assessments for the following extraordinary expenses can be levied by the Board without Member approval:

5.4.1.1 An extraordinary expense required by an order of a court;

5.4.1.2 An extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible where a threat to personal safety on the Common Area is discovered. Prior to the imposition or collection of a Special Assessment pursuant to this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was necessary and was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the notice of Assessment; and

5.4.1.3 Taxes payable to Tooele County as described in Section 7.2 of this Declaration.

5.4.2 Approved by Association. Special projects which must be assented to by more than fifty percent (50%) of all votes which Members represented in person, by proxy, or ballot are entitled to cast at a meeting duly called and held for such purpose pursuant to the Bylaws involve:

5.4.2.1 the replacement or improvement of the Common Area or Improvement thereon; and

5.4.2.2 an extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible.

5.5 **Uniform Rate of Assessment.** Annual Assessments and Special Assessments imposed pursuant to subsections 5.2, 5.3, and 5.4(a) and (b) of this Declaration shall be assessed equally and uniformly against all Owners and their Condominiums.

5.6 **Date of Commencement of Annual Assessments.** The Board shall authorize and levy the amount of the Annual Assessment upon each Condominium, as provided herein, by a majority vote of the Board. Annual Assessments shall commence on all Condominiums following the first Close of Escrow for the sale of a Condominium to a third-party from the Declarant. The first Annual Assessment shall be adjusted according to the number of months remaining in the Fiscal Year as set forth in the Bylaws. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. Written notice of any change in the amount of any Annual Assessment shall be sent to every owner subject thereto, not less than thirty (30) days prior to the effective date of such change. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified Condominium have been paid. A properly executed certificate of the Association as to the status of assessments against a Property or Condominium is binding

upon the Association as of the date of its issuance.

5.7 **Corrective Assessments.** In addition to the Annual Assessment and any Special Assessments, the Association may levy Corrective Assessments against a particular Owner and his Property or Condominium to pay the following: costs directly attributable to, or reimbursable by, that Owner, equal to the costs incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, including Section 2.9 and Article VII, plus interest and other charges on such Corrective Assessments. The Board shall deliver a Notice of Noncompliance by the Board and Right to Hearing to the Owner upon whom it intends to levy a Corrective Assessment. Corrective Assessments shall be due and payable within thirty (30) days following delivery of Notice of Board Adjudication and shall bear interest thereafter at the rate of eighteen percent (18%) per annum until paid in full.

5.8 **Additional Assessments.** In addition to the annual assessments, special assessments, and corrective assessments, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common from the activities of the City in maintaining, repairing or replacing the City's utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City up to and including the meters for individual units, and that they are installed and shall be maintained to City specifications.

5.9 **Preparation of Budget.** The Board shall prepare an annual Budget for the Association.

5.10 **Working Capital Fund.** Declarant shall establish a working capital fund based on reinvestment fees to meet the following expenses within the Condominium Project: (A) common planning, facilities, and infrastructure; (B) obligations arising from an environmental covenant; (C) community programming; (D) resort facilities; (E) open space; (F) recreation amenities; (G) charitable purposes; or (H) association expenses. The initial amount of the reinvestment fee shall be at least equal to two (2) months of estimated Common Expenses for each Unit. Declarant shall collect these charges from each Owner at the time a voluntary sale of each Unit is closed but shall not exceed one half of one percent (.5%) of the value of the Unit. Any amounts collected and paid into this fund shall not be considered advance payments of Assessments. This fund cannot be used by Declarant to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits; provided, however, to the extent Declarant has paid the Association for an unsold Unit's share of this fund, Declarant shall be entitled to a reimbursement, to be paid at the time of disbursement out of the closing proceeds, for such amounts when such Unit is sold. Once control has been transferred to the Association, pursuant to Section 3.15, this fund shall be transferred to the Association.

5.11 **Reserve Fund.** The Association shall maintain an adequate reserve fund for maintenance, repair and replacement of the Common Area and nonexclusive Limited Common Area that must be replaced on a periodic basis, and such reserve shall be part of the monthly Assessments. To the extent the Management Committee deems necessary, surplus monies of the Association may be retained as additional reserves rather than refunded to the Owners or credited to future Assessments.

5.12 **Rentals.** If an Owner elects to rent his unit, then the Owner shall, within ten (10) days of entering into a lease on his unit, deliver a copy of the lease, together with the name of all occupants at the unit, phone numbers for all occupants (if applicable), confirming that the lease contains a written affirmation that the tenant will abide by the terms of this Declaration and the Bylaws of the Association. For each new tenant in the Owner's unit, the Owner shall comply with this Section, including but not limited to providing the Association with a copy of any and all leases.

ARTICLE VI

NONPAYMENT OF ASSESSMENTS; REMEDIES

6.1 **Nonpayment of Assessments; Remedies.** Any assessment installment payment not paid when due shall, together with the hereinafter provided for, late fees, interest and costs of collection, be, constitute, and remain a continuing lien on the Property or Condominium provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any Mortgage on the Property or Condominium recorded prior to the date any such installment payment on assessments become due. If any installment payment on the assessment is not paid within ten (10) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum plus a late payment service charge of twenty-five dollars (\$25.00), or such larger amount as set by the Board, provided the charge does not exceed twenty-five percent (25%) of the amount of the installment payment, and the Association may, in its discretion, bring an action either against the Owner or to foreclose the lien against the Property or Condominium. Any judgment obtained by the Association and any foreclosure commenced shall include reasonable attorney fees, court costs, and each and every other expense incurred by the Association in enforcing its rights.

6.2 **Tooele County Tax Collection.** It is recognized that under the Declaration the Association will own the Common Area and that it may be obligated to pay property taxes to Tooele County. It is further recognized that each Owner of a Property or Condominium is a Member of the Association and as part of his assessment may be required to pay to the Association his pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Declaration, or otherwise, Tooele County shall be, and is, authorized to collect such pro rata share (on an equal basis) of taxes (if any) directly from each Owner by inclusion of said share with the tax levied on each Property or Condominium. To the extent allowable, Tooele County is hereby directed to do so. In the event that the assessor shall separately assess Common Areas to the Association, the Board may impose, in its discretion a Special Assessment to pay such taxes, or they may be incorporated into the Annual Assessment.

6.3 **Foreclosure Sale.** Any foreclosure provided for in this Declaration is to be conducted in compliance with applicable provisions relating to the foreclosures of deeds of trust or realty mortgages in the State of Utah. In any foreclosure or sale, the Owner of the affected Unit shall pay the costs and expenses of such proceedings and reasonable attorneys' fees. The Association, upon approval by a majority of the Allocated Interests in the votes of the Association, may through its duly authorized agents have and exercise the power to bid on the Unit at the foreclosure or other sale and to acquire, hold, lease, mortgage and convey such Unit. Pursuant to

Utah Code section 57-8-10, Declarant hereby appoints Adam C. Dunn, Esq., as initial trustee and Declarant hereby conveys and warrants pursuant to Utah Code sections 57-1-20 and 57-8-45 to Adam C. Dunn, Esq., with power of sale, the Units and all improvements to the Units for the purpose of securing payment of all Assessments under the terms of this Declaration.

6.4 **Curing of Default.** Upon the timely curing of any default for which a Notice of Lien was filed by the Association, the Board shall Record an appropriate Release of Lien, upon payment by the defaulting Owner of a reasonable fee to cover the cost of preparing and Recording such release. A certificate executed and acknowledged by any two (2) members of the Board stating the indebtedness secured by the liens upon any Property or Condominium created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, to be determined by the Board.

6.5 **Cumulative Remedies.** The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

6.6 **Mortgage Protection.** Notwithstanding all other provisions hereof, no lien created under this Article VI, nor any breach of this Declaration, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any Recorded first Deed of Trust (meaning any deed of trust with first priority over other deeds of trust) upon a Property or Condominium made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Property or Condominium by judicial foreclosure or by means of the powers set forth in such Deed of Trust or through a deed in lieu of foreclosure, such Property or Condominium shall remain subject to the Declaration and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other Person obtains title.

6.7 **Priority of Assessment Lien.** The lien of the assessments, including interest and costs (including attorney fees), provided for herein shall be subordinate to the lien of any first Mortgage upon any Property or Condominium. The sale or transfer of any Property or Condominium pursuant to judicial or non-judicial foreclosure of a first Mortgage, or conveyance of a deed in lieu of foreclosure, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. When the Beneficiary of a first Mortgage of record or other purchaser of a Property or Condominium obtains title pursuant to a judicial or non-judicial foreclosure of the first Mortgage (or deed given in lieu of foreclosure), such Person, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Property or Condominium which became due prior to the acquisition of title to such Property or Condominium by such Person.

6.8 **Rent After Foreclosure.** In the event of foreclosure, if the Board desires to allow the occupant to remain in the Dwelling Unit, the occupant shall be required to pay a reasonable rental for the Dwelling Unit.

ARTICLE VII

DAMAGE AND CONDEMNATION

Damage to or destruction of all or any portion of the Common Area and condemnation of all or any portion of the Common Area shall be handled in the following manner:

7.1 If the Common Area is damaged or destroyed, the Association shall first utilize insurance proceeds and second reserve funds to cause the same to be repaired and reconstructed substantially as they previously existed.

7.2 If the cost of effecting total restoration of such Common Area exceeds the amount of insurance proceeds and reserve funds, the Association shall, if and to the extent a Special Assessment is approved as provided for in Section 5.4(b), cause the same to be repaired and reconstructed substantially as they previously existed, and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment against each Condominium and its respective Owner.

7.3 To the extent of funds available for restoration, any restoration or repair of such Common Area shall be performed substantially in accordance with the original plans and specifications subject to such changes within the scope of such original plans and specifications as may be approved by the Board.

7.4 Each Member shall be liable to the Association for any damage to the Common Area or Improvement thereon sustained by reason of the negligence or willful misconduct of said Member or the Persons deriving their right and easement of use and enjoyment of the Common Area from said Member, or of his respective family and guests, both minor and adult. In the event of such damage to the Common Area or Improvement thereon the Board may either assess a penalty under the Rules and Regulations established by the Board in an amount sufficient to pay all costs of the Association attributable to such damage, including deductibles and increase in insurance premiums, if any, or the Board may repair the damage to the Common Area or Improvement thereon with the proceeds from the Association's insurance and assign to the Association's insurance company, its claims against the Member who, by his own acts or the acts (both minor and adult) of his family member, guest, invitee, or assignee, damaged the Common Area or Improvement thereon. In the case of joint ownership of a Condominium, the liability of the Owners thereof shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. All such expenses may be levied by the Association as a Corrective Assessment.

7.5 If at any time the Common Area, or any part thereof, shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent the Condominium Owners in these proceedings, negotiations, settlements or agreements. All compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring and replacing any Improvements on the remainder of the Common Area. Upon completion of such work and payment in full therefore, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Area shall be

disposed of in such manner as the Association shall reasonably determine.

ARTICLE VIII

INSURANCE

8.1 **Casualty Insurance.** THE ASSOCIATION SHALL PROCURE AND MAINTAIN SUCH PROPERTY AND LIABILITY INSURANCE AS SHALL BE REQUIRED UNDER U.C.A. § 57-8-43 (and as amended). The Association shall also maintain for itself the same insurance contemplated by the Master Canyon Village-Rust Declaration for the Canyon Village-Rust Owners Association. The name of the insured under each such policy shall be in form and substance similar to: "CANYON VILLAGE-RUST PHASE 1 CONDOMINIUM OWNERS ASSOCIATION" for the use and benefit of the individual Condominium Owners and Mortgagees, as their interests may appear.

8.2 **Liability Insurance.** A comprehensive policy or policies insuring the Owners, the Association, and its Board, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall not be less than \$1,000,000.00 for all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage, liability for non-owned or hired automobile, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use. Such policies shall be issued on a comprehensive liability basis, shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claims of an Owner in the Development because of negligent acts of the Association or other Owners.

8.3 **Insurance Obligations of Owners.** Each Owner is encouraged to secure and keep in force at all times fire and extended coverage insurance which shall be equal to or greater than fire and extended coverage and shall be at least equal to that commonly required by private institutional mortgage investors in the area in which the mortgaged premises are located. The policy should provide, as a minimum, fire and extended coverage insurance on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage stipulated in the policy. The amount of coverage shall be sufficient so that in the event of any damage or loss to the mortgaged premises of a type covered by the insurance, the insurance proceeds shall provide at least the lesser of: (i) compensation equal to the full amount of damage or loss, or (ii) compensation to the first Mortgagee under the mortgage equal to the full amount of the unpaid principal balance of the Mortgage Loan. However, the Board may elect to take advantage of discounts and/or improved coverage that may be afforded by a master policy of insurance. If the Board elects so to do, such policy shall be in an amount equal to full replacement value of all Condominiums with a co-insurance clause and each owner of such Condominiums shall be designated as additional insured. The cost of such insurance shall be part of the assessment for such Condominium. In this event the insurance cost may be specifically charged to those Condominiums.

ARTICLE IX

GENERAL PROVISIONS

9.1 **Enforcement.** This Declaration may be enforced by the Association, Declarant, and any Owner as follows:

- (a) Breach of any of the provisions contained in the Declaration and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings instituted by any Owner, including Declarant so long as Declarant owns a Condominium in the Development, and by the Association. The offending party is entitled to such notice and rights to a hearing as provided for in the Bylaws. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.
- (b) The result of every act or omission whereby any of the provisions contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association, and by the Declarant for so long as Declarant owns a Condominium.
- (c) The remedies herein provided for breach of the provisions contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.
- (d) The failure of the Association to enforce any of the provisions contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.
- (e) Any breach or amendment of the provisions contained in this Declaration, the Articles or the Bylaws shall not affect or impair the lien or charge of any first Mortgage made in good faith and for value on any Condominium or the Improvements thereon, provided that any subsequent Owner of such property shall be bound by such provisions of the Declaration, Articles and Bylaws, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

9.2 **Severability.** Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

9.3 **Term.** Unless earlier terminated pursuant to Section 9.5 below, the covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Declarant for so long as Declarant owns a Property or Condominium in the Development, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, for a term

of fifty (50) years from the date this Declaration is Recorded, after which the term shall be automatically extended for successive periods often (10) years unless a declaration of termination satisfying the requirements of an amendment to the Declaration as set forth in Section 9.5 is Recorded.

9.4 **Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area. 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. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

9.5 **Amendment.** Any amendment to this Declaration shall require the affirmation of at least two-thirds (2/3) of all Membership votes represented in person, by proxy, or by ballot that are entitled to cast at a meeting duly called for such purpose. Notwithstanding anything herein contained to the contrary, until seventy-five percent (75%) of the Property or Condominiums in the Properties have been sold to purchasers, Declarant shall have, and it hereby vested with, the right to unilaterally amend this Declaration as may be reasonably necessary or desirable;

- (a) to more accurately express the intent of any provision of this Declaration in light of then existing circumstances, information or mortgage requirements,
- (b) to better insure, in light of then existing circumstances or information, workability of the arrangement which is contemplated by this Declaration; or
- (c) to conform this Declaration, or any amendments thereto, to local ordinances, to Utah law, or to the requirements of law of any other jurisdiction or state where the project may be registered, or as may be amended from time to time, or to conform to the underwriters guidelines of major secondary market investors in order to facilitate the availability of financing. Any amendment authorized pursuant to this Section shall be accomplished through the Recordation of an instrument executed by the Association. In such instrument an officer of the Association or member of the Board shall certify that the vote required by this Section for amendment has occurred, except for amendments unilaterally made by the Declarant.

9.6 **Notice.** Any notice, by the Board and Right to Hearing, and Notice of Board Adjudication, permitted or required to be delivered as provided herein shall be fair and reasonable if given in writing and may be delivered either personally or by first class or registered mail or by electronic mail (email) provided that Unit owners have provided an email address to the Association. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Utah

Revised Nonprofit Corporation Act.

9.7 **Manager.** The Association may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged may be an independent contractor or an agent or employee of the Association. Such Manager shall be responsible for managing the Properties for the benefit of the Association and the Owners, and shall, to the extent permitted by law and the terms of a management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

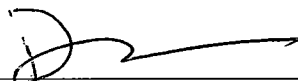
9.8 **Terms of Management Agreement.** Any agreement for professional management of the Development, or any other contract providing for services of the Declarant, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of termination fee on not more than ninety (90) but not less than thirty (30) days written notice.

9.9 **Rules and Regulations.** The Board shall have the authority to promulgate and adopt Rules and Regulations as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to insure that the Properties are maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties and fines for the infractions of any Rules and Regulations, this Declaration, or the Bylaws. Fines levied may be assessed as a Corrective Assessment against the Property or Condominium.

9.10 **Assignment of Declarant Powers.** Any and all rights and powers of the Declarant herein contained may be delegated, transferred, or assigned. In the event of any such transfer of Declarant rights, the Declarant shall have assigned all of its rights herein and shall be relieved from and after the date of such transfer of all liability and obligations hereunder, and the Successor Declarant(s) shall have all the rights and obligations of Declarant contained herein.

IN WITNESS WHEREOF, Declarant executed this Declaration on the day and year first written above.

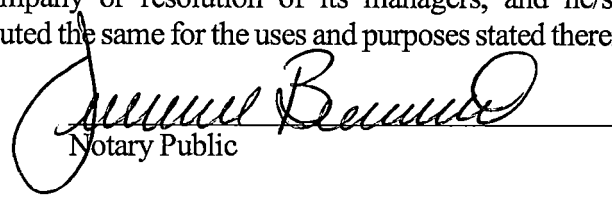
DECLARANT:
MOUNTAIN VISTA DEVELOPMENT,
INC.



By: Derek Ellis
Its: V.P. of Finance

STATE OF UTAH,)
 :ss.
COUNTY OF Salt Lake)

On this day of June, 2019, personally appeared before me Derek Ellis, who being personally known to me (or satisfactorily proved to me), and who being by me duly sworn did say that he is a V.P. of Finance of Mountain Vista Development, Inc., a Utah Corporation, and that he executed the foregoing Declaration on behalf said corporation being authorized and empowered to do so by the operating agreement of said Company or resolution of its managers, and he/she acknowledged before me that such Company executed the same for the uses and purposes stated therein.


Notary Public

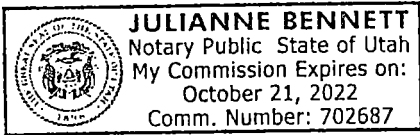


Exhibit A

Initial Schedule of Units, Square Footage, Votes, and Undivided Interests in Common Areas

CANYON VILLAGE-RUST PHASE 1 CONDOMINIUMS

PARCEL NUMBERS: 20-071-0-0101 THRU 20-071-0-0124

Unit Identifying Number*	Approx. Sq. Footage of Unit**	Undivided Interest Per Unit	No. of Votes Per Unit
101	2,192	1/24	1
102	2,097	1/24	1
103	2,097	1/24	1
104	2,192	1/24	1
105	2,192	1/24	1
106	2,097	1/24	1
107	2,097	1/24	1
108	2,192	1/24	1
109	2,249	1/24	1
110	2,169	1/24	1
111	2,169	1/24	1
112	2,249	1/24	1
113	2,249	1/24	1
114	2,169	1/24	1
115	2,169	1/24	1
116	2,249	1/24	1
117	2,249	1/24	1
118	2,169	1/24	1
119	2,169	1/24	1
120	2,249	1/24	1
121	2,249	1/24	1
122	2,169	1/24	1

123	2,169	1/24	1
124	2,249	1/24	1

*All references to building numbers and unit designations refer to such numbers and designations as contained in the Plat.

**All square footages are approximate and may vary by up to as much as 10% per unit.