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JOVID MARK, LLC
7026 S. 900 East
Midvale, UT 84047

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PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
2020 Nov 12 01:44PM Fee: \$196.00 TC
For: Bennett Tueller Johnson and Deere
ELECTRONICALLY RECORDED

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

FOR JOVID MARK CONDOS

ALSO KNOWN AS BLACK ROCK MOUNTAIN RESORT

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTION FOR JOVID MARK CONDOS ("Master Declaration") is made this 10th day November of 2020, by JOVID MARK, LLC, a Utah limited liability company ("Jovid Mark") and JOVID MARK RESIDENCES, LLC, a Utah limited liability company ("JMR") and together with Jovid Mark, ("Declarant"), in contemplation of the following facts and circumstances:

RECITALS:

A. Declarant caused to be filed in the office of the Wasatch County Recorder (i) the plat for the Jovid Mark Subdivision, recorded on September 19, 2017 and filed as Entry No. 442839, in Book 1201, beginning at Page 1247, (ii) the Jovid Mark Subdivision A Condo Plat Amending Parcels 2, 3, and 4 (1st amendment) (Phase 1), recorded on April 10, 2019 and filed as Entry No. 462319, in Book 1248, beginning at Page 1434, (iii) the Jovid Mark Subdivision A Condo Plat Amending Parcels 3 and 5 (2nd amendment) (Phase 2), recorded on April 10, 2019 and filed as Entry 462341, in Book 1248, beginning at Page 1662, and (iii) the Jovid Mark Subdivision A Condo Plat Amending Parcels 4 and 7 (3rd amendment) (Phase 3), recorded on April 10, 2019 and filed as Entry 462344, in Book 1248, beginning at Page 168 (the "Plat" or "Subdivision Plat"), which Subdivision Plat covers that certain property owned by Declarant, more particularly described on Exhibit A (the "Property").

B. Declarant is developing a planned community known as Black Rock Mountain Resort on the Property, as shown on the Master Development Plat (defined below) (the "Project"), which has been approved for development as a Condominium-Hotel pursuant to the Development Agreement (defined below), which shall include certain amenities such as a restaurant, spa, pool, workout facility, reservation system, on-site reservation desk, conference center accommodating a minimum of one hundred and fifty people, and room service (collectively, "Resort Services").

C. The Project shall also include a mixture of primary and secondary residential, nightly transient occupancy, extended lodging, multifamily, commercial, retail, support and recreational uses, and other facilities and amenities, some of which may constitute the Common Elements of the Project.

D. Declarant intends that this Master Declaration establish and provide for the continued maintenance of the Project as an attractive and desirable planned community.

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, the following words, phrases or terms used in this Master Declaration (including that portion hereof headed “Recitals”) shall have the meanings set forth in this Article I. (Certain terms not defined herein are defined elsewhere in this Master Declaration.)

1.1 Act means the “Community Association Act” as codified in Title 57, Chapter 8a of the Utah Code Annotated, as amended.

1.2 Annual Assessment means the charge against each Parcel and each Parcel Association representing the portion of the Common Expenses which is to be paid by such Parcel Association, or other obligor to the Master Association.

1.3 Articles means the Articles of Incorporation of the Master Association as the same may from time to time be amended or supplemented.

1.4 Assessable Property means any Parcel or Unit, except such part or parts thereof as may from time to time constitute Exempt Property.

1.5 Assessment means an Annual Assessment, Special Assessment, Maintenance Charge, Rental Assessment, and/or Reinvestment Fee imposed by the Master Association.

1.6 Assessment Lien means the lien created and imposed by Article IX;

1.7 Assessment Period means the calendar year.

1.8 Board means the Board of Directors of the Master Association, elected in accordance with the Articles and Bylaws of the Master Association.

1.9 Bylaws means the Bylaws of the Master Association as the same may from time to time be amended or supplemented, attached hereto as Exhibit C.

1.10 Building means a building in which Units are located as shown on the Subdivision Plat. With the exception of Parcel A, it is anticipated that each of the 12 Parcels shown on the Subdivision Plat will have a Building constructed on it. The construction of the Buildings situated on the following parcels shown on the Subdivision Plat shall be completed in the following phases: Parcel 7 – Phase 1, Parcel 4 – Phase 2, Parcel 2 – Phase 3, Parcel 3 – Phase 4, Parcel 5 – Phase 5, and Parcel 6 – Phase 6.

1.11 Building Exterior shall mean and refer to those portions of the Buildings in the Project which are open to the elements such as roofs, windows, railings, decks, patios, exterior walls, exterior doors, footings and foundations.

1.12 Class B Termination Date means the date on which the Declarant's Class B Membership shall terminate as a result of the termination of the Period of Declarant Control.

1.13 Club means an optional program that will provide Club Amenities to Owners, Residents and Occupants for a fee in addition to mandatory assessments and charges.

1.14 Club Amenities means those amenities made available to the Club, including, without limitation, swimming pool(s), hot tub, spa, game room, club room, and fitness room(s).

1.15 Common Furnishings means the Common Furnishings of both the Commercial Parcel Owner and Residential Parcel Owner as defined in the Parcel Declarations.

1.16 Commercial Parcel means that portion of the Project subject to the Commercial Parcel Declaration and consists of Parcel 2 as shown on the Subdivision Plat.

1.17 Commercial Parcel Declaration means the Declaration of Condominium of Black Rock Commercial or other declaration filed with respect to the Commercial Parcel and all amendments, modifications and supplements thereto.

1.18 Commercial Parcel Improvements means the improvements to be constructed for the sole benefit and use of those Owners, lessees, among others within the Commercial Parcel in accordance with the Plans, as well as any restoration or replacement thereof.

1.19 Commercial Parcel Owner means Black Rock Commercial Owners Association, a Utah nonprofit corporation, organized for the purposes of the Commercial Parcel Declaration; provided, however, that prior to the formation of such home owners association, "Commercial Parcel Owner" means the record owner of the Commercial Parcel, or, if there is more than one record owner of the Commercial Parcel at any given time, such record owners collectively. The term "Commercial Parcel Owner" shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).

1.20 Common Element(s) means the following:

1.20.1 All Master Association Land;

1.20.2 All areas designated as "Maintenance Area" or "Common Area" on Exhibit E;

1.20.3 Shared Elements;

1.20.4 All land within the Project which the Declarant, by this Master Declaration, Recorded instrument or otherwise, designates for the benefit of the Project including, without limitation, enhanced parkways, landscaping, drainage, flood control, detention

pond, areas between roadways and Parcels, and Improvements, even if owned by or dedicated to a Municipal Authority or the United States;

1.20.5 All land or right-of-way easements within the Project which are dedicated to the public or to a Municipal Authority, but which such Municipal Authority requires the Master Association to maintain; and

1.20.6 All roadway improvements within the Project shown on the Master Development Plat as private roads and which are not accepted for dedication by a Municipal Authority.

Common Elements shall not include Limited Common Areas, or common areas or Improvements of a Parcel or Unit that are exclusively constructed and maintained for use by Owners, Residents and Occupants solely within such Parcel or Unit, as applicable, as set forth in a Parcel Declaration, if any, or otherwise.

1.21 Common Expense Fund means and refers to the fund created or to be created pursuant to the provisions of Article VIII of this Master Declaration and into which all monies of the Master Association shall be deposited. Two separate and distinct funds shall be created and maintained thereunder, one for operating expenses and one for capital expenses, which together shall constitute the Common Expense Fund.

1.22 Common Expenses means and refers to those costs and expenses arising out of or connected with the maintenance and operation of the Common Elements and the Master Association as described in Section 8.6(a) hereof and which determine the Assessments made to each Member.

1.23 Covenants means the covenants, conditions, restrictions, assessments, charges, equitable servitudes, liens, reservations and easements referred to or incorporated herein to this Master Declaration.

1.24 Declarant means JOVID MARK, LLC, a Utah limited liability company and/or JOVID MARK RESIDENCES, LLC, other Persons as successors, assigns and concurrent holders of Declarant's rights and powers hereunder. In the event of any dispute between JOVID MARK, LLC, JOVID MARK RESIDENCES, LLC, or any other Person as Declarant hereunder, the determination of JOVID MARK, LLC shall be binding.

1.25 Declarant Affiliate means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.26 Deed means a deed or other instrument conveying the fee simple title in a Parcel, Unit, Residential Structure, Improvement or any other piece of real property within the Project.

1.27 Detention Pond means the detention pond and related improvements partially located on the southeast border of Parcel A.

1.28 Development Agreement means that certain Jovid Mark Condo-Hotel Development Agreement dated January 5, 2018, between Jovid Mark, LLC and Wasatch County, and recorded on January 23, 2018 as Entry No: 447636, at Book 1213 and Page 396.

1.29 Director means a member of the Board.

1.30 Equipment means the equipment to be installed on or in connection with either the Residential Parcel or the Commercial Parcel in accordance with the Plans, including, without limitation, engines, furnaces, boilers, transformers, pumps, heaters, fans, blowers, vents, heating, plumbing, lifting, and ventilating apparatus, air-cooling and air-conditioning or refrigeration apparatus, power apparatus, gas and electrical fixtures, radiators, compressors, call systems, and fire prevention and extinguishing apparatus.

1.31 Exempt Property means the following parts of the Project:

1.31.1 All Common Elements;

1.31.2 All Limited Common Areas;

1.31.3 All land and Improvements owned by or dedicated to and accepted by the United States, a Municipal Authority, or any political subdivision thereof, for as long as such entity or political subdivision is the owner thereof or for so long as said dedication remains effective; and

1.31.4 Each property, including each Parcel or Unit, while owned by Declarant or a Declarant Affiliate, until the earliest to occur of (i) the acquisition of its Record title by a Person, other than Declarant or a Declarant Affiliate; or (ii) Declarant or a Declarant Affiliate voluntarily making a property non-exempt.

1.32 Facilities means the facilities to be constructed or installed on or in connection with the Buildings in accordance with the Plans, and to be used in connection with the Utilities or Equipment, including, without limitation, ducts, lines, cables, conduits, pipes and flues.

1.33 Governing Documents means this Master Declaration, any Recorded amendments hereto, the Bylaws, the Articles, the Rules & Regulations, and the Board's resolutions, as each document may be amended from time to time.

1.34 Improvement(s) means any improvement now or hereafter constructed at the Project and includes anything which is a structure and appurtenances thereto of every type and kind, including but not limited to any Residential Structure, Unit, Building, elevator, transient/overnight occupancy development, out building, structure, walkway, garage, roadway, driveway, parking area, screening wall, shed, covered patio, stairs, deck, fountain, pool, radio or television antenna or receiving dish, paving, curbing, landscaping, hedges, windbreak, planting, planted trees and shrubs, tank, fence, mailbox, sign, newspaper vending and distribution machines, overnight delivery service drop boxes, exterior lights, any excavation, fill, ditch, diversion, dam, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel, and related fixtures and equipment.

1.35 Limited Common Areas means those portions of the Project allocated by this Master Declaration, or as may be shown on the Master Development Plat, for the exclusive use of one or more, but fewer than all, of the Units.

1.36 Maintenance Charges means any and all costs assessed pursuant to Article IX.

1.37 Manager means such Person retained by the Board to perform certain functions of the Board and the Master Association pursuant to this Master Declaration as well as the other Governing Documents.

1.38 Master Association means the Utah nonprofit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Master Declaration, and its successors and assigns. Declarant hereby reserves the exclusive right to cause such Master Association to be incorporated and intends to name the Master Association "BLACK ROCK MOUNTAIN RESORT MASTER ASSOCIATION"

1.39 Master Association Land means such part or parts of the Project, if any, together with the Improvements thereon, and other real property which the Master Association now or hereafter owns in fee for as long as the Master Association is the owner of the fee.

1.40 Master Declaration means this MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE JOVID MARK CONDOS, as amended or supplemented from time to time.

1.41 Master Development Plat means together the Subdivision Plat, as amended, together with any other amendments recorded in connection with the Project from time to time.

1.42 Member means Class A Members (Parcel Associations) and Class B Members (Declarant and/or Declarant Affiliates) in the Master Association as provided in Section 7.1 hereof.

1.43 Membership means a membership in the Master Association and the rights granted to the Members and Declarant pursuant to Article VII to participate in the Master Association.

1.44 Mortgage means any mortgage, deed of trust, or other security instrument (including the seller's rights under a contract for deed) by which any portion of a Parcel, Unit, Residential Structure or Improvement or any part thereof or interest therein, is encumbered in good faith as security for the payment of a debt or obligation. A "First Mortgage" is a Mortgage having priority as to all other Mortgages encumbering any Parcel, any Units, Residential Structures or Improvements thereon, or any part thereof or interest therein. An "Eligible Mortgage" is a First Mortgage(s) held by an Eligible Mortgagee.

1.45 Mortgagee means a Person named as the Mortgagee, beneficiary, or holder of the seller's interest under any Mortgage by which the interest of any Owner of a Parcel, Unit, Residential Structure or Improvement, or any part thereof or interest therein is encumbered, or any successor to the interest of such Person under such Mortgage. A "First Mortgagee" means any Person holding a First Mortgage including any insurer or guarantor of a First Mortgage. An "Eligible Mortgagee" means a First Mortgagee that has requested notice of certain matters from the Master Association in accordance with Section 16.1 of this Master Declaration.

1.46 Municipal Authority means the applicable governmental entity or municipality which has jurisdiction over all or some part of the Project, including without limitation Wasatch County, Utah.

1.47 Neighboring Property means any Parcel, Unit, Residential Structure, Improvement, roadway, driveway, or other property within the Project other than the specific Parcel, Unit, Residential Structure, Improvement, roadway, driveway, or property in reference.

1.48 Occupant means any Person, other than an Owner or Resident, who has actual use, possession or control of a Unit, and shall include, without limitation, guests, invitees, nightly/transient tenants and long-term tenants.

1.49 Owner means (i) any Person(s), including the Declarant, who is (are) Record holder(s) of legal, beneficial or equitable title to the fee simple interest of any Parcel or Unit including, without limitation, one who is buying a Parcel or Unit under a Recorded contract or Recorded notice of such contract, but excluding others who hold an interest therein merely as security; to the extent permitted by law, Owner would also mean those purchasing an interest pursuant to a contract for deed who have given written notice of their purchase and a copy of their contract to the Master Association.

1.50 Parcel means one of the thirteen parcels (13) parcels in the Project designated on the Plat – Parcels A and Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12. Subject to the approval of the Municipal Authority and any other governing authority, and the satisfaction of the requirements set forth in the Governing Documents, each Parcel may be subdivided by Declarant into Units, and may be limited by a Parcel Declaration.

1.51 Parcel Association means any incorporated or unincorporated association of Owners which is formed to facilitate the management, maintenance and/or operation of one or more of the Parcels.

1.52 Parcel Declaration means a separate Recorded declaration as established by any declarant, which imposes, expressly or by reference, additional restrictions and obligations on the land within the Project described therein. Each Parcel Declaration shall be subject to and subordinate to the Governing Documents and this Master Declaration.

1.53 Period of Declarant Control means the period commencing on the date of the Recording of this Master Declaration and ending on the earlier of: (a) December 31, 2060; or (c) such earlier date on which the Declarant elects to terminate the Period of Declarant Control by providing written notice to the Master Association.

1.54 Person means any individual or entity, including a corporation, partnership, limited partnership, limited liability company, trustee or trust, unincorporated or incorporated association, or any other entity with the legal right to hold title to, or an interest in, real property; provided, however, that the term “Person” shall not mean or refer to the Municipal Authority.

1.55 Plans means the plans and specifications for the construction of improvements within the Parcels as approved by Wasatch County, Utah, as such plans and specifications may be modified from time to time.

1.56 Project means the project set forth on the Master Development Plat as described in Recital B.

1.57 Property means the term as described in Recital A.

1.58 Record, Recording, Recorded and Recordation means placing or having placed an instrument of public record in the office of the County Recorder of Wasatch County, Utah.

1.59 Resident means:

1.59.1 Each buyer under a contract of sale covering any part of the Unit, regardless of whether the contract is Recorded, and each tenant or lessee actually residing on any part of the Unit; and

1.59.2 Members of the immediate family of each Owner, lessee, tenant and of each buyer referred to above actually living in the same household with such Owner, lessee, tenant or buyer.

Subject to the Rules & Regulations as the Master Association may hereafter promulgate, the term "Resident" also shall include the on-site employees, guests, vendors or invitees of any such Owner, lessee, buyer or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.60 Residential Parcel means those Parcels in the Project subject to the Residential Parcel Declaration and consisting of Parcels 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, as shown on the Subdivision Plat.

1.61 Residential Parcel Declaration means the Declaration of Condominium of Black Rock Residential Condominiums filed with respect to the Residential Parcels and all amendments, modifications and supplements thereto.

1.62 Residential Parcel Improvements means the improvements to be constructed within any Residential Parcel in accordance with the Plans as well as any restoration or replacement thereof.

1.63 Residential Parcel Owner means Black Rock Residential Owners Association, a Utah nonprofit corporation, organized for the purpose of the Residential Parcel Declaration; provided, however, that prior to the formation of such association, "Residential Parcel Owner" means the record owner of any Residential Parcel, or, if there is more than one record owner of the Residential Parcel at any given time, such record owners collectively. The term "Residential Parcel Owner" shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).

1.64 Residential Structure means a Building situated upon a Parcel containing Units intended for use and occupancy as a primary or secondary residence or rental on a nightly or longer basis, and shall, unless otherwise specified, include within its meaning by way of illustration, (but not limitation) condominium units as may be developed, used, and defined as provided in this Master Declaration, subsequent amendments, or Parcel Declarations covering all or part of the

Project; provided, however, the term “Residential Structure” includes all portions of the Parcel on which any structure has been situated, a Building containing multifamily residences, and lodging Units intended for nightly/transient or long-term tenants. For the purposes of this Master Declaration, a Residential Structure shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the Municipal Authority.

1.65 Rules & Regulations means the rules for the Project adopted by the Board pursuant to Section 6.4, as they may be amended from time to time.

1.66 Shared Elements mean those areas, improvements, Building Exterior, Equipment, Utilities, Facilities and Structural Elements which are incapable of being separated and must, out of necessity be shared by the Members and the Unit Owners.

1.67 Special Assessment means assessments which the Master Association may levy from time to time, in addition to the Annual Assessments, for unexpected Common Expenses or other purposes as provided in Article VIII.

1.68 Square Feet or Square Foot means the square feet constructed above finished grade of a Parcel, Unit, Building, Residential Structure or other Improvement, as applicable, as shown on the Master Development Plat and as measured and calculated by the Declarant or the Master Association on a consistent basis, subject to Municipal Authority review.

1.69 Structural Elements means the structural elements to be constructed on or in connection with the Buildings in accordance with the Plans, including, without limitation, beams, columns, members, footings, foundations, structural walls, membranes and roofs.

1.70 Unit means a “condominium unit” located within the Commercial Parcel or the Residential Parcel whether used for residential or commercial purposes.

1.71 Unit Owner means any person or entity or combination thereof, including Declarant, at any time owning a Unit in the Commercial Parcel or the Residential Parcel. The term shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).

1.72 Utilities means the utility services to be used on or in connection with the Parcels, including, without limitation, water, gas, electricity, drainage, sewage, trash, Internet, phone, and cable television.

ARTICLE II

PROJECT OVERVIEW

2.1 Master Association Land. Declarant reserves the right to convey any Parcel owned by Declarant to the Master Association as Master Association Land. Further, Declarant reserves the right to subdivide and convey any portion of a Parcel owned by Declarant to the Master Association as Master Association Land. The Master Association shall have the right to construct, manage and maintain any and all Common Elements.

2.2 Master Association and Parcel Associations. In addition to the Master Association, Declarant intends to create or permit to be created separate Parcel Associations covering the Parcels of the Project. Each Parcel Association shall be subject to and subordinate to this Master Declaration. The Members of the Master Association shall be all Parcel Associations in the Project and Declarant, for so long as Declarant holds a Class B Membership pursuant to Section 7.2(b) below.

2.3 Right to Develop. Notwithstanding anything contained herein to the contrary, no provision of this Master Declaration is intended or shall be construed to prevent or limit Declarant's rights to develop the Project and to exercise the rights reserved by Declarant as herein provided. Nothing in this Master Declaration shall be construed to require Declarant, or Declarant's successor or assigns, to develop any Parcel or other Improvements in any manner whatsoever. Any right or any interest reserved or contained in this Master Declaration for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more other such rights or interests, to any person, corporation, partnership, association, or other entity, only by written instrument executed by both Declarant and the transferee or assignee and Recorded. Upon such Recording, Declarant's rights and obligations under this Master Declaration shall cease and terminate to the extent provided in such instrument.

2.4 Legal Description of a Unit. Each Unit shall be identified by permanent reference to "Jovid Mark Subdivision a Condo Plat [REFER TO SPECIFIC AMENDMENT TO SUCH PLAT]" together with a number as shown on the Master Development Plat. Every contract for sale, deed, lease, mortgage, trust deed, or other instrument relating to a Parcel may legally describe the Parcel as follows:

Unit _____, Jovid Mark Subdivision a Condo Plat [REFERENCE SPECIFIC AMENDMENT TO THE SUBDIVISION PLAT IN WHICH UNIT IS IDENTIFIED], according to the plat thereof as recorded in the office of the Wasatch County Recorder.

2.5 Zoning. Declarant reserves for itself the unilateral right to apply for zoning, entitlements, and other land use approvals from the applicable Municipal Authority for all or a part of the Project, including Units sold to Owners, provided that no such application shall have a materially adverse effect on a Unit. Each Owner hereby irrevocably constitutes and appoints the Declarant as each such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of signing any applications or other documents necessary for such approvals unless otherwise required by law. Acceptance by any Owner of a deed or other instrument of conveyance shall constitute appointment of the attorney-in-fact as herein provided. All Owners hereby specifically acknowledge and agree that they shall cooperate with Declarant in all such applications.

2.6 Declarant's Disclaimer of Representations. Nothing which may be represented to a purchaser by real estate brokers or salespersons representing the Declarant shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Master Declaration. Unless Declarant expressly agrees in writing with the Master Association to pay the costs of maintaining any portion of the Common Elements, Declarant shall have no such obligation, regardless of any inferences which may be drawn from promotional or other materials.

2.7 Development Plan. Notwithstanding any other provision of this Master Declaration to the contrary, but subject to the approval of the Municipal Authority as provided by law, Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its plan of development with respect to any property owned by Declarant in any way which Declarant desires including, but not limited to, changing all or any portion of the property owned by the Declarant or changing the nature or extent of the uses to which such property may be devoted.

2.8 Community Areas Improvements. Declarant, during the Period of Declarant Control, reserves the unilateral right to construct Improvements on any area of the Common Elements and modify the location, type and nature of the Common Elements as it shall determine in its sole and exclusive discretion, including, without limitation, the right to construct or create storage facilities, walking trails, picnic areas, covered porches, patios, plazas, or other Improvements thereon. Such construction and relocation rights shall not be subject to the consent of the Owners, the Board, Mortgagees or any other Person. After the termination of Declarant's rights under this Master Declaration, the Board shall have the right to exercise such construction and relocation powers in connection with the Common Elements. In furtherance of this right, Declarant reserves for itself, and others it may designate, the right to inspect, monitor, test, redesign, and correct any Improvement or condition that may exist on any portion of the Project, including Parcels, Units and Common Elements, and a nonexclusive easement of access throughout the Project to the extent reasonably necessary to exercise such right.

2.9 Reserved Development Rights. Declarant expressly reserves for itself and its successor Declarants the following development rights (the "Development Rights"); provided that these rights are discretionary with Declarant and nothing in this Section 2.9 shall be construed to impose any affirmative obligation upon Declarant:

- (a) The right to add and remove tracts of land to the Property owned by Declarant or other Persons or Owners, with the express written consent of such other Persons or Owners, subject to this Master Declaration, and divide such additional land into Parcels;
- (b) The right to subject Parcels owned by Declarant to additional covenants, conditions, terms and restrictions, as Declarant may determine;
- (c) The right to subject Parcels owned by any other Owner to additional covenants, conditions, terms and restrictions with the written consent of such Owner;
- (d) The right to relocate boundaries between adjoining Parcels, enlarge Parcels, enlarge or diminish the size of Parcels, subdivide Parcels, or complete or make, or cause to be completed or made, Improvements on Parcels, to the extent such Parcels are owned by Declarant and/or such action is accomplished with the written consent of the Owner of the applicable Parcels;
- (e) The right to amend this Master Declaration, the Master Development Plan, maps or plats in connection with the exercise of any Development Right set forth in (a) – (d) above;

(f) The right to establish, from time to time, by dedication or otherwise, public streets and utility and other easements for purposes including but not limited to public access, access, paths, trails, walkways, drainage, recreation areas, parking areas, conduit installation areas, and to create other reservations, exceptions and exclusions;

(g) The right to perform or cause to be performed warranty work, repairs and construction work and to store materials in secure areas on the Property, including within the Parcels, and the future right to control such work and repairs, and the right of access thereto, until completion. All work may be performed on a Parcel without the consent or approval of any Owner or Mortgagee of the Parcel. Declarant expressly reserves for itself and its successor Declarants such easement through the Property as may be reasonably necessary for exercising reserved rights in this Declaration;

(h) The right to exercise any additional reserved right created by any other provision of this Declaration; and

(i) Any rights created or reserved under this section for the benefit of Declarant, for the express benefits of an Owner, may be transferred to any Person by an instrument describing the rights transferred recorded in the real property records of the appropriate county. Such instruments shall be executed by the transferor and the transferee. The rights transferred may then be exercised without the consent of any Owner or any Mortgagee.

2.10 Additional Provisions Relating to Development Rights.

(a) Except as expressly set forth in Section 2.9, the consent of Owners or holders of security interests shall not be required for exercise of any Development Rights, and Declarant or its assignees may proceed without limitation at its sole option. Declarant or its assignees may exercise any Development Rights on all or any Parcels in whatever order determined.

(b) The Recording of amendments to the Master Declaration and the map or plat pursuant to Development Rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, upon the Recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property as expanded and to any additional Improvements, and the same shall be added to and become a part of the Property for all purposes. Reference to the Declaration plat or map in any instrument shall be deemed to include all amendments to the Declaration, plat or map without specific reference thereto.

(c) The rights reserved to Declarant, and its successors and assigned, shall not expire unless terminated by written instrument executed by Declarant and Recorded.

(d) Additions of Parcels to the Property may be made by Persons other than Declarant, or its successors and assignees or Owners, upon approval of Declarant. Such approval shall be evidenced by a certified copy of such resolution of approval and a supplement or amendment to this Declaration, recorded with the Recorder.

ARTICLE III

PROJECT SUBJECT TO MASTER DECLARATION

3.1 Master Declaration Creating the Project. In order to further the general purposes set forth herein, Declarant hereby declares that all of the real property within the Project, including the Property described in Exhibit A, is and shall at all times be owned, held, hypothecated, encumbered, sold, leased, conveyed, occupied, built upon, enjoyed or otherwise used, improved or transferred, in whole or in part, subject to the provisions of this Master Declaration. In addition, some or all of the Property shall be subject to Parcel Declarations as applicable and as amended from time to time. As Parcels of the Project are developed, except as otherwise provided in this Master Declaration, Declarant or Declarant Affiliate, shall Record one or more Parcel Declarations covering such property. Development performed by the Declarant shall not require the Recording of a Parcel Declaration while the Declarant or the Declarant Affiliate owns all of said Parcel. Said Parcel Declarations shall specify the maximum residential Units and shall incorporate by reference the Governing Documents and establish such additional covenants, conditions and restrictions as may be appropriate for that Parcel. This Master Declaration and all subsequent Parcel Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement and sale of the Project and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Project and every part thereof. All of the Covenants, terms and conditions of this Master Declaration shall run with the Property and all of which shall burden, benefit, and be binding upon the Declarant, the Master Association, all Owners, Residents and Occupants, and all other Persons having any right, title or interest in the Property, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives. This Master Declaration shall not be construed to prevent the Declarant from dedicating or conveying portions of the Project, including but not limited to streets or roadways, for uses other than as a Parcel, Unit, Residential Structure, Common Element or Master Association Land. The Project is not a cooperative.

3.2 Master Association Bound. Upon the filing with the Utah Department of Commerce and Commercial Code of Articles of Incorporation (or other documents evidencing valid existence) of the Master Association, the Covenants shall be binding upon and shall benefit the Master Association. This provision in no way bars amendments to this Master Declaration consistent with the terms set forth herein.

3.3 Municipal Authority Property. From time to time, the Declarant may, in its sole and exclusive discretion and without the vote of the Members, convey certain Common Elements to the applicable Municipal Authority. It is contemplated that from time to time certain open space areas, certain roadways, and other real property and facilities, may be conveyed by Deed to a Municipal Authority, if Declarant so elects at its sole discretion, which conveyances are authorized pursuant to this Master Declaration. To the extent that certain roadway improvements are not dedicated to the Municipal Authority, then such private roadways constructed within the Project for the benefit of all Owners and Members at the Project, if any, shall be maintained by the Master Association as set forth in Article XI below, and such private roadways shall not be Municipal Authority Property.

ARTICLE IV

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON ELEMENTS

4.1 Easements of Enjoyment. Every Member and every Owner shall have a right and easement of enjoyment in and to the Common Elements, which shall be appurtenant to and shall pass with the title to every Parcel, Unit, Residential Structure and Improvement, subject to the right of the Master Association:

(a) To suspend the voting rights and right to the use of the Common Elements, in a manner consistent with Utah Code 57-8a-309, by any Member or Owner (i) for any period during which any Assessment against its Parcel, or Unit remains delinquent; (ii) for a period not to exceed sixty (60) days for any infraction of the Governing Documents, and (iii) for successive sixty (60)-day periods if any such infraction is not corrected during any prior sixty (60)-day suspension period.

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

(c) To regulate the use of the Common Elements through the Rules & Regulations and to prohibit access to those Common Elements, such as landscaped rights-of-ways, not intended for use by the Members or Owners. The Rules & Regulations shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Common Elements or the safety and convenience of the users thereof, or otherwise shall serve to promote the best interests of the Members and Owners.

4.2 Easements for Municipal Authority and Reservation of Rights. The easements of enjoyment referenced in Section 4.1 above are also subject to the right of the applicable Municipal Authority to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Project for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal service. The Declarant and the Master Association reserve the right to obtain access to any Common Elements, including but not limited to landscape features and lamp post banners, located within any public right of way, including any roundabout located therein, for purposes of providing maintenance of the Common Elements located thereon.

4.3 Easement for Encroachments. If any part of a Unit or Improvement built in substantial accord with the boundaries for such Unit or Improvement as depicted on a Plat (or in other documents approved by the Municipal Authority) depicting the location of a Unit or Improvement on a Parcel) encroaches or shall encroach upon the Common Elements, or upon an adjoining Parcel or Improvement, an easement for such encroaching party shall and does exist. Any such maintenance shall comply with standards applicable to maintenance of the Common Elements. If any part of the Common Elements built in substantial accord with the boundaries for such Common Elements as depicted on a Plat (or in other documents approved by the Municipal authority depicting the location of a Unit or Improvement on a Parcel) encroaches or shall encroach upon a Parcel or Improvement, an easement for such encroachment benefitting the encroaching

party and for the maintenance of the same by the encroaching party shall and does exist. Any such maintenance shall comply with standards applicable to maintenance of the Common Elements.

4.4 Easements for Construction and Utility Connections. Prior to construction of roadways and driveways accessing each Parcel, each Parcel Owner shall have a temporary right of ingress or egress to and from its Parcel, as reasonably necessary in order to allow for construction of Improvements on the Parcel; provided that the Declarant shall have the right to specify in its sole discretion where such temporary access points are located. To the extent that certain roadways are private roads, then each Parcel Owner shall have a right of ingress or egress to and from its Parcel to such private roads, as reasonably necessary in order to allow for connection to utility and service lines and systems, including, but not limited to water, sewer, gas, telephone, electricity, television cable or communication lines and systems. As such utilities are required in connection with the initial development of the Common Elements, Parcel, Residential Structures, Units or Other Improvements thereon; provided that the Declarant shall have the right to specify in its reasonable discretion where such utility and service line connection points are located. There shall be a further easement in favor of Declarant, during the Period of Declarant Control, and the Master Association to construct, install, maintain, inspect, service, repair and replace, within each Parcel, the Shared Elements, including the visible surfaces, interior and exterior, of the Buildings.

4.5 Shared Elements and Utility Easements. There are hereby created easements over, across and through the Common Elements, including any and all Shared Elements, constructed or installed on each Parcel, including within any Building, for the benefit of each other Parcel. Pursuant to the Master Development Plat, a nonexclusive storm drainage and public utility easement is granted upon, across, over and under all open space areas located within Parcels which are not ultimately improved with a Building and/or other Improvements for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to water, sewer, gas, telephone, electricity, televisions cable or communication lines and systems, as such utilities are installed in connection with the initial development of the roadways, Common Elements, Parcels, Units or other Improvements thereon; provided, however, that such storm drainage and public utility easement shall not materially adversely encroach on existing Improvements. In any event, no utility company shall locate any utilities on any Parcel without the advance written consent of the Parcel Owner and the Board, on such terms or conditions and the Parcel owner and/or the Board deem appropriate.

4.6 Easements for Parking, Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across the Shared Elements that may exist as part of the Common Elements, subject to the respective Parcel Association's right to adopt reasonable rules and regulations in connection with the hours of access to, use of, and other reasonable restrictions regarding the Shared Elements located within the Parcel Association. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such private roadways, driveways and parking areas as from time to time which may be paved and intended (as evidenced in a document of Record) for parking and for ingress and egress to and from each Parcel. Such pedestrian and vehicular access easements shall run in favor of and be for the benefit of the public, Owners, Residents and Occupants. There is also hereby created an easement upon, across and over the Project and all private streets, private roadways, private driveways and parking areas within the Project for vehicular and pedestrian ingress and

egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of the Parcel Associations or any Unit Owners.

4.7 Easement for Development. The Declarant hereby reserves an easement throughout the Project for the purpose of completing all Improvements contemplated by this Master Declaration and the Development Agreement, on Parcels owned and/or developed by Declarant or Declarant Affiliates, on Common Elements. Declarant shall be entitled to use all Common Elements within the Project, all roadways within the Project (both public and private), Facilities located in the Project, and any other Neighboring Property to access the Parcels in order to make Improvements thereto and to continue with the development of the Project.

4.8 Sales Program. Declarant shall have the following rights in relation to any sales or promotional program Declarant institutes related to the Project and have such easements over the Project and the Property as necessary to exercise such rights:

(a) Declarant hereby reserves the right to maintain sales offices, management offices, signs advertising the Project, and models in any areas of the Project owned by Declarant. Declarant may relocate sales offices, management offices and models to other locations within the Project at any time.

(b) Declarant hereby reserves the right to place promotional, advertising, and or directional signs, banners, or other materials any place within the Project or on Units or Parcels owned by Declarant, notwithstanding any restrictions contained in the Rules & Regulations.

(c) Declarant shall have the right to use all Common Elements, including hosting promotional events any place within the Project or in Units or Parcels owned by Declarant, to facilitate sales.

4.9 Signage Easement. There shall be an easement to construct, install, maintain and repair anywhere on the exterior of any Residential Parcel, including without limitation, on the exterior of any Building, in full compliance with plans and specifications approved by Wasatch County, signage relating to the Commercial Parcel.

ARTICLE V

USE RESTRICTIONS

The following covenants, conditions, restrictions and rights shall apply to all Parcels, Units, Residential Structures and all other Improvements, the Owners and lessees thereof, all Residents, and all Occupants:

5.1 Operation of the Commercial Parcel. The Commercial Parcel may be used for any residential or commercial purpose permitted under applicable law, subject to the terms and provisions of the Commercial Parcel Declaration.

5.2 Maintenance of Property. Subject to the maintenance obligations of the Master Association set forth in ARTICLE XI below and the Parcel Associations under the Parcel Declarations, all Parcels, Units and Improvements located thereon, shall be kept and maintained by the Owner thereof in a clean, safe, attractive and sightly condition and in good repair so as not to detract from the appearance of the Project, and so as not to affect adversely the value or use of any other Parcel, Unit, Residential Structure or Improvement. In the event any portion of any Parcel, Unit or Improvement is so maintained as to (i) present a public or private nuisance, (ii) substantially detract from the appearance or quality of the Project or (iii) violate the Governing Documents, the Board may give notice to the offending Owner that unless corrective action is taken within thirty (30) days, the Board may cause such action to be taken at such Owner's cost; provided, however, that in the event of an emergency or unsafe situation, such corrective action must be taken within a shorter time period as the Board may reasonably determine under the circumstances. If at the expiration of such time period the requisite corrective action has not been taken, the Board may cause such action to be taken. The cost of any corrective action by the Master Association to a Parcel shall be added to and become a part of the Assessment to which the Parcel Association and the respective Parcel, Unit or Improvement is subject and shall be secured by the Assessment Lien. The cost of any corrective action by the Master Association to a Parcel, Unit or Improvement independently owned shall become a Maintenance Charge and the personal obligation of the specific offending Owner as provided for in Article IX.

5.3 Nuisances-Construction Activities. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Parcel, Unit or Improvement, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other Neighboring Property in the vicinity thereof or to the Owners, Residents or Occupants of such other Neighboring Property. No other nuisance shall be permitted to exist or operate upon any Parcel, Unit or Improvement so as to be offensive or detrimental to any other Neighboring Property in the vicinity thereof or to its Owners, Residents or Occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. Normal construction activities and parking in connection with the development, construction, and building of Units or Improvements on a Parcel shall not be considered a nuisance or otherwise prohibited by this Master Declaration. Parcels and Improvements shall be kept in a reasonably neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials may be piled only in such areas as may be approved by the Management Committee.

5.4 Balconies. An Owner shall keep the Limited Common Areas designed to serve only its Unit and balcony or deck appurtenant to such Owner's Unit (collectively "Balcony") in a good, clean, neat and orderly condition. Provided that such items are approved in advance and in writing by the Board, an Owner may keep the patio furniture on the Balcony that is of a type and brand approved by the Board. Except for patio furniture as limited herein, no other items may be maintained, stored or kept on a Balcony, including, without limitation, patio covers, clothes lines, bicycles, toys, tools, barbecue and/or grill. No laundry, blankets, towels or any other item may be hung or draped on or over any portion of a Balcony. No noxious or offensive activity shall be carried in or upon any part of a Balcony nor shall anything be done on or placed in or upon any

part of a Balcony which is or may become a nuisance or may cause unreasonable embarrassment, disturbance or annoyance to Owners.

5.5 Signs. Use of Signs within the Project will be subject to the Governing Documents, including all rules and ordinances governing signs established by the Municipal Authority. No signs whatsoever (including but not limited to commercial, political, “for sale”, “for rent” and similar signs) shall be erected or maintained on any Parcel, Unit or Improvement except:

- (a) Signs required by legal proceedings.
- (b) Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Board.
- (c) Project identification signs, including but not limited to signs of resort and retail programs approved from time to time by the Board as to number, size, color, design, message content, location and type.
- (d) Such construction job identification signs and subdivision identification signs which are in conformance with the requirements of the Municipal Authority and which have been approved in writing by the Board as to number, size, color, design, message content and location.
- (e) Wayfinding signs, directional signs, banners, or other materials indicating locations of daily or routine events, activities, or other special events, including citing the location, date and times of various Club Amenities and facilities, conference and event center activities and functions, as reasonably necessary by one or more tenants or lessees by the Commercial Parcel Owner.
- (f) Street, valet and other traffic signs as reasonably necessary for pedestrian safety and motor traffic in the Project.

5.6 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Parcel except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of Improvements; (ii) that which Declarant or the Master Association may require for the operation and maintenance of the Project; or (iii) that used or displayed in connection with any business permitted under a Parcel Declaration.

5.7 Vehicles. Except as otherwise approved by the Board or as otherwise set forth in the Rules and Regulations, no vehicle, trailer (either with or without wheels) or any other transportation device of any kind, shall be stored outside or parked on the Property except in specially designated parking spaces or within spaces under construction as of the effective date of this Master Declaration. However, the parking areas are not designed for recreational, commercial or oversized vehicles and the Board has the right to make rules restricting or prohibiting their use. Unless otherwise determined by the Board or authorized by the Rules and Regulations, all recreational, commercial and oversized vehicles shall be parked outside of the Project, except for purposes of loading and unloading. The Declarant, Declarant Affiliate and the Master Association shall have the right to park any type of vehicle owned or used by the Declarant, Declarant Affiliate

or the Master Association on the Property within parking areas or structures designated for such purpose. Notwithstanding the above, the Declarant or the Master Association may designate areas for off-street parking on the Property for the temporary parking of commercial, oversized vehicles maintenance and delivery vehicles, for the sole purpose of assisting in a maintenance operation or to provide for the loading or unloading of such vehicles, or to accommodate special circumstances. No Owner, Resident or Occupant shall repair or restore any vehicle of any kind upon any portion of the Project, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. Declarant hereby reserves the right to park commercial or oversized vehicles any place within the Project or Parcels owned by Declarant, notwithstanding any restrictions contained in the Rules & Regulations. Declarant may from time to time identify up to ___ parking stalls in such locations as it may determine, in its sole discretion, and designate such parking stalls as reserved and assign to one or more Unit Owner for consideration in such amount as it determines, in its sole discretion. Such parking stalls shall be identified as “reserved” and rules pertaining to the parking within such stalls shall be set forth in the Rules and Regulations.

5.8 Diseases and Insects. No Owner, Resident or Occupant shall permit anything or condition to exist upon any Parcel, Unit or Improvement which shall induce, breed or harbor infectious plant diseases or noxious insects.

5.9 Repair of Improvements. No Unit or Improvement on any Parcel shall be permitted to fall into disrepair and each such Unit or Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Unit or Improvement is damaged or destroyed, then, subject to the approvals required by the Board and subject to the provisions of the applicable Parcel Declaration or this Master Declaration, such Unit or Improvement shall be immediately repaired, rebuilt or demolished. If any Unit or Improvement should be demolished, then the Owner thereof shall at all times maintain the vacant Parcel in a clean, sightly condition, and shall clear and shall continue to clear the Parcel of any weeds, debris, garbage, trimmings or like items, if any.

5.10 Mineral Exploration. No Parcel shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind. However, this prohibition does not apply to development activities of the Declarant or Declarant Affiliate.

5.11 Trash Containers, Recycling and Collection. No garbage, trash or recycling shall be placed or kept on any Parcel, Unit, Common Element or Improvement, except in covered containers of a type, size and style which are approved by the Board or required by the Municipal Authority. All rubbish, trash and garbage shall be removed from the Parcels and Improvements and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Parcel, Unit or Improvement.

5.12 Health, Safety and Welfare. In the event additional uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Residents and Occupants, the Management Committee may regulate their presence within the Project within the Rules & Regulations.

5.13 Violations of Law. Any activity which violates local, state, or federal laws or regulations is prohibited; however, the Board shall have no obligation to take enforcement action in the event of a violation.

5.14 Construction Period Exception. During the course of actual construction of any permitted Improvements on any Parcel or during any phase of construction, the Board may, by written instrument, waive certain provisions contained in this ARTICLE V to the extent necessary to permit such construction, provided that, during the course of such construction, nothing is done that will result in a violation of any of such provisions upon completion of construction.

5.15 Compliance with the Law. No Parcel, Unit or Improvement shall be used, occupied, altered, charged, improved, or repaired except in compliance with all present and future laws, rules, requirements, orders, directions, ordinances, and regulations of the United States of America, the State of Utah, and the Municipal Authority affecting the Project.

5.16 Right of Entry. During reasonable hours and upon reasonable notice to the Owner, Resident or Occupant of a Parcel, Unit or Improvement, any member of the Board, or any authorized representative of either of them, shall have the right to enter upon and inspect any Parcel, the Unit, or any Improvements thereon, except for the interior portions of any completed and occupied Unit, the purpose of ascertaining whether or not the provisions of this Master Declaration have been or are being complied with and such Persons shall not be deemed guilty of trespass by reason of such entry.

5.17 Residential Rental Assessment. The Master Association shall from time to time designate a preferred property manager in connection with the rental of the residential Units (the "Designated Property Manager"). One of the primary responsibilities of the Designated Property Manager will be to market and promote the Project to prospective renters and tenants, including for short-term or nightly rentals. It is expected that each Owner that rents its residential Unit will receive a substantial benefit from the marketing and promotion efforts of the Designated Property Manager and accordingly agrees to pay to the Designated Property Manager a marketing fee for any calendar year in which such Owner rents its residential Unit. The marketing fee shall be charged as an Assessment on each applicable rental Unit (the "Rental Assessment") and shall be adjusted from time to time by the Designated Property Manager as approved by the Master Association, but shall initially be equal to \$3,500 per year. The marketing fee shall be payable to the Master Association or directly to the Designated Property Manager, as determined by the Master Association. Notwithstanding the foregoing, the marketing fee shall not be required of any Owner that rents its residential Unit less than ten (10) nights during the calendar year. Each Owner agrees to notify the Designated Property Manager prior to the rental of its Unit and to follow the Rules & Regulations applicable to the rental of the Unit. For purposes of clarity, no Owner shall be required to use the Designated Property Manager in connection with the rental of its Unit.

5.18 Tenants. Subject to Section 5.17, all or some portion of a Parcel, Unit or Improvement may be leased to one or more tenants or lessees by the Owner thereof, subject further to the provisions of the Governing Documents, including Rules and Regulations that may require an additional fee or fees for the marketing of the Units or the use of the Resort Services and/or Club Amenities by the Occupants. Specifically, short-term rentals of every kind are allowed with respect to the residential Units, subject to compliance with the Residential Parcel Declaration. If a

Parcel, Unit or Improvement is leased or rented by its Owner, the Residents or Occupants of such Parcel, Unit or Improvement shall have the right to use the Common Elements during the term of the lease, and the Owner of such Parcel, Unit or Improvement shall have no right to use the Common Elements until the termination or expiration of such lease. Declarant hereby reserves the right to use the Common Elements at all times. All Occupants, Owners and Residents shall be required to check in and check out through the front desk operated by the Designated Property Manager.

5.19 Leases. Any lease or license between an Owner and a lessee or licensee respecting a Parcel, Unit or Improvement shall be subject in all respects to the provisions of the Governing Documents, and any failure by the lessee or licensee to comply with the terms of such Governing Documents shall be a default under the lease or license. Specifically, all leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Governing Documents. The lease or license shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and collect all costs associated therewith against such Owner. Each Owner shall be responsible for payment of all taxes, including any transient tax, with respect to the lease of its Unit.

5.20 Animals. Except as otherwise determined by Board in its sole and exclusive discretion, no animals, birds and/or fish of any kind may be raised, bred, or kept at the Project.

5.21 Antennas and Satellite Dishes. Antennas and satellite dishes are prohibited at the Project, unless such antennas or satellite dishes are specifically approved, in writing, by the Board.

5.22 Clotheslines, Tanks, Woodpiles, Etc. No clotheslines, above-ground tanks, woodpiles, and other similar items shall be erected, placed or maintained at the Project, including but not limited to using balcony or patio railings as a clothesline.

5.23 Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, Internet, television and radio signals, and cable information highways, shall be erected, placed or maintained anywhere in or upon any Parcel unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on Improvements as approved by the Declarant prior to the Class B Termination Date, or thereafter the Board, except for boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices.

5.24 Declarant's Exemption. Nothing contained in this Master Declaration or in any Parcel Declaration shall be construed to prevent the construction, installation or maintenance by Declarant, any Declarant Affiliate, or any agents or contractors thereof, during the period of development, construction and sales of the Property or Improvements deemed necessary or convenient by the Declarant, in its sole and exclusive discretion, or the development or sale of the Property.

5.25 Club Amenities. Use of the Club Amenities is subject to the payment of certain fees and the compliance with those rules and regulations provided in connection with the Club. No Unit

Owner, Resident or Occupant shall have the right to use any Club Amenities without payment of the applicable fees and compliance with the applicable rules and regulations.

5.26 Covenants. The Unit Owners shall comply with, and the Residential Parcel Owner and Commercial Parcel Owner shall enforce, the following standards:

(a) Sound, Odor and Water Containment. To the extent reasonably feasible the Residential Parcel Improvements and Commercial Improvements shall be constructed so as to contain within each respective Parcel all sounds, odors and leaking water.

(b) Unsightliness. The visual appearance of the Residential Parcel Improvements within the Residential Parcel must be consistent with the appearance of the Commercial Parcel Improvements within the Commercial Parcel and vice versa.

(c) Compliance with Applicable Covenants. The Residential Parcel Owner and the Commercial Parcel Owner shall each comply with and enforce their respective Parcel Declarations. The Residential Parcel Owner and the Commercial Parcel Owner shall each also comply with: (i) the Master Declaration; and (ii) and enforce, for the benefit of the other such owner, the covenants of this Master Declaration, and the respective Parcel Declarations.

5.27 Limitations. In no event shall any Unit Owner (i) be restricted from occupying such Unit Owner's Unit during any part of the year, (ii) be required to make its Unit available for rental pooling, or (iii) be required to share profits from the rental of its Unit with the Master Association, the management company. Each Unit Owner may at its option elect to do any of the foregoing, which election shall be evidenced by such Unit Owner's entering into agreements with the applicable third parties.

ARTICLE VI

ORGANIZATION OF MASTER ASSOCIATION

6.1 Relationship of Associations. The Master Association shall govern the Project and shall do such things as are within its powers and as may reasonably be required to maintain the Project and its Common Elements as an attractive and desirable planned community. The Members of the Master Association shall be Declarant and each Parcel Association. The duties and powers of the Master Association shall relate to the Project as a whole, while the duties and powers of a particular Parcel Association shall relate only to its particular Parcel.

6.2 Formation of Master Association. The Master Association shall be a Utah nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Master Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with the Governing Documents.

6.3 Board of Directors and Officers. The affairs of the Master Association shall be conducted by a Board of up to five (5) directors (odd numbered totals only) and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may

be amended from time to time. The initial Board shall be composed of three (3) directors. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Master Association. The Board shall determine the compensation to be paid to the Manager. The Board's responsibilities shall include, but shall not be limited to, the following:

- (a) administration;
- (b) preparing and administering an operational budget;
- (c) establishing and administering an adequate reserve fund;
- (d) scheduling and conducting the annual meeting and other meetings of the Members;
- (e) collecting and enforcing the Assessments;
- (f) monitoring accounting functions and maintaining records;
- (g) promulgation and enforcement of the Rules & Regulations;
- (h) maintenance of the Common Elements, including but not limited to clearing of snow and ice from roads and walkways, maintenance of landscaping, and maintenance of other Improvements; and
- (i) all the other duties imposed upon the Board pursuant to the Governing Documents, including enforcement thereof.

6.4 The Rules & Regulations. By a majority vote, the Board may, from time to time and subject to the provisions of this Master Declaration, adopt, amend and repeal rules and regulations to be known as the Rules & Regulations. The Rule & Regulations may reasonably restrict and govern the activities and conduct of any Owner, Resident or Occupant, or his or her family, invitees, licensees or tenants, at the Project subject to the Board's reasonable discretion; provided, however, that the Rules & Regulations shall not be inconsistent with the Governing Documents and shall be uniformly applied and shall not discriminate against or among any class or group of Members or Owners unless there is a reasonable basis for such discrimination and shall not unreasonably interfere with the rights of any Mortgagee.

(a) Notwithstanding any provision in this Master Declaration to the contrary, no rule, regulation or action of the Master Association or Board shall (i) interfere with the reasonable use, enjoyment or operation of any private amenity; or (ii) unreasonably impede Declarant's right to develop the Project.

(b) Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules & Regulations, the Board shall give at least fifteen (15) days' notice to the Unit Owners and deliver a copy of the approved changes to the Unit Owners. Any Parcel Association may, upon written request, request the Board provide an open forum for Unit Owners to be heard. Without a request for a forum within 15-days

after the notice requirement herein, the Parcel Associations and Unit Owners shall be deemed to have waived all right of objection.

6.5 Personal Liability. No Director or any Member of the Master Association, no officer of the Master Association and no Manager or other employee of the Master Association shall be personally liable to any Owner, Resident, Occupant or to any other Person, including the Master Association or any Parcel Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Master Association, the Board, the Manager, any representative or employee of the Master Association or any committee, committee member or officer of the Master Association; provided, however, the limitations set forth in this Section shall not apply to any Person who has failed to act in good faith or has engaged in willful or intentional misconduct.

6.6 Parcel Associations. Prior to such time as a Parcel Association is formed by Declarant or Declarant Affiliate, the Articles of Incorporation and Bylaws or other governing documents for such Parcel Association must be approved in writing by the Declarant or Declarant Affiliate. The governing documents for such Parcel Association shall specify that the rights of its members are subject and subordinate to the provisions of the Governing Documents.

6.7 Professional Management. The Master Association may carry out through the Manager those of its functions which are properly subject to delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Master Association, shall be responsible for managing the Project for the benefit of the Master Association and the Members, and shall, to the extent permitted by law and by the terms of the agreement with the Master Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Master Association itself. During the Declarant's Class B Membership, or following the termination of the Class B Membership if approved by the Master Association, the Manager may be an employee of the Declarant.

6.8 Implied Rights. The Master Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Master Association may be exercised by the Board without a vote of the Members. The Board may institute, defend, settle, or intervene on behalf of the Master Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Elements, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Master Association or its Members. In exercising the Master Association's rights and powers, making decisions on behalf of the Master Association, and conducting the Master Association's affairs, the members of the Board shall be subject to, and their actions shall be judged in accordance with, the standards set forth in the Bylaws.

6.9 Promotion and Marketing. In addition to the Declarant and/or Declarant Affiliate, the Master Association may conduct programs that do not conflict with the Declarant, for the promotion of the Project as an attractive and desirable planned community. The Master Association may, or cause via cooperation or retention or another party, promote, publicize, and

conduct conferences and special events including, without limitation, conferences, exhibitions, hockey tournaments, and ski and bicycle races.

6.10 Bulk Service Agreements. The following provisions shall apply to Bulk Service Agreements:

(a) Generally. The Board, acting on behalf of the Master Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (as is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Members cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services:

(i) Which might not otherwise be generally available to Members;

(ii) At rates or charges lower than might otherwise generally be charged to Members for the same or similar services;

(iii) Otherwise on terms and conditions which the Board believes to be in the interests of Members generally; or

(iv) Any combination of the foregoing.

(b) Costs. If all of the Project is to be served by a particular Bulk Service Agreement, the Board shall have the option either to:

(i) Include the Master Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or

(ii) Separately bill, or have the applicable vendor separately bill, to each Member or Owner its proportionate share of the Master Association's costs under such Bulk Service Agreement, as reasonably determined by the Board or the vendor, as applicable, and with such frequency as may be determined by the Board or the vendor, as applicable, but no more often than monthly; provided that such "separate billing" may be made as one or more separate line items on billings or invoices from the Master Association to the affected Members or Owners for Assessments or other charges.

If not all Parcels and Units within the Project will be served by a particular Bulk Service Agreement, then the Board shall have only the separate billing option described in Section 6.10(b)(ii) above.

(c) Payment Acknowledgment. Each Member and Owner is deemed to covenant and agree to pay all amounts the Board levies or charges against its Parcel or Unit pursuant to this Section. All such amounts shall be deemed to be a part of the Assessments against the Parcels or Units to which they are levied or charged.

(d) Binding Obligation. No Member or Owner covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Member or Owner or such Member's or Owner's Parcel or Unit, whether on the basis that such Member or Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, in its sole and reasonable discretion (subject to uniform application which does not discriminate against or in favor of any group or subgroup of Members or Owners), to exempt from payment of such amounts any Parcel or Unit, upon which no Residential Structure or other Improvement has been completed.

(e) Definitions. The terms used in this Section 6.10 shall have the following meanings:

(i) "Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide, to Members and/or Owners cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services pursuant to a "Bulk Service Agreement" (as defined below).

(ii) "Bulk Service Agreement" means an agreement between the Master Association and a Bulk Provider pursuant to which the Bulk Provider would provide to Members cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services.

6.11 Registration with the Utah Department of Commerce. The Master Association shall register with the Utah Department of Commerce within ninety (90) days of the Recordation of this Master Declaration. Within ninety (90) days after a change of any information provided in the Master Association's registration with the Utah Department of Commerce, the Board shall submit an updated registration in the manner established by the Utah Department of Commerce and the Act.

ARTICLE VII

MEMBERSHIP AND VOTING

7.1 Members. The Master Association shall have two classes of Membership: Class A Members and Class B Members. Each Parcel Association, shall be a Class A Member of the Master Association. The Declarant or Declarant Affiliates shall be Class B Members in the Master Association until the Class B Termination Date described in Section 7.2(b) below.

7.2 Voting/Class Members. Each Member shall be entitled to the following voting rights, calculated based on the Membership type (Class A or Class B) and the total Square Feet affiliated with that Member pursuant to the Governing Documents:

(a) Class A Members. Each Class A Member is assigned one (1) vote per Square Foot assigned to it by the Governing Documents, subject to the authority of the

Board to suspend the voting rights of the Member for violations of this Master Declaration in accordance with the provisions hereof. The President of each Parcel Association, or his or her agent, shall cast all of the votes to which such Parcel Association is entitled at the annual meeting, which President, or agent thereof, shall be entitled to attend any meetings of the Master Association. The votes of each Class A Member may be cast in total or split within the discretion of the Parcel Association, as the case may be. Pursuant to the Governing Documents the maximum number of Class A votes assigned to each respective Parcel Association shall be as follows:

(i) The Commercial Parcel Owner shall be entitled to the votes set forth in Exhibit B.

(ii) The Residential Parcel Owner shall be entitled to the votes set forth in Exhibit B.

(b) Class B Members. Until the expiration or termination of the Period of Declarant Control: (a) the Declarant or Declarant Affiliate shall be the Class B Member, and all votes held by the Declarant or Declarant Affiliate shall be Class B votes; and (b) all Members other than Declarant or Declarant Affiliate shall be Class A Members, and all votes held by such Members shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Master Association shall be deemed to have a single class of Members and votes. During the Period of Declarant Control, all matters coming before the Master Association for vote shall be decided by the vote of the Class B Member. Following the Period of Declarant Control, all Class B Memberships and all Class B votes shall cease to exist, Class B votes will become Class A votes, and any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, unless otherwise provided herein.

7.3 Exercise of Voting Rights. The vote for each Unit owned within a Parcel shall be exercised by the Parcel Association as provided in Section 7.2. The Parcel Association may cast all votes assigned to such Parcel in accordance with the respective Parcel Association's governing documents.

7.4 Membership and Ownership Rights. Each Member and each Owner shall have the respective rights, duties and obligations set forth in this Master Declaration and such other rights, duties and obligations as are set forth in the Governing Documents, as the same may be amended from time to time.

7.5 Reinvestment Fee. Subject to the Board's sole and exclusive discretion, each purchaser of a Parcel, Unit or other Improvement within the Master Association shall pay to the Master Association at closing a "Reinvestment Fee" immediately upon becoming the Owner of the Parcel, Unit or Improvement (i.e., at closing of the purchase) in such amount as is established from time to time by the Board, for the benefit of the Property within the Master Association, including for common planning, facilities, and infrastructure; obligations arising from an environment covenant; community programming; resort facilities; open space; recreation amenities; or association expenses or as otherwise permitted by Utah Code § 57-1-46, as the Board

may determine in its sole and exclusive discretion. Currently, the Reinvestment Fee shall be one half percent (0.5%) of the gross sales price of any Parcel, Unit or Improvement unless otherwise determined by the Board. The Board shall have the right to collect and enforce the payment of the Reinvestment Fee in the same manner as enforcement and collection of delinquent Assessments as further described in this Master Declaration. In the event that the Reinvestment Fee is not paid at closing to the Master Association, then the Board shall have the right to impose a penalty against the new Owner of the Parcel, Unit or Improvement in an amount as determined by the Board from time to time in its sole and exclusive discretion.

(a) For purposes of this Section 7.5, “gross sales price” shall mean, in the case of a transfer that is in all respects a bona fide sale, the greater of: (i) the gross sales price stated in the agreement for purchase and sale; (ii) the gross sales price stated on the settlement statement prepared by a third-party escrow or title agent; or (iii) the total consideration given for the transfer (or the equivalent thereof which would have been received by the transferor had the transaction been an arms-length, third-party cash transaction, in the event the transfer is not an arms-length, third-party cash transaction) of the Parcel, Unit or Improvement subject to transfer. In case of a transfer that is a lease for a period of twenty (20) or more years or is otherwise not in all respects a bona fide sale, the gross sales price of the lot subject to transfer shall be the fair market value of the Parcel, Unit or Improvement as determined by the Board. A transferee may make written objection to the Board’s determination of value for a non arms-length transfer within fifteen (15) days after the Board has given notice of such determination, in which event the Board shall obtain an appraisal, at the transferee’s sole expense, from a certified real estate appraiser of good reputation, who is qualified to perform appraisals in Utah, who is familiar with Wasatch County and local area real estate values, and who shall be selected by the Board. The appraisal so obtained shall be binding on both the Board and the transferee. Notwithstanding any provision herein to the contrary, where a transferee does not object within the fifteen (15) day period established above, the transferee shall be deemed to have waived all right of objection concerning gross sales price, and the Master Association’s determination of such shall be binding.

(b) No such Reinvestment Fee shall be payable and a transfer shall not be deemed to have occurred with respect to (a) the creation of any Mortgage, (b) any foreclosure of a First Mortgage, (c) the exercise of a power of sale available under a First Mortgage, (d) the taking of a deed or assignment in lieu of a foreclosure by a First Mortgagee, (e) the conveyance by a First Mortgagee of a deed to a Parcel, Unit or Improvement, or part thereof or interest therein, to a grantee if such First Mortgagee shall have obtained title to such Parcel, Unit or Improvement, or part thereof or interest therein, pursuant to subclause (b), (c) or (d) above, (f) any transfer, sale or conveyance to or from Declarant or Declarant Affiliate, to an entity wholly-owned or controlled by Declarant, to the Master Association, or to a Parcel Association, (g) any transfer to a family trust or other closely held entity solely for estate planning purposes, or (h) any other transfer expressly excluded by Utah Code § 57-1-46(8) or other statute. For purposes of this Section 7.5, a “transfer” shall mean, whether in one transaction or in a series of related transactions, any sale, conveyance, assignment, lease, or other transfer of any beneficial ownership or interest in any Parcel, Unit or Improvement, including but not limited to (i) the conveyance of fee simple title to any Parcel, Unit or Improvement, (ii) the transfer of more than fifty

percent (50%) of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns one or more Parcels, Units or Improvements, or (iii) the transfer of more than 50 percent (50%) of the interest in net profits or net losses of any partnership, limited liability company, joint venture or other entity which, directly or indirectly, owns one or more Parcels, Units or Improvements. The Declarant, prior to the organization of the Master Association, and thereafter the Board, shall have the right to determine in their respective sole and exclusive judgment whether or not a “transfer” has occurred for the purposes of levying a Reinvestment Fee.

(c) Notwithstanding any other contrary provision stated herein, no Reinvestment Fee shall be due and payable with respect to transactions where the Declarant or Declarant Affiliate is the seller.

(d) A separate notice of the Reinvestment Fee required by this Section 7.5 has been or shall be Recorded and such notice shall comply with the requirements of Utah Code § 57-1-46(6).

ARTICLE VIII

COVENANT FOR ASSESSMENT AND CREATION OF LIEN

8.1 Creation of Lien and Personal Obligation of Assessments, and Maintenance Charges. The Declarant, for each Parcel hereafter established within the Project, hereby covenants and agrees, and each Member is deemed to covenant and agree to pay to the Master Association the following assessments and charges: (a) Annual Assessments established by this Article VIII, (b) Special Assessments for capital improvements or other extraordinary expenses or costs established by this Article VIII, (c) Maintenance Charges established by Article IX, (d) Rental Assessments established in Section 5.17, or (e) Reinvestment Fees established by ARTICLE VII. All such Assessments shall be established and collected as herein provided. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Master Association or Board to take some action or perform some function required to be taken or performed by the Master Association or Board under this Master Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Master Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any Municipal Authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Member. The Annual Assessments together with interest, costs and reasonable attorney’s fees, shall be a charge on the Parcel and shall be a continuing servitude and lien upon the Parcel against which each such Assessment is made. The Annual and Special Assessments against each Parcel shall be based on the number of Assessment Units appurtenant to the Parcel as described in Section 8.3 below. Each such Assessment, together with interest, costs and reasonable attorneys’ fees, shall also be the personal obligation of the Parcel Association at the time when the Assessment fell due.

8.2 Owner’s Right to Cure. In the event Assessments or other charges payable to the Master Association by a Parcel Association pursuant to this Master Declaration may or have become delinquent on a Parcel due to the Parcel Association’s failure to timely pay such Assessments or charges, then the Board may in its sole and exclusive discretion, but shall not be

obligated to, give notice of the delinquent Assessment or charges to each Owner owning a Unit, Residential Structure or Improvement, or part thereof or interest therein, in the respective delinquent Parcel within the respective Parcel Association in a reasonable manner as determined by the Board. In the event the Board determines that it will give such notice to each Owner owning a Unit, Residential Structure or Improvement, or part thereof or interest therein, in the delinquent Parcel within the respective Parcel Association and any Eligible Mortgagee, the Board shall have the absolute right at any reasonable time to inspect and copy the Parcel Association's membership register, so long as the Master Association agrees not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Master Association, and further agrees not to disclose each Owner's personal information, including contact information, with other Owners. Notwithstanding the forgoing, the Parcel Association shall give notice of the delinquent Assessment to each Owner owning a Unit, Residential Structure or Improvement, or part thereof or interest therein, in the respective delinquent Parcel within the respective Parcel Association, and shall send a courtesy copy to the Master Association and to each First Mortgagee in respect thereof. The Parcel Association shall cause notice to be given to each Owner within three (3) days after the Parcel Association knows or has reason to know that its delinquent payment may or has become a delinquent Assessment. The Parcel Association's notice to each Owner shall set forth:

- (a) The name of the Parcel Association as shown in the records of the Master Association;
- (b) The name of the Owner as shown in the records of the Parcel Association;
- (c) The legal description or street address of the Owner's Unit, Residential Structure or Improvement;
- (d) The total amount payable to the Master Association by the Parcel Association, including interest, Recording fees, reasonable attorneys' fees, court costs, collection costs and other sums payable to the Master Association; and
- (e) The pro-rata amount the individual Owner must pay in order to prevent or release an Assessment Lien from being Recorded against his, her or its Unit, Residential Structure or Improvement.

Notwithstanding the forgoing, the Parcel Association's success or failure to give proper notice to an Owner regarding a delinquent Assessment shall not affect the validity of the Assessments or charges established by the Board nor relieve any Parcel Association from its obligation to pay such Assessments or charges. Any Owner who owns a Unit, Residential Structure or Improvement located within the delinquent Parcel Association, or any combination of Owners therein, may jointly or singly pay their portion of the Parcel Association's delinquent Assessment and other charges. Upon receipt by the Master Association of payment in full by the Owner(s) of his, her, its or their pro-rata share of the Parcel Association's delinquent Assessment and charges, including but not limited to interest, Recording fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Master Association by the Parcel Association, the Board shall release or forgo Recording an Assessment Lien against such Owner's or Owners' individual

Unit(s), Residential Structure(s) or other Improvement(s), or part thereof or interest therein, located within the delinquent Parcel.

8.3 Establishment of Annual Assessment Period. The first Assessment Period shall commence upon the issuance of the first Certificate of Occupancy by the Municipal Authority and terminate on December 31 of such year, and thereafter shall be based on the fiscal year of the Master Association as provided in Section 8.6(c) below. The Board in its sole discretion from time to time may change the Assessment Period by its own resolution.

8.4 Assessment Units. All Assessments payable each Assessment Period shall be prorated among the Members, based on the total Square Feet of all Units (other than Units constituting Exempt Property) associated with each Member's Parcel(s) as set forth in the Governing Documents and as provided below ("Assessment Units").

8.5 Exempt Property Assessments. Any Declarant or a Declarant Affiliate may expressly waive its right to an exemption from Assessments as to some or all Exempt Properties of which it is then the Owner by Recording an amendment to this Master Declaration identifying such Exempt Properties and signed by it and all First Mortgagees of such Exempt Properties. In such event, a Declarant's exemption shall terminate as to each identified Exempt Property when such an amendment to this Master Declaration is Recorded. Any such waiver shall run with the title to each such Exempt Property and bind its subsequent Owners, including Declarant or any Declarant Affiliate. All Exempt Property described herein shall be exempt from the Assessments and Membership in the Master Association; provided, however, that Exempt Property owned by Declarant during any period of exemption shall in all other respects be accorded all of the privileges and responsibilities of Membership in the Master Association. Anything in this Section to the contrary notwithstanding, if, after an Assessment's record date but before the end of the fiscal year for which it is levied, an Exempt Property becomes Assessable Property, then each Assessment which would have been levied against such Assessable Property for such fiscal year if it were not Exempt Property (as hereafter reduced) shall be due on the later of (i) the date on which such Assessment would have been due, if such part of the Project had been Assessable Property on such record date, or (ii) the date on which such Assessable Property becomes subject to Assessment levy. If Exempt Property becomes an Assessable Property as provided for above, then the Master Association shall be deemed, automatically and without the need for further action, to have levied against it each Assessment for such fiscal year which the Master Association has levied against the other Assessable Properties. Each such Assessment levied against such Assessable Property shall be in an amount determined under this Section as if it were eligible for such levy on such record date, but then reduced in proportion to the number of days (if any) in such fiscal year elapsed as of (and including) the date on which such Parcel Declaration is Recorded, or such Exempt Property becomes an Assessable Property, as the case may be.

8.6 Annual Assessments. Annual Assessments shall be computed and assessed against all Parcel Associations as follows:

(a) Common Expenses. Annual Assessments shall be based upon advance estimates of the Master Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Elements and operating the Master Association. Such estimated expenses may

include, without limitation, the following: expenses of management; real property taxes and similar assessments; premiums for all insurance that the Master Association is required or permitted to maintain hereunder; repairs and maintenance of the Common Elements; wages of Master Association employees, including fees for a Manager; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance, repairs, and replacement of those Common Elements that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Master Association for the benefit of the Members under or by reason of this Master Declaration. Such shall constitute the Common Expenses, and all funds received from Assessments under this Section shall be part of the Common Expense Fund described in Section 8.10 below. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses, which together shall constitute the Common Expense Fund.

(b) Apportionment. Common Expenses shall be apportioned among and assessed to all Members in accordance with Section 8.3 above based upon the following ratio:

$$\frac{\text{Number of Assessment Units assigned to a Parcel}}{\text{Total number of Assessment Units assigned to all of the Parcels}} = \text{Percentage of Common Expenses apportioned and assessed to each Parcel}$$

Provided, however, the percentage of Common Expenses apportioned and assessed to the Members with respect to the Commercial Parcel(s) shall not exceed twenty percent (20%), and such excess, if any, shall be apportioned among and assessed to the Residential Parcel(s). Declarant, or the Master Association after the Class B Termination Date, reserves the right to adjust the resulting ratio of any or all Parcels as may be necessary to assure that the total of the Parcels' ratio apportionments equals one hundred percent (100%).

(c) Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31st next following, provided the first fiscal year shall begin as provided in Section 8.3 above. On or before November 1st of each year thereafter, the Board shall prepare and furnish to each Member, and any First Mortgagee that has requested a copy thereof in writing, or cause to be prepared and furnished to each Member, or any First Mortgagee that has requested a copy thereof in writing, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period. The Board in its sole discretion from time to time may change the fiscal year by its own resolution.

(d) Notice and Payment. Except with respect to the first fiscal year, the Board shall notify each Member in writing as to the amount of the Annual Assessment against its Parcel(s) on or before December 1st each year for the fiscal year beginning on January 1st next following. Each Annual Assessment shall be payable as the Board shall determine in its sole and exclusive discretion; provided, however, the Board shall notify all Members in advance of such payment periods and due dates. Assessments shall commence against all Parcels upon conveyance of the first Unit in the Project. All unpaid installments of any Annual Assessment shall bear interest at the rate established by the Board not to exceed eighteen percent (18%) per annum fifteen (15) days after the date each such installment became due until paid and the Member shall be liable for a late fee as determined by the Board, all costs, including attorneys' fees incurred by the Master Association in collecting the same. In addition, in the event that any installment of the Annual Assessment is not paid within fifteen (15) days of the date such installment becomes due, the Master Association may, at its option, and upon fifteen (15) days prior written notice to the Member, accelerate the due date for all remaining unpaid installments of the Annual Assessment for the remainder of the fiscal year and all accrued but unpaid interest thereon. Payment of the Annual Assessment installments so accelerated shall be due at the expiration of said fifteen (15) day notice period and interest shall accrue on the entire sum at the rate established by the Board not to exceed eighteen percent (18%) per annum from such date until paid in full. The failure of the Board to give timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Master Declaration, or a release of any Member from the obligation to pay such Assessment or any other Assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such Assessment shall have been given to the Member in the manner provided in this Master Declaration.

(e) Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Member's Assessment, the Board may, on behalf of the Master Association, levy additional Annual Assessments in accordance with the procedure set forth in this Section 8.6.

8.7 Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments, the Master Association may levy in any Assessment Period, Special Assessments applicable to that period only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital Improvement constituting a Common Elements, including the necessary fixtures and personal property related thereto, and other costs and expenses of operation in the collection of Assessments from the Members. However, in any Assessment Period, except as otherwise provided in this Master Declaration, the Board shall not, without the affirmative vote of Members at a meeting at which a quorum is present, levy Special Assessments which in the aggregate exceed twenty-five percent (25%) of the budgeted gross expenses of the Master Association for that Assessment Period. The portion of any Special Assessments levied against a particular Parcel shall be equal to the ratio set forth in Section 8.6(b). These provisions with respect to the imposition or allocation of Special Assessments shall not apply when the Special Assessment is for such structural alterations or capital additions or capital improvements to the Common Elements as are necessary in the Board's sole and exclusive judgment to preserve or maintain the integrity of the

Common Elements or to pay an increase in real property taxes. The Board shall provide notice by first class mail or electronic mail to all Members of any Special Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due. Such notice shall include the reason for the Special Assessment, the total amount of the Special Assessment, and the amount payable by each Member.

8.8 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article VIII shall be sent by first class mail to all Members no less than thirty (30) days and nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty percent (30%) of all the votes (exclusive of suspended voting rights) of the Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be fifteen percent (15%) of all the votes (exclusive of suspended voting rights). No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.9 Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt Rules & Regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Annual and Special Assessments, and the Maintenance Charges imposed pursuant to this Master Declaration, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Master Association to send a bill to a Member, or the failure of a Member to receive a bill sent by the Master Association to that Member, shall not relieve that Member of its liability for any Assessment or charge under this Master Declaration. However, the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member and each Mortgagee who has Recorded a "Request for Notice" as required by Utah law has been given not less than thirty (30) days written notice prior to commencement of such foreclosure or enforcement (or such greater time period as may be required by Utah law) that the Assessment or any installment thereof is or will be due and of the amount owing at the address of the Member on the records of the Master Association and the address of any Mortgagee provided in the Recorded "Request for Notice." Such notice may be given at any time prior to or after the delinquency of such payment. The amount of the Annual Assessment against Members who become such during an Assessment Period upon the Recordation of a Parcel Declaration shall be prorated and such new Members shall not be liable for any previously levied Special Assessments. The Board may, but is under no obligation, to accept partial payment of each Member's pro rata share of the Assessments. Acceptance by the Board of partial payment shall not constitute a waiver, and shall not relieve the Parcel Association of its responsibility to pay its respective Assessment in full, including late fees and interest charges. Notwithstanding the forgoing, the Board shall be required to accept partial payment by an Owner who is a member of a Parcel Association of that Owner's pro rata share of the Assessments, Delinquent Assessment Lien and all other charges allocated to the Parcel, as provided in Section 8.2 above.

8.10 Common Expense Fund. The Master Association shall establish and maintain two (2) separate and distinct funds, one for the periodic regular maintenance and repair of the Project and for other routine operating expenses and one for replacement of Improvements to the Common Elements the Master Association may be obligated to maintain, repair or replace. These two (2) funds shall be maintained out of Annual Assessments for Common Expenses, which together shall constitute the Common Expense Fund.

8.11 Evidence of Payment of Annual and Special Assessments, and Maintenance Charges. Upon receipt of a written request by a Member or any other Person, the Master Association within a reasonable period of time thereafter shall issue to such Member or other Person a written certificate stating (i) that all Annual and Special Assessments, and Maintenance Charges (including interest, costs and attorneys' fees, if any) have been paid with respect to any specified Parcel as of the date of such certificate, or (ii) if all Annual and Special Assessments, and Maintenance Charges have not been paid, the amount of such Annual and Special Assessments, and Maintenance Charges (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Master Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or Mortgagee on, the Parcel, Unit or Improvement in question.

8.12 Property Exempted from the Annual and Special Assessments and Assessment Lien. Exempt Property shall be exempt from the assessment of the Annual and Special Assessments, but such property shall not be exempt from the Maintenance Charges provided for in Article IX, from attorneys' fees, costs and expenses as described in Article IX or from the Assessment Lien to secure said Maintenance Charges, attorneys' fees, costs and expenses; provided, however, that in the event any change of ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall be subject to the assessment of the Annual and Special Assessments (prorated as of the date it became Assessable Property) and the Assessment Lien.

8.13 Declarant Subsidy. Notwithstanding any other provision of this Master Declaration to the contrary, no Assessments shall be levied against Exempt Property owned by the Declarant or Declarant Affiliate. However, for as long as any Parcel, Unit or Improvement owned by Declarant or a Declarant Affiliate shall be an Exempt Property, the Declarant reserves the right for itself and all Declarant Affiliates, in its sole and exclusive discretion, the right to subsidize the Master Association for the amount by which (i) the actual cost and expense of operating and administering the Master Association and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies, all as provided in this Master Declaration, exceeds (ii) the total amount of Assessments levied against and collected from Class A Members. The subsidy allowed of Declarant under this Section may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, provided that "in-kind" contributions of goods or services must directly reduce the Master Association's costs and expenses for which an Assessment is being levied as set forth in the Master Association's budget, with such goods or services being valued at the amount the budgeted costs and expenses of the Master Association are so reduced. Within thirty (30) days of the end of each Assessment Period, the Board shall make an accounting of the amounts that have been paid by Declarant (in cash, goods or services) as a subsidy. A copy of the accounting shall be sent by first-class mail or electronic mail to the Declarant and to each Member of the Master Association upon written request by the Declarant or any Member of the Master Association, no more frequently than quarterly.

8.14 Reserves.

(a) Use of Reserve Funds. The Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Elements for which the Master Association is responsible and for which the reserve fund was established or for litigation involving such matters. Furthermore, the Board shall not use money in a reserve fund for daily maintenance expenses, unless a majority of the Members of the Master Association vote to approve the use of the reserve fund money for that purpose. Upon the approval of a majority of the Members of the Master Association, the Board may authorize the temporary transfer of money from the reserve account to the Master Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Master Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and the Master Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Assessment shall not be subject to the limitations set forth in Section 8.7 hereof.

(b) Reserve Analysis. At least once every six (6) years the Board shall cause a reserve analysis to be conducted of the reserve account of the Master Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall, thereafter, review the reserve account study at least every three (3) years and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve analysis shall include, at a minimum:

(i) Identification of the major components which the Master Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of no fewer than three (3) years but less than thirty (30) years that will reasonably require reserve funds.

(ii) Identification of the probable remaining useful life of the components identified in subparagraph 8.14(b)(i) above, as of the date of the study.

(iii) An estimate of the cost of repair, replacement, and restoration of each major component identified.

(iv) An estimate of the total annual contribution to reserve funds necessary to meet the cost to repair, replace, or restore each major component during and at the end of its useful life.

(v) A reserve funding plan that recommends how the Master Association may fund the annual contribution described in Section 8.14(b)(iv).

(c) Providing Reserve Analysis to Members. Each year at the Annual Meeting the Master Association shall make available a summary of the most recent reserve analysis, including any updates, to each Member. Members may receive a complete copy of the reserve analysis upon a request submitted to the Board.

(d) Reserve Fund Line Item. The Master Association's budget shall include a reserve fund line item as determined by the Board, based on the reserve analysis and in an amount the Board determines is prudent under the circumstances. Within forty-five (45) days after the day on which the Master Association adopts its budget, the Members may veto the reserve fund line item by a fifty one percent (51%) vote at a special meeting called by the Members for the purpose of voting whether to veto the reserve fund line item. If the Members veto a reserve fund line item and a reserve fund line item exists in a previously approved budget of the Master Association that was not vetoed, the Master Association shall fund the reserve account in accordance with that prior reserve fund line item.

8.15 Providing Payoff Information. The Master Association may charge a reasonable fee (to be paid after closing) for providing payoff information needed in connection with the closing of an Owner's financing, refinancing or sale of a Unit or Improvement. Such fee shall not exceed the greater of \$50.00 or the maximum amount (if any) set forth in the Act. The Board must provide payoff information within five (5) business days after the closing agent for a transaction requests such information. Such request shall include all information required by the Act and be delivered in accordance with the requirements set forth in the Act.

ARTICLE IX

ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND ASSESSMENT LIEN

9.1 Master Association as Enforcing Body. The Master Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Master Declaration. However, if the Master Association shall fail or refuse to enforce this Master Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Member may enforce them at its own expense by any appropriate action, whether in law or in equity.

9.2 Maintenance Charges. The Master Association shall have the right to enforce, by any proceeding at law or in equity, the covenants and provisions contained in the Governing Documents, regardless of whether or not the Master Association utilizes self-help as provided for in Section 9.2(b) below. In the event suit is brought, arbitration is instituted and/or an attorney is retained by the Master Association to enforce the covenants or provisions under the Governing Documents, the Master Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation, administrative costs and fees, and other related expenses incurred in connection therewith, including but not limited to costs incurred in bringing the Member and/or its Parcel, or an Owner and/or its Unit or Improvement, into compliance with the provisions of the Governing Documents. All attorneys' fees, costs, expenses, and other fees, charges or payments associated with enforcing the covenants and provisions under the Governing Documents shall constitute "Maintenance Charges." The cost of any corrective action incurred by the Master Association on behalf of a Parcel shall be added to

and become a part of the Assessment to which the offending Parcel Association and the respective Parcel is subject and shall be secured by the Assessment Lien set forth in Section 9.3 below. The cost of any corrective action by the Master Association to a Unit or Improvement independently owned shall become the personal obligation of the specific offending Owner. If the Owner of a Unit or Improvement fails to pay the costs associated with enforcing the covenants and provisions under the Governing Documents, the Master Association may enforce the payment of such costs and enforce the covenants and provisions of the Governing Documents by taking some or all of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Master Association does not prejudice or waive its right to exercise the other remedy):

- (a) Bring an action at law and recover judgment against the offending Owner who is personally obligated to pay the costs association with enforcing the covenants and provisions of the Governing Documents;
- (b) Exercise self-help in any emergency situation; and/or
- (c) Record a notice of lien against the Parcel, Unit or Improvement by any means permitted by law. The Owners hereby acknowledge and consent to be subject to any lien filed pursuant to this Master Declaration and agree that such lien may be foreclosed in any manner permitted by Utah law; and by accepting Deeds, leases, easements or other grants or conveyances to any Unit or Improvement, the Owners and other transferees for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by the non-judicial foreclosure procedures permitted by Utah law. Recording of this Master Declaration also constitutes record notice and perfection of such lien.

9.3 Master Association's Remedies to Enforce Payment of Annual and Special Assessments and Maintenance Charges. Subject to Section 8.9 above, if any Member fails to pay the Annual or Special Assessments, Reinvestment Fees or to pay Maintenance Charges assessed pursuant to this Article IX, the Master Association may cause a foreclosure to be conducted in accordance with the following procedures:

(a) Scope of Lien. In any foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Master Association any Assessments against the Parcel, or Unit which shall become due during the period of foreclosure, and all such amounts shall be secured by the lien being foreclosed.

(b) Trustee. The Declarant, Master Association and each Owner hereby convey and warrant pursuant to Utah Code Annotated Sections 57-1-20 and 57-8a-302 to Meridian Title Agency, with power of sale, the Units, Parcels and all Improvements for the purpose of securing payment of Assessments under the terms of this Declaration. Provided, however, the Master Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code Annotated. The Master Association may, through its duly authorized agents, bid on the Unit, or Parcel at any

foreclosure sale and acquire, hold, lease, mortgage and convey the same. The trustee appointed hereunder, and any successors, shall not have any other right, title or interest in the Master Association or the Project by virtue of its position as trustee beyond those rights and interests necessary and appropriate to foreclose any liens against Units, or Parcels arising pursuant hereto.

(c) Non-judicial Foreclosure. At least thirty (30) calendar days before initiating a non-judicial foreclosure, the Master Association shall provide notice (“Foreclosure Notice”) to the Owner that is the intended subject of the non-judicial foreclosure. The Foreclosure Notice shall: (i) notify the Owner that the Master Association intends to pursue non-judicial foreclosure with respect to the Owner’s Unit or Improvement to enforce the Master Association’s lien for unpaid Assessments; (ii) notify the Owner of the Owner’s right to demand judicial foreclosure in the place of non-judicial foreclosure; (iii) be sent to the Owner by certified mail, return receipt requested and be included with other Master Association correspondence to the Owner; and (iv) be in substantially the following form, as may be modified to comply with applicable law:

NOTICE OF NON-JUDICIAL FORECLOSURE
AND RIGHT TO DEMAND JUDICIAL
FORECLOSURE

The Black Rock Mountain Resort Master Association, a Utah non-profit corporation (the “Master Association”), the association for the project in which your lot, parcel, or unit is located, intends to foreclose upon your lot, parcel, or unit and allocated interest in the common elements using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Master Association’s lien against your lot, parcel or unit and to collect the amount of an unpaid assessment or charges against your lot, parcel or unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Master Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that “I demand a judicial foreclosure proceeding upon my lot, parcel, or unit,” or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is 7026 S. 900 East, Midvale, UT 84047.

(d) Demand for Judicial Foreclosure. The Master Association may not use a non-judicial foreclosure to enforce a lien if an Owner mails the Master Association a written demand for judicial foreclosure: (i) by U.S. mail, certified with a return receipt requested; (ii) to the address stated in the Foreclosure Notice; and (iii) within 15 days after the date of the postmark on the envelope of the Foreclosure Notice.

9.4 Subordination of Assessment Lien to First Mortgage; Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any First Mortgage on a Parcel and/or

any Unit, Residential Structure or Improvement, or part thereof or interest therein, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Parcel, Unit or Improvement. Sale or transfer of any Parcel, Unit or Improvement shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a First Mortgage to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust of sale, or any grantee taking by deed in lieu of foreclosure, shall take the Parcel, Unit or Improvement free of the Assessment Lien for all Annual Assessments, Special Assessments, and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however, that such First Mortgage foreclosure sale purchaser or grantee shall take subject to all Annual Assessments, Special Assessments, Maintenance Charges and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or Deed given in lieu of foreclosure.

9.5 Foreclosure. Except as stated in Section 9.4 above, the Assessment Lien shall have priority over all liens to the fullest extent provided by Utah law. Regardless whether the Assessment Lien has, or is deemed to have, priority over liens securing assessments levied pursuant to a Parcel Declaration, foreclosure of the Assessment Lien with respect to a Parcel, Unit or Improvement shall not impair, extinguish or otherwise affect such other assessment liens or relieve or release any obligations for such other assessments secured by such Parcel, Unit or Improvement.

9.6 Costs to be Borne by Member in Connection with Enforcement of Payment of Annual and Special Assessments, and Maintenance Charges. In any action taken pursuant to Section 9.3 above, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual and Special Assessments, and Maintenance Charges together with interest and all of the Master Association's collection costs and attorneys' fees.

ARTICLE X

USE OF FUNDS; BORROWING POWER; OTHER MASTER ASSOCIATION DUTIES

10.1 Purposes for Which Master Association's Funds May Be Used. The Master Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of all land, properties, Improvements, facilities, services, projects, programs, studies and systems, within the Project, which may be necessary, desirable or beneficial to the general common interests of the Project. The following are some, but not all, of the areas in which the Master Association may seek to aid, promote and provide for such common benefit: social interaction among Owners, Residents and Occupants; maintenance of landscaping on Common Elements and public right-of-way and drainage areas within the Project; recreation; liability insurance; marketing and communications; ownership and operation of vehicle storage areas; transportation; health; utilities; public services;

safety and indemnification of officers and Board of the Master Association and compliance with the Development Agreement. The Master Association also may expend its funds as permitted under the laws of the State of Utah.

10.2 Borrowing Power. The Master Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate as determined by the Board without a vote of the Members. The Master Association may secure such loans by pledging any of its properties including future Assessments. Notwithstanding the foregoing, other than equipment leases entered into in the ordinary course of business of the Master Association, the Master Association may not incur debt which would result in an increase in Annual Assessments during any Assessment Period by more than twenty-five percent (25%) of the budgeted Annual Assessments for the prior Assessment Period without first obtaining the written consent of a majority of the total votes of the Class A Members.

10.3 Master Association's Rights in Spending Funds From Year to Year. The Master Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual Assessments or Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Master Association shall not be obligated to reduce the amount of Annual Assessment in the succeeding year if a surplus exists from a prior year and the Master Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Master Association and the accomplishment of its purposes.

ARTICLE XI

MAINTENANCE

11.1 Common Elements and Public Right-of-Way. The Master Association, or its duly delegated representative, shall maintain and otherwise manage all Common Elements; provided, however, the Master Association shall not be responsible for providing or maintaining the Limited Common Areas or Improvements on any Common Elements which are part of Parcels unless (i) such Improvements are available for use by all Owners, Residents and Occupants or are within easements intended for the general benefit of the Project and (ii) the Master Association assumes in writing the responsibility as set forth in a Recorded instrument as hereinafter provided. The Master Association shall also maintain any other Improvements not on Parcels which are within the exterior boundaries of the Project, which are within areas shown on the Master Development Plat or other plat of dedication for the Project or covered by a Parcel Declaration and which are intended for the general benefit of the Owners, Residents and Occupants at the Project, except to the extent expressly provided for in a Parcel Declaration. Specifically, the Master Association shall maintain, on an on-going basis, all landscaping located on the Common Elements at the Project. Such landscaping maintenance shall include the Board's provision of adequate funding for maintenance, replacement, deep root watering, and other sound maintenance techniques and the Master Association acknowledges that the installation and maintenance of the landscaping located on the Common Elements at the Project may be subject to an annual benchmark review by the Municipal Authority. The Master Association shall also maintain and replace all Shared Elements, Building Exteriors, sidewalks, banners, lamp posts, recirculating water features (if any), and other similar features related to the landscaping and art improvements which constitute the Common

Elements at the Project. All Members at the Project specifically acknowledge and agree that they shall cooperate with Declarant to effectuate such landscaping and project maintenance in the event certain landscaping features or other Improvements are located on or only accessible through private property. Other specific areas to be maintained by the Master Association may be identified on Master Development Plat or plats Recorded or approved by the Declarant, in Parcel Declarations and in Deeds from the Declarant to a transferee of a Parcel but the failure to so identify such areas shall not affect the Master Association's rights or responsibilities with respect to such Common Elements and other areas intended for the general benefit of the Project. Except as otherwise provided for herein, the Master Association shall not maintain areas which (i) are owned by a Municipal Authority, (ii) a Parcel Association is expressly required under a Parcel Declaration to maintain, or (iii) are to be maintained by the Owners of a Parcel, Unit or Improvement. Notwithstanding anything to the contrary herein, the Board shall have discretion to enter into an agreement with a Municipal Authority to permit the Master Association to upgrade and/or maintain landscaping on property owned by a Municipal Authority, if such property is within the Project, if the Board determines in its sole and exclusive discretion that such agreement benefits the Master Association, the Members, or the Owners, Residents and Occupants at the Project.

11.2 Standard of Care. The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property so that the Project will reflect a high grade of maintenance of comparable class and standing of similar resort projects in Summit or Wasatch county, consistent in the nature of the Property. In this connection, the Master Association may, subject to any applicable provisions on Special Assessments, in the discretion of the Board:

- (a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon Master Association Land;
- (b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of the Common Elements used as a road, street, walk, driveway or parking area;
- (c) Replace injured and diseased trees and other vegetation in any Common Element, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (d) Place and maintain upon any Common Element such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- (e) Remove all snow, ice, debris and sweeping to the extent reasonably necessary to keep the hardscaping within the Project in a safe and clean condition;
- (f) Keep and maintain in superior condition without limitation, the furnishings, fixtures, accessories, artwork, lighting, flooring materials, paint and wall décor throughout the Common Elements; and

(g) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Elements and the beauty thereof, in accordance with the general purposes specified in this Master Declaration.

11.3 Common Elements. Until the expiration of the Period of Declarant Control or earlier delegation by the Declarant, the Declarant shall be the sole judge as to the appropriate maintenance of all Common Elements and other properties maintained by the Master Association. Notwithstanding anything to the contrary in this Master Declaration, the Declarant hereby, on behalf of itself and its successors or assigns, reserves the following rights with respect to the Common Elements: (i) the right to impose rules and regulations (from time to time) governing the maintenance and repair of the Common Elements, (ii) the right to select a management company to maintain and repair the Common Elements, (iii) the right to charge and assess each Class A Member for the purpose of maintaining the Common Elements, and (iv) the right to convey some or all of the Common Elements to a Parcel Association.

11.4 Certain Costs of Maintenance and Repair of Common Elements. In the event that the need for maintenance or repair of Common Elements, Improvements and other property maintained by the Master Association is caused through the willful or negligent act of any Owner or Resident of a Unit or Improvement, or his, her or its family, guests, invitees or tenants, the cost of such maintenance or repairs shall become a Maintenance Charge and the personal obligation of the specific offending Owner as provided for in Article IX.

11.5 Wasatch County Maintenance Requirements.

(a) Public Trails System. The Master Association shall maintain the public trails system located within the Project. The maintenance provided shall meet or exceed the standard of reasonableness established by Wasatch County, or in accordance with standards accepted throughout the Wasatch Front, whichever is greater.

(b) Parcel A Open and Landscaped Areas, Trails. The Master Association shall maintain the open and landscaped areas of Parcel A, including trails, in all respects, including but not limited to, landscaping, irrigation, pest abatement and weed control. Such maintenance shall meet or exceed a standard of reasonableness and safety as established by Wasatch County.

(c) Detention Pond. The Master Association shall maintain all detention ponds and shall be responsible for all inspections, maintenance and repair of the detention areas and drainage swales leading to detention ponds. The Master Association shall inspect detention ponds for erosion and any changes after every major storm event but at least monthly. The Master Association shall inspect embankments for any visible sign or signs of erosion, seepage, sloughing, sliding, or other instability. Inspect outlet structures for flow obstruction, cracks, vandalism or erosion. Maintenance shall meet or exceed a standard of reasonableness and safety as established by Wasatch County. The Master Association shall also perform regular maintenance, including:

(i) Proceed with corrective measures for observed problems immediately or as soon as weather conditions permit;

(ii) Mow grass as required. Remove undesirable vegetation such as trees, bushes, and vines from embankments and pond area;

(iii) Fill all eroded gullies and vehicle ruts and compact soil. Backfill any hollow spots under concrete spillways or outlet structures and compact soil. Replace any riprap that has washed away from spillways and pipe outlets. Determine the cause of any slides or sloughs and repair. Take corrective action to prevent future recurrence;

(iv) Remove all trash, debris, tree limbs, or other flow obstructions from detention pond, outlet structures, and pipes. Fill all animal burrows and compact soil. Repair vandalism. Maintain pond and outlet structures in good working order.

(v) Do not use pesticides, herbicides, or fertilizers in or around the detention pond. These products will leach from the pond and pollute streams and river. However, nothing contained herein will prohibit the appropriate mosquito abatement, including the application of pesticides common among other Municipal treatment protocols in Wasatch County, or in accordance with standards accepted throughout the Wasatch Front, whichever is greater;

(vi) Make sure that the detention pond is draining properly. Detention ponds are designed to release storm water slowly not hold the water permanently. Improperly maintained ponds can harbor breeding areas for mosquitoes and reduce the storage volume of the pond;

(vii) Do not place yard waste such as leaves, grass clippings or brush in ponds; and

(viii) Remove vegetation from any cracks in concrete spillways or outlet structures and seal with mastic joint filler. Lubricate and test moving parts on gates, valves, etc. Repaint metal parts to prevent rust. Replace badly rusted parts. Remove any accumulated sediment to restore pond to design volume. Reseed with County approved seed mix as necessary to maintain good vegetative cover on exterior of embankments.

(d) Road Maintenance. All roads in the Project will be private roads, unless Wasatch County and the Declarant agree otherwise in writing. Private roads shall be constructed in accordance with Wasatch County standards. The Master Association shall maintain the roads, providing the same level of service provided to other Class B roads in the County.

(e) Snow Removal. The Master Association shall provide snow removal and ice mitigation on all private roads, parking lots, sidewalks, roofs, roof drains, rain gutters, and other areas in the Project, as necessary.

ARTICLE XII

RIGHTS AND POWERS OF MASTER ASSOCIATION

12.1 Master Association's Rights and Powers As Set Forth in the Articles and Bylaws. In addition to the rights and powers of the Master Association set forth in this Master Declaration, the Master Association shall have such rights and powers as are set forth in its Articles and Bylaws. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Master Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Master Declaration.

12.2 Master Association's Rights of Enforcement of Provisions of the Governing Documents. The Master Association, as the agent and representative of the Owners and Members, shall have the right to enforce, by any proceeding at law or in equity, the Covenants set forth in this Master Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in the Governing Documents. In the event suit is brought or arbitration is instituted or an attorney is retained by the Master Association to enforce the terms of the Governing Documents and the Master Association prevails, the Master Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith including but not limited to the Master Association's administrative costs and fees. Said attorneys' fees costs and expenses shall be the personal liability of the breaching Member and/or Owner, as the case may be, and shall also be secured by the Assessment Lien against such Member's and/or Owner's Parcel or Unit. If the Master Association should fail to act within a reasonable time, any Member shall have the right to enforce the Covenants set forth in this Master Declaration.

12.3 Contracts with Others for Performance of Master Association's Duties. Subject to the restrictions and limitations contained herein, the Master Association may enter into contracts and transactions with others, including the Declarant and any Declarant Affiliate, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more Directors or officers of the Master Association or members of any committee are employed by or otherwise connected with Declarant or any Declarant Affiliate, provided that the fact of such interest shall be disclosed or known to the other Directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such trustee, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he or she is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, Declarant Affiliate or any competitor thereof and may vote to authorize any such contract, transaction or approval with like force and effect as if he or she were not so interested.

12.4 Change of Use of Master Association Land. The Board shall have the power and right to change the use of any Master Association Land (and in connection therewith, construct, reconstruct, alter or change the Improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of all of

the Members, (ii) shall be consistent with the Governing Documents, and (iii) shall not be inconsistent with the development of any Parcel pursuant to the Parcel's development plans as approved by the Municipal Authority.

ARTICLE XIII

INSURANCE

13.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Parcel or Unit to an Owner other than the Declarant or Declarant Affiliate, the Master Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Property Insurance. A "master" or "blanket" multi-peril policy of property insurance covering the Project, including without limitation, fixtures and Building service equipment to the extent that they are part of the Common Elements, Limited Common Areas (appurtenant to residential or commercial units), Common Elements outside of the Buildings, Common Furnishings and supplies belonging to the Commercial Parcel Owner and/or the Residential Parcel Owner (the "Insured Property") insuring against all risk of direct physical loss commonly insured against, including fire and extended coverage perils, in an amount equal to the maximum insurable replacement value of the Insured Property, as determined by the Board; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the Insured Property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy; furniture and personal property located in Units shall be insured by their owners;

(b) General Liability Insurance. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$2,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and other portions of the Project which the Master Association is obligated to maintain under this Master Declaration;

(c) Worker's Compensation Insurance. Worker's compensation insurance to the extent necessary to meet the requirements of applicable law;

(d) Errors and Omissions Insurance. Errors and Omissions insurance to cover the Board and the Manager;

(e) Other Insurance. Such other insurance as the Board shall determine from time to time to be appropriate to protect the Master Association or the Members or Unit Owners;

13.2 Insurance Provisions. Each insurance policy purchased by the Master Association shall, to the extent reasonably available, contain the following provisions:

(a) The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Master Association or its agents, servants or employees, or with respect to claims against Members or Owners;

(b) No act or omission by any Member or Owner will void the policy or adversely affect recovery on the policy;

(c) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Members or Owners or any person residing with an Owner in an Owner's Unit;

(d) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner, Resident or Occupant because of the negligent acts of the Master Association or other Owners, Residents or Occupants;

(e) Statement naming the Master Association as the insured; and

(f) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

13.3 Certificates of Insurance. An insurer which has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Master Association and, upon request, to any Member, Owner or Mortgagee. Any insurance obtained pursuant to this Article shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Master Association and to each Member, Owner and Mortgagee to whom certificates of insurance have been issued.

13.4 Payment of Premiums. The premiums for any insurance obtained by the Master Association pursuant to this Master Declaration shall be included in the budget of the Master Association and shall be paid by the Master Association.

13.5 Payment of Insurance Proceeds. With respect to any loss covered by property insurance obtained by the Master Association, the loss shall be adjusted with the Master Association, and the insurance proceeds shall be payable to the Master Association and not to any Mortgagee. Subject to the provisions of Section 13.6, the proceeds shall be disbursed for the repair or restoration of the damage to the Insured Property.

13.6 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Insured Property which is damaged or destroyed shall be repaired or replaced promptly by the Master Association unless repair or replacement would be illegal under any state or local health or safety statute or ordinance. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Master Association. If the entire Insured Property is not repaired or replaced, insurance proceeds attributable to the damaged property shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall, as the Board shall determine in its sole and exclusive discretion, either: (i) be retained by the Master Association as an additional capital

reserve; (ii) be used for payment of operating expenses of the Master Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Master Association; or (iii) shall be distributed to Members in proportion to their respective Assessment Units.

ARTICLE XIV

DAMAGE OR DESTRUCTION

14.1 Master Association as Attorney in Fact. Each Member and Owner hereby irrevocably constitutes and appoints the Master Association as such Member's and Owner's true and lawful attorney-in-fact in such Member's and Owner's name, place, and stead for the purpose of dealing with the Improvements on the Common Elements, or other Insured Property, upon damage or destruction as provided in this Article or a complete or partial taking as provided in Article XV below. As attorney-in-fact, the Master Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, Deed, waiver, or other instrument with respect to the interest of any Member or Owner which may be necessary or appropriate to exercise the powers granted to the Master Association as attorney-in-fact unless otherwise required by law. All insurance proceeds shall be payable to the Master Association except as otherwise provided in this Master Declaration.

14.2 Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Improvements on the Common Elements or other Insured Property in the Project, the Master Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Elements, or other Insured Property, so damaged or destroyed. "Repair and reconstruction" as used in this Article XIV means restoring the damaged or destroyed Improvements to restore to as near its original condition as possible in which they existed prior to the damage or destruction.

14.3 Repair and Reconstruction. As soon as practical after obtaining estimates, the Master Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Common Elements or Improvements, or other Insured Property. As attorney-in-fact for the Members and Owners, the Master Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Member or Owner shall be necessary. Assessments of the Master Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

14.4 Funds for Repair and Reconstruction. The proceeds received by the Master Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Master Association may, pursuant to Article VIII above, levy, assess, and collect in advance from all Members without the necessity of a special vote of the Members, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

14.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Master Association and the amounts received from the Special Assessments provided for in Article VIII above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Members and Owners in proportion to the contributions each Member and Owner made as a Special Assessment to the Master Association under Section 14.4 above, or, if no Special Assessments were made, then to Members in proportion to their respective Assessment Units, first to the Mortgagees and then to the Members.

14.6 Notice to Eligible Mortgagees. The Master Association shall give timely written notice to any holder of any Eligible Mortgage on a Parcel, Unit or Improvement who requests such notice in writing in the event of substantial damage to or destruction of a material part of the Common Elements or other Insured Property.

ARTICLE XV

CONDEMNATION

15.1 Notice. Whenever all or any part of the Common Elements shall be taken or conveyed in lieu of and under threat of condemnation, each Member shall be entitled to notice of the taking, but the Master Association shall act as attorney-in-fact for all Members in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

15.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Master Association as trustee for all Members to be disbursed as follows: If the taking involves a portion of the Common Elements on which Improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Members representing at least sixty-seven percent (67%) of the votes in the Master Association shall otherwise agree, the Master Association shall restore or replace such Improvements so taken on the remaining land included in the Common Elements to the extent lands are available therefor, in accordance with plans approved by the Board. If such Improvements are to be repaired or restored, the provisions in Article XIV above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed to Members in proportion to their respective Assessment Units, first to the Mortgagees and then to the Members.

15.3 Complete Condemnation. If all of the Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Master Declaration shall terminate, and the portion of the condemnation award attributable to the Common Elements shall be distributed to Members based upon the relative value of the Parcels prior to the condemnation.

ARTICLE XVI

MORTGAGEE REQUIREMENTS

16.1 Notice of Action. The Board shall maintain a roster containing the name and address of each Eligible Mortgagee as such term is defined herein and in Section 1.45 above. To be considered an Eligible Mortgagee, a First Mortgagee shall provide the Board with a certified copy of its Recorded First Mortgage and the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage together with a written request that it receive notice of the matters and actions described below. The Eligible Mortgagee shall be stricken from the roster upon request by such Eligible Mortgagee or upon receipt by the Board of a certified copy of a Recorded full release or satisfaction of the Eligible Mortgage. Notice of such removal shall be given to the Eligible Mortgagee unless the removal is requested by the Eligible Mortgagee. Upon the Master Association's receipt of such written request, an Eligible Mortgagee shall be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Parcel on which there is a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor;
- (b) Any delinquency in the payment of Assessments or charges owed by a Member whose Parcel is subject to a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of one-hundred twenty (120) days; and
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond or insurance maintained by the Master Association.

16.2 Availability of the Project Documents and Financial Statements. The Master Association shall maintain and have current copies of the Governing Documents and other documents concerning the Project as well as the Rules & Regulations, membership register, books, records, and financial statements available for inspection by Members, upon such Member's written request and such Member's payment of any copying charges. "Available" shall mean available for inspection, upon not less than five (5) days prior to the request, during normal business hours or under other reasonable circumstances. The Master Association may, as a condition to permitting a Member to inspect the membership register or to its furnishing information from the register, require that the Member agree in writing not to use, or allow the use of, information from the membership register for commercial or other purposes not reasonably related to the regular business of the Master Association and the Member's interest in the Master Association.

16.3 Subordination of Lien. The Assessment or claim against a Parcel, Unit, Residential Structure or Improvement, or part thereof or interest therein, for unpaid Assessments or charges levied by the Master Association pursuant to this Master Declaration shall be subordinate to the First Mortgage affecting such Parcel, Unit, Residential Structure or Improvement, or part thereof or interest therein, and the First Mortgagee thereunder which comes into possession of or which obtains title to such Parcel, Unit, Residential Structure or Improvement, or part thereof or interest

therein, shall take the same free of such lien or claim for unpaid Assessment or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a Deed or assignment in lieu of foreclosure. No Assessment, charge, Assessment Lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Master Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Parcel, Unit, Residential Structure or Improvement, or part thereof or interest therein, affected or previously affected by the First Mortgage concerned. The provisions of this Section 16.3 shall be in addition to the rights of a First Mortgagee under Section 9.4.

16.4 Notice to Eligible Mortgagees. The Master Association shall give timely written notice of the events listed in Section 16.1 above to any holder of any Eligible Mortgagee on a Parcel, Unit, Residential Structure or Improvement, or part thereof or interest therein, who requests such notice in writing.

16.5 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Elements are not timely paid, or in the event the required hazard insurance described in Section 13.1 lapses, is not maintained, or the premiums therefor are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any First Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Master Association.

16.6 Priority. No provision of this Master Declaration or the Articles gives or may give a Member or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Members of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Parcels or the Common Elements. All proceeds or awards shall be paid directly to any Mortgagees of Record, as their interest may appear.

ARTICLE XVII

TERM; AMENDMENTS; TERMINATION

17.1 Term; Method of Termination. This Master Declaration shall be effective upon the date of Recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of fifty (50) years from the date this Master Declaration is Recorded. From and after said date, this Master Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Master Declaration by the then Members casting at least eighty percent (80%) of the total votes of the Master Association cast at an election held for such purpose or otherwise approved in writing within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Master Declaration may be terminated at any time if the Members casting at least eighty percent (80%) of the votes of the Master Association in favor of termination at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate (or amend as provided in Section 17.2 below) this Master Declaration shall be effective unless and until written consent to such termination or amendment has been obtained,

within a period from six (6) months prior to such vote to six (6) months after such vote, from Eligible Mortgagees on sixty-seven percent (67%) of the Parcels upon which there are such Eligible Mortgagees. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Master Association, with their signatures acknowledged. Thereupon these Covenants shall have no further force and effect, and the Master Association shall be dissolved pursuant to the terms set forth in its Articles.

17.2 Amendments. This Master Declaration may be amended by Recording with the County Recorder of Wasatch County, Utah, as applicable, an Amendment to this Master Declaration, duly signed and acknowledged by and on behalf of the Master Association. The Amendment shall set forth in full the amendment adopted. Except as provided in Section 17.3 and 17.4 of this Article or elsewhere in this Master Declaration, the Amendment shall also certify that at a meeting duly called and held pursuant to the provisions of the Articles and Bylaws, the Members casting at least sixty seven percent (67%) of the total votes of the Master Association voted affirmatively for the adoption of the amendment, or by unanimous written consent without a meeting. Notwithstanding the foregoing, any Amendment which shall modify the rights granted to Mortgagees under Article XVI, shall require the vote or written assent of sixty-seven percent (67%) of all Eligible Mortgagees. Prior to the Class B Termination Date, this Master Declaration shall not be terminated or amended without the written approval of the Declarant.

17.3 Unilateral Amendments. The Declarant alone may amend or terminate this Master Declaration prior to the closing of a sale of the first Unit to a non-Declarant or non-Declarant Affiliate. Notwithstanding anything contained in this Master Declaration to the contrary, this Master Declaration may be amended unilaterally at any time and from time to time by Declarant if such amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Parcels, Units, Residential Structures or Improvements subject to this Master Declaration; provided, however, any such amendment shall not materially adversely affect the title to any Parcel, Unit, Residential Structure or Improvement unless such Owner shall consent thereto in writing. Further, so long as the Declarant's Class B Membership in the Master Association exists, Declarant may unilaterally amend this Master Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

17.4 Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Anything in this Article or Master Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Master Declaration to such extent and with such language as may be requested by the Municipal Authority, the Utah Division of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Master Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Parcel(s), Unit(s), Residential Structure(s) or any portions

thereof. Any such amendment shall be effected by the Recordation by Declarant of an Amendment duly signed by or on behalf of the members, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the Amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an Amendment, and such Amendment, when Recorded, shall be binding upon all of the Property and all persons having an interest therein. It is the desire of Declarant to retain control of the Master Association and its activities during the anticipated period of planning and development. If any Amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Master Declaration to restore such control.

ARTICLE XVIII

DECLARANT'S RIGHTS

18.1 Transfer. Any or all of the special rights and obligations of the Declarant or any Declarant Affiliate, including the rights and obligations of the Declarant, may be transferred to other Persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Master Declaration, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly Recorded.

18.2 Period of Declarant Control. The Period of Declarant control is as set forth in Section 1.53.

18.3 Modifications. Declarant reserves for itself, Declarant Affiliate and Declarant's assigns the right to vary the timing, mix, type, use, style, and numbers of Parcels, Units and Improvements, the materials, and other such details of construction or modifications with respect to Parcels owned by Declarant or any Declarant Affiliate.

18.4 Termination of Declarant's Approval Rights and Obligations. Except as otherwise expressly provided for herein, any or all of the approval rights and obligations of the Declarant or any Declarant Affiliate under this Master Declaration shall terminate on the Class B Termination Date. Thereafter, the Master Association shall have the power to exercise any remaining approval rights and obligations of the Declarant or any Declarant Affiliate under this Master Declaration.

18.5 Amendment. This Article XVIII and any other provision included in the Master Declaration, Bylaws, or Articles granting to the Declarant rights may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article XVIII shall terminate upon termination of the Period of Declarant Control.

ARTICLE XIX

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

19.1 Agreement to Avoid Costs of Litigation. The Master Association, Declarant, each Owner, all Persons subject to this Master Declaration, and any Person not otherwise subject to this Master Declaration who agrees to submit to this Section (collectively, “Bound Parties”) agree to encourage the amicable resolution of disputes involving the properties at the Project, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, causes of action, grievances or disputes, whether based in contract, tort, or applicable law, between such Bound Party and any other Bound Party involving properties at the Project or the purchase of any Unit from the Declarant, a Declarant Affiliate, or JMR, including, without limitation, claims, causes of action, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Master Declaration or the Governing Documents (collectively “Claim”), except for those Exempt Claims authorized under Section 19.2 below, shall be subject to the procedures set forth in Section 19.3.

19.2 Exempt Claims. The following Claims (“Exempt Claims”) shall be exempt from the provisions of Section 19.3:

- (a) Any suit by the Declarant against any Bound Party to enforce the provisions of this Master Declaration or to enforce any of Declarant’s developmental rights set forth in this Master Declaration;
- (b) Any suit by the Master Association against any Bound Party to enforce the provisions of this Master Declaration, including any defensive or responsive actions by the party against whom the action is taken;
- (c) Any suit by the Master Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Master Association’s ability to enforce the provisions of this Master Declaration, including any defensive or responsive actions by the party against whom the action is taken;
- (d) Any suit between Owners, which suit does not include or implicate the Declarant, a Declarant Affiliate, or JMR, seeking redress on the basis of a Claim which would constitute a cause of action under the law of the State of Utah in the absence of a claim based on the Governing Documents;
- (e) Any suit or enforcement action or exercise of any right or remedy under or in respect of any Mortgage, any indebtedness secured by such Mortgage or any other document or agreement executed in connection with such Mortgage or in respect of any right provided herein with respect to such Mortgage; and
- (f) Any suit or claim by the Master Association resulting from the Initial Development and Construction governed by Section 19.4.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 19.3, but there shall be no obligation to do so.

19.3 Mandatory Procedures for All Other Claims. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) other than an Exempt Claim, shall not file suit in any court or initiate any proceeding before any administrative or governmental tribunal seeking redress or resolution of such Claim. Instead, the Claimant and Respondent must follow the dispute resolution procedures set forth in this Section 19.3.

(a) Notice. The Claimant shall notify each Respondent in writing of the Claim (“Notice”), stating plainly and concisely:

(i) The nature of the Claim, including date, time, location, person involved, Respondent’s role in the Claim;

(ii) The basis of the Claim (i.e., the provision of the Master Declaration, Governing Documents, or other authority out of which the Claim arises);

(iii) What Claimant wants Respondent to do or not to do to resolve the Claim; and

(iv) That Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Good Faith Negotiation.

(i) Each Claimant and Respondent (“Parties”) shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(ii) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the Project community.

(c) Final and Binding Arbitration.

(i) If the Parties do not resolve the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), the Claimant shall have thirty (30) days following Termination of Negotiations to submit the Claim to arbitration in accordance with the Arbitration Provisions attached hereto as Exhibit D or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

(ii) This Section 19.3 is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration law of the State of Utah. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Utah.

(iii) In the event a Bound Party is compelled by a court to arbitrate any Claim, that Bound Party shall be required to pay all the attorneys' fees and costs incurred by any other Bound Party in connection with compelling arbitration.

(d) Allocation of Costs of Resolving Claims.

(i) Each Party shall bear all its own costs incurred prior to and during the proceedings described in this Section 19.3, including the fees of its attorney or other representative.

(ii) Each Party shall share equally in the costs of conducting the arbitration proceeding (collectively, "Arbitration Costs"), except as otherwise provided in this Section 19.3 (a)(iv); provided, however, if the Claim is rejected in whole or in part, the Claimant shall pay all Arbitration Costs, including the costs incurred by the Respondent.

19.4 Claims Arising from Initial Development and Construction. In all claims and causes of action by the Master Association, whether in contract, tort, or otherwise arising out of or related to the Initial Construction, against a Developer, Design Professional, General Contractor, any consultants of a Design Professional, or any subcontractors of a General Contractor, the Master Association shall be governed by the following:

(a) In all claims and causes of action by the Master Association, the Master Association shall attach as an exhibit to its first Complaint filed with a court of competent jurisdiction an affidavit of a third-party licensed in the State of Utah in the same profession, area of practice, or construction trade as to each defendant and who is competent to testify. Each affidavit shall set forth specifically a professional opinion as to each act, error, or omission alleged in the Complaint against the respective defendant that caused the Master Association's alleged damages and the factual basis for each such opinion. The Master Association's failure to file the affidavit in accordance with this Section 19.4 shall result in dismissal with prejudice of any claim described in this Section 19.4 against the particular defendant for which such affidavit is required and an award of reasonable attorney fees and expenses incurred by the particular defendant, its insurer, or any other person or entity on behalf of that defendant in defending against the allegations of the Complaint.

(b) The Master Association shall commence all claims and causes of action, whether in contract, tort, or otherwise arising out of or related to the Initial Construction, against a Developer, Design Professional, General Contractor, any design consultants of a Design Professional, or any subcontractors of a General Contractor not more than four (4) years after the date of Substantial Completion of the Initial Construction. The Master

Association waives all claims and causes of action not commenced in accordance with this section.

(c) During the four (4) years following the date of Substantial Completion of the Initial Construction, the Master Association shall schedule an annual walkthrough of all common areas with the Master Association's maintenance personnel and all Developers, Design Professionals, and General Contractors for the purpose of identifying items potentially in need of repair or maintenance within the next year. The Master Association shall give at least thirty (30) days prior written notice of the date and time of the walkthrough to all Developers, Design Professionals, and General Contractors, which time and date shall be during normal business hours. The Master Association shall conduct each walkthrough regardless of any lack of participation by any Developers, Design Professionals, or General Contractors. In the event the Developers, Design Professionals, or General Contractors do not participate, the Master Association shall inform them in writing of the results of the walkthrough consistent with Section 19.4.

(d) As an express condition precedent to the Master Association bringing any claim or cause of action, whether in contract, tort, or otherwise arising out of or related to the Initial Construction, against a Developer, Design Professional, General Contractor, any consultants of a Design Professional, or any subcontractors of a General Contractor, the Master Association shall give written notice by United States Postal Service certified mail, return receipt requested, of an alleged defect in the Initial Construction to all Developers, Design Professionals, and General Contractors within thirty (30) days of first discovering the alleged defect, and each Developer, Design Professional, and General Contractor shall then have ninety (90) days from the mailing date of the last written notice to any of them to cure such alleged defect. The Master Association's failure to provide notice in accordance with Section 19.4(d) shall result in dismissal with prejudice of any claim described in subsection 19.4(d) and an award of reasonable attorney fees and expenses incurred by any defendant, its insurer, or any other person or entity on behalf of that defendant in defending against the alleged defect. This dismissal in no way affects any claims, counterclaims, cross-claims, or defenses of Developers, Design Professionals, General Contractors, or any subcontractors of a General Contractor.

(e) To the extent damages are covered by insurance, the Master Association waives all rights against a Developer, Design Professional, General Contractor, any consultants of a Design Professional, and any subcontractors of a General Contractor for damages, except such rights as the Master Association may have to the proceeds of such insurance.

(f) The Master Association waives any claim or cause of action for consequential damages arising out of or relating to the Initial Construction, against a Developer, Design Professional, General Contractor, any consultants of a Design Professional, and any subcontractors of a General Contractor.

(g) A Super Majority vote in favor by the voting members of the Master Association is an express condition precedent to the Master Association bringing any claim or cause of action, whether in contract, tort, or otherwise arising out of or related to the

Initial Construction, against a Developer, Design Professional, General Contractor, any consultants of a Design Professional, or any subcontractors of a General Contractor.

(h) **Definitions.** The following terms shall be defined as follows:

(i) Design Professional means any architect, engineer, or surveyor licensed in the State of Utah that performed professional services for the Initial Construction pursuant to a contract with the Developer.

(ii) Developer shall mean the Declarant, Declarant Affiliate or their successors in interest in development of the Project.

(iii) General Contractor shall mean any contractor licensed in the State of Utah that furnished labor, materials, or equipment for the Initial Construction pursuant to a contract with the Developer.

(iv) Initial Development and Construction shall mean the design and construction of the Project, including all services, labor, materials, and equipment furnished for the improvement thereof, that achieved Substantial Completion within six (6) years of date of the recording of this document.

(v) Super Majority shall mean 67% of the Members and Owners.

19.5 Amendment of Article XIX. Notwithstanding anything to the contrary in the Governing Documents, the requirements of Article XIX may not be amended with respect to any Claim involving the Declarant unless the Declarant expressly consents in writing to such amendment.

ARTICLE XX

GENERAL PROVISIONS

20.1 Priority. Priority shall be given to the Governing Documents in the following order: this Master Declaration, Articles, Bylaws, and the Rules & Regulations. This Master Declaration is subject to Municipal and State laws and regulations, and, to the extent there is any conflict with the Municipal and State laws and regulations, those laws and regulations that govern this Project will control, except to the extent that such ordinances, laws and regulations establish or allow a different priority.

20.2 Property Held in Trust. Except as otherwise expressly provided in this Master Declaration, any and all portions of the Project which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is the Declarant or a Declarant Affiliate, shall be deemed for all purposes under this Master Declaration to be owned by the Declarant or such Declarant Affiliate, as applicable, and shall be treated for all purposes under this Master Declaration in the same manner as if such property were owned in fee by the Declarant or such Declarant Affiliate, as applicable. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by or to the Declarant or any such Declarant Affiliate to any such trust (or the trustee thereof) shall be deemed

for purposes of this Master Declaration to be a sale of such property or any right, title or interest therein.

20.3 Interpretation of the Covenants. Except for judicial construction, the Declarant, prior to the Class B Termination Date, and thereafter the Master Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Master Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Declarant's or the Master Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the Covenants and provisions hereof. All such construction and interpretation shall, to the extent possible, be consistent with the other terms and provisions of the Governing Documents, and shall reflect the intent of this Master Declaration and the overall master development plan for the Project as embodied in the Governing Documents.

20.4 Severability. Any determination by any court of competent jurisdiction that any provision of this Master Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Any such provision deemed to be invalid or unenforceable shall be deemed to be amended to the least extent necessary for such provision to become valid or enforceable.

20.5 Change of Circumstances. Except as otherwise expressly provided in this Master Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Master Declaration.

20.6 Rules and Regulations. In addition to the right to adopt the Rules & Regulations on the matters expressly mentioned elsewhere in this Master Declaration, the Master Association (through its Board) shall have the right to adopt rules and regulations with respect to all other aspects of the Master Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Master Declaration.

20.7 Declarant's Disclaimer of Representations. Anything to the contrary in this Master Declaration notwithstanding, and except as otherwise may be expressly set forth on a plat or other Recorded instrument, Declarant or Declarant Affiliate makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any such land (whether or not it has been subjected to this Master Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect. Declarant shall have the right to make changes or modifications to this Master Declaration, the Master Development Plat or any other land use or landscaping plan with respect to any property owned by Declarant or Declarant Affiliate in any way which the Declarant desires, so long as such changes do not contradict the Development Agreement, subject to approval by the Declarant. Such amendments may include, but are not limited to, changing the nature or extent of the uses to which such property may be devoted, reallocating Unit square footages, or readjustment of Parcel lot line boundaries or Building boundaries.

20.8 References to the Covenants in Deeds. Deeds or any instruments affecting any Parcel, Unit or Improvement, or any part of the Project may contain the Covenants herein set forth

by reference to this Master Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his or her heirs, executors, administrators, successors and assigns.

20.9 List of Members. The Board shall maintain up-to-date records showing: (i) the name of each Parcel Association, the address of such Parcel Association and the Parcel which is maintained by it, and (ii) the name of each Eligible Mortgagee on a Parcel. In the event of any transfer of a fee or undivided fee interest in a Parcel, either the transferor or transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of Record. The Board may for all purposes act and rely on the information concerning Members and Parcel ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Parcel which is obtained from the Office of the County Recorder of Wasatch County, Utah, as applicable. The address of a Member shall be deemed to be the address of the Parcel Association unless the Board is otherwise advised. The list of Members shall be made available by the Board to any Member for noncommercial purposes upon such Member's written request and such Member's payment of any copying charges. "Available" shall mean available for inspection, upon not less than five (5) days prior request, during normal business hours or under other reasonable circumstances.

20.10 General Obligations. Each Member shall enjoy and be subject to all rights and duties assigned to Members pursuant to this Master Declaration. With respect to unsold Units, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Units, except as otherwise expressly provided for herein.

20.11 Rights of Action. The Master Association and any aggrieved Member shall have a right of action against Members who fail to comply with the provisions of this Master Declaration or the decisions of the Master Association. Members shall have a similar right of action against the Master Association.

20.12 Successors and Assigns of Declarant. Any reference in this Master Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder, including without limitation any Declarant Affiliate.

20.13 Gender and Number. Wherever the context of this Master Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

20.14 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Master Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

20.15 Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have

been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to such Person at the address given by that Person to the Master Association for the purpose of service of such notice or to the address of the Parcel, Unit or Improvement of such Person if no address has been given. Such address may be changed from time to time by notice in writing received by the Master Association. Notice to the Board shall also be delivered or mailed to the Declarant at 7026 S 900 E, Midvale, Utah 84047, or at such other address as the Board may designate after the end of Period of Declarant Control.

20.16 Number of Days. In computing the number of days for purposes of any provision of this Master Declaration or the Governing Documents, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

20.17 Notice of Violation. The Master Association shall have the right to Record a written notice of a violation by any Member, Owner, Resident or Occupant of any restriction or provision of the Governing Documents. The notice shall be executed and acknowledged by an officer of the Master Association and shall contain substantially the following information.

- (a) The name of the Parcel Association, Owner, Resident or Occupant;
- (b) The legal description of the Parcel, Unit or Improvement against which the notice is being Recorded;
- (c) A brief description of the nature of the violation;
- (d) A statement that the notice is being Recorded by the Master Association pursuant to this Master Declaration; and
- (e) A statement of the specific steps which must be taken by the Member, Owner, Resident or Occupant to cure the violation.

Recordation of a notice of violation shall serve as a notice to the Member, Owner, Resident or Occupant, and to any subsequent purchaser of the Parcel, Unit or Improvement, that there is such a violation. If, after the Recordation of such notice, it is determined by the Master Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Master Association shall Record a notice of compliance which shall state the legal description of the Parcel, Unit or Improvement against which the notice of violation was Recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Master Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

20.18 Perpetuities. If any of the Covenants or other provisions of this Master Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of Governor of the State of Utah on the date this Master Declaration is Recorded.

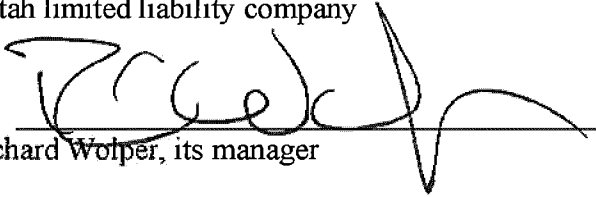
20.19 Security. The Master Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than they otherwise might be. Neither the Master Association, nor the Declarant shall in any way be considered insurers or guarantors of security within the Project, however, and neither the Master Association, nor the Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Members, Owners, Residents, and his, her or its tenants, guests and invitees acknowledge that the Declarant, the Master Association and its Board do not represent or warrant that any fire protection, security camera or burglar alarm systems designated by or installed according to the Plans or the Rules & Regulations may not be compromised or circumvented, that any fire protection, security camera or burglar alarm systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise nor that fire protection, security camera or burglary alarm systems will in all cases provide the detection or protection for which the system is designed or intended. Each Member, Owner, Resident, or his, her or its tenant, guest or invitee acknowledges and understands that the Declarant, the Master Association, and its Board are not insurers and that each Member, Owner, Resident, or his, her or its tenant, guest and invitee assumes all risks for loss or damage to Persons or property within the Project and further acknowledges that Declarant, the Master Association, and its Board have made no representations or warranties nor has any Member, Owner, Resident, or his, her or its tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems recommended or installed or any security measures undertaken within the Project.

20.20 Use of “Black Rock Mountain Resort” Term. No Person shall use the term “Black Rock Mountain Resort” or any other trademark, tradename, or DBA, used by the Declarant or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant.

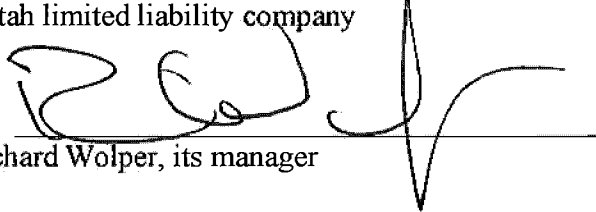
[Signatures on Following Page]

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

JOVID MARK, LLC,
a Utah limited liability company

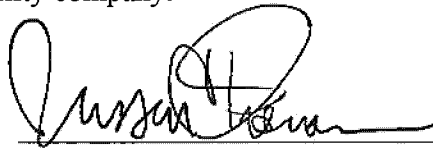
By: 
Richard Wolper, its manager

JOVID MARK RESIDENCES, LLC,
a Utah limited liability company

By: 
Richard Wolper, its manager

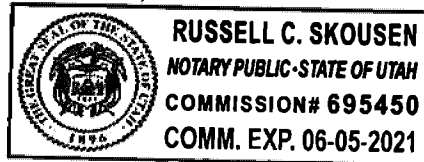
STATE OF UTAH)
):ss.
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this 10th day of November 2020 by Richard Wolper, the manager of Jovid Mark, LLC, a Utah limited liability company, and Jovid Mark Residences, a Utah limited liability company.



NOTARY PUBLIC

6/5/2021
My Commission Expires:



**CONSENT TO RECORD AND SUBORDINATION
(BRELF II, LLC)**

The undersigned BRELF II, LLC, a Washington limited liability company (“Lender”), is the Lender specified in that certain Promissory Note dated as of May 16, 2019 between the Declarant and the Lender, is the Beneficiary of that certain Deed of Trust, Security Agreement and Fixture Filing with Assignment of Leases and Rents, dated as of May 16, 2019, and recorded May 17, 2019, as Entry No. 463691, in Book 1252, Page 807-838, of the Official Records of Wasatch County, Utah (“Deed of Trust”) which constitutes a lien of record against the property subject to the foregoing Declaration. The Lender hereby subordinates the lien and encumbrance of the Deed of Trust to this Declaration and to the rights of the Owners as set forth in such Declaration and consents to the recordation of such Declaration as well as plat the Jovid Mark Subdivision, filed as Entry No. 442839, in Book 1201, beginning at Page 1247; JOVID MARK SUBDIVISION, A CONDO PLAT, AMENDING PARCELS 2, 3 AND 4 (1st amendment) (PHASE 1), Recorded April 9, 2019 as Document No. 462319; JOVID MARK SUBDIVISION, A CONDO PLAT, AMENDING PARCELS AMENDING PARCELS 3 AND 5 (2nd amendment) (PHASE 2), Recorded April 10, 2019 as Document No. 462341; JOVID MARK SUBDIVISION, A CONDO PLAT, AMENDING PARCELS AMENDING PARCELS 4 AND 7 (3rd amendment) (PHASE 3), Recorded April 10, 2019 as Document No. 462344; duly Recorded, as the same may be amended from time to time, and which is incorporated herein by this reference.

LENDER

BRELF II, LLC

By: Broadmark Real Estate Management II, LLC
Manager of BRELF II, LLC

By: _____
Joanne Van Sickle, its manager

By: _____
Jeffrey B. Pyatt, its manager

STATE OF WASHINGTON)
):
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by JOANNE VAN SICKLE and JEFFREY B. PYATT, the managers of Broadmark Real Estate Management II, LLC, which is the manager of BRELF II, LLC.

NOTARY PUBLIC
Residing at:

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Parcel A:

All of that certain real property situated in County of Wasatch, State of Utah designated as Parcel A, as shown on the plat for the Jovid Mark Subdivision, recorded on September 19, 2017 and filed as Entry No. 442839, in Book 1201, beginning at Page 1247, according to the official plat thereof as recorded in the office of the Wasatch County Recorder.

Parcel A Tax Parcel No.
00-0021-2658

Area 7.46 acres

Parcel 2:

Units 253, 254, 255, 352, 353, 452, 453, 454, 455, 456, 457, 458, 551, 552 and 553, Jovid Mark Subdivision A Condo Plat Amending Parcels 2, 3 and 4 (1st amendment) (Phase 1), according to the official plat thereof as recorded in the office of the Wasatch County Recorder.

Together with the Common Area as shown on the official plat recorded April 9, 2019 as Entry No. 462319 in Book 1248 at Page 1434 of Official Records.

Parcel 2 Tax Parcel Nos.

00-0021-4090
00-0021-4091
00-0021-4092
00-0021-4093
00-0021-4094
00-0021-4095
00-0021-4096
00-0021-4097
00-0021-4098
00-0021-4099
00-0021-4100
00-0021-4101
00-0021-4102
00-0021-4103
00-0021-4104

Parcels 3 and 5:

Units 205, 206, 207, 208, 209, 211, 251, 252, 305, 306, 307, 308, 309, 310, 311, 312, 405, 406, 407, 408, 409, 410, 411, 412, 505, 506, 507, 508, 509, 510, 511, 512, 605, 606, 607, 608, 609, 610, 611 and 612, Jovid Mark Subdivision A Condo Plat Amending Parcels 3 and 5 (2nd amendment) (Phase 2), according to the official plat thereof as recorded in the office of the Wasatch County Recorder.

Together with the Common Area as shown on the official plat recorded April 10, 2019 as Entry No. 462341 in Book 1248 at Page 1662 of Official Records.

Parcels 3 and 5 Tax Parcel Nos.

- 00-0021-4105
- 00-0021-4106
- 00-0021-4107
- 00-0021-4108
- 00-0021-4109
- 00-0021-4110
- 00-0021-4111
- 00-0021-4112
- 00-0021-4113
- 00-0021-4114
- 00-0021-4115
- 00-0021-4116
- 00-0021-4117
- 00-0021-4118
- 00-0021-4119
- 00-0021-4120
- 00-0021-4121
- 00-0021-4122
- 00-0021-4123
- 00-0021-4124
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- 00-0021-4140
- 00-0021-4141
- 00-0021-4142
- 00-0021-4143
- 00-0021-4144

Parcels 4 and 7:

Units 256, 313, 315, 317, 319, 354, 355, 356, 357, 413, 414, 415, 416, 417, 418, 419, 420, 513, 514, 515, 516, 517, 518, 519, 520, 613, 614, 615, 616, 617, 618, 619 and 620, Jovid Mark Subdivision A Condo Plat Amending Parcels 4 and 7 (3rd amendment) (Phase 3), according to the official plat thereof as recorded in the office of the Wasatch County Recorder.

Together with the Common Area as shown on the official plat recorded April 10, 2019 as Entry No. 462344 in Book 1248 at Page 1768 of Official Records.

Parcels 4 and 7 Tax Parcel Nos.:

- 00-0021-4145
- 00-0021-4146
- 00-0021-4147
- 00-0021-4148
- 00-0021-4149
- 00-0021-4150
- 00-0021-4151
- 00-0021-4152
- 00-0021-4153
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- 00-0021-4166
- 00-0021-4167
- 00-0021-4168
- 00-0021-4169
- 00-0021-4170
- 00-0021-4171
- 00-0021-4172
- 00-0021-4173
- 00-0021-4174
- 00-0021-4175
- 00-0021-4176
- 00-0021-4177

909 West Peace Tree Trail, Heber City, Utah 84032

EXHIBIT B

Unit #	Phase	Bldg	Parcel Number	Use	Level	Sq. Ft.	Number of Votes Per Unit/Parcel	Commercial or Residential Parcel Association
457	Two	2	00-0021-4100	Common	4	1,258	1,258	Commercial
253	Two	2	00-0021-4090	Commercial	2	3,131	3,131	Commercial
254	Two	2	00-0021-4091	Commercial	2	1,737	1,737	Commercial
255	Two	2	00-0021-4092	Commercial	2	576	576	Commercial
352	Two	2	00-0021-4093	Commercial	3	2,911	2,911	Commercial
353	Two	2	00-0021-4098	Commercial	3	2,480	2,480	Commercial
456	Two	2	00-0021-4099	Commercial	4	3,229	3,229	Commercial
452	Two	2	00-0021-4095	Commercial	4	444	444	Commercial
453	Two	2	00-0021-4096	Commercial	4	180	180	Commercial
454	Two	2	00-0021-4097	Commercial	4	126	126	Commercial
455	Two	2	00-0021-4098	Commercial	4	137	137	Commercial
458	Two	2	00-0021-4101	Commercial	4	2,464	2,464	Commercial
551	Two	2	00-0021-4102	Residential	5-7	4,087	4,087	Commercial
552	Two	2	00-0021-4103	Residential	5-7	4,087	4,087	Commercial
553	Two	2	00-0021-4104	Residential	5-6	4,237	4,237	Commercial
					Subtotal	31,084	31,084	
205	Three	5	00-0021-4105	Residential	2	1,160	1,160	Residential
206	Three	5	00-0021-4106	Residential	2	1,160	1,160	Residential
207	Three	5	00-0021-4107	Residential	2	1,160	1,160	Residential
208	Three	5	00-0021-4108	Residential	2	1,160	1,160	Residential
209	Three	3	00-0021-4109	Residential	2	1,160	1,160	Residential
211	Three	3	00-0021-4110	Residential	2	1,160	1,160	Residential
251	Three	3	00-0021-4111	Commercial	2	836	836	Residential
252	Three	3	00-0021-4112	Commercial	2	1,574	1,574	Residential
305	Three	5	00-0021-4113	Residential	3	1,160	1,160	Residential
306	Three	5	00-0021-4114	Residential	3	1,160	1,160	Residential
307	Three	5	00-0021-4115	Residential	3	1,160	1,160	Residential
308	Three	5	00-0021-4116	Residential	3	1,160	1,160	Residential
309	Three	3	00-0021-4117	Residential	3	1,160	1,160	Residential
310	Three	3	00-0021-4118	Residential	3	1,160	1,160	Residential
311	Three	3	00-0021-4119	Residential	3	1,160	1,160	Residential
312	Three	3	00-0021-4120	Residential	3	1,160	1,160	Residential
405	Three	5	00-0021-4121	Residential	4	1,160	1,160	Residential
406	Three	5	00-0021-4122	Residential	4	1,160	1,160	Residential
407	Three	5	00-0021-4123	Residential	4	1,160	1,160	Residential
408	Three	5	00-0021-4124	Residential	4	1,160	1,160	Residential
409	Three	3	00-0021-4125	Residential	4	1,160	1,160	Residential
410	Three	3	00-0021-4126	Residential	4	1,160	1,160	Residential
411	Three	3	00-0021-4127	Residential	4	1,160	1,160	Residential
412	Three	3	00-0021-4128	Residential	4	1,160	1,160	Residential
505	Three	5	00-0021-4129	Residential	5	1,160	1,160	Residential
506	Three	5	00-0021-4130	Residential	5	1,160	1,160	Residential
507	Three	5	00-0021-4131	Residential	5	1,160	1,160	Residential
508	Three	5	00-0021-4132	Residential	5	1,160	1,160	Residential
509	Three	3	00-0021-4133	Residential	5	1,160	1,160	Residential
510	Three	3	00-0021-4134	Residential	5	1,160	1,160	Residential
511	Three	3	00-0021-4135	Residential	5	1,160	1,160	Residential
512	Three	3	00-0021-4136	Residential	5	1,160	1,160	Residential
605	Three	5	00-0021-4137	Residential	6	1,160	1,160	Residential

Unit #	Phase	Bldg	Parcel Number	Use	Level	Sq. Ft.	Number of Votes Per Unit/Parcel	Commercial or Residential Parcel Association
606	Three	5	00-0021-4138	Residential	6	1,160	1,160	Residential
607	Three	5	00-0021-4139	Residential	6	1,160	1,160	Residential
608	Three	5	00-0021-4140	Residential	6	1,160	1,160	Residential
609	Three	3	00-0021-4141	Residential	6	1,160	1,160	Residential
610	Three	3	00-0021-4142	Residential	6	1,160	1,160	Residential
611	Three	3	00-0021-4143	Residential	6	1,160	1,160	Residential
612	Three	3	00-0021-4144	Residential	6-7	1,990	1,990	Residential
256	Four	4	00-0021-4145	Commercial	2	1,681	1,681	Residential
313	Four	4	00-0021-4146	Residential	3	1,160	1,160	Residential
315	Four	4	00-0021-4147	residential	3	1,160	1,160	Residential
317	Four	7	00-0021-4148	residential	3	1,160	1,160	Residential
319	Four	7	00-0021-4149	residential	3	1,160	1,160	Residential
354	Four	4	00-0021-4150	commercial	3	1,267	1,267	Residential
355	Four	4	00-0021-4151	commercial	3	1,267	1,267	Residential
356	Four	7	00-0021-4152	commercial	3	1,267	1,267	Residential
357	Four	7	00-0021-4153	commercial	3	1,267	1,267	Residential
413	Four	4	00-0021-4154	residential	4	1,160	1,160	Residential
414	Four	4	00-0021-4155	residential	4	1,160	1,160	Residential
415	Four	4	00-0021-4156	residential	4	1,160	1,160	Residential
416	Four	4	00-0021-4157	residential	4	1,160	1,160	Residential
417	Four	7	00-0021-4158	residential	4	1,160	1,160	Residential
418	Four	7	00-0021-4159	residential	4	1,160	1,160	Residential
419	Four	7	00-0021-4160	residential	4	1,160	1,160	Residential
420	Four	7	00-00214161	residential	4	1,160	1,160	Residential
513	Four	4	00-0021-4162	residential	5	1,160	1,160	Residential
514	Four	4	00-0021-4163	residential	5	1,160	1,160	Residential
515	Four	4	00-0021-4164	residential	5	1,160	1,160	Residential
516	Four	4	00-0021-4165	residential	5	1,160	1,160	Residential
517	Four	7	00-0021-4166	residential	5	1,160	1,160	Residential
518	Four	7	00-0021-4167	residential	5	1,160	1,160	Residential
519	Four	7	00-0021-4168	residential	5	1,160	1,160	Residential
520	Four	7	00-0021-4169	residential	5	1,160	1,160	Residential
613	Four	4	00-0021-4170	residential	6	1,160	1,160	Residential
614	Four	4	00-0021-4171	residential	6-7	1,990	1,990	Residential
615	Four	4	00-0021-4172	residential	6	1,160	1,160	Residential
616	Four	4	00-0021-4173	residential	6	1,160	1,160	Residential
617	Four	7	00-0021-4174	residential	6	1,160	1,160	Residential
618	Four	7	00-0021-4175	residential	6	1,160	1,160	Residential
619	Four	7	00-00214176	residential	6	1,160	1,160	Residential
620	Four	7	00-0021-4177	residential	6	1,160	1,160	Residential
Subtotal						87,379	87,379	
TOTAL						118,463	118,463	

*May total slightly more or less than 100% due to rounding.

EXHIBIT C
BYLAWS

BYLAWS

OF

BLACK ROCK MOUNTAIN RESORT MASTER ASSOCIATION

The administration of BLACK ROCK MOUNTAIN RESORT MASTER ASSOCIATION, a Utah nonprofit corporation (the “Association”) shall be governed by the Act, the Master Declaration, the Utah Revised Nonprofit Corporation Act (the “Nonprofit Corporation Act”), the Articles and these Bylaws. Terms that are capitalized in these Bylaws and which are not otherwise defined herein shall have the meaning set forth in the MASTER DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR JOVID MARK CONDOS ALSO KNOWN AS BLACK ROCK MOUNTAIN RESORT (“Master Declaration”) which has been or will be recorded in the Office of the Recorder of Wasatch County, Utah.

1. Application of Bylaws. All present and future Members, Owners, Mortgagees, lessees, licensees and occupants of Units and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to the Master Declaration, these Bylaws and all Rules & Regulations made pursuant thereto and any amendments hereof. The acceptance of a deed or conveyance of a Unit or the occupancy of any Unit, shall constitute an agreement that the provisions of the Master Declaration and these Bylaws and any Rules & Regulations made pursuant hereto, as they may be amended from time to time, shall constitute an agreement, acceptance, ratification and compliance with the provisions of the Master Declaration, these Bylaws and any Rules & Regulations made pursuant hereto, as may be amended from time to time.

2. Master Association: Membership, Voting and Meetings

2.1 Members. The Master Association shall have two classes of Membership, Class A Members and Class B Members. Each Parcel Association shall be a Class A Member of the Master Association. The Declarant or Declarant Affiliates shall be Class B Members in the Master Association until the Class B Termination Date described in the Master Declaration.

2.2 Voting. Each Member shall be entitled to the following voting rights, calculated based on the Membership type (Class A or Class B) and the total Square Feet affiliated with that Member pursuant to the Governing Documents:

2.2.1 Class A Members. Each Class A Member is assigned one (1) vote per Square Foot assigned to it by the Governing Documents, subject to the authority of the Board to suspend the voting rights of the Member for violations of this Master Declaration in accordance with the provisions hereof. The President of each Parcel Association, or his or her agent, shall cast all of the votes to which such Parcel Association is entitled at the annual meeting, which President, or agent thereof, shall be entitled to attend any meetings of the Master Association. The votes of each Class A Member may be cast in total or split within the discretion of the Parcel Association, as the case may be. Pursuant to the Governing Documents the

maximum number of Class A votes assigned to each respective Parcel Association shall be as follows:

- (a) Commercial Parcel Association shall be entitled to the votes set forth in Exhibit B to the Master Declaration.
- (b) Residential Parcel Association shall be entitled to the votes set forth in Exhibit B to the Master Declaration.

2.2.2 Class B Members. Until the expiration or termination of the Period of Declarant Control: (a) the Declarant or Declarant Affiliate shall be the Class B Member, and all votes held by the Declarant or Declarant Affiliate shall be Class B votes; (b) all Members other than Declarant or Declarant Affiliate shall be Class A Members, and all votes held by such Members shall be Class A votes. Following expiration or termination of the Period of Declarant Control, the Master Association shall be deemed to have a single class of Members and votes. During the Period of Declarant Control, all matters coming before the Master Association for vote shall be decided by the vote of the Class B Member. Following the Period of Declarant Control, all Class B Memberships and all Class B votes shall cease to exist, Class B votes will become Class A votes, and any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting, unless otherwise provided herein.

2.3 Exercise of Voting Rights. The vote for each Unit owned within a Parcel shall be exercised by the Parcel Association as provided in Section 2.2. The Parcel Association may cast all votes assigned to such Parcel in accordance with the respective Parcel Association's governing documents.

2.4 Membership and Ownership Rights. Each Member and each Owner shall have the respective rights, duties and obligations set forth in this Master Declaration and such other rights, duties and obligations as are set forth in the Governing Documents, as the same may be amended from time to time.

2.5 Annual Meeting. The first meeting of the Master Association shall be held within one year after the creation of the Master Association. Thereafter, there shall be an annual meeting of the Master Association on the first Thursday of each November at 6:00 p.m. at a reasonable place at the Project, or some other reasonable location in Summit or Wasatch County unless a meeting at another location would significantly reduce the cost to the Master Association and/or inconvenience to the Members, or at such other reasonable time not more than sixty (60) days before or after such date as may be designated by written notice by the Board. Notice of the annual meeting shall be delivered to the Members postage prepaid at least ten (10) days prior to the date set for said meeting and shall specify the place, day and hour of the meeting and a brief statement of the matters on the agenda which the Board intends to present or believes others will present for action by the Members. Such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Master

Association or to any other address designated in writing by the Member, including email address. Written notice of the time, day, and place of regular Member meetings shall be posted at a prominent place or places, including electronic postings and places, within the Project.

2.6 Special Meetings. Special meetings of the Master Association may be called by the President, a majority of the Board, or Members representing at least twenty-five percent (25%) or more of the votes of the total Class A votes of the Master Association. Special meetings may be held at a reasonable place at the Project, or some other reasonable location in Summit or Wasatch County unless a meeting at another location would significantly reduce the cost to the Master Association and/or inconvenience to the Members, to consider matters which, by the terms of these Bylaws, require the approval of all or some of the Members or for any other reasonable purpose. Notice of the special meeting shall be hand delivered or sent prepaid by United States mail, at least ten (10) days prior to the date fixed for said meeting, to each Member at such Member's address as shown in the records of the Master Association or to any other mailing address designated in writing by the Member. Such notice shall specify the place, day and hour of the meeting and a brief statement of the items on the agenda, including the general nature of any proposed amendment to these Bylaws, any budgetary changes and any proposal to remove an officer or Director. Written notice of the time, day, and place of special Member meetings shall be posted at a prominent place or places within Project.

2.7 Waiver of Notice. Waiver of notice of a regular or special meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at any meeting also shall be deemed a waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.8 Quorum and Adjournment. The presence in person of Members representing a majority of the total votes in the Master Association at any meeting of the Master Association held in response to notice to all Members of record properly given shall constitute a quorum. In the absence of a quorum at a Master Association meeting, a majority of those present in person may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall be ten percent (10%) of the votes of the Master Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings of the Master Association.

2.9 Business. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, regardless of whether

the twenty-five percent (25%) of the total Class A votes in the Master Association remain in attendance, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.10 Proxies. Members may vote by proxy.

2.11 Conduct of Meetings. The President shall preside over all meetings of the Master Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. Robert's Rules of order (latest edition) shall govern the conduct of the Master Association's meeting when not in conflict with these Bylaws.

2.12 Minutes. Minutes of the annual and special meetings of the Master Association shall be made available to each Member within sixty (60) days after the meeting.

2.13 Action without Meeting. Any action required or permitted by the Act to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all of the Members entitled to vote with respect to the subject matter thereof. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Master Association at its principal place of business. Such consents shall be filed with the minutes of the Master Association and shall have the same force and effect as a unanimous vote of the Members.

2.14 Majority Vote. As used in these Bylaws, the term "majority" shall mean those votes, Members, or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number. The vote of a majority of the Members present in person at a meeting at which a quorum shall be present shall be binding upon all Members for all purposes except where a higher percentage vote is required in the Master Declaration, these Bylaws, the Act or by other applicable Utah law.

3. Board of Directors/ Management Committee

3.1 Relationship of Associations. The Master Association shall govern the Project and shall do such things as are within its powers and as may reasonably be required to maintain the Project and its Common Elements as an attractive and desirable planned community. As described in Article II above, the Members of the Master Association shall be Declarant and/or Declarant Affiliates and each Parcel Association. The duties and powers of the Master Association shall relate to the Project as a whole, while the duties and powers of a particular Parcel Association shall relate only to its particular Parcel(s).

3.2 Number and Powers. The affairs of the Master Association shall be conducted by a Board of up to five (5) Directors (odd numbered totals only) and such officers as the Board may elect or appoint in accordance with the Articles and these Bylaws as the same may be amended from time to time. The initial Board shall be composed of at least three (3) Directors. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day

operation of the Master Association. The Board shall determine the compensation to be paid to the Manager. The Board's responsibilities shall include, but shall not be limited to, the following:

- 3.2.1 administration, including administrative support;
- 3.2.2 preparing and administering an operational budget;
- 3.2.3 establishing and administering an adequate reserve fund;
- 3.2.4 scheduling and conducting the annual meeting and other meetings of the Members;
- 3.2.5 collecting and enforcing the Assessments;
- 3.2.6 accounting functions and maintaining records;
- 3.2.7 promulgation and enforcement of the Project Rules & Regulations;
- 3.2.8 maintenance of the Common Elements, including but not limited to clearing of snow and ice from roads and walkways, maintenance of landscaping, and maintenance of other improvements;
- 3.2.9 in the event the Master Association elects to exercise its right to perform the following as to the Parcel Associations, the maintenance, repair and replacement of landscaping in the Parcel Associations; and the maintenance, repair and replacement of roadways and walkways within the Parcel Associations, including the clearing of ice and snow from roads, walkways, and driveways; and
- 3.2.10 all the other duties imposed upon the Board pursuant to the Governing Documents, including enforcement thereof.

3.3 Composition. The Commercial Parcel Owner shall have the perpetual right to appoint up to three (3) members to serve on the Board and the Residential Parcel Owner shall have the perpetual right to appoint up to two (2) members to serve on the Board. Each Director shall have one vote on all matters to come before the Board. Any officer, Director, member, partner or trust officer of such Member shall be eligible to serve as a Director unless otherwise specified by written notice to the Master Association signed by the President of the Parcel Association.

3.4 Director's During Period of Declarant Control. Subject to the provisions of Section 3.5 below, the first Board shall be appointed by the Declarant, acting in its sole and subjective discretion, and shall serve at the pleasure of the Declarant until the Class B Termination Date, at which time an election of all the members of the Board shall be conducted.

3.5 Election and Term of Office. Notwithstanding any other provision of these Bylaws:

3.5.1 Prior to the Class B Termination Date, the Declarant shall be entitled to appoint all Directors.

3.5.2 At the first annual meeting of the Members after the Class B Termination Date, the Board shall be set at three (3) Directors who shall be selected as follows: two (2) Directors shall be elected by the Commercial Parcel Owner and one (1) Director shall be elected by the Residential Parcel Owner. Two (2) Directors shall serve a term of two (2) years and one (1) Director shall serve a term of one (1) year, as such Directors determine among themselves. Upon the expiration of each Director's term of office, the Members entitled to elect such Director shall be entitled to elect a successor to serve a term of two (2) years.

3.6 Removal of Director's and Vacancies. Except as otherwise set forth above in Section 3.5 regarding the Declarant's right to appoint a certain number of Directors, any Director elected by the Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such Director. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such Director.

3.6.1 Any Director elected by the Members who has three (3) consecutive unexcused absences from Board meetings, or who is more than sixty (60) days delinquent in the payment of any Assessment or other charge due the Master Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term.

3.6.2 In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy for the remainder of the term. Any Director appointed by the Board shall be selected from among the Member(s) within the Parcel Association represented by the Director who vacated the position.

3.7 Compensation. No Director shall receive any compensation from the Master Association for acting as such unless approved by Members representing a majority of the total Class A votes in the Master Association at a regular or special meeting. Any Director may be reimbursed by the Master Association for reasonable expenses for the Director's attendance at the Board meetings or any other expenses incurred on behalf of the Master Association upon approval of a majority of the other Directors. Any Directors may be employed by the Master Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all Directors not including the Director to be employed.

3.8 Regular Meetings. The Board meetings shall be held at least quarterly at such times and places within Project, or some other reasonable and suitable location in Summit or Wasatch County, unless a meeting at another location, including by telephonic or other electronic means, would significantly reduce the cost to the Master Association

and/or the inconvenience to the Directors, as the Board shall determine. No notice shall be necessary to the newly elected Board in order to legally constitute such meeting, provided a majority of the Directors are present. The Board may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings. Written notice of the time, day, and place of regular Board meetings shall be posted at a prominent place or places, including electronic postings and places, within Project.

3.9 Special Meetings. Special meetings of the Board may be called by written notice signed by any two Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within Project, or some other reasonable location in Summit or Wasatch County, unless a meeting at another location, including by telephonic or electronic means, would significantly reduce the cost to the Master Association and/or inconvenience to the Directors. Written notice of any special meeting shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting; provided, however, that notice of such meeting need not be given to any Director signing a waiver of notice or a written consent to the holding of such meeting, if mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with first-class postage thereon prepaid. If an agenda is prepared for a special meeting, the meeting need not be restricted to discussions of those items listed on the agenda. Written notice of the time, day, and place of special Board meetings shall be posted at a prominent place or places, including electronic postings and places, within Project.

3.10 Waiver of Notice. The transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Quorum, Voting and Adjournment. A majority of the Board shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. If less than a quorum is present at the meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No Director may vote or act by proxy at any Board meeting.

3.12 Open Meetings. The Directors shall act only as a Board, and individual Directors shall have no powers as such. Regular and special meetings of the Board shall be open to all Members of the Master Association. The Board may, with the approval of a majority of a quorum of its Directors, adjourn the meeting and reconvene in executive session, excluding non-Members in attendance, to discuss and vote upon matters of a sensitive nature, such as personnel matters, litigation in which the Master Association is or may become involved, and similar orders of business.

3.13 Action without Meeting. Any action that is required or permitted to be taken at a Board meeting may be taken without a meeting if all of the Board or all members of a committee established for such purposes as the case may be, severally or collectively consent in writing to any action taken or to be taken by the Master Association, and the number of the Directors constitutes a quorum. Action taken pursuant to this Section 3.13 shall be a valid corporate action as though it had been authorized at a meeting of the Board or the committee, as the case may be. The Secretary shall file these consents with the minutes of the Board meetings.

3.14 Telephonic Conference. Directors or any committee thereof may participate in a meeting of the Board or committee by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

3.15 Right of Declarant to Disapprove Action. So long as the Class B Memberships exists, the Declarant shall have a right to disapprove any action, policy or program of the Master Association, the Board and any committee which, in the sole and exclusive judgment of the Declarant, would tend to impair rights of the Declarant or any Declarant Affiliate under the Master Declaration or these Bylaws, or interfere with development, construction of any portion of Project, or diminish the level of services being provided by the Master Association. No such action, policy or program shall become effective or be implemented until and unless:

3.15.1 The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Master Association, the Board or any committee thereof by certified mail, return receipt requested, email or by personal delivery at the address it has registered with the Secretary of the Master Association, as it may change from time to time, which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

3.15.2 The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make their concerns, thoughts and suggestions known to the Board and/or the members of the subject committee. The Declarant shall have and is hereby granted an exclusive right to disapprove any such action, policy, or program authorized by the Master Association, the Board or any committee thereof, if the approval of the Board, any committee, or the Master Association is necessary for such action. This right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within twenty (20) days following the meeting held pursuant to the terms and provision thereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of the Board, any committee or the Master Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Master

Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.16 Fiscal Year. The fiscal year of the Master Association shall be set by resolution of the Board. In the absence of a Board resolution, the fiscal year shall be the calendar year.

4. Officers

4.1 Designation. The principal officers of the Master Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Board may appoint other officers as it finds necessary and such officers shall have the authority to perform the duties prescribed by the Board. Any two offices may be held by the same person, except the offices of President and Secretary. All officers must be members of the Board.

4.2 Election and Term. The officers of the Master Association shall be elected annually by the Board at the organizational meeting of each new Board. They shall hold office at the pleasure of the Board.

4.3 Removal and Vacancies. Upon the affirmative vote of a majority of the Board, any officer may be removed, either with or without cause. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled at any regular meeting of the Board or at any special meeting of the Board called for that purpose for the unexpired portion of the term.

4.4 President. The President shall be the chief executive officer of the Master Association. The President shall preside at all meetings of the Members and of the Board. The President shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of Utah, including but not limited to the power to appoint committees from among the Members from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Master Association. The President may fulfill the role of treasurer in the absence of the treasurer. The President may cause to be prepared and may execute amendments, attested by the Secretary, to the Master Declaration and these Bylaws on behalf of the Master Association, following authorization or approval of the particular amendment as applicable. This subsection 4.4 in no way alters the other requirements to amend the Master Declaration and/or Bylaws found in both the Master Declaration and Bylaws.

4.5 Vice President. The Vice President shall perform the functions of the President in his or her absence or inability to serve.

4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Members and the Board. The Secretary shall have charge of the Master Association's books and papers as the Board may direct and shall perform all the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Utah. The Secretary may cause to be prepared and may attest to execution by the President of

amendments to the Master Declaration and these Bylaws on behalf of the Master Association, following authorization or approval of the particular amendment as applicable.

4.7 Treasurer. The Treasurer shall be responsible for the Master Association's funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board and shall perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Utah. The Treasurer may endorse on behalf of the Master Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Master Association in banks designated by the Board. Except for reserve funds described below, the Treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Master Association, stock, securities or other investment instruments owned or controlled by the Master Association or as fiduciary for others. Reserve funds of the Master Association shall be deposited in segregated accounts or in prudent investments, as the Board decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the Treasurer, and executed by two (2) Directors.

4.8 Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.9 Execution of Instruments. Except as otherwise provided in these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Master Association shall be executed by any officer of the Master Association or by any other person or persons designated by the Board.

4.10 Statements of Unpaid Assessments. The Treasurer, Manager or, in their absence, any officer having access to the books and records of the Master Association may prepare, certify, and execute statements of unpaid Assessments. The Master Association may charge a reasonable fee for preparing statements of unpaid Assessments. The amount of this fee and the time of payment shall be established by resolution of the Board and shall not be in excess of any limit set by Utah state law.

4.11 Committees. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5. Enforcement

5.1 Master Association's General Rights of Enforcement of Provisions of This and Other Instruments. The Master Association, as the agent and representative of the Owners and Members shall have the right to enforce, by any proceeding at law or in equity, the Covenants set forth in the Master Declaration, these Bylaws, the Rules & Regulations and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of the Master Declaration, or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Master Association or by Declarant.

5.2 Abatement and Enjoinment of Violations by Owners. In addition to the provisions set forth in Section 5.1 above, the violation of any of the Rules & Regulations or the breach of any provision of the Governing Documents shall also give the Board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

5.2.1 To enter a Parcel, Lot, Unit, Residential Structure, Building, or Common Element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing of condition (except for additions or alterations of a permanent nature that may exist in that Lot, Unit, or Parcel) that is existing and creating a danger to the Owners of the Project contrary to the intent and meaning of the provisions of the Governing Documents. The Board shall not be deemed liable for any manner of trespass by this action; or

5.2.2 To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

5.3 Fine for Violation. The Board may adopt resolutions providing for fines or other monetary penalties for the infraction of the Governing Documents. Fines will be levied after notice thereof and an opportunity to be heard. The Board may levy fines in amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Governing Documents, including those violations which persist after notice and an opportunity for a hearing is given.

5.4 Specific Enforcement. In addition to such other rights as are specifically granted under the Master Declaration, the Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Parcel, Lot, or Unit of the violator, and to suspend a Member's right to vote or any Person's right to use the Common Element for violation of any duty imposed under the Governing Documents; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Parcel or Unit. In addition, the Board may suspend any services provided by the Master Association to a Member or the Member's Parcel if the Member is more than thirty (30) days' delinquent in paying any Assessment, including without limitation any charges owed to the Master Association. In the event that any Owner, Resident or Occupant of a Parcel,

Lot, Unit or other Improvement violates the Governing Documents and a fine is imposed, the fine shall first be individually assessed against such Owner, Resident or Occupant; provided, however, if the fine is not paid by the Owner, Resident or Occupant within the time period set by the Board, the Member shall pay the fine upon notice from the Master Association. The failure of the Board to enforce any provision of the Governing Documents shall not be deemed a waiver of the right of the Board to do so thereafter.

5.5 Notice. Prior to imposition of any sanction hereunder or under the Master Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than fifteen (15) days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within fifteen (15) days of the notice. If a challenge is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and Project Rules & Regulations by any Person.

5.6 Hearing. If a hearing is requested within the allotted fifteen (15) day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, a proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

5.7 Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article V, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner, Resident or Occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney fees actually incurred.

6. Indemnification

6.1 Actions by Or in the Right of the Master Association. The Master Association shall indemnify any Person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Master Association) by reason of the fact that he or she is or was a Director or officer of the Master Association, who is or was serving at the request of the Master Association in such capacity, against expenses (including expert witness fees, attorney fees, and costs),

judgments, fines, amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner which such individual reasonably believed to be in the best interests of the Master Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *no lo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in the best interests of the Master Association and, with respect to any criminal action or proceeding, had reasonable cause to believe his or her conduct was unlawful. No indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for negligence or misconduct in the performance of his or her duty in the Master Association unless, and to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses if such court deems proper.

6.2 Successful on the Merits. To the extent that a Director, Manager, officer, employee, fiduciary or agent of the Master Association has been wholly successful on the merits in defense of any action, suit or proceeding referred to in Section 6.1 above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including expert witness fees, attorney fees, and costs) actually and reasonably incurred by him or her in connection therewith.

6.3 Determination Required. Any indemnification under Section 6.1 (unless ordered by a court) and as distinguished from Section 6.2, shall be made by the Master Association only as authorized by the specific case upon a determination that indemnification of the Director or officer is proper in the circumstances because such individual has met the applicable standard of conduct set forth in Section 6.1 above. Such determination shall be made by the Board by majority vote of a quorum consisting of those Directors who were not parties to such action, suit, or proceeding or, if a majority of disinterested Directors so commands, by independent legal counsel and a written opinion or by Members entitled to vote thereon.

6.4 Payment in Advance of Final Disposition. The Master Association shall pay for or reimburse the reasonable expenses incurred by a former or current Director or officer who is a party to a proceeding in advance of final disposition of the proceeding if the Director or officer furnishes to the Master Association a written affirmation of the Director's good faith belief that he or she has met the standard of conduct described in Section 6.1, the Director or officer furnishes to the Master Association a written understanding, executed personally or on the Director's or officer's behalf to repay the advance if it is ultimately determined that the Director or officer did not meet the standard of conduct and a determination is made that the facts then known to those making the determination would not preclude indemnification under this Article VI. The undertaking required in this Section 6.4 shall be an unlimited general obligation of the Director or officer but need not be selected and may be accepted without reference to financial ability to make repayment.

6.5 No Limitation of Rights. The indemnification provided by this Article VI shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested Directors, or otherwise, nor by any rights which are granted pursuant to the Act.

6.6 Directors and Officers Insurance. The Master Association shall purchase and maintain Errors & Omissions Insurance on behalf of any person who is or was a Director or an officer of the Master Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Master Association would have the power to indemnify such individual against such liability under provisions of this Article VI. The Directors and officers of the Master Association shall have the liabilities, and be entitled to indemnification, as provided in the Act.

7. Records

7.1 Records and Audits. The Master Association shall maintain financial records, and such other records as required by the Master Declaration or the Act. The cost of any audit shall be a Common Expense unless otherwise provided in the Master Declaration.

7.2 Examination. The Membership register, books of account, and minutes of the meetings of the Master Association, of the Board and of committees of the Board, and all other records maintained by the Master Association or Manager, shall be made available for examination and copying by any Member or by any of their duly authorized attorneys, at the expense of the Person examining the records during normal business hours and for a noncommercial purpose reasonably related to his or her interest as a Member, at the office where the records are maintained. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the Board to defray the costs of reproduction, the Manager or other custodian of the records of the Master Association shall prepare and transmit to the Member a copy of any and all of the records of the Master Association requested. The Members' inspection privileges do not apply to the personnel records of the employees of the Master Association and the records of the Master Association relating to another Member. The Board shall establish reasonable rules with respect to:

7.2.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection;

7.2.2 Hours and days of the week when such an inspection may be made; and

7.2.3 Payment of the cost of reproducing copies of documents requested by a Member.

7.3 Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Master Association and the physical properties owned or controlled by the Master Association. The right of

inspection by a Director includes noncommercial purposes and the right to make a copy of relevant documents at the expense of the Master Association.

7.4 Records. The books and accounts for the Master Association shall be kept in accordance with generally accepted accounting principles under the direction of the Treasurer. At the close of each fiscal year, the books and records of the Master Association shall be prepared by an independent public accountant approved by the Master Association, and financial statements shall be prepared by said accountant and made available to all Members.

8. Assessments. All Assessments shall be made in accordance with the general provisions of the Master Declaration. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project. Such records shall be available for examination by the Members during regular business hours. In accordance with the actions of the Board in assessing Common Expenses against the Parcels and Members, the Treasurer shall keep an accurate record of such Assessments and of the payments thereof by each Member.

The Project shall have a lien on the Member's Unit, Lot, or Property for Assessments, fees, charges, and costs associated with an unpaid Assessment, and fines.

9. Amendment to Bylaws

9.1 By Declarant. Prior to the conveyance of the first Parcel or Unit by Declarant to a Person other than another Declarant, or Declarant Affiliate, the Declarant may unilaterally amend these Bylaws. After such conveyance, and notwithstanding anything contained in these Bylaws to the contrary, these Bylaws may be amended unilaterally at any time and from time to time by Declarant if such amendment is (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Parcels, Lots, Units, Residential Structures or Improvements subject to the Master Declaration; provided, however, any such amendment shall not materially adversely affect the title to any Parcel, Lot, Unit, Residential Structure or Improvement unless any such Owner shall consent thereto in writing. Further, so long as the Declarant's Class B Membership in the Master Association exists, Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

9.2 By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total votes in the Master Association, and the written consent of the Declarant, if such exists. In addition, the approval requirements set forth in the Master Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause

shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Notwithstanding the foregoing, any amendment which shall modify the rights granted to Mortgagees under Article XVI of the Master Declaration shall require the vote or written assent of sixty-seven percent (67%) of all Eligible Mortgagees.

9.3 Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective upon recordation in the land records of Wasatch County, Utah, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws. No amendment may remove, revoke, or modify any right or privilege of Declarant without the express written consent of all Declarants or the successor of such right or privilege.

10. Miscellaneous.

10.1 Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

10.1.1 If to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the principal office of the Parcel Association; or

10.1.2 If to the Master Association, the Board, or the Manager, at the principal office of the Master Association or the Manager, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section 10.1.2.

10.2 Conflicts. If there are conflicts between the provisions of Utah law, the Master Declaration, the Articles and these Bylaws, the provisions of Utah law, the Master Declaration, the Articles, these Bylaws and the Project Rules & Regulations (in that order) shall prevail. Should such conflicts arise, the mediation and dispute resolution provisions provided for in the Master Declaration are specifically incorporated herein by this reference and made a part of these Bylaws.

10.3 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason or any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10.4 Severability. The provisions hereof shall be deemed independent and severable, and the invalid or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

10.5 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

10.6 Effective Date. These Bylaws shall take effect upon Recording of the Master Declaration.

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

EXHIBIT D

ARBITRATION PROVISIONS

1. Dispute Resolution. The Bound Parties hereby agree that the arbitration provisions set forth in this Exhibit D (“**Arbitration Provisions**”) are binding on each of them. As a result, any attempt to rescind or declare these Arbitration Provisions invalid or unenforceable for any reason is subject to these Arbitration Provisions.

2. Arbitration. Any Claim must be submitted to arbitration (“**Arbitration**”) to be conducted exclusively in Salt Lake County, Utah and pursuant to the terms set forth in these Arbitration Provisions. The Bound Parties agree that the award of the arbitrator rendered pursuant to Paragraph 4 below (the “**Arbitration Award**”) shall be (a) final and binding upon the Bound Parties, (b) the sole and exclusive remedy between them regarding any Claim, claims, counterclaims, issues, or accountings presented or pleaded to the arbitrator, and (c) promptly payable in United States dollars free of any tax, deduction, or offset (with respect to monetary awards). Any costs or fees, including without limitation attorneys’ fees, incurred in connection with or incident to enforcing the Arbitration Award shall, to the maximum extent permitted by law, be charged against the party resisting such enforcement. Judgment upon the Arbitration Award may be entered and enforced by any state or federal court sitting in Wasatch County, Utah.

3. The Arbitration Act. The Bound Parties hereby incorporate herein the provisions and procedures set forth in the Utah Uniform Arbitration Act, U.C.A. § 78B-11-101 *et seq.* (as amended or superseded from time to time, the “**Arbitration Act**”). Notwithstanding the foregoing, pursuant to, and to the maximum extent permitted by, Section 105 of the Arbitration Act, in the event of conflict or variation between the terms of these Arbitration Provisions and the provisions of the Arbitration Act, the terms of these Arbitration Provisions shall control and the Bound Parties hereby waive or otherwise agree to vary the effect of all requirements of the Arbitration Act that may conflict with or vary from these Arbitration Provisions.

4. Arbitration Proceedings. Arbitration between Bound Parties will be subject to the following:

4.1 *Initiation of Arbitration*. The Bound Parties agree that any of the Bound Parties (the “**Petitioner**”) may initiate Arbitration (“**Petitioner**”) by giving written notice (the “**Arbitration Notice**”) to one or more of any of the other Bound Parties (collectively, “**Respondent**”) using any method of service authorized for the commencement of a civil action under the Utah Rules of Civil Procedure (“**Service**”). The Arbitration Notice must describe the nature of the controversy, the identity of the Respondent, the remedies sought, and the election to commence Arbitration proceedings. All Claims in the Arbitration Notice must be pleaded consistent with the Utah Rules of Civil Procedure.

4.2 *Selection and Payment of Arbitrator.*

(a) Petitioner and Respondent shall make good faith efforts to agree on an arbitrator from the roster of arbitrators maintained by Utah ADR Services (<http://www.utahadrservices.com>). If the Petitioner and Respondent cannot agree to an arbitrator, Petitioner or Respondent may seek the appointment of an arbitrator by filing an action in the Fourth Judicial District Court of Utah sitting in Wasatch County and requesting via a motion that the court appoint an arbitrator.

(b) The date that an arbitrator is selected or appointed pursuant to this Paragraph 4.2 and agrees in a writing (including via email) to serve as the arbitrator hereunder is referred to herein as the “**Arbitration Commencement Date.**” If an arbitrator resigns or is unable to act during the Arbitration, a replacement arbitrator shall be chosen in accordance with this Paragraph 4.2 to continue the Arbitration. If Utah ADR Services ceases to exist or to provide a list of neutrals or qualified arbitrators, then the arbitrator shall be selected under the then prevailing rules of the American Arbitration Association.

(c) The cost of the arbitrator must be paid equally by the parties to the Arbitration.

4.3 *Applicability of Certain Utah Rules.* The Bound Parties agree that the Arbitration shall be conducted generally in accordance with the Utah Rules of Civil Procedure and the Utah Rules of Evidence. More specifically, the Utah Rules of Civil Procedure shall apply, without limitation, to the filing of any pleadings, motions, or memoranda, the conducting of discovery, and the taking of any depositions. The Utah Rules of Evidence shall apply to any hearings, whether telephonic or in person, held by the arbitrator. Notwithstanding the foregoing, it is the Bound Parties’ intent that the incorporation of such rules will in no event supersede these Arbitration Provisions. In the event of any conflict between the Utah Rules of Civil Procedure or the Utah Rules of Evidence and these Arbitration Provisions, these Arbitration Provisions shall control.

4.4 *Answer and Default.* The Respondent shall deliver to the arbitrator and all parties to the Arbitration an answer and any counterclaims or crossclaims related to the Arbitration Notice within twenty (20) calendar days after the Arbitration Commencement Date.

4.5 *Discovery.* The Bound Parties agree that discovery shall be conducted as follows:

(a) Written discovery will only be allowed if the likely benefits of the proposed written discovery outweigh the burden or expense thereof, and the written discovery sought is likely to reveal information that will satisfy a specific element of a claim or defense already pleaded in the Arbitration. The party seeking written discovery shall always have the burden of showing that all of the standards and limitations set forth in these Arbitration Provisions are satisfied.

(b) No party shall be allowed (i) more than fifteen (15) interrogatories (including discrete subparts), (ii) more than fifteen (15) requests for admission (including discrete subparts), (iii) more than ten (10) document requests (including discrete subparts), or (iv) more than three (3) depositions (excluding expert depositions) for a maximum of seven (7) hours per deposition. The costs associated with depositions will be borne by the party taking the deposition. Further, the party defending the deposition will submit a notice to the party taking the deposition of the estimated attorneys’ fees that such party expects to incur in connection with defending the

deposition. If the party defending the deposition fails to submit an estimate of attorneys' fees within five (5) calendar days of its receipt of a deposition notice, then such party shall be deemed to have waived its right to the estimated attorneys' fees. The party taking the deposition must pay the party defending the deposition the estimated attorneys' fees prior to taking the deposition, unless such obligation is deemed to be waived as set forth in the immediately preceding sentence. If the party taking the deposition believes that the estimated attorneys' fees are unreasonable, such party may submit the issue to the arbitrator for a decision. All depositions of Bound Parties will be taken in Wasatch County, Utah.

(c) All discovery requests (including document production requests included in deposition notices) must be submitted in writing to the arbitrator and the other party. The party submitting the written discovery requests must include with such discovery requests a detailed explanation of how the proposed discovery requests satisfy the requirements of these Arbitration Provisions and the Utah Rules of Civil Procedure. The receiving party will then be allowed, within five (5) calendar days of receiving the proposed discovery requests, to submit to the arbitrator an estimate of the attorneys' fees and costs associated with responding to such written discovery requests and a written challenge to each applicable discovery request. After receipt of an estimate of attorneys' fees and costs and/or challenge(s) to one or more discovery requests, the arbitrator will within three (3) calendar days make a finding as to the likely attorneys' fees and costs associated with responding to the discovery requests and issue an order that (i) requires the requesting party to prepay the attorneys' fees and costs associated with responding to the discovery requests, and (ii) requires the responding party to respond to the discovery requests as limited by the arbitrator within twenty-five (25) calendar days of the arbitrator's finding with respect to such discovery requests. If a party entitled to submit an estimate of attorneys' fees and costs and/or a challenge to discovery requests fails to do so within such 5-day period, the arbitrator will make a finding that (A) there are no attorneys' fees or costs associated with responding to such discovery requests, and (B) the responding party must respond to such discovery requests (as may be limited by the arbitrator) within twenty-five (25) calendar days of the arbitrator's finding with respect to such discovery requests. Any party submitting any written discovery requests to another party, including without limitation interrogatories, requests for production, or requests for admissions, must prepay the estimated attorneys' fees and costs, before the responding party has any obligation to produce or respond to the same, unless such obligation is deemed waived as set forth above.

(d) In order to allow a written discovery request, the arbitrator must find that the discovery request satisfies the standards set forth in these Arbitration Provisions and the Utah Rules of Civil Procedure. The arbitrator must strictly enforce these standards. If a discovery request does not satisfy any of the standards set forth in these Arbitration Provisions or the Utah Rules of Civil Procedure, the arbitrator may modify such discovery request to satisfy the applicable standards, or strike such discovery request in whole or in part.

(e) Each party may submit expert reports (and rebuttals thereto), provided that such reports must be submitted within sixty (60) days of the Arbitration Commencement Date. Each party will be allowed a maximum of two (2) experts unless the arbitrator orders otherwise. Expert reports must contain the following: (i) a complete statement of all opinions the expert will offer at any hearing or arbitration and the basis and reasons for them; (ii) the expert's name and qualifications, including a list of all the expert's publications within the preceding ten (10) years, and a list of any other cases in which the expert has testified at trial, hearing, arbitration, or in a deposition or prepared a report within the preceding ten (10) years; and (iii) the compensation to be paid for the expert's report and testimony. The Bound Parties are entitled to depose any other

party's expert witness one (1) time for no more than four (4) hours. An expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the expert report.

4.6 *Dispositive Motions.* Each party shall have the right to submit dispositive motions pursuant to the Utah Rules of Civil Procedure (a "**Dispositive Motion**"). Within seven (7) calendar days of delivery of the Dispositive Motion the other party shall deliver to the arbitrator and to the other party a memorandum in opposition to the Dispositive Motion (the "**Memorandum in Opposition**"). Within seven (7) calendar days of delivery of the Memorandum in Opposition, as applicable, the party that submitted the Dispositive Motion shall deliver to the arbitrator and to the other party a reply memorandum to the Memorandum in Opposition ("**Reply Memorandum**"). If the applicable party shall fail to deliver the Memorandum in Opposition as required above, or if the other party fails to deliver the Reply Memorandum as required above, then the applicable party shall lose its right to so deliver the same, and the Dispositive Motion shall proceed regardless.

4.7 *Confidentiality.* All information disclosed by any party (or such party's agents) during the Arbitration process (including without limitation information disclosed during the discovery process) shall be considered confidential in nature. Each party agrees not to disclose any confidential information received from the other party (or its agents) during the Arbitration process (including without limitation during the discovery process) unless (a) prior to or after the time of disclosure such information becomes public knowledge or part of the public domain, not as a result of any inaction or action of the receiving party or its agents, (b) such information is required by a court order, subpoena, or similar legal obligation to be disclosed if such receiving party has notified the other party thereof in writing and given it a reasonable opportunity to obtain a protective order from a court of competent jurisdiction prior to disclosure, or (c) such information is disclosed to the receiving party's agents, representatives, and legal counsel on a need to know basis who each agree in writing not to disclose such information to any third party. The arbitrator is hereby authorized and directed to issue a protective order to prevent the disclosure of privileged information and confidential information upon the written request of any party.

4.8 *Authorization; Timing; Scheduling Order.* Subject to all other portions of these Arbitration Provisions, the Bound Parties hereby authorize and direct the arbitrator to take such actions and make such rulings as may be necessary to carry out the Bound Parties' intent for the Arbitration proceedings to be efficient and expeditious. The Bound Parties hereby agree that an Arbitration Award must be made within one hundred eighty (180) calendar days after the Arbitration Commencement Date, unless the arbitrator, for good cause, extends this deadline. The arbitrator shall not, however, extend the deadline to issue an Arbitration Award to more than five-hundred and forty (540) calendar days after the Arbitration Commencement Date. The arbitrator is hereby authorized and directed to hold a scheduling conference within ten (10) calendar days after the Arbitration Commencement Date in order to establish a scheduling order with various binding deadlines for hearings, discovery, expert testimony, and the submission of documents by the Bound Parties to enable the arbitrator to render a decision prior to the end of such 180-day period.

4.9 *Relief.* The arbitrator shall have the right to award or include in the Arbitration Award (or in a preliminary ruling) any relief which the arbitrator deems proper under the

circumstances, including, without limitation, specific performance and injunctive relief, provided that the arbitrator may not award exemplary or punitive damages.

4.10 *Fees and Costs.* As part of the Arbitration Award, the arbitrator is hereby directed to require the losing party to (a) pay the full amount of any unpaid costs and fees of the Arbitration, and (b) reimburse the prevailing party for all reasonable attorneys' fees, arbitrator costs and fees, deposition costs, other discovery costs, and other expenses, costs, or fees paid or otherwise incurred by the prevailing party in connection with the Arbitration.

5. Miscellaneous.

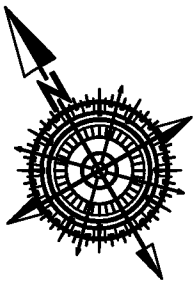
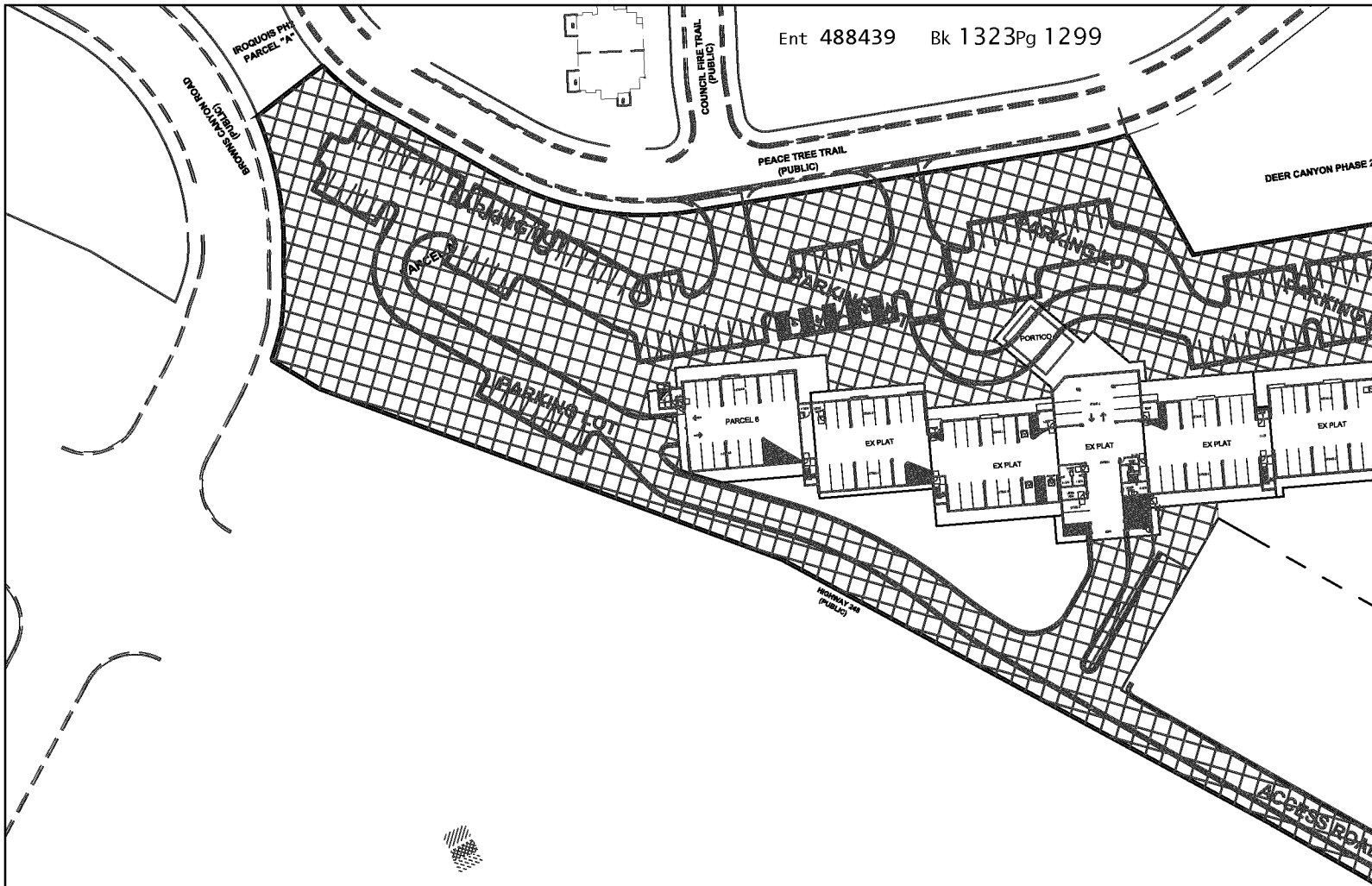
5.1 *Severability.* If any part of these Arbitration Provisions is found to violate or be illegal under applicable law, then such provision shall be modified to the minimum extent necessary to make such provision enforceable under applicable law, and the remainder of the Arbitration Provisions shall remain unaffected and in full force and effect.

5.2 *Governing Law.* These Arbitration Provisions shall be governed by the laws of the State of Utah without regard to the conflict of laws principles therein.

5.3 *Interpretation.* The headings of these Arbitration Provisions are for convenience of reference only and shall not form part of, or affect the interpretation of, these Arbitration Provisions.

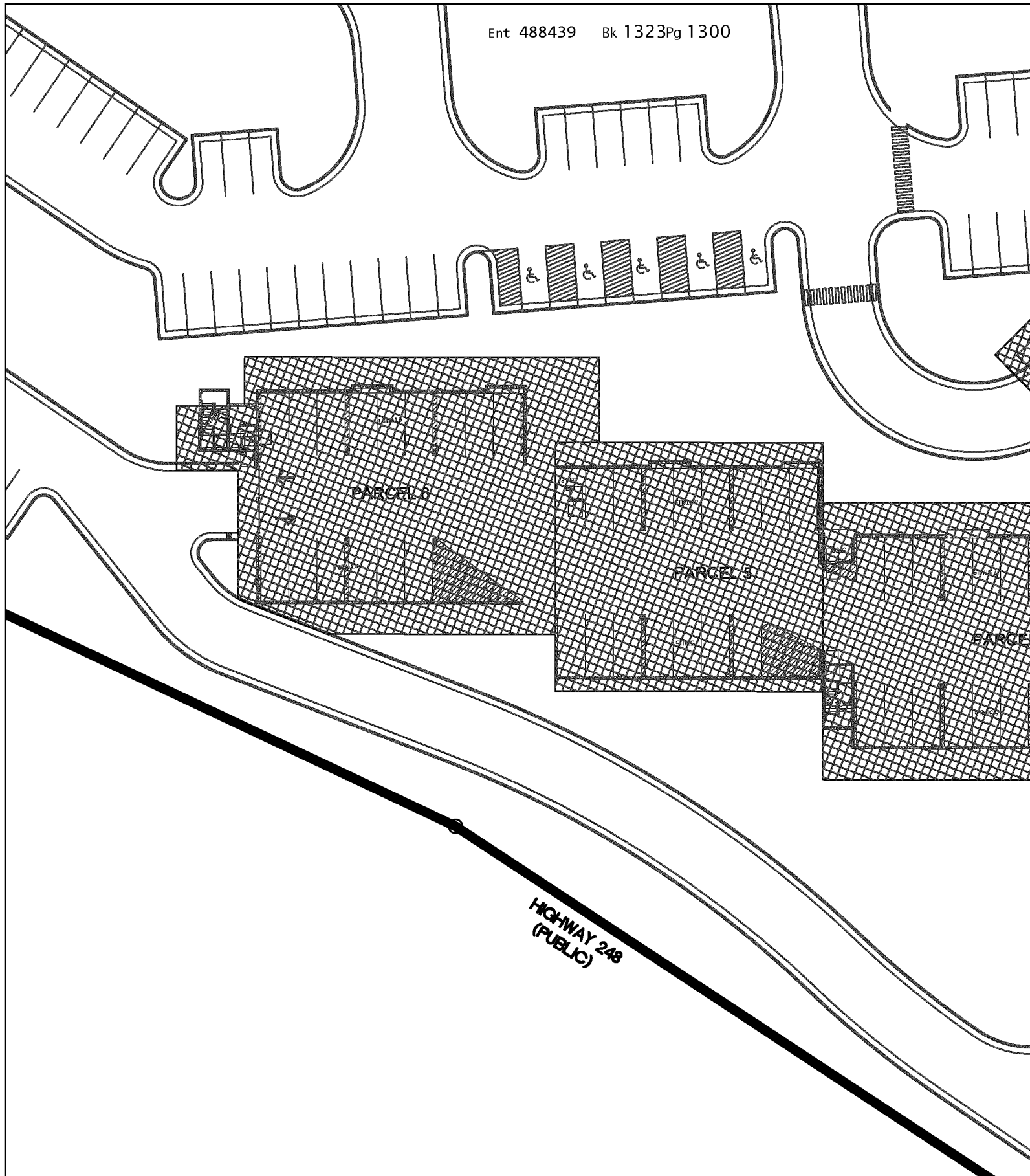
5.4 *Waiver.* No waiver of any provision of these Arbitration Provisions shall be effective unless it is in the form of a writing signed by the party granting the waiver.

EXHIBIT E
COMMON ELEMENTS



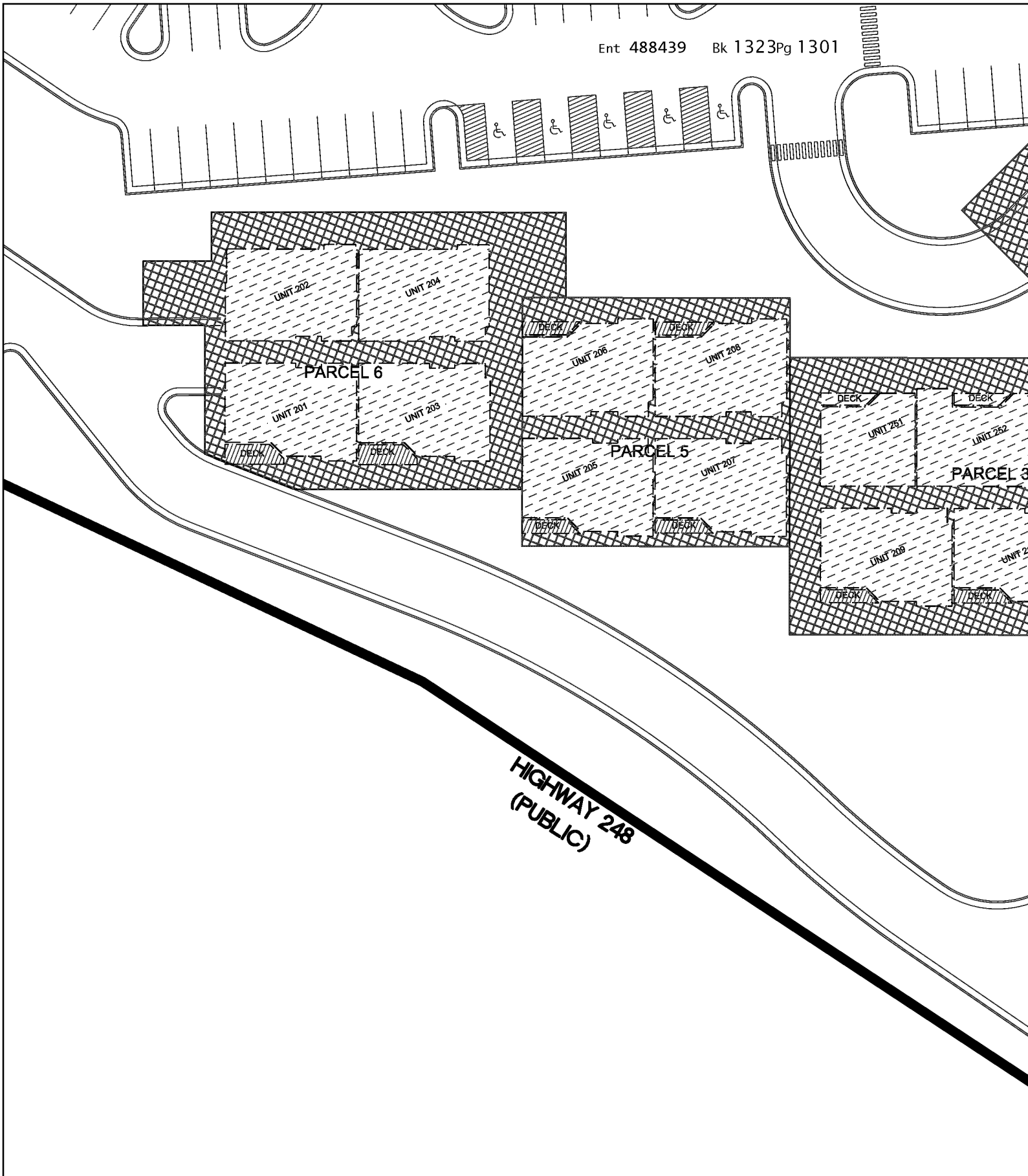
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COMMON ELEMENTS BUILDING EXTERIOR



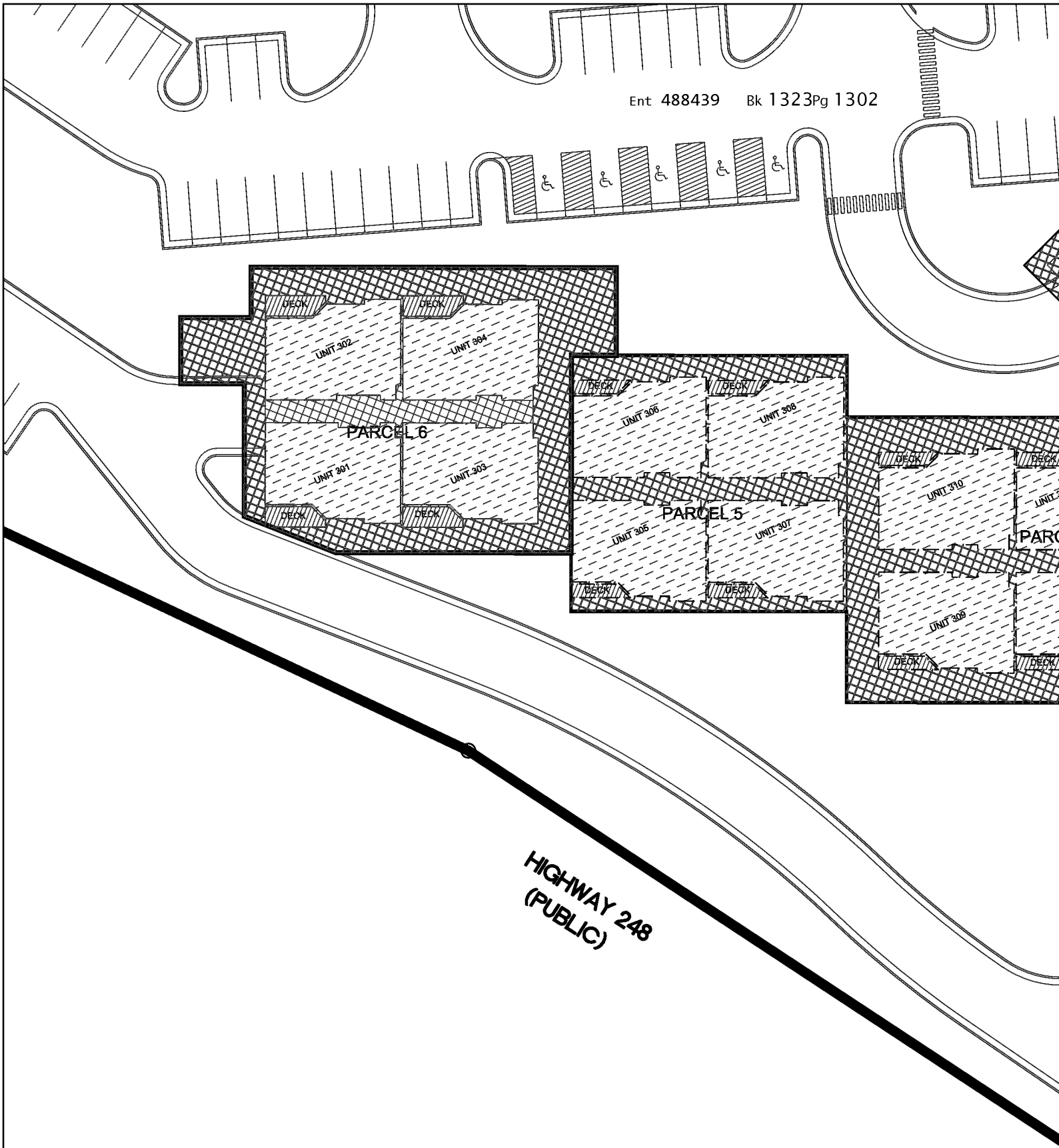
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COMMON ELEMENTS LEVEL 1



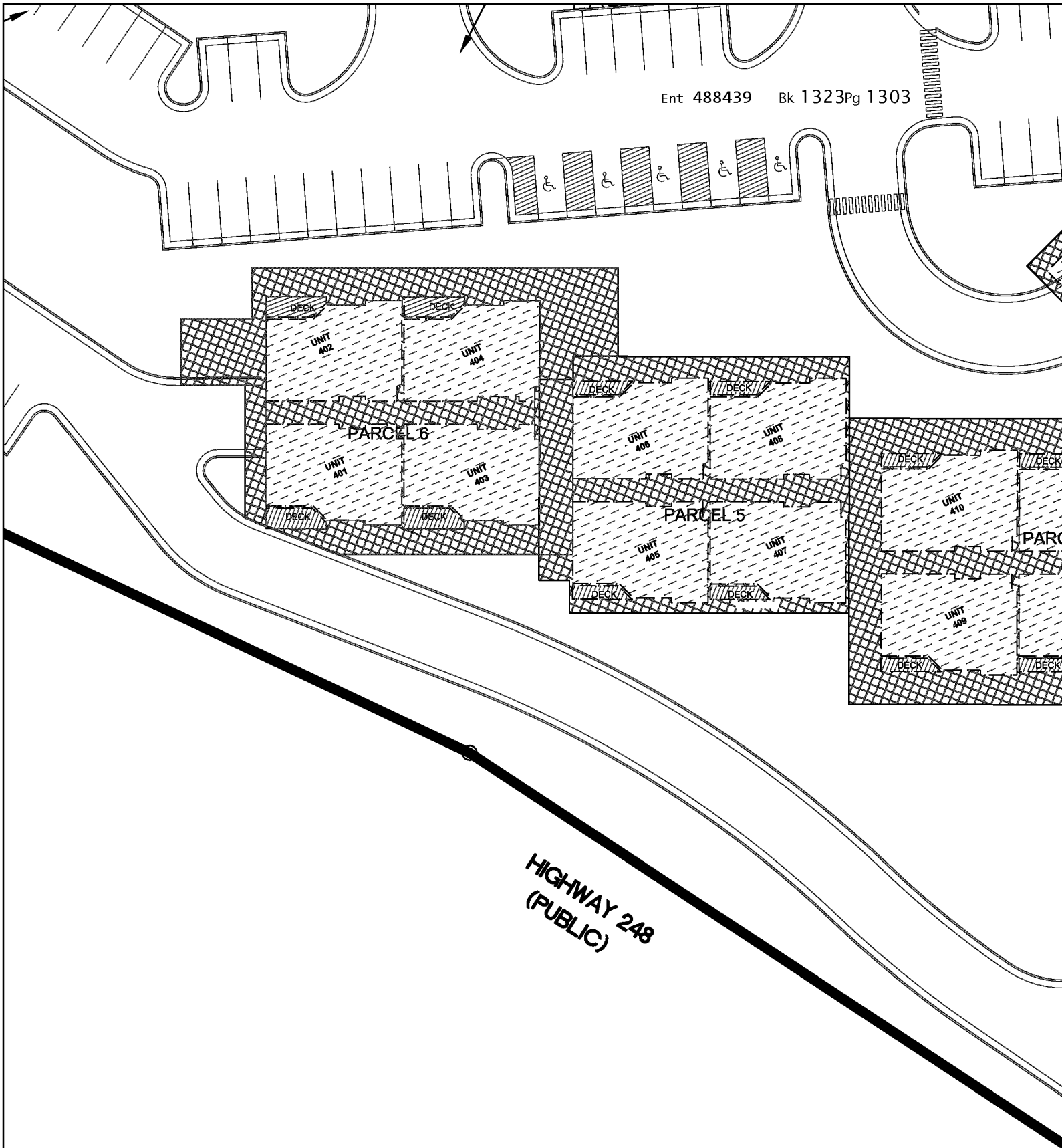
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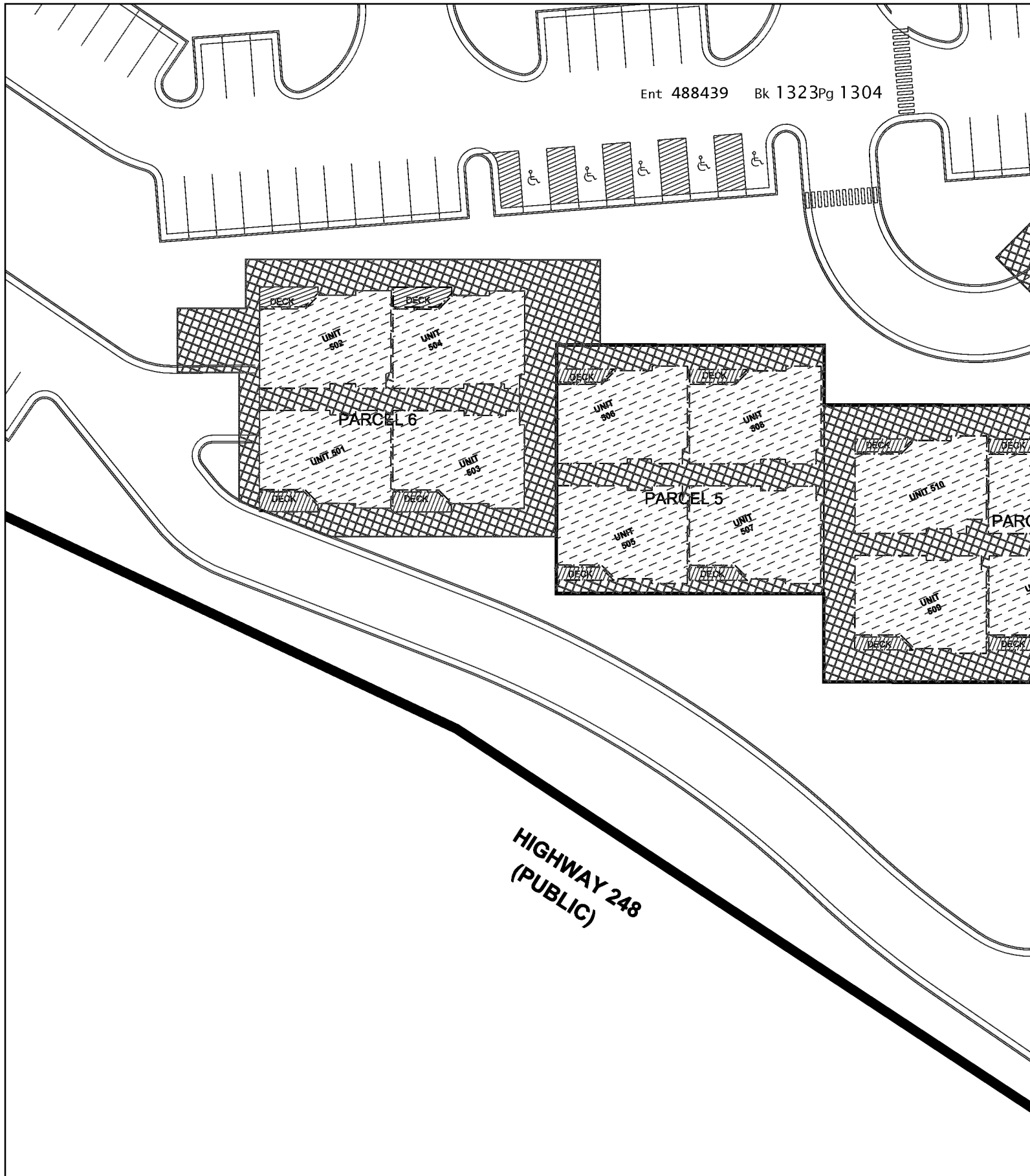
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COMMON ELEMENTS LEVEL 3



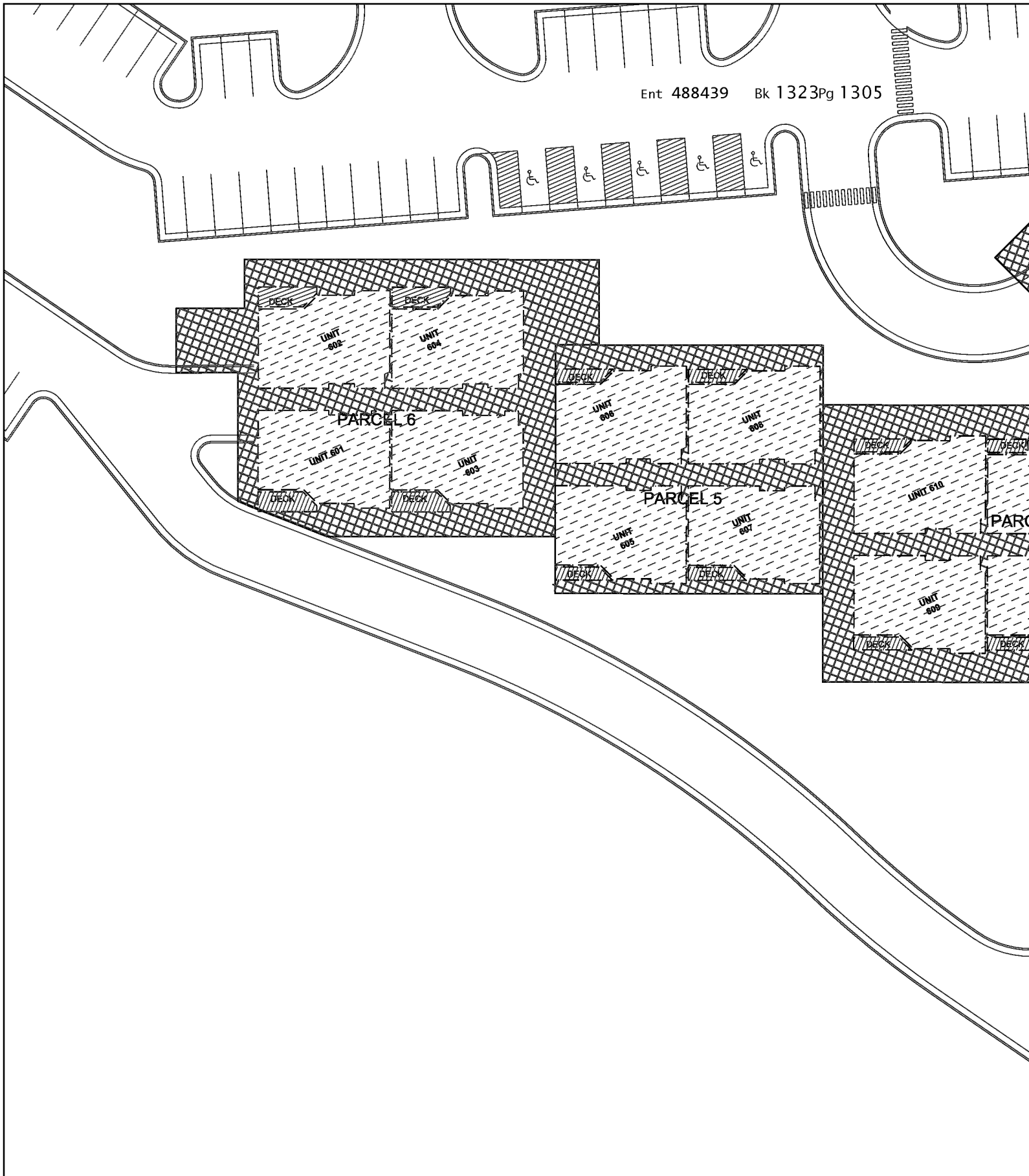
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COMMON ELEMENTS LEVEL 4



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COMMON ELEMENTS LEVEL 5



BLACK ROCK MOUNTAIN RES

COMMON ELEMENTS LEVEL 6

NO LEVEL 7

PARCEL 5

PARC

BLACK ROCK MOUNTAIN RES

COMMON ELEMENTS LEVEL 7