

When Recorded Return To:

Heath H. Snow, Esq.
Bingham & Snow, LLP
230 North 1680 East, Building M
St. George, Utah 84790

NOTE: IT IS THE PURPOSE AND INTENT OF THIS INSTRUMENT TO AMEND, RESTATE, REPLACE AND SUPERCEDE THAT CERTAIN AMENDED DECLARATION OF CONDOMINIUM FOR WHITE BEAR HOA, A CONDOMINIUM PROJECT, DATED JUNE 25, 2008, EXECUTED BY C&A CONSTRUCTION COMPANY, INC., A UTAH CORPORATION, AND RECORDED JULY 7, 2008 AS ENTRY NO. 00575071, IN BOOK 1139, AT PAGE 1822 IN THE OFFICIAL RECORDS ON FILE IN THE OFFICE OF THE RECORDER OF IRON COUNTY, STATE OF UTAH.

**REPLACEMENT DECLARATION OF CONDOMINIUM
FOR WHITE BEAR CONDOMINIUMS,
A CONDOMINIUM PROJECT**

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THIS REPLACEMENT DECLARATION OF CONDOMINIUM for WHITE BEAR CONDOMINIUMS is made and executed by Bankers' Bank of the West Bancorp, Inc., a Colorado corporation ("Declarant"), pursuant to the provisions of Title 57, Chapter 8, Utah Code Annotated, as amended.

RECITALS

A. Declarant holds both legal and equitable title to the real property located in Iron County, State of Utah, more particularly described in Exhibit "A" attached hereto.

B. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable as equitable servitudes and shall run with the land.

ARTICLE I
DEFINITIONS

Defined Terms. Unless the context clearly indicates otherwise certain terms as used in this Declaration shall have the meanings set forth in this Article I.

- 1.01 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association and any amendments thereto.
- 1.02 "Assessment" shall mean the amount that is to be levied and assessed against each Owner and the Owner's Unit and paid to the Association for Common Expenses, whether Annual Assessments (as set forth in Section 9.02), Special Assessments (as set forth in Section 9.03) or Specific Assessments (as set forth in Section 9.04).
- 1.03 "Association" shall mean and refer to the White Bear Condominiums Owners Association, a Utah nonprofit corporation which is organized by the filing of the Articles of Incorporation.
- 1.04 "Buildings" shall mean the two (2) condominium buildings that have been or will be constructed on the Land as such condominium buildings are shown on the Plat.
- 1.05 "Common Areas" shall mean property owned by the Association for the common use and benefit of the members of the Association including all physical portions of the Project except all Units.
- 1.06 "Common Expense Fund" shall mean the fund created or to be created to which the monies of the Association are to be credited.

- 1.07 **“Common Expenses”** shall mean all items and sums described in the Condominium Act which are lawfully assessed against the Owners for payment of Association expenses, including the expenses identified as Common Expenses in Section 9.02(a), in accordance with the provisions of the Condominium Act, this Declaration, the Bylaws and such rules and regulations pertaining to the Project as the Association may from time to time adopt.
- 1.08 **“Common Facilities”** shall mean all furniture, furnishings, equipment, facilities, and other property (real, personal, or mixed) and interests therein at any time leased, acquired, owned, or held by the Association for the use and benefit of all Owners and all other property (real, personal, or mixed) hereafter purchased in accordance with this Declaration with monies from the Common Expense Fund. Common Facilities shall be deemed to be part of the Common Areas except to the extent otherwise expressly provided in this Declaration.
- 1.09 **“Condominium”** shall mean a Unit and the undivided interest (expressed as a fraction or percentage of the entire ownership interest) in the Common Areas appurtenant to such Unit, as set forth in Exhibit “B” hereto.
- 1.10 **“Condominium Act”** shall mean the Utah Condominium Ownership Act and amendments thereto (title 57, Chapter 8, Utah Code Annotated).
- 1.11 **“Declarant”** shall mean Bankers’ Bank of the West Bancorp, Inc., a Colorado corporation.
- 1.12 **“Declarant Control Period”** shall mean the time period described in Section 7.04 of this Declaration during which the Declarant reserves and shall have certain rights and authorities as set forth in this Declaration, the Bylaws and the Articles of Incorporation.
- 1.13 **“Declaration”** shall mean and refer to this Replacement Declaration of Condominium pertaining to the Project, as such Declaration may hereafter be supplemented or amended in accordance with the Condominium Act and the provisions hereof. Any ambiguities, omissions, or conflicts herein shall be construed to comply with the provisions of the Act. It is the intent and purpose of this Replacement Declaration to void, nullify and supersede any prior declarations, covenants, conditions and restrictions previous recorded against the Land and the Project.
- 1.14 **“Fractional Share”** shall mean and shall include such interests and rights, which are indivisible and inseparable, in a fraction or percentage of a Unit, which is an undivided partial fee simple ownership interest in a specific Fractional Unit which gives the Owner of a Fractional Share a recurring and exclusive right to possession, use and occupancy use of an assigned Fractional Unit during a specified number of weeks, together with a non-exclusive right to use certain common portions of the Project while occupying an assigned Fractional Unit,

subject to the terms of this Declaration and other governing documents, and under conditions agreed upon between the various owners of such Fractional Share of a Unit.

- 1.15 **“Land”** shall mean the land upon which the Project is situated, as more particularly described in Paragraph A of the Recitals above and Exhibit “A” attached hereto.
- 1.16 **“Limited Common Areas”** shall mean any Common Areas designated for exclusive use by the owner of a particular Unit. Structural separations between Units or the space, which would be occupied, by such structural separations may become Limited Common Areas for the exclusive use of the owner or Owners of the Units on either side thereof as provided in Section 5.03 hereof. Any balconies, porches, or storage facilities that are shown on the Plat as being appurtenant to and accessible from a particular Unit, or which are identified on the Plat with the same number or other designation by which a Unit is identified, shall be Limited Common Areas for the exclusive use of the Owner of the applicable Unit. The elevators in the Building shall be Limited Common Areas of designated Units as set forth in Section 3.02 below.
- 1.17 **“Management Committee”** or **“Committee”** shall mean the governing committee of the Association appointed or elected in accordance with this Declaration and the Articles of Incorporation and Bylaws of the Association.
- 1.18 **“Manager”** shall mean the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.
- 1.19 **“Mortgage”** shall mean any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.
- 1.20 **“Mortgagee”** shall mean (i) any person named as the Mortgagee, beneficiary, or secured party under any Mortgage by which the interest of any Owner is encumbered or (ii) any successor to the interest of such person under such Mortgage.
- 1.21 **“Owner”** shall mean and refer to the person who is the Owner of record (as found in the Official Records on file in the Office of the County Recorder of Iron County, Utah) of a fee or an undivided fee interest in any Unit or Fractional Share. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

- 1.22 **"Plat"** shall mean the Final Plat for The White Bear Condominiums, pertaining to the Project and recorded on the 21st day of July, 2006 as Entry No. 534302 in Book No. 1044 at Page 1402 in the Official Records on file in the Office of the County Recorder of Iron County, State of Utah.
- 1.23 **"Project"** shall mean the Land, the Buildings, and all improvements submitted by this Declaration and the Plat to the provisions of the Condominium Act.
- 1.24 **"Total Votes of the Association"** shall mean the total number of votes appertaining to all Condominiums in the Project, as shown in Exhibit "B" attached hereto.
- 1.25 **"Unit"** shall mean an individual air space unit, consisting of enclosed rooms occupying part of one of the Buildings and bounded by the interior surfaces of the walls, floors, ceilings, windows, doors, and built-in fireplaces, if any, along the perimeter boundaries of the air space, as said boundaries are shown on the Plat together with all fixtures and improvements therein contained. Paint and other wall, ceiling or floor coverings on interior surfaces shall be deemed to be a portion of the Unit. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or for the use and enjoyment of another Unit; bearing walls, floors, ceilings, and roofs (except the interior surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except the outlets thereof when located within the Unit. The interior surfaces of a window or door mean the points at which such surfaces are located when the window or door is closed.

ARTICLE II
SUBMISSION AND DIVISION OF PROJECT

2.01 Submission to Condominium. The Declarant hereby submits the Land, the Buildings, and all other improvements now or hereafter made in or upon the Land to the provisions of the Condominium Act. All of said property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and improved as a fee simple Condominium Project to be known as The White Bear Condominiums. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said property and division thereof into Condominiums; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to the Declarant, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising the Project, and to their respective personal representatives, heirs, successors, and assigns.

2.02 Division into Condominiums. The Project is hereby divided into Condominiums, each such Condominium consisting of a Unit and an appurtenant undivided

interest in the Common Areas, as set forth in Exhibit "B" attached hereto and by this reference made a part hereof.

ARTICLE III
BUILDINGS AND IMPROVEMENTS

3.01 Improvements. The improvements included in the Project are now or will be located on the Land and all of such improvements are described on the Plat, including the number of Units which are to be contained in the Buildings which comprise a part of such improvements, the dimensions of the Units, and other significant facts relating to such Buildings, Units and Common Areas. The Plat also contains information regarding the number of floors in the respective Buildings and a description of the principal materials of which the Buildings are constructed.

3.02 Description of Buildings and Units. There will be two (2) Buildings containing a total of twenty-four (24) Units. Each Building will have twelve (12) Units. Each Unit shall have access to a designated ground level garage.

(a) Building A will have four (4) A Units that are each comprised of a garage and living space on the second floor of the Building (such living space and garage aggregately consisting of approximately the area and square footage shown on the Plat) and stairs leading down to the first floor of the Building with additional living space (consisting of approximately the area and square footage shown on the Plat). Building A will have four (4) B Units that are each comprised of a garage on the second floor of the Building (consisting of approximately the area and square footage shown on the Plat) with access to common stairs and living space on the third floor of the Building (consisting of approximately the area and square footage shown on the Plat). Building A will have four (4) C Units that are each comprised of a garage on the first floor of the Building (consisting of approximately the area and square footage shown on the Plat) with access to common stairs and living space on the fourth and fifth floors of the Building (consisting of approximately the area and square footage shown on the Plat). Unit AC1 will have exclusive use of the elevator shown on the Plat which is closest to the garage and living space for such Unit as a Limited Common Area of such Unit. Unit AC4 will have exclusive use of the elevator shown on the Plat which is closest to the garage and living space for such Unit as a Limited Common area of such Unit. The Units in Building A shall have patios, balconies and storage areas as shown on the Plat.

(b) Building B will have four (4) A Units that are each comprised of a garage and living space on the second floor of the Building (such living space and garage aggregately consisting of approximately the area and square footage shown on the Plat) and stairs leading down to the first floor of the Building with additional living space (consisting of approximately the area and square footage shown on the Plat). Building A will have four (4) B Units that are

each comprised of a garage on the second floor of the Building (consisting of approximately the area and square footage shown on the Plat) with access to common stairs and living space on the third floor of the Building (consisting of approximately the area and square footage shown on the Plat). Building A will have four (4) C Units that are each comprised of a garage on the first floor of the Building (consisting of approximately the area and square footage shown on the Plat) with access to common stairs and living space on the fourth and fifth floors of the Building (consisting of approximately the area and square footage shown on the Plat). Unit BC1 will have exclusive use of the elevator shown on the Plat which is closest to the garage and living space for such Unit as a Limited Common Area of such Unit. Unit BC4 will have exclusive use of the elevator shown on the Plat which is closest to the garage and living space for such Unit as a Limited Common area of such Unit. The Units in Building B shall have patios, balconies and storage areas as shown on the Plat.

3.03 Identification of Units. The Plat shows the identification letter of each Building and numbering systems (A-C for type or floor of Units & 1-4 to identify Units on each floor) for each Unit within each Building. It is intended that the unit marked as a letter and number on any portion of the Plat will be joined with the Building letter for the applicable Building, as listed on the Plat. Each Unit shall be legally designated and described by a Unit Number.

3.04 Description of Common Areas. The Plat contains a description of the Common Areas of the Project. Any balconies, porches, or storage facilities that are shown on the Plat as being appurtenant to and accessible from a particular Unit, or which are identified on the Plat with the same number or other designation by which a Unit is identified, shall be Limited Common Areas for the exclusive use of the Owner of the applicable Unit, as set forth in Section 1.16 above. The elevators shown on the Plat shall be Limited Common Areas of certain Units as specified in Section 3.02 above.

3.05 Conveyance Description of a Unit. Each conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit, may describe that Unit by the Unit number shown on the Plat, with the appropriate reference to the Plat and to this Declaration, as each shall appear in the records of the County Recorder of Iron County, State of Utah, in substantially the following form:

ALL OF UNIT ____ contained within White Bear Condominiums, a condominium project, as the same is identified in the Record of Survey Map or Final Plat therefore recorded in Iron County, Utah as Entry _____ and in the Declaration of Condominium (Including Owner Association Bylaws), of White Bear Condominiums, recorded in Iron County, Utah as Entry _____.

TOGETHER WITH the undivided ownership interest in and to the Common Areas which are appurtenant to said Unit as more particularly described in said

Declaration (as said Declaration may have heretofore been amended or supplemented).

Such description will be construed to describe the Unit, together with an equal undivided ownership interest in and to the Common Areas, as the same are established and identified in the Declaration and on the Plat, and to incorporate all the rights and all the limitations incident to ownership of such Unit as described in this Declaration. Each such conveyance shall be subject to all of the provisions of this Declaration.

ARTICLE IV
NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

4.01 Use of Interior of Units. Each Owner, except owners of Fractional Shares, shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of his Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries.

4.02 Maintenance of Units. Each Owner shall keep the interior of his Unit, including without limitations, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that any such Unit shall develop an unsanitary or unclean condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Association, the Association shall have the right, but not the obligation, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary or unclean condition or state of disrepair. Amounts owing to the Association pursuant to this Section shall be collected by the Association by Specific Assessment pursuant to the provisions of this Declaration.

4.03 Right to Combine Units. With the written consent of the Association, two or more Units may be utilized by the Owner or Owners thereof as if they were one Unit. To the extent permitted in the written consent of the Association, any walls, floors, or other structural separations between any two such Units, or any space which would be occupied by such structural separations but for the utilization of the two Units as one Unit, may, for as long as the two Units are utilized as one Unit, be utilized by the Owner or Owners of such adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Project. Whenever joint or combined utilization of any such units ceases, or upon the request of the Owner of one of such adjoining Units, any opening between two Units which, but for joint utilization of the two Units, would have been occupied by structural separation, shall be closed, at the equal expense of the Owner or Owners of each of the two Units, and the structural separations between the two Units shall thereupon become Common Areas.

4.04 Right to Fractionalize Units. The owners of a Unit may, by unanimous consent, create Fractional Shares of such Unit, in compliance with all City, County, State and Federal

codes, ordinances, statutes and regulations, and in accordance with any rules and regulations established by the Association regarding fractionalization of Units.

4.05 Title. Title to a Condominium may be held or owned by any person or entity or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation joint tenancy or tenancy in common.

4.06 Ownership or Common Areas. The undivided interest in the Common Areas appurtenant to each Unit in the Project shall be as set forth in Exhibit "B" attached hereto and by this reference made a part hereof. The percentages appurtenant to each Unit as shown in said Exhibit "B" shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in an amendment to this Declaration duly recorded. Except as otherwise provided in this Declaration, any Owner shall be entitled to nonexclusive use of the Common Areas (other than Limited Common Areas) in any manner that does not hinder or encroach upon the rights of other Owners and is not contrary to any rules and regulations promulgated by the Association. Except as otherwise provided in this Declaration, each Owner shall have the exclusive right to use and enjoy any Limited Common Areas that may be designated for exclusive use by such Owner.

4.07 Inseparability. Title to no part of a Condominium in the project may be separated from any other part thereof during the period of condominium ownership hereunder, and each Unit, the undivided interest in the Common Areas appurtenant to each Unit and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Unit shall always be conveyed, devised, encumbered, and otherwise effected only as a complete Condominium. Every devise, encumbrance, conveyance, or other disposition of a Condominium, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

4.08 No Subdivision. No Unit or portion thereof may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership; provided, however, that this subparagraph does not prevent or prohibit division of a Unit into Fractional Shares as authorized by this Declaration.

4.09 No Partition. The Common Areas shall be owned in common by all of the Owners, and no Owner may bring any action for partition thereof.

4.10 Separate Mortgages by Owners. Each Owner shall have the right separately to mortgage or otherwise encumber his Condominium. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas or any part thereof, other than the undivided interest therein appurtenant to his Condominium. Any Mortgage or other encumbrance of any Condominium within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

4.11 Separate Taxation. Each Condominium in the Project, including each Unit and appurtenant undivided interest in the Common Areas, shall be deemed to be a parcel and shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. For purposes of such assessment, the valuation of the Common Areas shall be apportioned among the Units in proportion to the undivided interest in Common Areas appurtenant to such Units. All such taxes, assessments, and other charges on each respective Condominium shall be separately levied against the Owner thereof and each Owner agrees to pay and discharge any and all taxes, assessments and other charges that may be assessed against such owner relative to his Condominium. No forfeiture or sale of any Condominium for delinquent taxes, assessments, or other governmental charge shall divest or in any way affect the title to any other Condominium.

4.12 Mechanics Liens. No labor performed or material furnished for use in connection with any Unit with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement or notice of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Areas (other than the undivided interest in the Common Areas appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished). In the event a mechanic's lien is recorded against the Common Areas, by virtue of labor or materials provided to an individual Condominium, the owner of said Condominium shall indemnify, defend and hold the Association and other Owners harmless from any and all damages, claims, payments or losses that may result therefrom.

4.13 Description of Condominium. Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium in the Project may describe a Unit by its identifying number or symbol as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and to incorporate all the rights incident to ownership of a Condominium in the Project and all of the limitations on such ownership as described in this Declaration and/or in the Articles of Incorporation and Bylaws of the Association.

ARTICLE V EASEMENTS

5.01 Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon any Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Common Areas or any part of a Unit shall hereafter encroach on real property now owned by the Declarant outside the boundaries of the Land, an easement for such encroachment shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Buildings or any improvements constructed or to be constructed in the Project, by error in the Plat, by settling, raising, or shifting

of the earth, or by changes in position caused by repair or reconstruction of the Project, or any part thereof.

5.02 Easements for Maintenance, Cleaning and Repair. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair, or replacement of any Common Areas or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to any Unit. In addition, the Association or its agents may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage to an Owner's Unit caused thereby shall be repaired by the Association with funds from the Common Expense Fund; provided, that if such damage is the result of negligence of the Owner of the Unit, his guests or invitees, then such Owner shall be financially responsible for all such damage. Any amounts owing by an Owner pursuant to this Section may be collected by the Association by Specific Assessment pursuant to the provisions of this Declaration.

5.03 Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Areas as necessary for access to such Owner's Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical, and lateral support of such Unit, and such rights shall be appurtenant to and pass with title to each Condominium.

5.04 Association's Right to Use Common Areas. The Association shall have an easement to make such use of the Common Areas as may be necessary or convenient to perform the duties and functions that it is obligated or permitted to perform pursuant to this Declaration, including without limitation the right to construct and maintain in the Common Areas (other than Limited Common Areas) facilities for use by Owners generally or by the Association and its agents exclusively.

5.05 Easement for Completion of Project. The Declarant shall have a transferable easement over and on the Common Areas for the purpose of completing construction of the Project and making improvements therein as shown on the Plat, and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing said easement, the Declarant and the person causing the damage shall be liable to the Association for the prompt repair or such damage.

5.06 Municipal/Governmental Services. The Town of Brian Head, Iron County and any other government or quasi-governmental body having jurisdiction over the Land and Project shall enjoy access and rights of ingress and egress over and across any Common Areas for the purpose of providing police and fire protection or any other governmental or municipal services including utility service.

5.07 Utility Services. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all public and private utilities, including but not limited to, water, sewer, gas, telephone, electricity, internet, cable, and other utility services.

5.08 Easements Deemed Created. All conveyances of Condominiums in the Project hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE VI RESTRICTIONS ON USE

6.01 Residential Uses. The Units in the Project shall be used exclusively for residential and lodging purposes, such purposes to be confined to Units in the Project. No Unit shall be used for business or commercial activity; provided, however, that nothing herein shall be deemed to prevent (a) the Declarant or its duly authorized agents from using any Units owned by the Declarant as sales models or property management offices, or (b) any Owner or his duly authorized agent from freely renting, leasing or fractionalizing his Unit from time to time.

6.02 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project, which is or may become a nuisance or may cause disturbance or annoyance to Owners. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

6.03 Restriction on Signs. No signs, flags, or advertising devices of any nature, including without limitation commercial, political, informational, or directional signs or devices, shall be erected or maintained on any part of the Project, without the prior inspection and written approval of the Association, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall promptly be removed at the request of the Association.

6.04 Restriction on Animals. Animals, livestock, and poultry shall not be raised, bred or kept on any Unit, except domestic household pets (e.g., cats and dogs) not exceeding a total of two (2), may be kept in each Unit, provided it is not kept, bred or maintained for any commercial purpose, and provided that the Owner of the Unit is the resident of the Unit. Any renter, occupant or lessee that is not the Owner of a Unit shall not be allowed to have a pet in a Unit. Any allowed pets shall be kept in the Unit, except when under leash or when being transported to or from the Unit in a motor vehicle. Owners will be responsible for removal of their pet's feces. If a pet becomes a nuisance or an annoyance to the other Owners, the Association may, after appropriate notice and a hearing, confine or remove the animal at the Owner's expense.

6.05 No Structural Alterations. No Owner shall, without the prior written consent of the Association, make or permit to be made any structural alteration, improvement, or addition in or to his Unit or to the Common Areas. No Owner shall, without the prior written consent of the

Association, do any act that would impair the structural soundness or integrity of the Buildings or the safety of property or impair any easement or hereditament appurtenant to the Project.

6.06 No Obstructions. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Association shall consent thereto in writing.

6.07 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept in any Unit, in the Common Areas, or in any other part of the Project which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or his guests, lessees, licensees, or invitees.

6.08 Antenna and Satellite Dishes. No outside television or radio aerial, antenna or satellite dishes, or other similar device for reception or transmission, shall be permitted on any Common Area or the exterior of any Unit except pursuant to written approval of the Association which approval shall be site specific and non-precedent setting.

6.09 Parking and Vehicles. All vehicles, including recreational vehicles and boats, shall be parked only in designated parking areas within the Project. Parking in designated guest parking within the Project shall be subject to rules and regulations as may be adopted by the Association. No vehicle shall be repaired, disassembled, or reassembled on any Common Area, Limited Common Area, garage apron, or designated guest parking in the Project.

6.10 Storage. Garages are to be used for the parking of vehicle and not for general storage. Unit patios and balconies shall not be used as general storage areas or for the hanging and drying of laundry.

6.11 Rules and Regulations. The Owner shall comply with each and all of the rules and regulations governing use of the Units and/or Common Areas, as such rules and regulations may from time to time be adopted, amended, or revised by the Association, in the sole discretion of its Board of Trustees.

6.12 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project or on any portions of additional land added to the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however that during the course of such construction, nothing shall be

done which will result in a violation of any of said provisions, covenants, or restrictions upon completion of the construction.

6.13 Declarant's Right to Sell Units. Until Declarant has completed and sold all of the Units within the Project, the other Unit Owners shall not interfere with the completion of the contemplated improvements and the sale of all remaining Units. Declarant may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office and models, the showing of the Units and the display of signs.

ARTICLE VII THE ASSOCIATION

7.01 Membership. Each Owner shall be entitled and required to be a member of the Association; such membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an owner. If title to a Condominium is held by more than one person, the membership appurtenant to that Condominium shall be shared by all such persons in the same proportional interest and by the same type of tenancy in which title to the Condominium is held. Each membership shall be appurtenant to the Condominium to which it relates and shall be transferred automatically by conveyance of that Condominium. Ownership of a Condominium or Fractional Share in the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance or other disposition, respectively of the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Condominium or Fractional Share.

7.02 Management Committee. The Association, and its actions, shall be managed and governed by a Management Committee. The Management Committee shall consist of at least three (3) members or trustees, as set forth in the Bylaws. The members or trustees of the Management Committee shall be appointed or elected pursuant to the provisions of the Bylaws. Notwithstanding the foregoing, the Declarant shall have the exclusive right to appoint, remove and replace all members or trustees of the Management Committee during the Declarant Control Period.

7.03 Votes. The number of votes appurtenant to each respective Condominium shall be as set forth in Exhibit "B" attached hereto and by this reference made a part hereof. The number of votes appurtenant to each Condominium as set forth in said Exhibit "B" shall be modified without the unanimous written consent of all Owners only in the event that a Unit is converted into Fractional Shares, at which time the number of votes for the Unit that has been converted into Fractional Shares shall be divided among the Owners of such Fractional Shares according to their respective Fractional Share in the Unit that has been so converted. The aggregate voting interests and rights of all Owners of Fractional Shares in a Unit shall be equal to the number of votes allocated to the Unit prior to the Units conversion into Fractional Shares.

7.04 Declarant Control Period. Notwithstanding anything to the contrary in this Declaration, the Articles or the Bylaws, the Declarant may appoint and remove some or all of the members or trustees of the Management Committee of the Association (who need not be Owners) and/or some or all of the officers of the Association, and may exercise the powers and responsibilities otherwise assigned by the Declaration and the Act to the Association, its officers and the Management Committee, until the earlier occurrence of the following:

- (a) The expiration of three (3) years after the date this Declaration is recorded in the Official Records of the Office of the County Recorder of Iron County, State of Utah (or such longer period as may be allowed by the Condominium Act); or
- (b) Units to which three-fourths of the undivided interest in the Common Areas appertain have been conveyed, or after all additional land has been added to the Project and all convertible land has been converted, whichever last occurs.

Provided, however, that Declarant may waive such rights, in whole or in part at any time prior to the occurrence of either or both of the aforesaid events by (i) giving notice to Unit Owners of such waiver in written recordable form and (ii) recording said written notice of waiver in the Official Records in the Office of the County Recorder of Iron County, State of Utah, whereupon Unit Owners shall promptly hold a meeting to elect a new Management Committee pursuant to the Bylaws, it being established hereby that the control of the Unit Owners in the Management Committee shall automatically vest 30 days following the date such waiver is recorded.

7.05 Indemnification. Each member of the Association's Management Committee shall be indemnified and held harmless by the Unit Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent or criminal actions) including, without limitation, attorney's fees reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Management Committee.

7.06 Amplification. The provisions of this Article VII may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration. The initial Bylaws of the Association shall be in the form of Exhibit "C" attached hereto and by this reference made a part hereof.

7.07 Amendment of Article. This Article VII not be amended unless the owners of all Condominiums in project unanimously consent and agree to such amendment instruments duly recorded; provided, however, that all Owners shall be deemed to consent to such amendments as may be necessary to establish Fractional Shares and such corresponding voting rights as provided herein.

ARTICLE VIII
CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

8.01 Common Areas. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that each Owner shall keep the Limited Common Areas, if any, designated for use in connection with his Unit in a good, clean, safe, sanitary, and attractive condition. The Association shall be responsible for the maintenance and repair of the exterior of the Buildings and the grounds; including without limitation, painting, repair and replacement of exterior trim and roofs, and maintenance of landscape, walkways, and driveways. The Association shall also be responsible for maintenance, repair, and replacement of Common Areas within the Buildings, including without limitation, hallways, utility lines, and all Common Facilities, improvements, and other items located in or used in connection with the Common Areas. The specification of duties of the Association with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas as set forth in the first sentence of this Section. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with funds from the Common Expense Fund.

8.02 Manager. The Association may by written contract delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.

8.03 Miscellaneous Goods and Services. The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or, the enforcement of this Declaration. In addition to the foregoing, the Association may acquire, and pay for out of the Common Expense Fund, water, sewer, garbage collection, electrical, gas, and other necessary or desirable utility services for the Common Areas (and for the Units to the extent, not separately metered or billed), and insurance, bonds, and other goods and services common to the Units.

8.04 Real and Personal Property. The Association may acquire and hold real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. All such property, including Common Facilities, shall be paid for out of the common Expense Fund and all proceeds from the disposition thereof shall be part of such Fund.

8.05 Promulgation of Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units, the Common Areas, and the Limited Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may take judicial action against any Owner to

enforce compliance with such rules and regulations or other obligations of Owner's arising hereunder, or to obtain damages for noncompliance herewith, as permitted by law. In the event of such judicial action, the Association shall be entitled to recover its costs including reasonable attorneys' fees, from the offending Owner. The Association may also suspend any Owner's voting rights for periods during which such Owner fails to comply with such rules and regulations, or with any other obligations under this Declaration, including failure to pay Assessments.

8.06 Granting Easements. The Association may, without the vote or consent of the Owners or of any other person, grant or create, on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Areas.

8.07 Design Control. Except for original construction, the Association shall act in all matters pertaining to architectural or design review, and control of the Project, and shall establish rules and procedures for submitting plans for approval of any proposed construction, alteration, remodeling, etc., involving the exterior of any Unit. The Association may establish a committee of Owners to act pursuant to the provisions of this Section.

8.08 Statutory Duties and Powers. All responsibilities and duties imposed upon and all rights and powers granted to the Management Committee or the Manager under the Condominium Act shall be duties, responsibilities, rights, and powers of the Association hereunder.

8.09 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IX ASSESSMENTS

9.01 Agreement to Pay Assessments. Each Unit Owner, by the acceptance of a deed to his Unit, or execution of a contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with the Association, all other Unit Owners, and with the Management Committee, to pay to the Association all Assessments made by the Association provided in this Declaration, together with late payment fees, interest, and costs of collection if and when applicable. Such Assessments shall be fixed, established, and collected from time to time as provided in this Article IX.

9.02 Annual Assessments. Annual Assessments shall be computed and assessed against all Condominiums or Fractional Shares in the Project as follows:

- (a) **Common Expense.** Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Areas and/or furnishing utility services and other

common items to the Units. Such estimated expense may include, among other things, the following: expenses of management; real property taxes and special assessments (until the Condominiums are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Units to the extent not separately metered or billed; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners under or by reason of this Declaration. Such shall constitute the Common Expenses, and all funds received from Assessments under this Section 9.02 shall be part of the Common Expense Fund.

- (b) **Apportionment.** Expenses attributable to the Common Expenses or to the Project as a whole shall be apportioned among and assessed to all Owners in proportion to their respective undivided interests in the Common Areas. Common Expenses apportioned to a Unit that has been converted to Fractional Shares shall be divided among, and apportioned to, the Owners of the Fractional Shares of such Unit according to their respective Fractional Shares. Notwithstanding the foregoing or anything to the contrary in this Declaration, for purposes of apportionment of the Common Expenses, Declarant shall be deemed to own the undivided interest in the Common Areas based only upon Condominiums which have been completed and used by Declarant for residential purposes or as models for marketing purposes, or fully completed (carpeted and painted) but not yet conveyed by Declarant to third party grantees. During the Declarant Control Period, if Annual Assessments fail to adequately meet the Common Expenses, Declarant shall pay any shortfall.
- (c) **Annual Budget.** Annual Assessments shall be determined on a May 1 through April 30 fiscal year basis; provided that the first fiscal year shall begin on the date this Declaration is recorded in Official Records of the Office of the County Recorder of Iron County, State of Utah. On or before April 1 of each fiscal year in which there are Owners other than Declarant, the Association shall prepare or cause to be prepared and furnished to each Owner an operating budget for the upcoming fiscal year. The operating budget for the first fiscal year shall be prepared and furnished to each Owner within 30 days of such Owner's initial purchase. Each budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, any reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting documents 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.

- (d) **Notice and Payment.** Except with respect to the first fiscal year, the Association shall notify each Owner as to the amount of the Annual Assessment with respect to his Condominium on or before April 15 each year for the fiscal year commencing on May 1 next following. Each Annual Assessment shall be payable in twelve (12) equal monthly installments due on the first day of each calendar month during the fiscal year to which the Assessment relates; provided, however, that the Annual Assessment for the first fiscal year shall be based upon and shall be payable in equal monthly installments for the balance of such fiscal year remaining after the date of recording hereof. All unpaid installments of any Annual Assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month (or at such lesser rate equal to the maximum interest rate allowed by applicable law) from the date each such installment is due until paid. The failure of the Association to give timely notice of any Annual Assessment as provided herein shall not be deemed to waive or modify in any respect the provisions of this Declaration, or to release any Owner 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 involved Owner.
- (e) **Inadequate Funds.** In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Owner's Assessment, the Association may levy additional Assessments in accordance with the procedure set forth in Section 9.03 hereof, except that the vote therein specified shall be unnecessary.
- (f) **Initial Fees.** Each Owner (other than Declarant), shall be required to prepay at the time of purchase of his Unit, whether as a first time or subsequent Owner, a sum equal to three times the then monthly installment of the Annual Assessment, which sum shall be in addition to any proration of Assessment which may be due for the month in which such purchase takes place. Such fees shall become part of the Common Expense Fund to be utilized as necessary.

9.03 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may, at any time and from time to time, upon the affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association, levy Special Assessments, payable over such periods as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration (including without limitation Common Expenses). This Section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing for expense authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given

promptly to the Owners; no payment shall be due less than fifteen (15) days after such notice shall have been given. All unpaid portions of any Special Assessment shall bear interest at the rate of one and one-half percent (1-1/2%) per month (or at such lesser rate equal to the maximum internet rate allowed by applicable law) from the date such portions become due until paid. All funds received from assessments under this Section shall be part of the Common Expense Fund.

9.04 Specific Assessments. In addition to Annual Assessments and any Special Assessments authorized pursuant to this Article IX, the Association may levy at any time Specific Assessments (a) on every Unit especially benefited by any improvement made by the Association at the written request of the Owner of the Unit to be charged; (b) on every Unit the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Unit to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to any of the provisions of this Declaration. The aggregate amount of any such Specific Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all attorneys' fees and costs, and shall be allocated among the affected Units according to the magnitude of special benefit, or cause of damage, or maintenance or repair work, or enforcement action, as the case may be, and such Specific Assessment may be made in advance of the performance of work when applicable. If a special benefit arises from any improvement which is part of the general maintenance or operation obligations of the Association, it shall not give rise to a Specific Assessment against the Units benefited.

9.05 Lien for Assessments. All sums assessed to Owners of any Condominium in the Project pursuant to the provisions of this Article IX, together with interest thereon as provided herein, shall constitute and remain a charge and continuing lien on such Condominium in favor of the Association. To evidence a lien for sums assessed pursuant to this Article IX, the Association may prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium, and a description of the Condominium. Such a notice may be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the County Recorder of Iron County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Utah. In any such foreclosure, the Owner shall be required to pay the cost 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 Association any Assessments against the Condominium, which shall become due during the period of foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Association shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Condominium. Such lien may also be enforced by sale in accordance with the provisions of the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or in any other manner permitted by the laws of the State of Utah then in effect.

9.06 Personal Obligation of Owner. The amount of any Annual, Special or Specific Assessment against any Condominium shall be the personal, joint and several obligation of the

Owner or Owners of such Condominium or Fractional Share to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Condominium or Fractional Share or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid Assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

9.07 Statement of Account. Upon payment of a reasonable fee not to exceed \$10.00 and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium or Fractional Share, the Association shall issue a written statement setting forth the following: The amount of the unpaid Assessments, if any, with respect to such Condominium or Fractional Share; the amount of the current Annual Assessment and the date or dates upon which installments thereof become due; credit for advanced payments or prepaid items, including without limitation, the Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9.08 Personal Liability of Purchaser. Except as may otherwise be provided in this Declaration, a purchaser of a Condominium or Fractional Share shall be jointly and severally liable with the seller thereof for all unpaid Assessments against such Condominium or Fractional Share up to the time of the grant or conveyance; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such Assessments.

9.09 No Abatement. No diminution or abatement of any Assessments under this Declaration shall be claimed or allowed for inconvenience, annoyance or discomfort arising from (a) any construction (or lack of construction) within the Project; (b) the making of (or failure to make) any repairs or improvements to, or the maintenance of, any Common Areas of the Project, or any part thereof; or (c) from any action taken to comply with the provisions of the Declaration or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

9.10 Amendment of Article. This Article IX shall not be amended unless the Owners of all Condominiums and Fractional Shares in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE X INSURANCE

10.01 Titles of Insurance. The Association shall obtain, or cause to be obtained, and keep in full force and effect at all times the following insurance and bond coverage with respect to the Project:

- (a) **Fire and Casualty Insurance.** A policy or policies of fire and casualty insurance with extended coverage endorsement for the full insurable replacement value of the

entire Project, including Units but not the contents thereof. Such policy or policies shall be made payable to the Association and all persons holding an interest in the Project or any of the Units, as their interests may appear.

- (b) **Liability.** A policy or policies insuring the Association, the Manager, and the Unit Owners against any liability incident to the ownership, use or operation of the Project, or of any Unit, which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall not be less than \$300,000 for any person injured, \$1,000,000 for all persons injured in any one accident, and \$1,000,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insured's, as between themselves, are not prejudiced.

10.02 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance and bond coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time. The Association may also obtain fidelity bond coverage for any person or entity handling funds of the Association, including, but not limited to, employees of a professional Manager, if any, the amount of such coverage to be determined by the Association, in its discretion.

10.03 Additional Insurance Provisions. The following additional provisions shall apply with respect to the insurance policies obtained and maintained by, or on behalf of, the Association:

- (a) Each policy of insurance obtained by the Association shall, if possible, provide: a waiver of the insurer's subrogation rights with respect to the Association, the Manager, the Unit Owners, and their respective employees, agents, and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any Member, officer, or employee of the Association or of the Manager without prior written demand that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.
- (b) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Association. Any Unit Owner who individually obtains insurance covering any portion of the Project (other than for Unit contents) shall supply the Association with a copy of his policy within 30 days after he acquires such insurance.
- (c) All insurance required to be maintained hereunder by the Association shall be procured from a company or companies authorized to do business in the State of Utah and which hold a financial rating of Class A or better from Best's Key Rating Guide.

- (d) Notwithstanding anything herein contained to the contrary, insurance coverage must be in such amounts and meet other requirements of the Federal National Mortgage Association and the Department of Veterans Affairs if Units in the Project are sold and qualified through FHA or VA mortgage loan guaranties.

10.04 Adjustment and Contribution. Exclusive authority to adjust losses under policies hereafter in force on the Project shall be vested in the Association. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual owners or their Mortgagees.

10.05 Owner's Own Insurance. Each Unit Owner shall be responsible to purchase and maintain in force a condominium owner contents policy (the "contents policy"). All claims for damage to a Unit must first be submitted by the Owner to his insurer under his contents policy. The Association will not be required to file claims under its policies for any damage that either should or would have been covered under an Owner's contents policy. Any such contents policy shall waive the insurance company's right of subrogation against the Association, the Declarant, the Manager, other Owners, and their respective servants, agents, and guests, if such insurance can be obtained pursuant to industry practice without additional premium charge for the waiver of subrogation rights.

10.06 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance on the Project and adjust same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project or by such other qualified appraisers as the Association may select.

ARTICLE XI DAMAGE OR DESTRUCTION

11.01 Association as Attorney in Fact. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his attorney in fact as herein provided. As attorney in fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner, which may be necessary or appropriate to exercise the powers herein granted.

11.02 Definition of Repair and Reconstruction. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having substantially the same vertical and horizontal boundaries as before.

11.03 Procedures. In the event any part of the Project is damaged or destroyed, the Association shall proceed as follows:

- (a) **Estimate of Costs.** As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct that part of the Project damaged or destroyed.
- (b) **Sufficient Insurance.** If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.
- (c) **Insufficient Insurance and Less than Seventy-Five Percent Destruction.** If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged and the proceeds of the insurance maintained by the Association are not alone sufficient to pay the actual costs of repair and reconstruction, repair and reconstruction shall be carried out and the Association shall levy a Special Assessment sufficient to provide funds to pay the actual costs of repair and reconstruction that are in excess of the proceeds of insurance maintained by the Association. Such Special Assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) prove insufficient to pay all actual costs of such repair and reconstruction.
- (d) **Insufficient Insurance and More than Seventy-Five Percent Destruction.**
- (i) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged and the proceeds of insurance maintained by the Association are not alone sufficient to pay the actual costs of repair and reconstruction, repair and reconstruction shall be carried out if the Unit Owners, within one hundred (100) days after the destruction or damage, by a vote of at least seventy-five percent (75%) of the Total Votes of the Association, elect to repair and reconstruct the affected improvements. The Association shall levy a Special Assessment sufficient to provide the additional funds to pay the actual costs of such repair and reconstruction to the extent that the proceeds of insurance maintained by the Association are insufficient to pay such costs. Such Special Assessment shall be allocated and collected as provided in Section 9.03 hereof, except that a vote of seventy-five percent of the Total Votes of the Association shall be required to approve such Special Assessment. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.
- (ii) If seventy-five percent (75 %) or more of the Project's improvements are destroyed or substantially damaged and the proceeds of insurance maintained by the Association are not alone sufficient to pay the actual costs of repair and reconstruction, and the Unit Owners do not, within one hundred (100) days after the destruction or damage, elect to repair and reconstruct the affected

improvements by a vote of at least seventy- five percent (75 %) of the Total Votes of the Association, the Association shall promptly record a notice setting forth such facts in the office of the County Recorder of Iron County, State of Utah. Upon the recording of such notice, the provisions of Section 57-8-31 (1) through (4) of the Condominium Act shall apply and govern the rights of all parties having an interest in the Project or any of the Units.

11.04 Repair or Reconstruction. If the damage or destruction is to be repaired and reconstructed as provided above, the Association shall, as soon as practical after receiving the estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to affect repair and reconstruction, as attorney in fact for the owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas having the same vertical and horizontal boundaries as before.

11.05 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the proceeds of all insurance collected or maintained by the Association and any amounts received from Assessments made pursuant to Sections 11.03(c) and (d) hereof shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs (if such repair and reconstruction, such balance shall be distributed to the owners in proportion to their respective percentages of ownership of the Common Areas).

11.06 Amendment of Article. This Article XI shall not be amended unless the Owners of all Condominiums in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE XII CONDEMNATION

12.01 Condemnation. If at any time or times all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Article shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain.

12.02 Proceeds. All compensation, damages, and other proceeds from any such taking by power of eminent domain (hereinafter the "condemnation award") shall be made payable to the Association and shall be distributed by the Association as herein provided.

12.03 Complete Taking. In the event the entire Project is taken by power of eminent domain condominium ownership pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed to the Owners in proportion to their respective

undivided interests in the Common Areas. Such distribution shall be made by check payable, jointly, to the respective Owners and their respective Mortgagees, as appropriate.

12.04 Partial Taking. In the event less than the entire Project is taken by power of eminent domain, the following shall occur:

- (a) **Allocation of Award.** As soon as practicable, the Association shall, reasonably and in good faith, apportion the condemnation award between compensation, severance damages, or other proceeds, and shall allocate such apportioned amounts and pay the same to the Owners as follows:
- (i) The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Units have been taken) in proportion to their respective undivided interests in the Common Areas;
 - (ii) The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Units that have not been taken, in proportion to their respective undivided interests in the Common Areas;
 - (iii) The respective amounts apportioned to the taking of or injury to a particular Unit shall be allocated and distributed to the Owner of such Unit;
 - (iv) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;
 - (v) If apportionment or allocation is already established by negotiation, judicial decree, statute, or otherwise the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; and
 - (vi) Distribution of allocated proceeds shall be made by check payable, jointly, to individual Owners and their respective Mortgagees, as appropriate.
- (b) **Continuation and Reorganization.** If less than the entire Project is taken by power of eminent domain, condominium ownership pursuant hereto shall not terminate, but shall continue. In such event the Project shall be reorganized as follows:
- (i) If any partial taking result in the taking of an entire Unit, then the Owner(s) thereof shall cease to be a Member of the Association and all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interests in the Common Areas;

- (ii) If any partial taking results in the taking of a portion of a Unit and if there is no determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the fair market value of such remaining portion of the Unit shall be determined, but all voting rights and the undivided interest in the Common Areas appertaining to such Unit shall remain the same and shall not be reduced. The voting rights and undivided interest in the Common Areas so divested from such Unit shall be reallocated to, and shall appertain to, such Unit and the other Units in the Project in proportion to their respective undivided interest in the Common Areas; provided, however, that such Unit shall participate in such reallocation on the basis of the undivided interests reduced in accordance with the preceding sentence;
 - (iii) If any partial taking results in the taking of a portion of a Unit and if there is such a determination that such taking makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then all voting rights and the entire undivided interest in the Common Areas appertaining to such Unit shall be reallocated to, and shall appertain to, the remaining Units in proportion to their respective undivided interest in the Common Areas, and the remaining portion of such Unit shall thenceforth be part of the Common Areas;
 - (iv) The Association shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section 12.04(b); provided, however, that if any such determination shall have been made or such action taken by judicial decree, the Association shall defer thereto and proceed in accordance therewith.
- (c) **Repair and Reconstruction.** Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Article XI hereof for cases of Damage or Destruction; provided, however, that the provisions of said Article dealing with sufficiency or insufficiency or insurance proceeds shall not be applicable.

12.05 Amendment of Article. This Article XII not be amended unless the Owners of all Condominiums in Project unanimously consent and agree to such amendments by instruments duly recorded.

ARTICLE XIII OBSOLESCENCE

13.01 Adoption of Plan. Owners holding seventy-five percent (75%) or more of the Total Votes of the Association may agree that the Project is obsolete and may adopt a written plan for the renewal and reconstruction of the Project, provided that such plan has the unanimous

written approval of all first Mortgagees of record at the time of the adoption of such plan. Written notice of adoption of such plan shall be given to all Owners.

13.02 Payment for Renewal and Reconstruction. The Association shall levy a Special Assessment sufficient to provide funds to pay the estimated expenses of renewal or reconstruction. Such Special Assessment shall be allocated and collected as provided in Section 9.03 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected prove insufficient to pay the actual expense of such renewal or reconstruction. In the event amounts collected pursuant hereto are in excess of the amounts required for renewal or reconstruction, such excess shall be distributed to the Owners in proportion to their respective percentages of ownership of the Common Areas.

13.03 Sale of Project. Notwithstanding any other provision of this Declaration, the Owners may at any time, by an affirmative vote of at least seventy-five percent (75%) of the Total Votes of the Association, at a special meeting of the Members of the Association duly called for such purpose, elect to sell or otherwise dispose of the Project. In such event, the Association shall forthwith record in the office of the County Recorder of Iron County, State of Utah, a notice setting forth such facts, and upon the recording of such notice by the Association, the Project shall be sold or otherwise disposed of by the Association as attorney in fact for all of the Owners. Such action shall be binding upon all Owners, and each Owner shall be obligated to execute and deliver such instruments and to perform all facts in such manner and form as may be necessary or appropriate to affect such sale or other disposition of the Project. The proceeds of such sale or disposition shall be apportioned among the Owners in proportion to their respective percentages of ownership of the Common Areas, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium. For purposes of this subparagraph, the interests of a Fractional Share in the common areas shall be combined to equal the proportion specified in the original Exhibit "B" before creation of any Fractional Shares, and such interest shall be divided among the owners of the Fractional Shares of a unit as their interests may be established. Each such account shall remain in the name of the Association and shall be further identified by the Condominium designation and the name of the Owner.

13.04 Amendment to Article. This Article XIII shall not be amended unless the Owners of all Condominiums or Fractional Shares in the Project unanimously consent and agree to such amendment by instruments duly recorded.

ARTICLE XIV MORTGAGEE PROTECTION

14.01 Notice to Mortgagees. From and after the time a Mortgagee makes written request to the Association therefore, the Association shall notify such Mortgagee in writing in the event that the Owner of the Condominium encumbered by the Mortgage held by such Mortgagee neglects for a period of thirty (30) days or more to cure any failure on the part of such Owner to perform any of his obligations under this Declaration.

14.02 Subordination of Assessment Lien. The lien or claim against a Condominium or Fractional Share for unpaid Assessments or charges levied by the Association pursuant to this

Declaration shall be subordinate to a prior Mortgage affecting such Condominium or Fractional Share. A Mortgagee who comes into possession of the Condominium or Fractional Share pursuant to a Mortgage or a deed or assignment in lieu of foreclosure shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments or charges which accrue after recordation of the Mortgage and prior to foreclosure of the Mortgage, exercise of power of sale available hereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior Assessments or charges resulting from a pro rata reallocation thereof to all Condominiums or Fractional Shares, including the Condominium or Fractional Share in which the Mortgage is interested). No Assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not a burden to a Mortgagee coming into possession pursuant to this Mortgage or a deed or assignment in lieu of foreclosure shall be collected or enforced against a Mortgagee, a successor in title to a Mortgagee, or the Condominium or Fractional Share affected or previously affected by the Mortgage concerned (to the extent any such collection or enforcement would prejudice the interests of the Mortgagee or successor in title to the Mortgagee interested in such Condominium or Fractional Share).

14.03 Prior Written Approval of Mortgagees. Unless all of the first Mortgagees of the individual Condominiums or Fractional Shares have given their prior written approval, the Association shall not be entitled, by act, omission or otherwise:

- (a) To abandon or terminate the Project or to abandon or terminate the arrangement which is established by this Declaration and the Plat, except for abandonment provided by statute in case of substantial loss to the Units and Common Areas;
- (b) To partition or subdivide any Unit;
- (c) To abandon, partition, subdivide, encumber, alter the boundaries of, sell, diminish, or transfer all or any of the Common Areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas, and except as provided in Section 14.03(a) hereof);
- (d) To use hazard insurance proceeds resulting from damage to any part of the Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements;
- (e) To change the pro rata interests or obligations of any Unit which apply for (i) purposes of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each unit in the Common Areas;
- (f) To alter the provisions hereto in such a way as to diminish the insurance protection required to be afforded to the parties designed to be protected thereby, or to fail to maintain the insurance coverage described therein; or

- (g) Subject any Condominium to any unreasonable restraints on alienation, which would adversely affect title or market ability of a Condominium, or the ability of the Mortgagee to foreclose its mortgage lien and thereafter to sell or lease the mortgaged Condominium.

14.04 Examination of Records. Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the books and records of the Association. From and after the time a Mortgagee makes written request to the Association therefore, the Association shall furnish to such Mortgagee at the Mortgagee's expense copies of such annual operating reports and other reports or writings summarizing or reflecting the financial position or history of the Project as may be prepared for distribution to or use by the owners generally.

14.05 Revenue Fund and Working Capital Fund Required. The Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary repairs and replacements of the Common Areas and any component thereof and shall cause such reserve to be funded by regular monthly or other periodic Assessments against the Condominium or Fractional Share rather than by Special Assessments, to the extent reasonably possible.

14.06 Notification of Loss or Damage. From and after the time a Mortgagee makes written request to the Association therefore, the Association shall notify such Mortgagee in writing in the event that there occurs any damage or loss to, or taking or anticipated condemnation of:

- (a) The Common Area as involving an amount in excess of, or reasonably estimated to be in excess of, Fifteen Thousand dollars (\$15,000.00); or
- (b) Any Unit involving an amount in excess of, or reasonably estimated to be in excess of, Five Thousand Dollars (\$5,000.00). Said notice shall be given within fifteen (15) days after the Association learns of such damage, loss, taking, or anticipated condemnation.

14.07 Article Supersedes All Others. In the event of another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article XIV, the provision or clause which results in the greatest protection and security for a Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

14.08 Amendment of Article. No amendment to this Article XIV which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the first Mortgagees of the individual Condominiums or Fractional Share have given their prior written approval to such amendments. Any amendment to this Article XIV shall be accomplished by an instrument executed by the Association and filed for record in the office of the County Recorder of Iron County, State of Utah. In any such instrument, an officer of the Association shall certify under penalties of perjury that any prior written approval of first Mortgagees required by this Article XIV as a condition to amendment has been obtained.

14.09 Notices. Any notice to a Mortgagee under this Article XIV shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by first class mail, postage prepaid, and addressed to the Mortgagee at the address for notices from time to time specified by the Mortgagee in writing to the Association. Any such notice shall be deemed to have been given and received and shall be effective when personally delivered or when deposited in the U.S. mail in the form herein specified, whichever comes first.

ARTICLE XV COMPLIANCE WITH DECLARATION AND BYLAWS

15.01 Compliance. Each Owner shall comply strictly with the provision of this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations promulgated by the Association, and the decisions and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended, modified, or enacted from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief or for both, maintainable by the Association or, in a proper case, by an aggrieved Owner.

15.02 Enforcement and Remedies. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any Supplemental or amended Declaration, with respect to the Association or Condominiums in the Project shall be enforceable by the Declarant or by any Owner of a Condominium or Fractional Share in the Project, subject to this Declaration, by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions, and conditions contained in this Declaration, or in any supplemental or amended Declaration, with respect to a person or entity or property of a person or entity other than the Association or the Declarant shall be enforceable by the Declarant or by the Association or, in a proper case, by an aggrieved Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or to recover any amount due and unpaid.

ARTICLE XVI GENERAL PROVISIONS

16.01 Intent and Purpose. The provisions of this Declaration, and any supplemental or amended Declaration, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a Condominium Project. Failure to enforce any provision, restriction, covenant, or condition of this Declaration, or of any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions contained herein.

16.02 Construction. The provisions of this Declaration shall be in addition and supplemental to the Condominium Act and to all other provisions of law. Whenever used herein, unless the context shall otherwise require, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include all other genders. The Article and Section headings contained herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise affect the content,

meaning, or intent of this Declaration or any Article, Section, or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

16.03 Notices and Registration of Mailing Address. Each Owner shall register from time to time with the Association his current mailing address. All notices, demands, and other communications to any Owner as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the Owner at his registered mailing address or, if no address has been registered, to the Unit of such Owner. All notices, demands, and other communications to the Association as provided for in this Declaration shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by certified or registered U.S. mail return receipt requested, postage prepaid, and addressed to the Association at its offices at the Project, or at such other address as the Association may hereafter specify to the Owners in writing. Any notice, demand, or other communication under this Declaration shall be deemed to have been given and received and shall be effective when personally delivered or when deposited in the U.S. mail in the form provided for in this Section, as the case may be.

16.04 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association. The Association, at the expense of the Common Expense Fund, shall obtain an audit, by certified public accountants, of all books and records pertaining to the Project at no greater than annual intervals, and copies thereof shall be furnished to the Owners.

16.05 Amendment. Except as otherwise provided herein, this Declaration may be amended if Owners holding at least sixty percent (60%) of the Total Votes of the Association consent and agree to such amendment by instruments duly recorded in the office of the County Recorder of Iron County, State of Utah.

16.06 Effective Date. This Declaration shall take effect upon recording thereof in the office of the County Recorder of Iron County, State of Utah.

16.07 Agent for Service. The name and address of the person to receive service of process in all cases provided by the Condominium Act shall be the registered agent and address of the Association as shown on the official corporate records maintained by the Utah Division of Corporations. On the date of this Declaration, the registered agent of the Association is S. Eric Wilbanks of Bingham & Snow Utah, P.C. at 230 North 1680 East, Building M, St. George, Utah 84790.

16.08 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may be leasing, renting, or selling under contract his Condominium or Fractional Share. The Owner of a Condominium or Fractional Share in the Project shall have no obligation for expenses or other obligations accruing after he conveys such Condominium or Fractional Share of record.

16.09 Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land, or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units and Common Areas shall be subject to, the provisions of this Declaration and of any rules and regulations promulgated by the Association, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

16.10 Limitation on Association's Liability. The Association shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for injury to or damage of any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Buildings or their drains, pipes conduits, appliances, utility liens, or equipment, or from any other place, unless caused by the gross negligence or willful misconduct of the Association. No diminution or abatement of any Assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements in or maintenance of the Project or any part thereof, or from any action taken to comply with the laws, ordinances, regulations, rules, or orders of any governmental authority.

[Signatures on Following Page]

EXHIBIT "A"

Parcel 1: Units AA1 – AA4; AB1 - AB4; and AC1 - AC4 of Building A and Units BA1 – BA4; BB1 – BB4; and BC1 – BC4 of Building B, WHITE BEAR CONDOMINIUMS, Brian Head, Utah, as the same is identified in the recorded Survey Map in Iron County, Utah as Entry No. 534302, in Book 1044, at Page 1402, (as said record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium recorded in Iron County, Utah, as Entry No. 534303, in Book 1044, at Pages 1403-1449 (as said Declaration may have heretofore been amended or supplemented).

Parcel 2: TOGETHER WITH the undivided ownership interest in and to the Common Areas and Facilities which is appurtenant to said Unit as more particularly described in said Declaration (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.:

A-1200-0AA1	B-1200-0BA1
A-1200-0AA2	B-1200-0BA2
A-1200-0AA3	B-1200-0BA3
A-1200-0AA4	B-1200-0BA4
A-1200-0AB1	B-1200-0BB1
A-1200-0AB2	B-1200-0BB2
A-1200-0AB3	B-1200-0BB3
A-1200-0AB4	B-1200-0BB4
A-1200-0AC1	B-1200-0BC1
A-1200-0AC2	B-1200-0BC2
A-1200-0AC3	B-1200-0BC3
A-1200-0AC4	B-1200-0BC4

EXHIBIT "B"

UNIT NUMBER	VOTES	INTEREST IN COMMON AREAS
AA1	1	1/24 (approximately 4.167%)
AA2	1	1/24 (approximately 4.167%)
AA3	1	1/24 (approximately 4.167%)
AA4	1	1/24 (approximately 4.167%)
AB1	1	1/24 (approximately 4.167%)
AB2	1	1/24 (approximately 4.167%)
AB3	1	1/24 (approximately 4.167%)
AB4	1	1/24 (approximately 4.167%)
AC1	1	1/24 (approximately 4.167%)
AC2	1	1/24 (approximately 4.167%)
AC3	1	1/24 (approximately 4.167%)
AC4	1	1/24 (approximately 4.167%)
BA1	1	1/24 (approximately 4.167%)
BA2	1	1/24 (approximately 4.167%)
BA3	1	1/24 (approximately 4.167%)
BA4	1	1/24 (approximately 4.167%)
BB1	1	1/24 (approximately 4.167%)
BB2	1	1/24 (approximately 4.167%)
BB3	1	1/24 (approximately 4.167%)
BB4	1	1/24 (approximately 4.167%)
BC1	1	1/24 (approximately 4.167%)
BC2	1	1/24 (approximately 4.167%)
BC3	1	1/24 (approximately 4.167%)
BC4	1	1/24 (approximately 4.167%)

EXHIBIT "C"

Replacement Declaration of Condominium
White Bear Condominiums

36

00615791 B: 1213 P: 1076

**BYLAWS
OF
WHITE BEAR CONDOMINIUMS OWNERS ASSOCIATION
(A Utah Nonprofit Corporation)**

For the administration of the Condominium Project, the following Bylaws ("Bylaws") are adopted:

**ARTICLE 1
DEFINITIONS**

Section 1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of White Bear Owners Association, a Utah nonprofit corporation.

Section 1.2 "Association" shall mean and refer to the White Bear Condominiums Owners Association, a Utah nonprofit corporation which is organized by the filing of the Articles of Incorporation.

Section 1.3 "Bylaws" shall mean and refer to these Bylaws of the Association.

Section 1.4 "Common Areas" shall have the meaning set forth in Section 1.05 of the Declaration.

Section 1.5 "Condominium Act" shall mean the Utah Condominium Ownership Act and amendments thereto (title 57, Chapter 8, Utah Code Annotated).

Section 1.6 "Declarant" shall mean Bankers' Bank of the West Bancorp, Inc., a Colorado corporation.

Section 1.7 "Declarant Control Period" shall mean and refer to the period set forth in Section 7.04 of this Declaration during which the Declarant reserves and shall have certain rights and authorities as set forth in this Declaration, the Bylaws and the Articles of Incorporation.

Section 1.8 "Declaration" shall mean and refer to the Replacement Declaration of Condominium pertaining to the condominium project located in Iron County, State of Utah commonly known as White Bear Condominiums and recorded in the Official Records on file in the Office of the County Recorder of Iron County, State of Utah on March 30, 2011, as such Declaration may hereafter be supplemented or amended in accordance with the Act and the provisions hereof.

Section 1.9 "Fractional Shares" shall have the meaning set forth in Section 1.14 of the Declaration.

Section 1.10 "Land" shall mean the land upon which the Project is situated, as more particularly described in the Declaration.

Section 1.11 "Management Committee" or "Committee" shall mean the governing committee of the Association appointed or elected in accordance with these Bylaws, the Declaration and the Articles of Incorporation of the Association.

Section 1.12 "Member" shall mean and refer to every person who holds membership in the Association. Membership shall be granted to each Owner of Unit or a Fractional Share. The rights of the Members shall be as set forth in these Bylaws, the Articles of Incorporation and the Declaration.

Section 1.13 "Owner" shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Iron County, Utah) of a fee or an undivided fee interest in any Unit or Fractional Share. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

Section 1.14 "Plat" shall mean the Final Plat for The White Bear Condominiums, pertaining to the Project and recorded on the 21st day of July, 2006 as Entry No. 534302 in Book No. 1044 at Page 1402 in the Official Records on file in the Office of the County Recorder of Iron County, State of Utah.

Section 1.15 "Project" shall mean the land, buildings and all improvements commonly known as White Bear Condominiums and submitted by the Declaration and the Plat to the provisions of the Condominium Act.

Section 1.16 "Total Votes of the Association" shall have the meaning set forth in Section 1.24 of the Declaration.

Section 1.17 "Unit" shall mean and refer to any of the separately numbered and individually described Units on the Plat, and as described in the Declaration. There shall be twenty-four (24) Units in the Project.

ARTICLE II APPLICABILITY

Section 2.1 Applicability of Bylaws. The provisions of these Bylaws are applicable to the Project and the Association.

Section 2.2 Personal Application. All present or future Unit Owners, tenants, or any other person that might use the Common Areas or facilities of the Project in any manner, are subject to the regulations and provisions set forth in these Bylaws and attached to the recorded Declaration. The mere acquisition, rental or occupancy of any of the Units of the Project will signify that these Bylaws and the Declaration are accepted, ratified, and will be complied with.

ARTICLE III
VOTING, QUORUM AND PROXIES

Section 3.1 Membership. Each Unit Owner shall automatically upon becoming the Owner of a Unit, be a member of the Association, and shall remain a member of said Association until such time as the ownership ceases for any reason, at which time membership in the Association shall automatically cease. If title to a Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportional interest and by the same type of tenancy in which title to the Condominium is held. Membership is appurtenant to and may not be separated from Unit ownership. The Management Committee or its delegate may require that a member provide proof of ownership as a condition to recognition. All Unit Owners are subject to all the rights and duties established in this Declaration, the Articles of Incorporation and Bylaws of the Association. Unless otherwise provided in these Bylaws, the Declaration or the Article of Incorporation, the Declarant, for all unsold Units in the Project, enjoys the same rights and is subject to the same duties as other owners.

Section 3.2 Voting. Each Unit Owner shall be entitled to one (1) vote for each Unit owned by the Owner, or such other number of votes as may be set forth in the Declaration. A Unit which has been acquired by the Management Committee in its own name or in the name of its agents, designee or nominee on behalf of all of the Unit Owners shall not be entitled to vote so long as it continues to be so held. If a Unit is owned by more than one person or entity, as joint tenants, tenants by the entirety, as tenants in common or in partnership, the persons or entities owning such Unit shall reach agreement as to the matter voted upon and cast their vote for their Unit. A vote cast at any Association meeting by any of such co-owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Unit concerned unless written objection is made prior to said meeting or verbal objection is made at said meeting by another co-owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists. Notwithstanding the foregoing, if a Unit is converted to Fractional Shares (as authorized by the Declaration), the number of votes for the Unit that has been converted into Fractional Shares shall be divided among the Owners of such Fractional Shares according to their respective Fractional Share in the Unit that has been so converted. The aggregate votes and voting interests of all Owners of Fractional Shares in a Unit shall be equal to the number of votes allocated to the Unit prior to the Units conversion into Fractional Shares.

Section 3.3 Consent in Lieu of Vote. In any case in which the Declaration, the Articles of Incorporation or these Bylaws require for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership concerned. If the Declaration, the Articles of Incorporation or these Bylaws do not require a stated percentage of votes for authorization or approval of a transaction, written consents to such transaction, in lieu of a vote, must be obtained from a majority of the Members. The following additional provisions shall govern any application of this Section 3.3:

- (a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.
- (b) The total number of votes required for authorization or approval under this Section 3.3 shall be determined as of the date on which the last consent is signed.
- (c) Except as provided in the following sentence, any change in ownership of a Unit which occurs after consent has been obtained from the owner thereof shall not be considered or taken into account for any purpose. A change in ownership from the Declarant to an individual Unit Owner shall, however, be effective in that regard and shall entitle the new owner to give or withhold his consent.
- (d) Except for the votes of Members holding Fractional Shares, unless the consent of all Members whose memberships are appurtenant to the same Unit are secured, the consent of none of such Members shall be effective.

Section 3.4 Majority of Members or Majority of Votes. As used in these Bylaws the term "majority of Members" or "majority of votes" shall mean those Owners holding at least a majority of the Total Votes of the Association as established in the Declaration.

Section 3.5 Quorum. Except as otherwise provided in these Bylaws the Articles of Incorporation or by law, the Members present in person or by proxy after proper notice of a meeting shall constitute a quorum at any meeting of the Members.

Section 3.6 Proxies. At any meeting of the Members, a Member may vote by proxy executed in writing by the Member or his duly authorized attorney-in-fact. All proxies shall be filed with the Secretary of the Association before or at the time of the meeting. Unless otherwise provided therein, no proxy shall be valid after eleven (11) months from the date of its execution.

Section 3.7 Necessary Vote. Except as otherwise set forth herein or with respect to those proposals which under the Articles of Incorporation, under the Declaration or by law require a greater proportion for adoption or approval, the affirmative vote of a majority of all those Members present in person or represented by proxy which are entitled to cast votes at a meeting shall be sufficient for the adoption or approval of any matter voted on by the Members.

ARTICLE IV ASSOCIATION MEETINGS

Section 4.1 Place of Meetings. Meetings of the Association shall be held at a suitable place convenient to the unit owners as may be designated by the Management Committee.

Section 4.2 Annual Meetings. The first annual meeting of the Association shall be held on October 12, 2011. Thereafter, the annual meetings of the Association shall be held on the second Wednesday of October each succeeding year, unless otherwise provided by resolution

of the Management Committee. The purpose of the annual meetings shall be the election of the Management Committee and the transaction of such other business of the Association as may properly come before the Members.

Section 4.3 Special Meetings. A special meeting of the Members may be called by the President, the Management Committee, the Declarant or upon the written request of Members holding at least twenty-five percent (25%) of the Total Votes of the Association. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business except as stated in the notice shall be transacted at a special meeting unless by consent of the Members holding not less than three-fourths (3/4) of the votes present, either in person or by proxy.

Section 4.4 Notice of Meetings. Written or printed notice stating the place, day and hour of a meeting and, in the case of a special meeting the purpose or purposes for which the meeting is called, shall be given to all members at least ten (10) but not more than sixty (60) days prior to the meeting. Such notice shall be deemed to have been properly furnished if mailed postage prepaid within the required time period to the person who appears as a member, at the last address for such person appearing in the records of the Association at the time of mailing.

Section 4.5 Adjourned Meetings. If any meeting of the Members cannot be organized because a quorum is not in attendance, the Unit Owners who are present, either in person or by proxy, may adjourn the meeting from time to time.

Section 4.6 Order of Business. The order of business of all meetings of the Members shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of executive committees, if any.
- (f) Election of inspectors of election.
- (g) Election of committee members.
- (h) Unfinished business.
- (i) New business.

ARTICLE V MANAGEMENT COMMITTEE

Section 5.1 Number and Qualification. The affairs of the Association shall be governed by a Management Committee composed of three (3) persons. Any change in the number of members of the Management Committee may be made only by amendment of the Articles of Incorporation.

Section 5.2 Powers and Duties. The Management Committee shall have the powers and duties necessary for the administration of affairs of the Association and may do all such acts

and things as are not prohibited by law, by Articles of Incorporation, the Declaration or by these Bylaws directed to be exercised and done by the Members. The powers of the Management Committee shall include but not be limited to the following:

- (a) The authority to execute and record, on behalf of all unit owners, any amendment to the Declaration or Plat which has been approved by the vote or consent of the Members as necessary to authorize such amendment;
- (b) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Members necessitated by the subject matter of the agreement has been obtained;
- (c) The power or authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained;
- (d) The power or authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances;
- (e) The power and authority to add any interest in real property obtained pursuant to paragraph (d) above to the Project, so long as such action has been authorized by the necessary vote or consent;
- (f) The authority to promulgate such reasonable rules, regulations, and procedures, pursuant to the Declaration, as may be necessary or desirable to aid the Management Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interest of the Members;
- (g) The power to bring and defend actions by or against the Association pertinent to the operation of the Project;
- (h) The authority to Borrow money on behalf of the Project or Association when required in connection with the operation, care, upkeep and maintenance of the Common Areas, provided, however that (i) the consent of at least sixty-seven percent (67%) of the Total Votes of the Association, obtained in accordance with the provisions of these Bylaws, shall be required for the borrowing of any sum in excess of \$2,000 and (ii) no lien (other than the lien of assessment) to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Areas without the consent of the Unit Owner;
- (i) The power to collect assessments, pursuant to the Declaration, from the Owners;

- (j) The authority to employ and terminate the employment of employees and independent contractors of the Association;
- (k) The authority to purchase supplies and equipment for the Association;
- (l) The power and authority to carry out any duties specified in the Declaration; and
- (m) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent for the Association and its Members.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Management Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

Section 5.3 Delegation to Manager. The Management Committee may carry out any of its functions that are capable of delegation through a Manager. The Manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the Manager's agreement with the Management Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

Section 5.4 Declarant Control Period. During the Declarant Control Period, the Declarant may appoint and remove some or all of the members of the Management Committee (who need not be Owners) or some or all of the Officers of the Association, or may exercise the powers and responsibilities otherwise assigned by the Declaration and the Condominium Act to the Association, its Officers, or the Management Committee. The Declarant may waive such rights, in whole or in part, at any time prior to the termination of the Declarant Control Period by (i) giving notice to Members of such waiver in written recordable form and (ii) recording said written notice of waiver in the Official Records of the Office of the County Recorder of Iron County, State of Utah, whereupon the Members shall promptly hold a meeting to elect a new Management Committee pursuant to Section 5.5 of these Bylaws, it being established hereby that the control of the Members in the Management Committee shall automatically vest 30 days following the date such waiver is recorded.

Section 5.5 Election and Term of Office. Subject to the provisions of Section 5.4, the term of office of one of the Committee members shall be fixed at three (3) years, the term of office of another Committee member shall be fixed at two (2) years, and the term of office of the remaining Committee member shall be fixed at one (1) year. As members' terms expire, new members shall be elected for three (3) year terms. The Committee members shall hold office until their successors have been elected and hold their first meeting.

Section 5.6 Vacancies. Subject to the provision of Section 5.4, vacancies in the Management Committee caused by any reason other than the removal of a Committee person by a vote of the Association shall be filled by vote of the majority of the remaining Committee members, even though the number voting affirmatively for a replacement Committee person may constitute less than a quorum; and each person so elected shall be a Committee member until a successor is elected at the next annual meeting of the Association.

Section 5.7 Removal of Committee Member. Subject to the provisions of Section 5.4, at any regular or special meeting duly called, any one or more of the members of the Management Committee may be removed with or without cause by a majority of the Members and a successor may then and there be elected to fill the vacancy thus created. Any member of the Management Committee whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

Section 5.8 Regular Meetings. Regular meetings of the Management Committee may be held at such time and place as shall be determined, from time to time, by a majority of the Committee members, but at least two (2) such meetings shall be held during each fiscal year. One regular meeting shall be held immediately after, and at the same place as, the annual meeting of the Members. Notice of regular meetings of the Management Committee shall be given to each Committee member, personally or by mail, telephone or telegraph, at least three (3) days prior to the day set for such meeting. Meetings of the Management Committee shall be open to all Members, unless litigation or potential litigation, contract negotiation or employment or personnel matters are being discussed.

Section 5.9 Special Meetings. Special meetings of the Management Committee may be called by the President on three (3) days' notice to each Committee member given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Management Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) members of the Management Committee.

Section 5.10 Waiver of Notice. Before or at any meeting of the Management Committee, any Committee person may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Committee person at any meeting of the Management Committee shall be a waiver of notice by him of the time and place thereof. If all the Committee members are present at any meeting of the Management Committee, no notice shall be required and any business may be transacted at such meeting.

Section 5.11 Management Committee's Quorum. At all meetings of the Management Committee, a majority of the Committee members shall constitute a quorum for the transaction of business, and the acts of the majority of the Committee members present at a meeting at which a quorum is present shall be the acts of the Management Committee. If, at any meeting of the Management Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At the resumption of any such

adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 5.12 Action Taken Without a Meeting. The Management Committee shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the members of the Management Committee. Any action so taken shall have the same effect as though taken at a meeting of the Management Committee.

Section 5.13 Fidelity Bonds. The Management Committee shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

Section 5.14 Compensation. No Committee member shall receive any compensation for any service he shall render to the Association in that capacity. However, reimbursement for actual expenses may be made upon approval by the Management Committee.

ARTICLE VI OFFICERS

Section 6.1 Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Management Committee. The Committee members may appoint an assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary. The offices of Treasurer and Secretary may be filled by the same person.

Section 6.2 Election of Officers. The officers of the Association shall be elected annually by the Management Committee at the regular meeting of the Management Committee immediately following each annual meeting of the Members at which the Management Committee, or any of its members, has been elected.

Section 6.3 Removal of Officers. Upon an affirmative vote of a majority of the members of the Management Committee, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Management Committee, or at any special meeting of the Committee members called for such purpose.

Section 6.4 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Management Committee. He shall have all of the general powers and duties which are usually vested in the office of president of any association or chairman of any board, including but not limited to the power to appoint executive committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 6.5 Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Management Committee shall appoint some

other member of the Management Committee to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the President or the Management Committee.

Section 6.6 Secretary. The Secretary shall keep the minutes of all meetings of the Management Committee and the minutes of all meetings of the Association; the Secretary shall have the charge of such books and papers as the Management Committee may direct; and shall, in general, perform all the duties incident to the office of Secretary.

Section 6.7 Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Management Committee.

Section 6.8. Compensation. No officer shall receive any compensation for any service rendered to the Association in that capacity, except for the Secretary and Treasurer, who may receive such compensation, if any, as the Management Committee may determine. Reimbursement of actual expenses may be made upon approval by the Management Committee.

ARTICLE VII AMENDMENTS; CONSTRUCTION

Section 7.1 Amendment. These Bylaws may be amended by the Association in a duly constituted meeting for such purpose with the approval of at least sixty-seven percent (67%) of the Total Votes of the Association, or in case of an amendment which by law requires a greater percentage, in which case the greater percentage requirement shall govern. Notwithstanding the foregoing, the Declarant reserves the right to unilaterally amend the Bylaws to comply with City, State or other laws, or regulations or requirements of holders, insurers, or guarantors of first mortgages, subject to compliance with applicable guidelines of the Federal Housing Administration or Department of Veteran Affairs.

Section 7.2 Construction. These Bylaws shall be construed wherever possible as consistent with the Declaration and the Condominium Act. Wherever there is a conflict between the Declaration or said statute and these Bylaws, the Declaration or the statute shall control.

[Signature and Notarization on Following Page]

STATE OF _____)
) ss.
COUNTY OF _____)

I, the undersigned, do hereby certify:

1. I am the duly elected or appointed Secretary of White Bear
Condominiums Owners Association.

2. The foregoing Bylaws constitute the Bylaws of the Association as duly
adopted on the _____ day of _____, 2011.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of March,
2011.

Secretary

On the _____ day of March, 2011, personally appeared before me
_____, the signer of the above instrument, who duly
acknowledged to me that he /she executed the same.

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

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