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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
MILLRACE PARK
A PLANNED UNIT DEVELOPMENT

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
MILLRACE PARK
A PLANNED UNIT DEVELOPMENT**

THIS DECLARATION is made and executed this _____ day of _____, 1998, by MILLRACE PARK, L.C.. (the "Declarant").

R E C I T A L S:

A. Declarant is the record owner of that certain tract of land (the "Property") in the city of Murray, county of Salt Lake, state of Utah, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof. Declarant desires to create on said Property a residential development with landscaped Common Areas.

B. Declarant desires to provide for preservation of the values and amenities of the Property and for maintenance of the Common Areas and Semi-Common Areas in the official records of Salt Lake county, state of Utah.

C. Declarant has deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and Semi-Common Areas, collect and disburse the assessments and charges provided for in the Declaration and otherwise administer and enforce the provisions of the Declaration. For such purposes, Declarant has caused to be incorporated under the laws of the State of Utah, as a nonprofit corporation, the Millrace Park Homeowners Association (the "Association").

NOW, THEREFORE, for the foregoing purposes, the Declarant declares that the Property shall be subject to this Declaration and that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I - DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated:

1.01 Association shall mean the Millrace Park Homeowners Association, a Utah nonprofit corporation.

1.02 Board shall mean the Board of Trustees of the Association.

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1.03 Common Areas shall mean all property, including streets, Roadways, rights-of-way and utilities, owned or designated on the recorded plat as being intended ultimately to be owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto. The Common Areas shall not include the Semi-Common Areas.

1.04 Semi-Common Areas shall mean all property within the Residential Lots that is maintained by the Association. Notwithstanding the depiction on the Plat of Semi-Common Areas, which is for illustrative purposes only, the Semi-Common Areas shall not include Living Units, patios, courtyards, and fenced areas within a Residential Lot as permitted in this Declaration.

1.05 Private Ownership Areas shall mean the areas within Residential Lots maintained by the Owner and include the Living Units, patios, courtyards, and fenced areas as permitted by this Declaration.

1.06 Declaration shall mean this Declaration of Covenants, Conditions and Restrictions of Millrace Park, a Planned Development.

1.07 Design Committee shall mean the Design Committee established by and referred to in Article VIII of this Declaration.

1.08 Living Unit shall mean a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the same Residential Lot and used in conjunction with such residence.

1.09 Managing Agent shall mean any person or entity appointed or employed as Managing Agent pursuant to Section 4.01(h) of Article IV of this Declaration.

1.10 Mortgage shall mean any mortgage, deed of trust, or trust deed or the act of encumbering any property by a mortgage, deed of trust or trust deed; and mortgage shall mean any mortgagee of a mortgage and any trustee or beneficiary of a deed of trust or trust deed.

1.11 Owner shall mean any person who is the owner of record (as reflected by the records in the office of the County Recorder of Salt Lake County, Utah) of a fee or undivided fee interest in any Residential Lot, including contract sellers, but not including purchasers under contract until such contract is fully performed and legal title is conveyed of record. Notwithstanding any applicable theory relating to mortgages, no mortgagee shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Residential Lot owned by it.

1.12 Property shall mean the Property described in Exhibit "A" attached hereto, which includes all land covered by this Declaration, including Common Areas and Residential Lots.

1.13 Residential Lot shall mean and refer to any one of the twenty-two (22) lots of land within the boundary of the Property as shown upon and designated on the Plat for private ownership. Each Residential Lot includes Semi-Common Areas and Private Ownership Areas and is individually numbered and intended to be used and occupied by a single family.

1.14 Plat shall mean and refer to the Plat of Millrace Park, a Planned Unit Development, prepared and certified by Fredrick C. Duberow, a licensed professional engineer, executed and acknowledged by Declarant on _____, 199__, which is being recorded in the official records of Salt Lake County, Utah, shortly before the recording of this Declaration.

1.15 Member shall mean and refer to every person who holds membership in the Association.

1.16 Declarant shall mean MILLRACE PARK, L.C.. and its successors and assigns.

1.17 Roadways shall mean that portion of the Common Areas consisting of the streets and roads within the Property for the use and benefit of the Owners as such are identified and depicted on the Plat.

ARTICLE II - SUBMISSION AND DIVISION OF PROJECT

2.01 Submission. The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property situated in Salt Lake county, state of Utah, described in Exhibit "A" attached hereto and by this reference made a part hereof. The Property is being subdivided into Lots 1 through 22, Millrace Park, a Planned Unit Development, as identified in the Plat.

2.02 Division into Lots and Common Areas. The Property is hereby divided into twenty-two (22) Lots, each consisting of a fee simple interest in a portion of the Property as set forth in the Plat. All portions of the Property not designated as Lots shall constitute the Common Area which shall be owned by the Association for the benefit of all Owners in accordance with the provisions of this Declaration.

ARTICLE III - MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.01 Membership. Every Owner upon acquiring title to a Residential Lot shall automatically become a member of the Association and shall remain a member thereof until such time as his/her ownership of such Residential Lot ceases for any reason, at which time his/her membership in the Association with respect to such Residential Lot shall automatically cease and the successor Owner shall become a Member. Membership in the Association shall be

mandatory and shall be appurtenant to and may not be separated from the ownership of a Residential Lot.

3.02 Voting Rights. The Association shall have the following described two classes of Voting membership:

Class A. Class A members shall be all Owners, but excluding the Declarant until the Class B membership ceases. Class A members shall be entitled to one vote for each Residential Lot in which the interest required for membership in the Association is held.

Class B. Declarant shall be the sole Class B Member. The Class B Member shall be entitled to five votes for each Residential Lot which it owns. The Class B membership shall automatically cease and be converted to Class A membership on the first to occur of the following events:

(a) When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member.

(b) December 31, 2002.

3.03 Multiple Ownership Interests. In the event there is more than one Owner of a particular Residential Lot, the vote relating to such Residential Lot shall be exercised as such Owners may determine among themselves, but in no event shall more than one Class A vote be cast with respect to any Residential Lot. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Residential Lot concerned unless an objection is made at the meeting by another Owner of the same Residential Lot, in which event a majority in interest of the co-owners as shown on the record of ownership maintained by the Association shall be entitled to cast the vote.

3.04 Record of Ownership. Every Owner shall promptly cause to be duly filed of record the conveyance document to him/her of his/her Residential Lot and shall file a copy of such conveyance document with the secretary of the Association, who shall maintain a record of ownership of the Residential Lots. Any Owner who mortgages his Residential lot or any interest therein by a Mortgage which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the mortgagee and also of the release of such Mortgage; and the secretary of the Association shall maintain all such information in the record of ownership.

ARTICLE IV - DUTIES AND POWERS OF THE ASSOCIATION

4.01 Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligations and duties to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

- (a) The association shall accept all owners as Members of the Association.
- (b) The Association shall accept title to all Common Areas conveyed to it by the Declarant.
- (c) The Association shall maintain, repair, and replace, the Common Areas (including the maintenance and resurfacing of and snow removal from all Roadways and maintenance of drainage facilities), and, at the discretion of the Board, any Property dedicated to any governmental authority and situated immediately adjacent to the Property if the Board determines that such dedicated Property is not being maintained or landscaped in a condition comparable to the Common Areas.
- (d) The Association shall maintain, repair and replace, all landscaping within the Semi-Common Areas of the Residential Lots, including the irrigation, fertilization, and general care of lawns, shrubbery and flowers. In addition, the Association shall remove all snow, when necessary, from all driveways and sidewalks within the Semi-Common Areas. Each Owner shall maintain, repair, and replace, when necessary, all driveways and sidewalks within his/her own Residential Lot.
- (e) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments, levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.
- (f) The Association shall obtain and maintain in force the policies of insurance required by Article IX of this Declaration.
- (g) The Association shall maintain, repair and replace, including the resurfacing of and snow removal from, the lane located between Lots 14 and 13, to the west, and Lot 10, to the east. The Association's maintenance responsibility begins at the end of the Roadway and ends at the lot line of Lot 11.
- (h) The Association shall at all times employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Common Areas and Semi-Common Areas, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be such

as shall be specified by the Board. Any agreement appointing a Managing Agent shall be terminable by the Board of cause upon thirty (30) days written notice thereof and at any time without cause or payment of a termination fee upon ninety (90) days written notice thereof, and the term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one-year periods. Any Managing Agent shall be an independent contractor and not an agent or employee of the Association.

4.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Residential Lot for the purpose of maintaining and repairing such Residential Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Residential Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Residential Lot in violation of Article VIII of this Declaration. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas, Semi-Common Areas, and Residential Lots (to the extent necessitated by the failure of the Owners of such Residential Lots) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas and Semi-Common Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon not less than ninety (90) days' written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Common Areas and Semi-Common Areas on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or otherwise provide for:

(1) Maintenance, repair and replacement of all Roadways and appurtenant improvements, including the removal of snow thereon, on such terms and conditions as the Board shall deem appropriate;

(2) Construction, maintenance, repair and landscaping of the Common Areas, including all surface run-off, drainage and detention facilities, on such terms and conditions as the Board shall deem appropriate;

(3) Construction, maintenance, repair and replacement of landscaping and improvements (excluding the maintenance, repair and replacement of driveways and sidewalks) upon the Semi-Common Areas, including snow removal from driveways and sidewalks within the Semi-Common Areas, on such terms and conditions as the Board shall deem appropriate;

(4) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of Declarant, the Association, the members of the Board, the members of the Design Committee and the Owners;

(5) Such utility services, including (without limitation) culinary water, secondary water, sewer, trash removal, electrical, telephone and gas services, as the Board may from time to time deem desirable;

(6) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

(7) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and

(8) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

(9) Maintenance, repair and replacement of the gate on Millrace Lane.

(c) The Board may delegate to a Managing Agent any of its powers under this Declaration; provided, however, that the Board cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of \$5,000 nor the power to sell, convey, mortgage or encumber any Common Areas.

(d) Upon thirty (30) days prior written notice to the Owner, the Association shall have the power and authority to hire a responsible corporation, partnership, firm, person or other entity, to maintain the exterior Private Ownership Areas of an Owner's Lots should the Owner thereof fail to properly maintain the same. The cost to maintain

a Lot for an Owner shall be charged to the Owner and may be included in the next scheduled monthly assessment to the Owner.

4.03 Association Rules. The Board from time to time and subject to the provisions of this Declaration may adopt, amend, repeal and enforce rules and regulations governing, among other things, (a) the use of the Common Areas; (b) the use of any Roadways or utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals on the Property; and (e) other matters concerning the use and enjoyment of the Property and the conduct of residents.

4.04 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, the Design Committee or the Managing Agent.

ARTICLE V - ASSESSMENTS

5.01 Personal Obligation and Lien. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Residential Lot, be deemed to covenant and agree to pay to the Association the monthly and special assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Residential Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners of such Lot at the time the assessment fails due. No Owner may exempt himself or his Residential Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Residential Lot. In a voluntary conveyance of a Residential lot, the grantee shall be jointly and severally liable with the grantor for all unpaid monthly and special assessments, late payment fees, interest and costs of collection which shall be a charge on the Residential Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

5.02 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the Common Areas; maintenance, repair, and improvements of the Common Areas and Semi-Common Areas; management and supervision of the Common Areas and Semi-Common Areas; establishing and funding of a reserve to cover major repair or replacement of improvements within the Common Areas and Semi-Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation. The Association shall maintain an adequate reserve fund or funds for maintenance, repairs and replacement of those elements of the Common Areas and Semi-Common Areas that must be maintained, repairs or replaced on a periodic basis.

5.03 Monthly Assessments. The Board shall from time to time and in its discretion set the amount of the monthly assessment in an amount reasonably estimated by the Board to be sufficient to meet the obligations imposed by this Declaration and on the basis specified in Section 5.07 below.

5.04 Special Assessments. From and after the date set under Section 5.08 of this Article, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas and Semi-Common Areas. Any such special assessment must be assented to by a majority of the votes of the membership which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for that purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least ten (10) but not more than thirty (30) days prior to the meeting date.

5.05 Quorum Requirements. The quorum at any meeting required for any action authorized by Section 5.04 above shall be as follows: At the first meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all of the votes of each class of membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 5.04) at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

5.06 Special Assessment on Specific Residential Lots. In addition to the monthly assessment and any special assessment authorized pursuant to Section 5.04 above, the Board may levy at any time special assessments (a) on every Residential Lot especially benefitted by any improvement to adjacent Roadways, sidewalks, planting areas or other portions of the Common Areas and/or Semi-Common Areas made on the written request of the Owner of the Residential Lot to be charged, (b) on every Residential Lot the Owner or occupant of which shall cause any damage to the Common Areas and/or Semi-Common Areas necessitating repairs, and (c) on every Residential Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 4.02(a) of Article IV or other provisions of this Declaration. The aggregate amount of any such special assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and shall be allocated among the affected Residential Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a special assessment against the Residential Lots benefitted.

5.07 Uniform Rate of Assessment. All monthly and special assessments authorized by Section 5.03 or 5.04 above shall be fixed at a uniform rate for all Residential Lots; provided, however, that until a Residential Lot has been both fully improved with a Living Unit and occupied for the first time for residential purposes, the monthly assessment applicable to such Residential Lot shall be ten percent (10%) of the monthly assessment which would otherwise apply to such Residential Lot. No amendment of this Declaration changing the allocation ratio of such assessments shall be valid without the consent of the Owners of all Residential Lots adversely affected.

5.08 Monthly Assessment Due Dates. The monthly assessments provided for herein shall commence as to all Residential Lots as of the second month following conveyance to the Association of the Common Areas shown on the Plat. At least fifteen (15) days prior to such commencement date and at least fifteen (15) days prior to the effective date of any change in the amount of monthly assessments, the Association shall give each Owner written notice of the amount and first due date of the assessment concerned.

5.09 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Residential Lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Residential Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

5.10 Effect of Nonpayment - Remedies. Any assessment not paid when due shall, together with interest and costs of collection, be, constitute, and remain a continuing lien on the affected Residential Lot. If any assessment is not paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the due date at the rate of one and one-half percent (1 1/2%) per month; and the Association may bring an action against the Owner who is personally liable or may foreclose its lien against the Residential Lot, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorney's fees, court costs and every other expense incurred by the Association in enforcing its rights.

5.11 Subordination of Lien to Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any first Mortgage to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such first Mortgage or purchaser who comes into possession of a Residential Lot by virtue of the foreclosure of such Mortgage or the exercise of a power of sale under such mortgage, or by deed in lieu of foreclosure, shall take free of such assessment lien as to any assessment which accrues or becomes due prior to the time such holder or purchaser takes possession of such Residential Lot; provided, that to the extent there are any proceeds of the sale on foreclosure of such Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such Mortgage, the lien shall apply

to such excess. No sale or transfer shall relieve any Resident Lot from the lien of any assessment thereafter becoming due.

ARTICLE VI - PROPERTY RIGHTS AND CONVEYANCES

6.01 Easement Concerning Common Areas. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Residential Lot and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such owner's Residential Lot. notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Areas except for the necessary parking, access, communication, utility, drainage and sewer purposes for which such easements are intended for use in common with others.

6.02 Easement Concerning Semi-Common Areas. The Association shall have a non-exclusive drainage and public utility easement and an easement for maintenance in and to the Semi-Common Areas. With the exception of the rights and easements granted to the Association, Owners of Residential Lots shall have the exclusive use of all Semi-Common Areas within their Residential Lots.

6.03 Form of Conveyancing; Leases. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Residential Lot shall describe the interest or estate involved substantially as follows:

Lot No. _____ of Millrace Park, A Planned Unit Development, according to the Plat thereof recorded in Book _____, Page _____, of the Official Records of Salt Lake County, which Lot is contained within Millrace Park, a Planned Unit Development identified in the "Declaration of Covenants, Conditions, and Restrictions of Millrace Park, a Planned Unit Development" recorded in Book _____ at Page _____. SUBJECT TO the covenants, conditions, restrictions, easements, charges and liens provided for in said Declaration of Covenants, Conditions and Restrictions.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Residential Lot. Any lease of a Residential Lot shall be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and By-laws of the Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the Lease.

6.04 Transfer of Title to Common Areas. Declarant shall convey to the Association title to the various Common Areas free and clear of all liens (other than the lien of current general taxes and the lien of any nondelinquent assessments, charges, or taxes, imposed by governmental or quasi-governmental authorities), as each such Common Area is substantially completed.

6.05 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to govern by rules and regulations the use of the Common Areas for the Owners so as to provide for the enjoyment of the Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Residential Lots by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Areas;

(b) The right of the Association to suspend an Owner's right to the use of any amenities included in the Common Areas for any period during which an assessment on such Owner's Residential Lot remains unpaid and for a period not exceeding ninety (90) days for any infraction by such Owner of the provisions of this Declaration or of any rule or regulation promulgated by the Board;

(c) The right of the County of Salt Lake and any other governmental or quasi-governmental body having jurisdiction over the Property to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, transporting school children, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association, provided that such dedication or transfer must first be assented to in writing by (1) all holders of first mortgages secured by Residential Lots and (2) the Owners of at least seventy-five percent (75%) of the Residential Lots (not including Residential Lots owned by Declarant). No such dedication or transfer, however, may take place without the Association first receiving approval from the County of Salt Lake pursuant to all applicable state and county laws, rules and ordinances in effect at the time of such proposed dedication or transfer.

6.06 Reservation of Access and Utility Easements. Declarant reserves easements for access, electrical, gas, communications, cable television and other utility purposes and for sewer, drainage and water facilities, (whether servicing the Property or other premises or both) over, under, along, across and through the Property, together with the right to grant to the County of Salt Lake, or any other appropriate governmental agency or to any public utility or

other corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof.

6.07 Easements for Encroachments. If any part of the Common Areas as improved by Declarant now or hereafter encroaches upon any Residential Lot or if any structure constructed by Declarant on any Residential Lot now or hereafter encroaches upon any other Residential Lot or upon any portion of the Common Areas, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Residential Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Residential Lot or upon any portion of the Common Areas due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

6.08 Easement and Maintenance of Common Driveway. The Owner of Lot 12 shall have a non-exclusive easement and right-of-way to travel over and across the southern 10 feet of Lot 11 for ingress and egress to Lot 12. Such easement and right-of-way shall be appurtenant to and shall pass with the title conveyed to each Owner of Lot 12, in perpetuity. The Owner of Lot 12 shall maintain the right-of-way and easement area across Lot 11 for the benefit of the Owners of Lot 12. The Owner of Lot 20 shall have a non-exclusive easement and right-of-way to travel over and across the northern 80.65 feet of Lot 19 (which constitutes the entrance to both Lots 19 and 20, as depicted on the Plat) for ingress and egress to Lot 20. Such easement and right-of-way shall be appurtenant to and shall pass title with the title conveyed to each Owner of Lot 20, in perpetuity. The Owners of Lots 19 and 20 shall share equally the cost to maintain the right-of-way and easement area situated on Lot 19 for the benefit of the Owners of Lots 19 and 20.

6.09 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Living Units on Residential Lots, (b) improvement of the Common Areas and Semi-Common Areas and construction, installation and maintenance thereon or Roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (c) construction, installation and maintenance on lands within, adjacent to, or serving the Property of Roadways, walkways, and other facilities, planned for dedication to appropriate governmental authorities. The reservations contained in this paragraph shall expire twenty (20) years after the date on which this

Declaration was first filed for record in the Office of the County Recorder of Salt Lake County, Utah.

ARTICLE VII - LAND USE RESTRICTIONS AND OBLIGATIONS

7.01 General Restrictions and Requirements.

(a) No improvement, excavation, fill or other work (including the installation of any wall or fence) which in any way alters any Residential Lot from its natural or improved state existing on the date such Residential Lot is first conveyed by Declarant to a purchaser shall be made or done except upon strict compliance with the provisions of this Article VII and the provisions of Article VIII.

(b) Residential Lots shall be used only for single-family residential purposes, and no more than one house shall be constructed on any Residential Lot except that an additional guest house or servants quarters meeting the requirements of all applicable laws in effect from time to time may be constructed on a Residential Lot with the approval of the Design Committee. The facilities and improvements constituting part of the Common Areas shall be used only for the purposes and uses for which they are designed. Common Areas shall be used only for natural recreational uses which do not injure or scar the Common Areas or the vegetation thereof, increase the cost of maintenance thereof or cause unreasonable embarrassment, disturbance or annoyance to Owners in their enjoyment of their Residential Lots and Living Units or the Common Areas.

(c) Businesses, professions or trades may be operated or maintained in a Residential Lot subject to the prior written approval of the Board, which approval shall not be unreasonably withheld, subject to the following limitations: (i) any such business, profession or trade may not require heavy equipment or create a nuisance within the Project, (ii) may not noticeably increase the traffic flow to the project, (iii) may not be observable from outside the Residential Lot, and (iv) may only be carried on following approval from the county of Salt Lake pursuant to all applicable state and county laws, rules and ordinances in effect at the time any such use is requested. Specifically, it is contemplated that certain businesses, professions or trade which rely heavily on the Internet and other similar type of technological advances may be operated or maintained within a Residential Lot, subject to the foregoing limitations and all other limitations of this Declaration.

(d) No noxious or offensive activity shall be carried on upon any Residential Lot, nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to other Owners in the enjoyment of their Residential Lots and Living Units or the Common Areas. Without limiting the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Residential

Lot and Living Unit thereon, shall be placed or used upon any Residential Lot without the prior written approval of the Design Committee.

(e) No furniture, fixtures, appliances or other goods and chattels shall be stored in such a manner as to be visible from neighboring Residential Lots, Roadways or Common Areas.

(f) All Private Ownership Area within each Residential Lot, and all improvements located thereon, shall be maintained by the Owner thereof in good condition and repair, and in such manner as not to create a fire hazard, all at the Owner's expense.

(g) Declarant intends to construct a common party wall between each pair of connected Living Units, commencing at the back of the connected Living Units and extending along the common lot line to the rear of the Lots. All walls and fences on common boundary lines or corners separating two or more Residential Lots shall be maintained jointly in equal shares by the Owners of the Residential Lots abutting such fence or wall, provided that each Owner shall be responsible for maintaining the side of any party wall or fence facing his Residential Lot. Each Owner may create a fenced enclosure in the rear of a Living Unit. Any fenced enclosure shall become Private Ownership Area, to be maintained by the Owner and not by the Association. Any fences constructed by Owners must first be prior approved by the Design Committee as to location, materials and colors. Any such fences must be constructed of the same materials and colors used by Declarant in constructing the party wall or of the same type of raw iron used in constructing the front gate, along the creek, or of any other material prior approved by the Design Committee.

(h) Each Owner shall be responsible to maintain the Owner's side of the common wall dividing Owner's Living Unit and the adjacent, attached Living Unit, all at Owner's expense. No Owner shall make any modifications to a Living Unit which would in any way impair or affect the structural soundness of the attached Living Unit.

(i) Vegetation within the Private Ownership Area within any Residential Lot shall be planted and maintained in good condition at the Owner's expense and in such a manner so as to prevent or retard shifting or erosion.

(j) All garbage, rubbish, and trash shall be kept in covered containers. In no event shall such containers be maintained so as to be visible for neighboring Residential Lots, Roadways or Common Areas. The storage, collection and disposal of garbage, rubbish and trash shall be in strict compliance with applicable laws and the rules and regulations of the Board.

(k) The Plat identifies four (4) different approved Living Units, Units A, B, C and D, that can be built upon Residential Lots. The specific unit type listed on the

Plat under the Lot number must be used in the construction of the Living Unit. No other Plans can be used unless prior written approval is obtained from the Design Committee. The Plans for each Unit type is on file with Astel Associates, LLC, located at 136 South Main, Suite A-200, Salt Lake City, Utah, 84101.

(l) No Residential Lot shall be resubdivided.

(m) All improvements shall be constructed in accordance with applicable building line and setback provisions of zoning ordinances.

(n) All structures constructed on any Residential Lot or the Common Areas shall be constructed with new materials unless otherwise permitted by the Design Committee; and no used structures shall be relocated or placed on any Residential Lot.

(o) No structure or improvement having a height of more than two (2) stories shall be constructed on any Residential Lot; provided, however, that the height of a structure or improvement may exceed two (2) stories if permitted by law and if the Design Committee determines that the proposed height is compatible with the physical site involved and adjoining properties.

(p) No dwelling shall be permitted on Residential Lots with the ground floor area of the main structure, exclusive of open porches and garages, of less than 1300 square feet.

(q) Living Units on all Residential Lots shall have a minimum of a two (2) car attached garage.

(r) Roof and materials shall be architectural grade asphalt shingles as approved by the Design Committee or other high quality roofing materials. After the roofing materials are installed, each Owner shall maintain the roofing materials on his/her Living Unit in good condition and repair in accordance with the provisions of Article XII. All replacement shingles shall be of the same style, grade and color as the original shingles so as to maintain uniformity throughout the project.

(s) Aluminum, vinyl and/or steel siding shall only be used in soffit and fascia areas of Living Units constructed upon Residential Lots

(t) The exterior covering of all Living Units, including fences, walls and courtyards, shall be of brick or native stone and stucco, as determined by the Declarant. Once a Residential Unit is constructed, each Owner shall maintain the brick or native stone and stucco, without alteration, unless prior written approval is obtained from the Design Committee.

(u) No Living Unit shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction unless any delays are approved by the Design Committee.

(v) No accessory building shall be constructed upon any Residential Lot unless specifically allowed by architectural standards prior approved by the Design Committee. In the absence of any architectural standards, no such accessory building shall be allowed.

(w) No exterior lighting of any sort shall be installed or maintained on a Residential Lot if the light source shines directly into a neighboring residence.

(x) No Living Unit shall be occupied until the same is substantially completed in accordance with the plans of the Unit type.

(y) No Owner of any Residential Lot, except Declarant, shall build or permit the building thereon of any structure that is to be used as a model or exhibit unless a permit to do so is first granted by the Design Committee.

(aa) No improvement which suffers partial or total destruction shall be allowed to remain on any Residential Lot in such a state for more than three (3) months after the date of such destruction.

(bb) No outside toilet, other than self-contained portable toilet units used during construction, shall be placed or constructed on any Residential Lot or the Common Areas. All plumbing fixtures, dishwashers, garbage disposals, toilets and sewage disposal systems shall be connected to a sewage system.

(cc) No fuel tanks or similar storage facilities shall be constructed or used on any Residential Lot or in the Common Areas.

(dd) No exterior antenna or satellite dish of any sort shall be installed or maintained on any Residential Lot except of a height, size and type approved by the Design Committee. No activity shall be conducted within the Property which interferes with television or radio reception.

(ee) No Outside clotheslines and other outside clothes drying or airing facilities shall be maintained on any Residential Lot unless the same is maintained within a fenced enclosure and not visible from the Roadways.

(ff) No drilling (except for a water well expressly permitted), refining, quarrying or mining operations of any kind shall be permitted upon any Residential Lot or the Common Areas, and no derrick, structure, pump or equipment designed for use in any such activity shall be erected, maintained or permitted on any Residential Lot or

the Common Areas. There shall be no water well developed on any Residential Lot by the Owner thereof unless (i) a permit is first obtained from the Board and (ii) the Board first approves the location and facilities used in connection with such well.

(gg) There shall be no blasting or discharge of explosives upon any Residential Lot or the Common Areas except as permitted by the Board; provided that this provision shall in no way limit or restrict Declarant in its activities in connection with and during the development and sale of Residential Lots.

(hh) No signs whatsoever shall be erected or maintained upon any Residential Lot, except:

(i) Such signs as may be required by legal proceedings,

(ii) Such signs as Declarant may erect or maintain on a Residential Lot prior to sale and conveyance,

(iii) One "For Sale" or "For Rent" sign having a maximum face area of fifteen (15) square feet and referring only to the premises on which it is situated.

(ii) Except to the extent used by Declarant in connection with and during the development and sale of Residential Lots, no mobile home or similar facility shall be placed upon any Residential Lot, the Common Areas or adjoining public streets except for temporary storage in strict accordance with the rules and regulations of the Board. No stripped down, wrecked or junk motor vehicles shall be kept, parked, stored or maintained on any Residential Lot, the Common Areas or Roadways. No large commercial vehicle, motor home, camping trailer, snowmobile trailer, or the like, shall be parked on any Residential Lot, Roadways or the Common Areas except as prior approved by the Board.

(jj) Maintenance of any animals on any Residential Lot shall be subject to the following restrictions and limitations:

(i) No livestock of any kind, including, but not limited to, pigs, cows, goats, sheep, horses, etc. may be kept or maintained on any Residential Lot.

(ii) No dangerous or nuisance animals, as defined by the Board, may be maintained or kept on any Residential Lot.

(iii) The area of any Residential Lot occupied by an animal shall be properly maintained so as not to create any noxious or offensive odors or conditions which is or may become a nuisance or may cause disturbance or annoyance to other Owners in the Project.

(iv) No animals shall be permitted on the Common Areas except when accompanied by and under the control of the persons to whom they belong.

(v) The use and control of any animals shall be subject to further control by rules and regulations promulgated by the Board.

(kk) Subject to further control by rules and regulations promulgated by the Board, only a reasonable number of generally recognized house pets shall be kept on any Private Ownership Area. House pets shall be permitted on the Common Areas when accompanied by and under the control of the person to whom they belong. No animals of any kind shall be raised for commercial purposes unless prior written approval is obtained from the Board.

(ll) There shall be no exterior fires, except fires started and controlled by the Association incidental to the maintenance and preservation of any portion of the Property and barbecue and incinerator fires contained within facilities or receptacles designed for such purposes. No Owner shall cause or permit any condition which creates a fire hazard, creates a nuisance, or is in violation of any fire prevention regulations.

(mm) There shall be no camping upon any Residential Lot or the Common Areas, except as permitted by the Board by written license.

(nn) No Owner or guest shall park any vehicle or cause any obstruction in front of a driveway or along the lane between Lots 13 and 14, to the west, and Lot 10, to the east.

(oo) No Owner, guest, or invitee shall be permitted to park any vehicles adjacent to the Common Area marked as Lot "A" in the Plat.

7.02 Exemption of Declarant. Notwithstanding the provisions of Section 7.01, the Declarant shall have the right to use any Residential Lot or Living Unit owned by it, and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional or other activities designed to accomplish or facilitate improvement of the Common Areas or improvement and sale of all Residential Lots owned by Declarant.

7.03 Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

(a) Declarant, so long as it has any interest in any of the Property or Residential Lots;

(b) Any Owner; or

(c) The Association.

The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

7.04 Conditional Notes on Plat. Neither the Association nor any Owner of a Residential Lot shall have the authority to waive or alter the conditions or requirements set out as notes on the Plat.

ARTICLE VIII - ARCHITECTURAL CONTROL

8.01 Organization of the Design Committee. There shall be a Design Committee consisting of not fewer than three (3) members. The members of the Design Committee need not be Owners. Declarant shall have the right to appoint, remove and increase the number of members of the Design Committee; provided that such right shall vest in the Board upon the expiration of any continuous period of eighteen (18) months during which Declarant at all times owns less than ten percent (10%) of the Residential Lots then covered by this Declaration. Declarant may voluntarily relinquish control of the Design Committee to the Board at any time. Whenever the Design Committee consists of more than three (3) members, it may designate subcommittees, each consisting of at least three (3) members. Unless authorized by the Board, the members of the Design Committee shall not receive any compensation, but all members shall be entitled to reimbursement from the Association for reasonable expenses incurred in the performance of any Design Committee function.

8.02 Actions Requiring Approval. No fence, wall, Living Unit, accessory or addition to a Living Unit visible from the Common Areas or public streets within the Property, or landscaping or other improvement of a Residential Lot visible from the Common Areas or public streets within the Property shall be constructed or performed, nor shall any alteration of any structure on any Residential Lot, including a change in exterior color, be made, unless complete plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall first be submitted to and approved by the Design Committee.

8.03 Standard of Design Review. Before granting any approval of plans and specifications, the Design Committee shall determine to its reasonable satisfaction that such plans and specifications (a) conform to all architectural standards contained in this Declaration and all further architectural standards promulgated from time to time by the Board and (b) provide for a structure, alteration, landscaping or other improvements in harmony as to external design and location with surrounding structures and topography.

8.04 Design Committee Rules and Architectural Standards. The Board may, upon recommendation from the Design Committee, adopt and file as a matter of public record reasonable rules related to the efficient review of plans and specifications including requirements as to the number of sets of plans and specifications to be submitted, the fixing of a review or variance request fee not exceeding Fifty Dollars (\$50.00) per review or variance request, the

details to be shown on plans and specifications, and design guidelines consistent with this Declaration and covering such matters as setbacks, height limitations, restrictions on minimum or maximum size and quality of structures.

8.05 Approval Procedure. The Design Committee and any subcommittees thereof shall meet from time to time as necessary to perform the duties of the Design Committee. The vote or written consent of a majority of the Design Committee or any authorized subcommittee shall constitute the act of the Design Committee. Any plans and specifications submitted to the Design Committee shall be approved or disapproved within thirty (30) days after receipt by the Design Committee. If the Design Committee fails to take action within such period, the plans and specifications shall be deemed to be approved as submitted.

8.06 Variance Procedure. If plans and specifications submitted to the Design Committee are disapproved because such plans and specifications are not in conformity with applicable architectural standards, the party or parties making such submission may submit a request for variance to the Design Committee, which shall make a written recommendation of approval or disapproval of the requested variance to the Board. The Board shall approve or disapprove the request for variance in writing. If the Board fails to approve or disapprove a request for variance within sixty (60) days after such request is submitted to the Design Committee, such request shall be deemed to be approved.

8.07 Nonwaiver. The approval by the Design Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Design Committee to disapprove any similar plans and specifications.

8.08 Completion of Construction. Once begun, any improvements, construction, landscaping or alterations approved by the Design Committee shall be diligently prosecuted to completion in strict accordance with the plans and specifications approved by the Design Committee.

8.09 Exemption of Declarant. The provisions of this Article shall not apply to any improvement, construction, landscaping or alteration made or performed by Declarant on any Residential Lot or portions of the Common Areas at any time during the twenty-year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

8.10 Estoppel Certificate. Within thirty (30) days after written demand therefor is delivered to the Design Committee by any Owner and upon payment therewith to the Association of a reasonable fee from time to time to be fixed by the Board, the Design Committee shall issue an estoppel certificate in recordable form executed by any two of its members, certifying with respect to any Residential Lot of such Owner that as of the date thereof either (a) all improvements and other work made or done upon or within such Residential Lot by the Owner, or otherwise, comply with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall also (i) identify the nonconforming improvements

or work, and (ii) set forth the nature of such noncompliance. Any mortgagee or purchaser from the Owner shall be entitled to rely on such certificate with respect to the matters therein set forth.

8.11 Disclaimer of Liability. neither the Design Committee, nor any member thereof acting in good faith shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development or manner of development of any of the Property, or (d) any engineering or other defect in approved plans and specifications.

ARTICLE IX - INSURANCE

9.01 Liability Insurance. The Board shall procure and maintain from a company or companies holding a rating of "AA" or better from Best's Insurance Reports a policy or policies (herein called "the Policy") of Public Liability Insurance to insure the Association, the Board and the Managing Agent and employees of the Association against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried by properties of comparable character and usage in the County of Salt Lake nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The Policy shall contain a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of any Owner because of negligent acts of the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced. The Policy shall provide that the Policy may not be cancelled by the insurer unless it gives at least thirty (30) days' prior written notice thereof to the Board and every other person in interest who shall have requested in writing such notice of the insurer. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

9.02 Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Common Areas and the Association, the Board, the Managing Agent or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide: (a) a waiver of the insurer's rights of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants; (b) that it cannot be cancelled, suspended or invalidated, due

to the conduct of any particular Owner or Owners; (c) that it cannot be cancelled, suspended, or invalidated due to the conduct of the Association or any directors, officer, agent, or employee of the Association without a prior written demand that the defect can be cured and (d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

9.03 Review of Insurance. The Board shall periodically, and whenever requested by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Residential Lot and to the holder of any mortgage on any Residential Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner.

9.04 Residential Lots Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Residential Lot and Acts and events thereon.

ARTICLE X - CONDEMNATION

10.01 If at any time or times the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Board and shall be used promptly by the Board to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. Upon completion of such work and payment in full therefor, any proceeds of condemnation then or thereafter in the hands of the Board which are proceeds for the taking of any portion of the Common Areas shall be disposed of in such manner as the Board shall reasonably determine; provided, however, that in the event of a taking in which any Residential Lot is eliminated, the Board shall disburse the portion of the proceeds of the condemnation award allocable to the interest of the Owner of such Residential Lot in the Association and the Common Areas to such Owner and any first mortgagee of such Residential Lot, as their interests shall appear, after deducting the proportionate share of said Residential Lot in the cost of debris removal.

ARTICLE XI - RIGHTS OF FIRST MORTGAGEES

Notwithstanding any other provisions of this Declaration, the following provisions concerning the rights of first mortgagees shall be in effect:

11.01 Preservation of Regulatory Structure and Insurance. Unless the Owners of at least seventy-five percent (75%) of the Residential Lots (not including Residential Lots owned by Declarant) and such Owners' first mortgagees, if any, shall have given their prior written approval, the Association shall not be entitled:

(a) by act or omission to change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Living Units, the exterior maintenance of Living Units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings on the Property.

(b) to fail to maintain insurance as required by Article IX. This Section 11.01 may be amended as provided in Section 12.02 of Article XII hereof, except that such amendment must be approved by a vote otherwise sufficient to authorize action under this subsection prior to such amendment.

11.02 Preservation of Common Area; Change in Method of Assessment. Unless the Association shall receive the prior written approval of (1) all first mortgagees of Residential Lots and (2) the Owners of at least seventy-five percent (75%) of the Residential Lots (not including Residential Lots owned by Declarant) the Association shall not be entitled:

(a) by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas, except to grant easements for utilities and similar or related purposes, as reserved in Section 6.05 of Article XI hereof; or

(b) to change the ratio or method of determining the obligations, assessments, dues or other charges which may be levied against a Residential Lot or the Owner thereof.

This Section 11.02 may be amended as provided in Section 12.02 of Article XII hereof, except that such amendment must be approved by a vote otherwise sufficient to authorize action under this subsection prior to such amendment.

11.03 Notice of Matters Affecting Security. The Board shall give written notice to any first mortgagee of a Residential Lot requesting such notice whenever:

(a) there is any default by the Owner of the Residential Lot subject to the first mortgage in performance of any obligation under this Declaration or the Articles or Bylaws of the Association which is not cured within sixty (60) days after default occurs; or

(b) damage to the Common Areas from any one occurrence exceeds \$10,000.00; or

(c) there is any condemnation or taking by eminent domain of the Residential Lot subject to the first mortgage or of the Common Areas; or

(d) any of the following matters come up for consideration or effectuation by the Association;

(i) abandonment or termination of the Planned Development established by this Declaration;

(ii) material amendment of the Declaration or the Articles or Bylaws of the Association; or

(iii) any decision to terminate professional management of the Common Areas and assume self-management by the Owners.

11.04 Notice of Meetings. The Board shall give to any first mortgagee of a Residential Lot requesting the same, notice of all meetings of the Association; and such first mortgagees shall have the right to designate in writing a representative to attend all such meetings.

11.05 Right to Examine Association Records. Any first mortgagee shall have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Residential Lot securing the mortgage; provided, that the foregoing shall not be deemed to impose upon the Association any obligation to cause its financial statements to be audited.

11.06 Right to Pay Taxes and Charges. First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Areas and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Areas; and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Declarant, for the Association as owner of the Common Area, hereby covenants and the Association by acceptance of the conveyance of the Common Areas, whether or not it shall be so expressed in such conveyance, is deemed to covenant and agree to make such reimbursement.

11.07 Exemption from Any First Right of Refusal. Any first mortgagee who obtains title to the Residential Lot subject to the first mortgage pursuant to the remedies provided in the first mortgage, or by foreclosure of the first mortgage, or by deed or assignment in lieu of foreclosure, or by sale pursuant to any power of sale shall be exempt from any "right of first refusal" which would otherwise affect the Residential Lot.

ARTICLE XII - PARTY WALLS

12.01 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Living Units upon the Property and placed on the dividing line between two Residential Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

12.02 Sharing of Repair and Maintenance. Each Residential Unit shall share a party wall, a common roof, a common exterior back wall, and a common exterior front wall, with the adjacent and attached Residential Unit. The Owners acknowledge that certain repairs or maintenance to the roof or exterior walls of the Residential Units may become necessary, which repairs or maintenance cannot be performed on one side only, but will necessarily involve both sides. If any repair or maintenance of the roof or exterior walls is limited to one side only, and the repair or maintenance can be performed without affecting the other side, then the Owner of the affected side shall bear the whole cost of such repair. In the event that a repair or maintenance item affects both Residential Units, the Owners of the affected Units agree to share equally the cost of such repair, replacement or maintenance.

12.03 Destruction of Party Wall. If a party wall or common improvement is damaged or destroyed by the fault or negligence of one of the Owners, such damage shall be repaired to a condition equal to or better than immediately prior to the damage and the negligent Owner or Owner at fault shall compensate the other Owner for any and all damages to the non-negligent Owners' Residential Unit. Should a party wall or common improvement be damaged or destroyed by any cause other than by default or by an act of negligence of an Owner of the adjacent Residential Unit, the damage shall be rebuilt or repaired to a condition equal to or better than immediately prior to the damage, at the joint expense of the Owners of the two affected Residential Units, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Units.

ARTICLE XIII - MISCELLANEOUS

13.01 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner, at the latest address for such person as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the managing Agent or the President of the Association. Any notice required or permitted to be given to the Design Committee may be given by delivering or mailing the same to the Managing Agent or any member of the Design Committee.

13.02 Amendment. Except as provided below in this Section 13.02 or in Section 13.08 of Article XIII, this Declaration may be amended by:

- (a) the affirmative vote of a majority of the Owners, and
- (b) the written consent of Declarant, if such amendment is adopted by any time when Declarant holds Class B membership in the Association, and
- (c) the filing of an instrument for record in the office of the County recorder of Salt Lake County, Utah, executed by any two officers of the Association and

certifying that such amendment has been duly adopted by the affirmative vote of a majority of the Owners and, if required, has the written consent of Declarant.

13.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the Owners, whether 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 Owners entitled to cast at least the stated percentage of all membership votes outstanding in connection with the class of membership concerned. The following additional provisions shall govern any application of this Section 13.03:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(b) The total number of votes required for the applicable authorization or approval 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 Residential Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would increase the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Residential Lot are secured, the consent of none of such Owners shall be effective.

13.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

13.05 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision herein construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

13.06 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 all inure to the benefit of Declarant, the Owners, all parties who hereafter acquire any interest in a Residential Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Residential Lot or Living Unit shall comply with, and all interests in all Residential Lots or

in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Residential Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

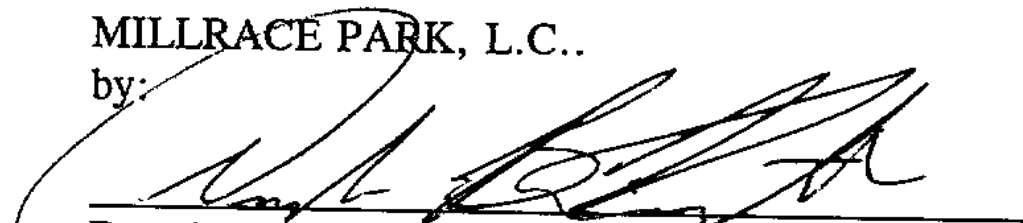
13.07 Duration. The covenants and restrictions of this Declaration shall remain in effect until twenty (20) years from the date this Declaration was first filed in the office of the County Recorder of Salt Lake County, Utah, after which time they shall be automatically extended for successive periods of ten (10) years each unless terminated by an instrument filed in the office of the County Recorder, executed by any two (2) officers of the Association, certifying that the Owners of at least seventy-five percent (75%) of the Residential Lots and their first mortgagees, if any, voted in favor of such termination. If any of the privileges, covenants, or rights created by this Declaration would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then the provision herein creating such privilege, covenant or right shall, in any event, terminate upon the expiration of twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George Bush, former President of the United States at the time this Declaration was recorded.

12.08 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.


"Declarant"

MILLRACE PARK, L.C..

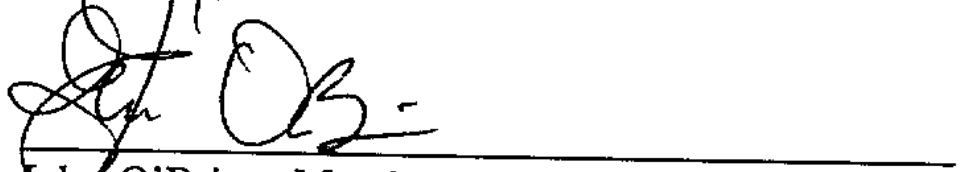
by:



Douglas B. Knight, Member



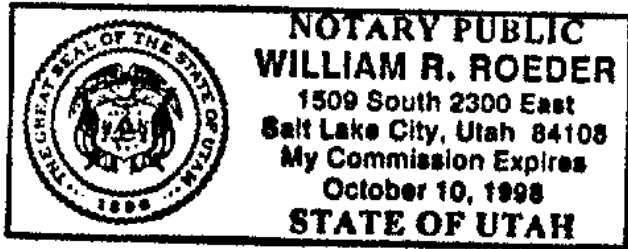
John Nero, Member



John O'Brien, Member

STATE OF UTAH)
 : SS
COUNTY OF Salt Lake

On the 31st day July, 1998, personally appeared before me DOUGLAS B. KNIGHT, JOHN NERO, and JOHN O'BRIEN, who being by me duly sworn did say that they are members of MILLRACE PARK, L.C., and that the within and foregoing instrument was signed in behalf of said limited liability company and DOUGLAS B. KNIGHT, JOHN NERO and JOHN O'BRIEN acknowledged to me that they executed the same.



William R. Roeder
NOTARY PUBLIC

EXHIBIT "A"

PROPERTY

The following real property located in Salt Lake County, State of Utah, to-wit:

BEGINNING at a point on the East line of HOLLYHOCKS, P.U.D., of record and on file in the office of the Salt Lake County Recorder, Entry No. 6281395, Book 9602P, Page 58, said point also being West 241.51 feet and South 2495.44 feet and South 00°02'28" West 128.33 feet from the East Quarter Corner of Section 6, Township 2 South, Range 1 East, Salt Lake Base and Meridian, said point also being on a block wall fence and running thence North 89°01'10" East 79.90 feet along said block wall to a fence corner; thence South 00°09'06" East 139.43 feet to a fence corner, said point also being on the South line extended of MOUNT VERNON COVE Condominiums, of record and on file in the office of the Salt Lake County Recorder, Entry No. 3231216, Book 79-1, Page 36, thence North 89°59'54" East 260.51 feet along said fence line and South line to a fence corner, said point being on the West line of said Condominiums; thence South 326.02 feet along a fence line and said west line extended to the North line of MILLRACE subdivision, of record and on file in the office of the Salt Lake County Recorder, Entry No. 2198059, Book EE, Page 74, thence South 75°00'00" West 160.95 feet along said North line and North line extended, thence North 60°15'00" West 46.56 feet along the North line of SHANDOWNS subdivision, of record and on file in the office of the Salt Lake County Recorder, Entry No. 2639061, Book 74-7, Page 121 and the following 4 calls being on said North line:

- 1) South 61°00'00" West 66.16 feet; thence
- 2) South 79°00'00" West 70.72 feet; thence
- 3) North 37°00'00" West 78.84 feet; thence
- 4) North 86°00'00" West 30.01 feet, to the southeast corner of Lot 1A, CARRIAGE CREEK subdivision, of record and on file in the office of the Salt Lake County Recorder and the following 3 calls being on said Lot line and subdivision line; thence

- 1) North 18°42'34" West 34.56 feet; thence
- 2) South 86°00'00" East 31.91 feet; thence
- 3) North 22°17'53" West 34.95 feet to the south line of HOLLYHOCKS P.U.D. of record and on file in the office of the Salt Lake Recorder; North 67°40'38" East 56.23 feet along said South line to the Southeast corner of said subdivision; thence North 00°02'29" East 378.95 feet along said East line to the point of BEGINNING.

Area: 138,358 square feet or 3.176 acres - 22 lots.

(continuation - Exhibit "A")

Also be known as, to-wit:

All of Lots 1 through 22, Millrace Park, A Planned Unit Development, according to the Plat thereof recorded in Book ~~48-03~~ Page 215, of the Official Records of Salt Lake County, which Lot is contained within Millrace Park, a Planned Unit Development, identified in the "Declaration of Covenants, Conditions, and Restrictions of Millrace Park, a Planned Unit Development" recorded in Book _____ at Page _____. SUBJECT TO the covenants, conditions, restrictions, easements, charges and liens provided for in said Declaration of Covenants, Conditions and Restrictions.

EXHIBIT "B"

COMMON AREAS

The Common Areas within the Millrace Park, P.U.D. shall include all of Lot A, which contains 6,173 square feet, and all Roadways, as shown and described on the Plat.

EXHIBIT "C"

ARTICLES OF INCORPORATION
OF
MILLRACE PARK
HOMEOWNERS ASSOCIATION

Douglas B. Knight, the undersigned natural person over the age of twenty-one years, acting as incorporator of a non-profit corporation pursuant to the Utah Nonprofit Corporation and Co-operative Association Act, hereby adopts the following Articles of Incorporation for said corporation:

ARTICLE I - NAME

1.01 The name of the nonprofit corporation is Millrace Park Homeowners Association, Inc., hereinafter "the Association".

ARTICLE II - DURATION

2.01 The duration of the Association shall be perpetual unless earlier dissolved pursuant to law.

ARTICLE III - DEFINITIONS

When used in these Articles the following terms shall have the meaning indicated:

3.01 Articles shall mean and refer to these Articles of Incorporation of Millrace Park Homeowners Association.

3.02 Association shall mean and refer to Millrace Park Homeowners Association, the Utah nonprofit corporation which is created by the filing of these Articles.

3.03 Member shall mean and refer to every person who holds membership in the Association.

3.04 Declarant shall mean and refer to MILLRACE PARK, L.C.. and to its successors and assigns.

3.05 Property shall mean and refer to the real property situated in Salt Lake County, Utah, described in the Plat and in the Declaration.

3.06 Board shall mean the Board of Trustees of the Association.

3.07 Plat shall mean and refer to the subdivision plat covering the Property, entitled "Millrace Park, a Planned Unit Development" executed and acknowledged by Declarant, prepared and certified to by Fredrick C. Duberow, (a duly registered Utah Licensed Professional Engineer), and filed for record in the office of the County Recorder of Salt Lake County, Utah, on Aug 10, 1998, 1998, in Book 9808 of Plats, Pages 215, as Entry No. _____, and other amended Plats which may be filed from time to time.

3.08 Declaration shall mean and refer to the instrument entitled "Declaration of Covenants, Conditions and Restrictions of Millrace Park, a Planned Unit Development" executed by the Declarant under date of _____, 1998, and filed for record in the office of the County Recorder of Salt Lake County, Utah, as Entry No. _____, Book _____, at Pages _____, et seq., together with any subsequent amendment of said Declaration of any supplemental Declarations which may be recorded from time to time.

3.09 Lot or Residential Lot shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat designed and intended for improvements with a Living Unit.

3.10 Common Areas shall mean all property owned or intended to eventually be owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto. The initial Common Areas shall consist of all Property described in Exhibit "B" of the Declaration.

3.11 Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Salt Lake County, Utah) of a fee or an undivided fee interest in any Lot, including contract sellers, but not including purchasers under contract until such contract is fully performed and legal title is conveyed of record. 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 on any arrangement or proceeding in lieu thereof.

3.12 Living Unit shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction with such residence.

ARTICLE IV - POWERS AND PURPOSES

4.01 Purpose. The Association is organized and shall be operated as a nonprofit corporation for the sole purpose of maintaining and administering the Common Areas, collecting and disbursing the assessments and charges provided for in the Declaration, otherwise administering, enforcing, and carrying out the terms of the Declaration, and generally providing for and promoting the recreation, health, safety, and welfare of residents of the Property.

4.02 Powers. The Association shall have all of the powers conferred upon it by the Declaration and all powers allowed by law necessary or convenient for accomplishment of any of its purposes, including all powers referred to or described in Section 16-6-22, Utah Code Annotated (1953), as amended.

4.03 Limitation. The Association is not organized for pecuniary profit. Notwithstanding the breadth of the foregoing portion of this Article II, no dividend shall be paid to, no part of the Association's funds shall be distributed to, and no part of the net income of the Association shall inure to the benefit of, any of its Members, Trustees, or Officers or any other person, except in payment of the costs contemplated by Section 4.02 of Article IV of the Declaration.

ARTICLE V - MEMBERSHIP AND VOTING RIGHTS

5.01 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association.

5.02 Voting Rights. The Association shall have the following described two classes of voting membership:

Class A. Class A Members shall be all Owners, but excluding the Declarant until the Class B membership ceases. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

Class B. Declarant shall be the sole Class B Member. The Class B Member shall be entitled to five votes for each Residential Lot which he owns. The Class B membership shall automatically cease and be converted to Class A membership on the first to occur of the following events:

- (a) When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member.

(b) December 31, 2002.

5.03 Multiple Ownership Interests. In the event there is more than one (1) Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Lot concerned unless an objection is made at the meeting by another Owner of the same Lot, in which event a majority in interest of the co-owners as shown on the record of ownership maintained by the Association shall be entitled to cast the vote.

5.04 Membership List. The Association shall maintain up-to-date records showing the name of each person who is a Member, the address of such person, and the Lot to which the membership of such person is appurtenant. In the event of any transfer of fee or undivided interest in a Lot either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah. The Association may for all purposes act and rely on the information concerning Members and Lot ownership which is thus acquired by it or, at its option, the Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of a Member shall be deemed to be the address of the Living Unit situated on such Member's Lot unless the Association is otherwise advised in writing.

ARTICLE VI - ASSESSMENTS

6.01 Members of the Association shall be subject to assessments by the Association from time to time in accordance with the provisions of the Declaration and shall be liable to the Association for payment of such assessments. Members shall not be individually or personally liable for the debts or obligations of the Association.

ARTICLE VII - PRINCIPAL OFFICE AND REGISTERED AGENT

7.01 The address of the initial principal office of the Association is 2145 South Main, Salt Lake City, Utah, 84115, and the name of the initial registered agent of the Association at such address is Douglas B. Knight.

ARTICLE VIII - APPOINTMENT OF BOARD OF TRUSTEES BY DECLARANT

8.01 Until the Class B membership ceases and is automatically converted to a Class A membership pursuant to the terms of the Declaration, the Declarant, or its successors in interest as Declarant under the Declaration, shall have the right and option to appoint, remove

and replace all of the members of the Board of the Association. In the event the Declarant fails to exercise this option or in the event the Declarant by written notice to the Association voluntarily turns over to the Members the responsibility for electing the Board before the termination of said Class B membership, the Board shall be elected by the Members of the Association in accordance with the Declaration, these Articles of Incorporation and the Bylaws of the Association.

8.02 Until the Class B membership ceases and is automatically converted to Class A membership pursuant to the terms of the Declaration, the initial Board members appointed by Declarant need not be composed of Members. After the Class B membership ceases and is automatically converted to Class A membership pursuant to the terms of the Declaration, the Trustee selected by the Association must be Members unless or until there are insufficient Members who desire to serve on the Board, in which case Trustees need not be Members of the Association.

ARTICLE IX - BOARD OF TRUSTEES

9.01 Number, Tenure and Qualifications. Except for the initial Board selected by Declarant which consists of three members who (and their successors) may hold office so long as Class B membership specified in the Declaration exists, the affairs of the Association shall be managed by a Board of Trustees composed of three (3) individuals. At the first meeting of the Members at which election of Trustees will take place, the candidate who receives the most votes shall serve as a Trustee for three (3) years. The candidate that receives the second highest number of votes shall serve as a Trustee for two (2) years, and the third candidate which receives the third highest number of votes shall serve as Trustee for one (1) year. At each annual election, the Successor to the Trustee whose term shall expire in that year shall be elected to hold office for the term of three (3) years. Any change in the number of Trustees may be made only by amendment of these Articles. Each Trustee shall hold office until his term expires and until his successor has been duly elected and qualified.

9.02 Initial Board. The persons who are to serve as the initial Board selected by the Declarant are as follows:

<u>Name</u>	<u>Address</u>
Douglas B. Knight	2145 South Main Street Salt Lake City, Utah 84115
John Nero	220 West Central Avenue, Suite 5 Murray, Utah 84107
John O'Brien	10 West 100 South, Suite 610 Salt Lake City, Utah 84101

ARTICLE X - DESIGN COMMITTEE

10.01 Number, Composition and Function. The Board shall appoint a three-member Design Committee the function of which shall be to enforce and administer the provisions of Article VIII of the Declaration (relating to control of improvements and landscaping within the Property). The Design Committee need not be composed of Members. Members of the Design Committee shall hold office at the pleasure of the Board. If such a Design Committee is not appointed the Board itself shall perform the duties required of the Design Committee.

ARTICLE XI - INCORPORATOR

11.01 The name and address of the incorporator of the Association is as follows:

<u>Name</u>	<u>Address</u>
Douglas B. Knight	2145 South Main Street Salt Lake City, Utah 84115

ARTICLE XII - MISCELLANEOUS

12.01 Transfer of Common Areas and Dissolution. The Board may, in connection with dissolution of the Association or otherwise, dedicate or transfer any part of the Common Area to any public agency or authority for such purpose and subject to such conditions as may be agreed to by the Board. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the votes of the membership which Members present in person or by proxy are entitled to cast at a meeting duly called for the purpose. No such dedication or transfer, however, may take place without the Association first receiving approval from the County of Salt Lake pursuant to all applicable state and county laws, rules and ordinances in effect at the time of such proposed dedication or transfer. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10) days but not more than thirty (30) days prior to the meeting date.

The Association may be dissolved by the affirmative vote of two-thirds (2/3) of the votes of the membership which Members present in person or by proxy are entitled to cast at a meeting duly called (as provided in the preceding Paragraph) for the purpose. Upon dissolution of the Association all of its assets (including the Common Areas) shall be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in these Articles and the Declaration. In the event such dedication or transfer is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purpose.

12.02 Manager. The Association may carry out through a Managing Agent any of its functions which are properly authorized by the Declaration. Any Managing Agent shall be an independent contractor and not an agent or employee of the Association. The Managing Agent shall be responsible for managing the Property for the benefit of the Association and the Members and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

12.03 Amendment. Any amendment to these articles shall require: (i) The affirmative vote of at least two-thirds (2/3) of the membership votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose; and, so long as the Class B membership exists, (ii) The written consent of the Declarant. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) days but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows:

At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 12.03) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the filing with the office of the Secretary of State of Utah, of appropriate articles of amendment executed by the President or Vice-President of the Association (and by the Declarant if the Class B membership then exists). In such articles of amendment the President or Vice President shall certify that the vote required by this Section for amendment has occurred.

12.04 Consent in Lieu of Vote. In any case in which these Articles, the Declaration or the Bylaws of the Association 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 transactions from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned. The following additional provisions shall govern any application of this Section 12.04:

(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 12.04 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 Lot which occurs after consent has been obtained from the Member having an interest therein shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Member to give or withhold his consent.

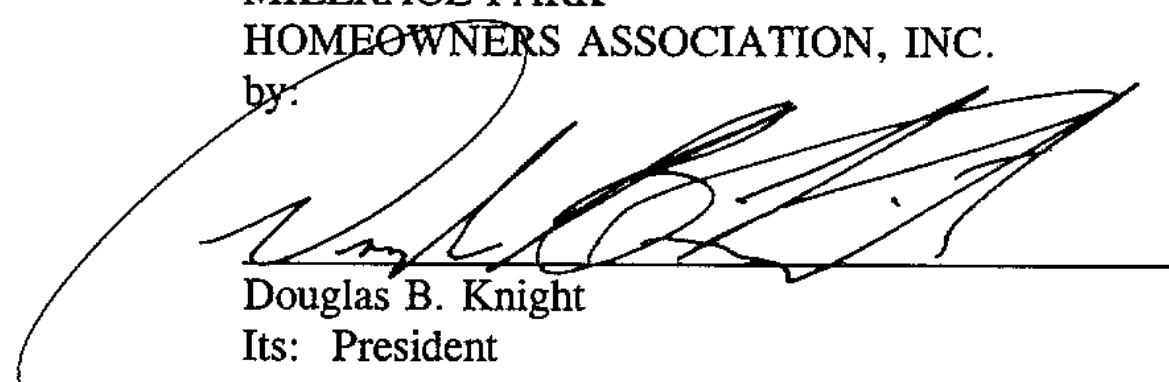
(d) Unless the consent of all members whose memberships are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

12.05 By-laws and Resolutions. The Board may adopt, amend and repeal By-laws or resolutions for regulation and management of the affairs of the Association not inconsistent with these Articles, the Declaration, or law.

12.06 Interpretation. The captions which precede the various portions of these Articles are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any provision contained in these Articles shall not affect the validity or enforceability of the remainder hereof. These Articles have been prepared in conjunction with the Declaration and should be read and construed in light of that fact and liberally so as to effect all of the purposes of both instruments. These Articles may not be amended in any manner inconsistent with the Declaration, and in the event of conflict between these Articles and the Declaration, the Declaration shall control. To the extent the provisions of the Utah Nonprofit Corporation and Cooperative Association Act and any modifications, amendments, and additions thereto are consistent with these Articles and the Declaration, such legislation shall supplement the terms hereof.

DATED this 31st day of July, 1998.

MILLRACE PARK
HOMEOWNERS ASSOCIATION, INC.
by:


Douglas B. Knight
Its: President

Verification

STATE OF UTAH)
 : SS
COUNTY OF WEBER)

On the 31st day of July, 1998, personally appeared before me DOUGLAS B. KNIGHT, who, being by me duly sworn, declared that he is an incorporator of Millrace Park Homeowners Association, that he signed the foregoing Articles of Incorporation of Millrace Park Homeowners Association as an incorporator of such nonprofit corporation, and that the statements therein contained are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of July, 1998.

William R. Roeder
NOTARY PUBLIC
Residing at:

My Commission Expires:
10-10-98

