

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
OF
THE BROOKS**

THIS DECLARATION of Covenants, Conditions and Restrictions is made on the date hereinafter set forth to establish a planned unit development known as The Brooks.

RECITALS

1. Declarant is the owner of real property located at 1760 East Murray Holladay Road in Salt Lake City, Salt Lake County, State of Utah, as described in Exhibit "A" and referred to as the "Property".

2. Declarant desires to construct townhomes and other improvements upon the Property. All construction is to be performed in accordance with the plans and drawings contained in the certified Record of Survey Map filed for record herewith.

3. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit said Property and all improvements now or hereafter constructed thereon as a planned unit development project to be known as The Brooks.

4. Declarant intends to sell to various purchasers the townhomes built on the property, subject to the covenants, conditions, restrictions, limitations, and easements herein set forth.

NOW THEREFORE, Declarant hereby declares and certifies as follows:

ARTICLE I

DEFINITIONS

When used in this Declaration and in the Bylaws attached hereto as Exhibit "B", the terms shall have the meaning set forth herein, unless the context requires otherwise.

1. Association shall mean and refer to the homeowners acting as a group in accordance with the Declaration and Bylaws.

2. Common Areas shall mean all property owned by the Association for the common use and enjoyment of the Owners such as all undedicated roads or driveways, guest parking, open spaces, structural Common Areas, and the like, together with all easements appurtenant thereto.

3. Declarant shall mean Portfolio Investments, LLC, a Utah limited liability company, and its successors or assigns.

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GARY W. DTT
RECORDER, SALT LAKE COUNTY, UTAH
COREY BRAND
5276 HAVENWOOD LN
HOLLADAY UT 84117
DUPLICATE

4. Declaration shall mean and refer to the declaration of covenants, conditions and restrictions executed and acknowledged by the Developer and filed for record in the office of the Salt Lake County Recorder.

5. Developer shall mean and refer to Portfolio Investments, LLC, a Utah limited liability company, and its successors or assigns.

6. Limited Common Areas shall mean any Common Areas designated for the exclusive use by the Owner of a particular Townhome.

7. Management Committee shall mean and refer to the Committee as provided in the Declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules and regulations covering the operation and maintenance of the Property.

8. Map shall mean and refer to the Record of Survey Map filed herewith.

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

10. Mortgage shall mean any mortgage, deed of trust, or other security instrument by which a Townhome or any part thereof is encumbered.

11. Mortgagee shall mean any person named as a Mortgagee or beneficiary under a Deed of Trust.

12. Owner shall mean any person who is the owner of record (as reflected by the records in the office of the Salt Lake County Recorder) of a fee interest in a Townhome. Notwithstanding any applicable theory relating to mortgages, no Mortgagee nor any trustee of a Mortgage shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Developer shall be an Owner with respect to each Townhome owned by Developer. Multiple owners of a particular Townhome shall be jointly and severally liable as to all responsibilities of an Owner.

13. Plat shall mean and refer to the plat map covering the Property executed and acknowledged by the Developer, accepted by Salt Lake City, and filed for record in the office of the Salt Lake County Recorder concurrently with the Declaration.

14. Project shall mean and refer to The Brooks planned unit development.

15. Property shall mean and refer to the real property located in Salt Lake City, Salt Lake County, State of Utah, more particularly described in the Declaration and on the Plat.

16. Townhome shall mean and refer to a structure which is designated, constructed, and intended for use or occupancy as a single family residence.

ARTICLE II

COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon the following covenants, conditions, and restrictions.

1. **Description.** The improvements included in the Project are now or will be located on the Property and described on the Map. The Map indicates the number of Townhomes and other significant facts relating to the Project. The Project will consist of ten (10) Townhomes. The Project is expandable.

2. **Title to the Common Areas.** The Declarant, its successors and assigns, will convey fee simple title to the Common Areas and Limited Common Areas to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Townhome, subject to covenants, restrictions, easements, encumbrances and liens created by or pursuant to this Declaration, easements and rights of way of record, and a covenant by the Association to maintain the Common Areas in good repair and condition at all times and to operate the same at its own expense in accordance with high standards, which covenants shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns.

3. **Voting Rights.** Voting rights in the Project are based on one vote per Townhome.

4. **Common and Limited Common Areas.** The Common Areas in the Project are described and identified in the Map. Neither the ownership of an undivided interest in the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Townhome to which it appertains, and even though not specifically mentioned in the instrument of conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Townhome to which they relate.

5. **Interest in Common Areas.** Each Owner of a Townhome shall share equally in the Common Areas of the Project.

6. **Use of Limited Common Areas.** An Owner shall have the non-exclusive right to use and enjoy the Limited Common Areas designated herein and on the Map for exclusive use by such owner.

7. **Holding Title.** Title to any Townhome may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

8. **No Separation.** No part of any Townhome or of the legal rights comprising ownership of a Townhome may be separated from any other part thereof during the period of ownership described herein, so that each Townhome, the undivided interest in the Common Areas appurtenant to such Townhome, and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Townhome, shall always be conveyed, devised, encumbered, and

otherwise affected only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, or other disposition of a Townhome or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively of the entire Townhome, together with all appurtenant rights created by law or by this Declaration.

9. No partition. The Common Areas shall be owned in common by all of the Owners and no Owner shall bring action for partition thereof.

10. Maintenance of Townhomes. Each Owner shall at his own cost and expense maintain, repair, paint, tile, paper or otherwise refinish and decorate the interior walls and trim, the interior surfaces of the walls, ceilings, floors, and windows and doors forming the boundaries of his Townhome and all walls, ceilings, floors, windows, and doors within such boundaries. In addition to decorating and keeping the interior of the Townhome in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair, or replacement of any plumbing fixtures, water heater, heating equipment, air conditioning equipment, lighting fixtures, refrigerator, dishwasher, disposal equipment, or other appliances or fixtures that may be in or connected with his Townhome. No Owner may alter the exterior of a Townhome.

11. Maintenance of Limited Common Areas. Each Owner shall keep the Limited Common Areas designed for use in connection with his Townhome in a clean, sanitary, and attractive condition at all times.

12. Easement for Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Townhome, an easement for such encroachment and for the maintenance for the same, shall and does exist. If any part of a Townhome encroaches or shall hereafter encroach upon the Common Areas or upon an adjoining Townhome, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either in the Common Areas or the Townhomes. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of a building on the Property, by error in the Map, by settling, raising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

13. Access for repair of Common Areas. Some of the Common Areas are or may be located within a Townhome or may be conveniently accessible only through a Townhome. The Owners of the other Townhomes shall have the irrevocable right, to be exercised by the Committee as their agent, to have access to each Townhome and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Townhome. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a Townhome resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Townhome at the instance of the Committee or of Owners, shall be an expense of all the Owners and assessed proportionately; provided, however, that if such damage is the result of negligence of the Owner of the Townhome, then such Owner shall be held

financially responsible for all such damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment pursuant to this Declaration.

14. Right of Ingress, Egress, and Lateral Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas designated for use in connection with his Townhome, and each Owner shall have the right to the horizontal and lateral support of the Townhome, and such rights shall be appurtenant to and pass with the title to each Townhome.

15. Easement to Management Committee. The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

16. Easement for Utility Services. There is hereby created a blanket easement upon, across, over and under the Property for ingress, egress, installation, replacement, repair, and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, and other utility services.

17. Legal Description of a Townhome. Each conveyance or contract for the sale of a Townhome and every other instrument affecting title to a Townhome may describe that Townhome by the number shown on the Map with appropriate reference to the Map and to this Declaration, as each shall appear on the Records of the County Recorder of Salt Lake County, State of Utah, and in substantially in the following form:

“ Unit No. _____ shown in the Record of Survey Map for The Brooks appearing in the records of Salt Lake County, State of Utah as Entry Number _____, and as defined and described in the Declaration of Covenants, Conditions & Restrictions of The Brooks, appearing in such Records as Entry Number _____. This conveyance is subject to the provisions of the Declaration.”

Such description will be construed to describe the Townhome, together with an Undivided Interest in and to the Common Areas as the same is established and identified in the Declaration and Map referred to herein above, and to incorporate all the rights incident to Ownership of a Townhome and all the limitations of such Ownership as described in this Declaration.

18. Status and General Authority of Management Committee.

(a) Except as hereinafter provided, the Project shall be managed, operated and maintained by a Management Committee as agent for the Homeowners Association and Owners. The Management Committee shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Management Committee's name. The Management Committee shall have, as is hereby granted, the following authority and powers:

(1) The authority, with the consent of the Owners, to grant or create on such terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas.

(2) The authority to execute and record, on behalf of all Owners, any amendments to the Declaration or the Map which have been approved by the vote or consent necessary to authorize such amendment.

(3) The power to sue and be sued.

(4) The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction so long as any vote or consent of the Owners necessitated by the subject matter of the agreement has been obtained.

(5) The power and authority to convey or transfer any interest in real property, so long as the vote or consent necessary under the circumstances has been obtained.

(6) The power and authority to purchase, or otherwise acquire and accept title to any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(7) The power and authority to add any interest in real property obtained pursuant to Subparagraph (6) above to the Project, so long as such action has been authorized by the necessary vote and consent.

(8) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Management Committee in carrying out its function or to insure that the Project is maintained and used in a manner consistent with the interests of the Owners.

(9) The power and authority to perform any other acts and to enter into any other transactions, subject to the rights of the Association, which may be reasonable or necessary for the Management Committee to perform its functions as agent for the Owners. Any instrument executed by the Management Committee relating to the Common Areas of the Project that recites facts which, if true, would establish the Management Committee's power and authority in favor of any person who in good faith and for value relies upon said instrument.

(b) Composition of Management Committee, Election, Vacancy. The Management Committee shall be composed of three (3) members. Only Owners, spouses, or agents of Owners shall be eligible for Committee Membership. At the annual meeting, each Owner has one vote for as many candidates or committee memberships as there are seats on the Committee to be filled. In case of vacancy, the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected.

(c) Rights and Duties. The Management Committee, subject to the rights and duties of the Association, this Declaration, and the Bylaws shall be responsible for the general management of the Project, including maintenance of the Common Areas.

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

(e) Payment of Services. The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Management Committee shall determine to be necessary or desirable for the proper operation of its function in the Project, whether by such Management Committee or by any person of entity with whom it contracts. The Management Committee may obtain and pay for the operation of the Project or the enforcement of this Declaration. It is recognized that the Management Committee may arrange with other persons to furnish snow removal, ground maintenance, and other common services to the Project, whether such personnel are furnished or employed directly by the Management Committee.

(f) Personal Property Ownership and Use. The Management Committee may acquire and hold for the use and the benefit of all the Owners tangible and intangible personal property and may dispose of the some by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. Such interest shall not be transferable except with the transfer of a Townhome. The transfer of a Townhome shall transfer to the transferee ownership of the transferor's beneficial interest in such property without reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners.

(g) Rules and Regulations. The Management Committee may make reasonable rules and regulations governing the operation and use of the Common Areas and of other matters over which it has jurisdiction, which rules and regulations shall be consistent with the rights and duties established in this Declaration and Bylaws. The Management Committee may suspend any Owner's voting rights at the meetings of Owners during any period which such Owner fails to comply with such rules and regulations or any other obligation under this Declaration. The Management Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations, or to obtain damages for noncompliance, all to the extent provided by law.

(h) Capital Improvements. There shall be no structural alterations, capital additions to, or capital improvements of the Common Areas requiring expenditures in excess of Five Thousand Dollars (\$5,000.00) without the prior approval of the Owners holding a majority of the voting power.

(i) Other Rights and Privileges. The Management Committee may exercise any other right or privilege given to it expressly by this Declaration or by law.

19. Homeowners Association. The conveyance of each Townhome and its proportionate share of the Common Areas shall be subject to the covenants, conditions, restrictions, easements, charges, and liens as contained in the Declaration. All Owners shall automatically become members of The Brooks Homeowners Association which shall elect the Management Committee to maintain and administer facilities, maintain Common Areas in the Project, enforce the covenants and restrictions imposed in this Declaration, and collect and disburse the assessments and charges created herein.

20. Assessments. Assessments for services, insurance, maintenance, landscaping, and related items as authorized in the Declaration and Bylaws are allocated as set forth herein.

(a) Agreement to Pay Assessments. Each Owner of a Townhome by the acceptance of a deed or contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree to pay annual assessments for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided hereunder.

(b) Basis of Assessments Owners. The total annual assessments against all Owners shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates may include expenses of management, taxes and special assessments, premiums for insurance, common lighting, water, sewer, waste management, repair and maintenance of all of the Common Areas including lawn care and snow removal, legal and accounting fees, deficits from a previous period, creation of a reasonable contingency reserve, surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Committee for the benefit of the Townhome Owners. Expenses attributable to the Common Areas shall be apportioned among all Townhome Townhomes equally.

(c) Reserve for Utilities. The Management Committee shall arrange to have an adequate reserve established for the payment of utilities, including water, sewer, and garbage disposal for the Project. If the reserve is depleted and not replenished, or if any utilities are not paid when due, the utilities may be turned off. All Owners are hereby informed and notified that nonpayment of utility bills by the Association or the Management Committee may result in the loss of utility service.

(d) Method, Payment of Assessments, etc. Annual assessments shall be made on a calendar year basis. The Management Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Townhome not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Each

annual assessment shall be due and payable in monthly installments. Each monthly assessment shall bear interest at the rate of twelve (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Such monthly assessment becomes payable upon the date the Owner purchases his Townhome, whether by conveyance of title or entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance.

(e) Special Assessments. In addition to the annual assessments authorized hereunder, the Management Committee may levy in any assessment year special assessments, subject to the provisions of paragraph 18 (h) above, payable over such period as the Management Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas of the Project or any other part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. Any amount pursuant thereto shall be assessed to the Owners as set forth herein. Notice in writing of the amount of such special assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date after it becomes due and payable if not paid within thirty (30) days.

(f) Liens for Unpaid Assessments. All sums assessed to any Townhome pursuant to this Section, together with interest thereon as provided herein, shall be secured by a lien on such Townhome in favor of the Management Committee. Any such lien shall be superior to all other liens and encumbrances on such Townhome, except only for governmental assessment authority, encumbrances on the interest of the Owner recorded prior to the date notice of the lien is recorded, which by law would be a lien prior to subsequently recorded encumbrances.

(1) To evidence a lien for sums assessed pursuant to this Section, the Management Committee may prepare a written notice of the lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Owner, and a description of the Townhome. Such notice shall be signed by the Management Committee and may be recorded in the Office of the County Recorder of Salt Lake County, State of Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Management Committee in the same manner in which mortgages or trust deeds on real property may be foreclosed in Utah. In any such foreclosure, the Owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien, and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Management Committee, any assessments against the Townhome which shall become due during the period of foreclosure. The Management Committee shall have the right and the power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(2) A release of lien shall be executed by the Management Committee and recorded in the Office of the County Recorder of Salt Lake County, State of Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(3) Any encumbrancer holding a lien on a Townhome may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payments such encumbrancer shall be subrogated to all rights of the Management Committee with respect to such lien, including priority.

(4) The Management Committee shall report to any encumbrancer of a Townhome any unpaid assessments remaining unpaid for longer than sixty (60) days after the same shall become due; provided however, that such encumbrancer first shall have furnished to the Management Committee written notice of such encumbrance.

(g) Personal Obligation Assessments. The amount of any annual or special assessment against any Townhome shall be the personal obligation of the Owner thereof to the Management Committee. Suit to recover a money judgment for such personal obligation shall be maintained by the Management Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Townhome.

(h) Information Concerning Unpaid Assessments. Upon payment of a reasonable fee not to exceed Twenty Dollars (\$20.00) and upon written request of any Owner or mortgagee, prospective mortgagee, or prospective purchaser of a Townhome, the Management Committee shall issue a written statement setting forth the amount of the unpaid assessments, if any, and any credit for advance payments of prepaid items. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of the mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Townhome.

(i) Purchaser's Obligation. Subject to the provisions of Subparagraph (h), a purchaser of a Townhome shall be jointly and severally liable with the seller for all unpaid assessments against the Townhome up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

(j) Collection by the Committee. It is recognized that the Management Committee under this Declaration will maintain the Common Areas of the Project, except as otherwise provided herein, and will levy assessments for the purposes of performing functions it is authorized to perform within the Project. With respect to the Townhomes in the Project, the Management

Committee shall be authorized to collect from the Owners and enforce liability for the payment of assessments levied pursuant to this Declaration.

21. Use of Townhomes. Each of the Townhomes is intended to be used for residential purposes and is restricted to such use.

(a) Restriction Concerning Common Areas. There shall be no obstruction on the Common Areas by the Owners, their tenants, guests, or invitees without the prior written consent of the Management Committee. The Management Committee may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Townhomes and the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Management Committee, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Areas, except upon written consent of the Management Committee.

(b) Parking Restrictions. The Management Committee may establish reasonable parking restrictions and shall strictly enforce compliance with the applicable parking provisions contained in the municipal ordinances.

(c) Miscellaneous Restrictions. Nothing shall be done or kept in any Townhome or in the Common Areas or any part thereof which would result in the cancellation of the insurance of the Project, or increase the rate of the insurance on the Project, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Townhome or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirements of any governmental body. No damage to or waste of the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Management Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitee. No noxious, destructive, or offensive activity shall be carried on in any Townhome or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

(d) Animals. Whenever pets are taken outside they must be under leash and in the possession and control of the Owner at all times. Barking and other disturbing behavior by pets is not allowed. Pets must not be allowed to defecate or urinate anywhere on the Common Areas. Pets, pet messes, and damages caused by pets are the responsibility of the pet owner or Townhome owner.

(e) No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Townhomes and the Common Areas as adopted from time to time by the Management Committee.

(f) Restrictions on Alterations. No structural alterations to any Townhome shall be made by any Owner without the prior written consent of the Management Committee, which will not be unreasonably withheld.

(g) Declarant's Right to Sell Townhomes. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Townhomes, the Owners who have purchased Townhomes from the Declarant shall not interfere with the completion of the contemplated improvements and sale of the remaining Townhomes. The Declarant may make such use of the unsold Townhomes and the Common Areas as may facilitate such completion and sale, including, but not limited to, the showing of the Townhomes, and the display of signs.

22. Insurance. The Management Committee shall secure or cause to be secured and maintained at all times the following insurance and bond coverage:

(a) A policy of fire and casualty insurance with extended coverage endorsement, for the full insurable replacement value of the entire Project. Such policy or policies shall be made payable to the Committee and all persons holding an interest in the Project or any of the Townhomes, as their interest may appear.

(b) The securing of appropriate fidelity bond coverage is recommended for any person or entity handling funds of the Association, including, but not limited to, employees of the professional managers. Such fidelity bonds should name the Association as an obligee, and be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Project, including reserves.

(c) A policy insuring the Association, the Management Committee, the Manager, and the Owners against any liability incident to the ownership, use or operation of the Project or of any Townhome which may arise among themselves, to the public, or to any invitees or tenants of the Project or of the Owners. Limits of liability under such insurance shall not be less than Three Hundred Thousand Dollars (\$300,000) for any person injured, One Million Dollars (\$1,000,000) for all persons injured in any one accident, and One Million Dollars (\$1,000,000) for property damage resulting from one occurrence.

(d) The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance described above, the Management Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with Projects similar to the Project in construction, nature and use.

(2) The Management Committee shall have the authority to adjust losses.

(3) Insurance secured and maintained by the Management Committee shall not conflict with insurance held by the individual Owners or their mortgages.

(4) Each policy of insurance obtained by the Management Committee shall, if possible, provide a waiver of the insurer's subrogation rights with respect to the Association, the Management Committee, the Manager, the Owners, and their respective agents and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without prior written notice that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

(5) Each individual Owner will be responsible to insure his or her personal property to cover any loss or damage. Any Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Management Committee. Any Owner who individually obtains insurance covering any portion of the Project shall supply the Management Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

23. Damage to Project. In the event of damage to or destruction of part or all of the improvements in the Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, or if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out upon approval of at least seventy-five percent (75%) of the affected Owners. All affected Owners shall be assessed for any deficiency on the basis of their respective percentages of Undivided Interest in the Common Areas and Facilities.

(c) If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are insufficient to accomplish restoration, and if the Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least seventy-five percent (75%), elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake County Recorder such notice. Any reconstruction or repair which is required to be carried out by this Paragraph 23 shall be accomplished at the direction of the Management Committee. Any determination which is required to be made by this Paragraph 23 regarding the extent of the damage to or destruction of Project improvements shall be made by a qualified appraiser selected by the Management Committee.

24. Amendments. Declarant shall have and is hereby vested with the right to amend this Declaration or the Record of Survey Map as necessary to expand the project at any time. Until Townhomes representing fifty-one percent (51%) of the Undivided Ownership Interest in the Project have been sold or the expiration of five (5) years after the first conveyance of title to any Townhome purchased, whichever comes first, Declarant shall have and is hereby vested with the

right to amend this Declaration or the Record of Survey Map. Such right shall exist without regard to the subject matter of the amendment, so long as the amendment involved is consistent with law. Otherwise the vote of at least fifty-one percent (51%) of the undivided ownership interest in the Common Areas and Facilities shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of any instrument executed by the Management Committee. In such instrument, the Management Committee shall certify that the vote required by this Paragraph for Amendment has occurred.

25. Consent Equivalent to Vote. In those cases in which this Declaration requires the vote of a stated percentage of the Project's Undivided Ownership Interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold at least the necessary percentage of Undivided Ownership Interest.

26. Service of Process. Service of Process shall be received by Scott M. Brand as representative of the Declarant, at 10335 Golden Oak Lane, Highland, Utah 84004, until a President of the Association is elected, after which time service of Process shall be received by the President of the Association. The Management Committee shall have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah.

27. Mortgage Protection. Notwithstanding anything to the contrary in the Declaration:

(a) An adequate reserve fund for replacement of the Common Areas must be established and shall be funded by regular monthly payments rather than by special assessments.

(b) There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two (2) month's estimated Common Areas charge.

(c) Any mortgage holder which comes into possession of a Townhome pursuant to the remedies provided in a mortgage or foreclosure of a mortgage or deed of trust (or assignment in lieu of foreclosure) shall be exempt from any provisions relating to sale or lease of the Townhomes in the Project.

(d) Any management agreement for the Project shall be terminable by the Management Committee for cause upon thirty (30) days written notice thereof, and the term of any such agreement shall not exceed one year, but may be renewable by agreement of the parties for successive one year periods.

(e) In the event of substantial damage to or destruction of any Townhome or any part of the Common Areas, the institutional holder of any first mortgage on a Townhome shall be entitled to timely written notice of any such damage or destruction. No Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution of any insurance proceeds.

(f) If any Townhome or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation proceeding by a condemning authority, the institutional holder of any first mortgage on a Townhome shall be entitled to timely written notice of any such proceeding or proposed acquisition, and no Owner or other party shall have priority over such institutional holder with respect to the distribution of the proceeds of any award or settlement.

(g) There shall be no prohibition or restriction on an Owner's right to lease his or her Townhome. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(h) Each holder of a first mortgage lien on a Townhome who comes into possession of a Townhome by virtue of foreclosure of a mortgage or trust deed, or by deed or assignment in lieu of foreclosure, or any purchase at a foreclosure sale, shall take the Townhome free of any unpaid claims or assessments and charges against the Townhome which accrue prior to the time such holder comes into possession of the Townhome.

(i) Any holder of a mortgage is entitled to written notification from the Management Committee of any default by the mortgagor of such Townhome in the performance of such mortgagor's obligation under the Declaration which is not cured within thirty (30) days of notice of default.

(j) Any lien which the Management Committee may have on any Townhome in the Project for the payment of Common Expense assessments attributable to such Townhome will be subordinate to the lien or equivalent security interest of any first mortgage on a Townhome recorded prior to the date any such Common Expense assessments become due.

(k) Unless at least seventy-five percent (75%) of the first mortgagees (based on one vote for each mortgage owned) of the Townhomes have given their prior written approval, neither the Management Committee nor the Owners shall:

(1) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the pro-rata interest or obligation of any Owner for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, and for determining the pro-rata share or ownership of each Owner in the Common Areas.

(3) Partition or subdivide any Townhome.

(4) Make any material amendment to the Declaration or to the Bylaws of the Association, including, but not limited to any amendments which would change the percentage of interest of the Owners in the Common Areas, except as provided in Paragraph 24.

(5) By act or omission, seek to amend, partition, subdivide, encumber, sell or transfer the Common Areas. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this Subparagraph.

(6) Use hazard insurance proceeds for losses to any property, whether to Townhomes or to the Common Areas, for other than repair, replacement, or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Townhomes and/or the Common Areas of the Project.

(7) Terminate professional management and assume self-management of the Project, which action is subject to thirty (30) days written notice upon termination.

(1) Mortgage Protection, notwithstanding all other provisions hereto:

(1) The liens created hereunder upon any Townhome shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or trust deed with first priority over other encumbrances) upon such interest made in good faith and for value.

(2) No amendment to this Paragraph shall affect the rights of the holder of any such mortgage recorded prior to the recordation of such amendment that is not joined in the execution thereof.

(3) By subordination agreement executed by a majority of the Management Committee, the benefits of (1) and (2) above may be extended to mortgages not otherwise entitled thereto.

28. Duty of Owner to Pay Taxes. Each Townhome in the Project is subject to separate assessments and taxes authorized by law and as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Owner will pay any and all taxes and assessments which may be assessed against him or his Townhome.

29. Enforcement. Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with the decisions adopted pursuant to this Declaration and the administrative rules and regulations. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the

Management Committee or Manager on behalf of the Owners, or in a proper case, by an aggrieved Owner.

30. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorney's fees reasonably incurred by him in connection with his being or having been a member of the Management Committee.

(a) Suits, Proceedings, and Other Actions. Notwithstanding any provision of this Declaration to the contrary, any suit, proceeding, or other action as may be deemed necessary to recover a money judgment respecting any assessments levied or fixed by the Management Committee shall be maintained on behalf of the Association at the instance and suit of the Management Committee.

(b) Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land and/or an equitable servitude, as the case may be, and shall be binding upon and inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Townhome or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Townhome shall comply with, and all interests shall be subject to, the terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee on behalf of the Owners, or, in a proper case, by an aggrieved Owner. By acquiring any interest in a Townhome, or in the Project, the party acquiring such interest consents to and agrees to be bound by each and every provision of this Declaration.

(c) Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of failure to enforce the same, regardless of the number of violations or breaches which may occur.

31. Number and Gender. Whenever used herein, unless the context provides otherwise, the singular number shall include the plural, the plural, the singular, and the use of any gender shall include all genders.

32. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

33. Topical Headings. The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph provision hereof.

34. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, State of Utah.

35. All Amenities. All amenities are a part of the Project and are covered by the mortgage at least to the same extent as are the Common Areas and Facilities.

ARTICLE IV

EXPANDABLE PROJECT

1. Expandable. The Project may be expanded if all necessary requirements are met for an expansion.

IN WITNESS WHEREOF, the undersigned Declarant and other owners have executed this instrument on the ~~27th~~ ^{16th} day of ~~January~~ ^{February}, 2005.

SCOTT M. BRAND
SCOTT M. BRAND, Manager
a Utah limited liability company

Scott M. Brand
SCOTT M. BRAND, Manager

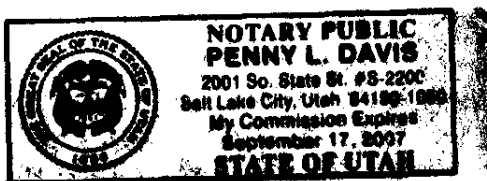
STATE OF UTAH)

: ss.

COUNTY OF UTAH)

On this 16th day of ~~January~~ ^{FEBRUARY}, 2005, personally appeared before me Scott M. Brand, Manager of Portfolio Investments, LLC, and on his oath acknowledged that he is a Manager of Portfolio Investments, LLC and that he signed this instrument with the authority and on behalf of said limited liability company.

Penny L. Davis
NOTARY PUBLIC



Fidelity National Title Insurance Company

EXHIBIT "A"
PROPERTY DESCRIPTION

Parcel 1:

BEGINNING at a point in the center of the Murray-Holladay Road said point being North 89°12'30" West 646.11 feet from a county monument in the center of the intersection of the Murray-Holladay Road and Highland Drive, said monument being South 652.97 feet and West 1431.59 feet from the Northeast corner of Section 9, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 89°12'30" West along the center of said Murray-Holladay Road 119.66 feet, more or less, to the East line of Fairbrook Condominium Project; thence running South 2°40' West along said East line 220.0 feet; thence South 89°12'30" East 119.66 feet to a point on an old fence line on the West line of the Parley F. and Betty Ann Love tract; thence North 2°40' East along said old fence line 220.0 feet to the point of beginning.

LESS AND EXCEPTING therefrom any portion lying within the bounds of 4800 South Street, also known as Murray-Holladay Road.

Parcel Identification No. 22-09-206-003

Parcel 2:

BEGINNING at a point on an old fence line of the East line of the Charles W. and Frances W. Hanes tract, said point being North 89°12'30" West 765.77 feet and South 2°48' West 220.0 feet along an old fence line from a county monument in the center of the intersection of the Murray-Holladay Road and Highland Drive, said monument being South 652.97 feet and West 1431.59 feet from the Northeast corner of Section 9, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 2°40' West along said old fence line 162.80 feet; thence South 75°30' East 122.20 feet; thence North 2°40' East along an old fence line on the West line of the Parley F. and Betty Ann Love tract 191.80 feet; thence North 89°12'30" West 119.66 feet to the point of beginning.

TOGETHER WITH a right of way over the following:

BEGINNING at a point in the center of the Murray-Holladay Road, said point being North 89°12'30" West 646.11 feet from a county monument in the center of the intersection of the Murray-Holladay Road and Highland Drive, said monument being South 652.97 feet and West 1431.59 feet from the Northeast corner of Section 9, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 2°40' West along an old fence line on the West line of the Parley F. and Betty Ann Love tract 220.00 feet; thence North 89°12'30" West 16.51 feet; thence North 2°40' East 220.0 feet; thence South 89°12'10" East 16.51 feet to the point of beginning.

Parcel Identification No. 22-09-206-004

EXHIBIT "B"

**BYLAWS
OF
THE BROOKS**

ARTICLE I

PLAN OF OWNERSHIP

1. Ownership. The Project is known as The Brooks and is located at 1760 East Murray Holladay Road, in Salt Lake City, Salt Lake County, State of Utah.
2. Bylaws Applicability. The provisions of these Bylaws are applicable to the Project.
3. Personal Application. All present or future Owners, tenants, their employees, or any other person that might use the facilities of the Project in any manner are subject to the regulations set forth in these Bylaws. The mere acquisition or rental or occupancy of any of the Townhomes of the Project will signify that these Bylaws are accepted, ratified and will be complied with.

ARTICLE II

VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

1. Voting. Voting shall be one vote per Townhome.
2. Majority of Owners. As used in these Bylaws the term "majority of Owners" shall mean those owners holding fifty-one percent (51%) of the votes.
3. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of a "majority of Owners" as defined in the preceding paragraph of this Article shall constitute a Quorum.
4. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE III

ADMINISTRATION

1. Association Responsibilities. The Owners of the Townhomes will constitute The Brooks Homeowners Association hereinafter referred to as the Association, who will have the responsibility of approving the annual budget and special assessments presented by the Management Committee as set forth in the Declaration, and electing the Members of the Management Committee who will administer the Project, establish and collect monthly assessments and arrange for the operation, maintenance and management of the Project on behalf of the Association.

2. Place of Meetings. Meeting of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Management Committee.

3. Annual Meetings. The first meeting of the Association shall be held within thirty (30) days of the sale of the third Townhome. Thereafter, annual meetings shall be held on the 2nd Thursday of January of each succeeding year. At such meetings there shall be elected by ballot a Management Committee in accordance with the requirements of Section Five of Article IV of these Bylaws. The Owners may also transact such other business of Association as may properly come before them.

4. Special Meetings. It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Management Committee or on a petition signed by at least fifty-one percent (51%) of the Owners and having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice unless by consent of fifty-one percent (51%) of the Owners present, either in person or by proxy.

5. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting, to each Owner of record, at least five (5) but no more than thirty (30) days prior to such meeting. The mailing of notice in the manner provided in this Section shall be considered notice served.

6. Adjourned Meetings. If any meeting of Owners cannot be organized because of a quorum has not been established, the Owners who are present either in person or by proxy may adjourn the meeting to a time no less than forty-eight (48) hours from the time the original meeting was scheduled.

7. Order of Business. The order of business at all Association meetings shall be as follows:

- a. Roll Call

- b. Proof of notice of meeting or waiver of notice
- c. Reading of minutes of preceding meeting
- d. Reports of Officers
- e. Reports of Committees
- f. Appointment of election supervisors and vote counters
- g. Election of Management Committee Members
- h. Unfinished Business
- i. New Business

ARTICLE IV

MANAGEMENT COMMITTEE

1. **Number and Qualifications.** The Association's affairs shall be governed by a Management Committee composed of three (3) members, as set forth in the Declaration.

2. **Powers and Duties.** The Management Committee shall have the powers and duties necessary for the administration of the Association's affairs as set forth in the Declaration.

3. **Other Duties.** In addition to duties imposed by these Bylaws, or by resolutions of the Association, the Management Committee shall be responsible for the following:

- a. Care, upkeep and surveillance of the Project Common Areas and Facilities.
- b. Collection of monthly assessments from the Owners.
- c. Designation and dismissal of the personnel necessary for the maintenance and operation of the Project, the Common Areas and Facilities, and the Limited Common Areas and Facilities.

4. **Management Agent.** The Management Committee may employ for the Association a management agent at a compensation established by the Committee to perform such duties and services as the Committee shall authorize, including, but not limited to, the duties listed in Section 3 above.

5. **Election and Term of Office.** At the first annual meeting of the Association the term of office of the Committee Members shall be fixed as follows: one for one (1) year, one for two (2) years, and one for three (3) years. At the expiration of the initial term of office of each respective Committee Member, his successor shall be elected to serve a term of three (3) years. The Members shall hold office until their successors have been elected and hold their first meeting.

6. **Vacancies.** Vacancies in the Management Committee caused by any reason other than the removal of a Member by a vote of the Association shall be filled by a vote of a quorum of the

remaining Members of the Management Committee, and each person so elected shall be a member until a successor is elected at the next annual meeting of the Association.

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

8. Organization Meeting. The first meeting of the newly elected Management Committee shall be held within ten (10) days of election at such place as shall be fixed by the Members at the meeting at which such Committee Members were elected, and no notice shall be necessary to the newly elected Members in order legally to constitute such meeting, provided a majority of the whole Committee shall be present.

9. Regular Meetings. Regular meetings of the Management Committee may be held at such time and place as shall be determined from time to time, by a majority of the Members, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Management Committee shall be given to each Member, personally or by mail or telephone at least three (3) days prior to the day named for such meeting.

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

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

12. Management Committee's Quorum. At all meetings of the Management Committee, a majority of the Members shall constitute a quorum for the transaction of business, and the acts of the quorum shall be the acts of the Management Committee. If at any meeting of the Management Committee there is less than a quorum present, the Members present may adjourn the meeting and the meeting shall automatically be held the following day at the same time. At any such meeting, any business that may have been transacted at the meeting as originally called may be transacted without further notice.

13. Fidelity Bond Coverage. The securing of appropriate fidelity bond coverage is recommended for any person or entity handling the funds of the Association, including, but not limited to, employees of the professional managers. Such fidelity bonds should name the Association as an obligee, and be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Project, including reserves.

ARTICLE V

OFFICERS

1. Designation. The principle officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by and from the Management Committee. The Committee members may appoint an Assistant Secretary and an Assistant Treasurer, and such other officers as in their judgment may be necessary. The offices of Treasurer and Secretary may be filled by the same person.

2. Election of Officers. The officers of the Association shall be elected annually by the Management Committee at the organization meeting of each new Committee and shall hold office at the pleasure of the Committee.

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

4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Management Committee. He shall have all of the general powers and duties that are usually vested in the office of President of an Association, including, but not limited to, the power to appoint committees from among the Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the Association's affairs.

5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Management Committee shall appoint some other Member of the Committee to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Management Committee.

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

7. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and other valuable effects in the name, and to the credit of, the Association, in such depositories as may from time to time be designated by the Management Committee. All Association funds will be disbursed under approval of the Management Committee.

ARTICLE VI

OBLIGATION OF OWNERS

1. Assessments. All Owners are obligated to pay monthly assessments imposed by the Management Committee to meet all Project common expenses, which may include a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of fire, earthquake, or other hazard. The assessments shall be allocated equally to each Townhome as stipulated in the Declaration. Such assessments shall include monthly payments to a general operating reserve and a reserve fund for replacements. Assessments shall be subject to change. Each Townhome Owner shall pay his or her own utility costs which are individually metered in the Project.

2. Maintenance and Repair.

a. Every Owner must perform promptly all maintenance and repair work within his own Townhome which, if omitted, would affect the Project, being expressly responsible for the damages and liabilities that his failure to do so may engender.

b. All the repairs of internal installations in a Townhome such as water, light, gas, power, sewage, telephones, air conditioning, sanitary installations, doors, windows, lamps, and all other accessories designated to a particular Townhome shall be at the Owner's expense.

c. An Owner shall reimburse the Management Committee for any expenditure incurred in repairing or replacing any Common Area or Facility damaged through his fault, and such expenditure shall become an assessment to the Owner.

d. Each Owner is responsible for the interior maintenance of his Townhome.

f. In addition to maintenance upon the Common Areas, the Management Committee shall provide exterior maintenance upon each Townhome which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspout, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces. In the event that the need for maintenance or repair of a Townhome or the improvements thereon is caused through the willful or negligent acts of the guests or invitees of the Owner of the Townhome needing such maintenance and repair, the

cost of such exterior maintenance shall be added to and become a part of the assessment to which such Townhome is subject.

3. Use of Townhomes.

a. All Townhomes shall be utilized for residential purposes only.

b. An Owner of a Townhome shall not change or alter the outside of his home without first notifying the Management Committee in writing. The Management Committee shall have the obligation to answer within thirty (30) days, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification.

c. An Owner of a Townhome shall not make structural modifications or alterations to the inside or outside of his Townhome without first notifying the Management Committee in writing. The Management Committee shall have the obligation to answer within thirty (30) days, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification.

4. Use of Common Areas and Facilities.

a. The Common Areas may be scheduled with the Secretary of the Management Committee for use by Owners and guests. During the times when the Common Areas are not scheduled they are available to Members of the Association on a first come first served basis.

b. Owners and guests using the Common Areas are responsible for cleaning up any litter as a result of such use.

5. Right of Entry.

a. An Owner shall grant the right of entry to the Management Committee or to any other person authorized by the Management Committee in case of emergency originating in or threatening his Townhome, whether the Owner is present at the time or not.

b. An Owner shall permit other Owners, or their representatives, when so required, to enter his Townhome for the purpose of installing, altering, or repairing mechanical or electrical services, provided that the requests for such entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergency, such rights of entry shall be immediate.

6. Rules of Conduct.

a. No resident of the Project shall post any advertisements or posters of any kind in or on the Project except as authorized by the Management Committee, in which event any and all such signs shall be displayed in a tasteful manner.

b. Owners shall exercise care in minimizing noise and using radios, television, and other devices that may disturb other Owners.

c. Throwing of garbage or trash outside of the installations provided for such disposal in the service area is prohibited.

d. No Owner or lessee shall install wiring for electrical or telephone installation, television and antennae, machines, air conditioning units, or the like, on the exterior of the Project or that protrude through the walls or the roof of the Project except as authorized by the Management Committee.

ARTICLE VII

METHOD OF AMENDING BYLAWS

These Bylaws may be amended by the Association in a duly constituted meeting for such purpose, and no amendment shall take effect unless approved by Owners representing at least fifty-one percent (51%) of all Townhomes in the Project.

ARTICLE VIII

MORTGAGES

Notice to the Management Committee. An Owner who mortgages his Townhome shall notify the Management Committee of the name and address of his mortgagee, and the Management Committee shall maintain such information in a book entitled "Mortgagee of Townhome."

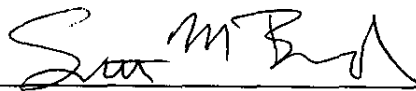
ARTICLE IX

COMPLIANCE

These Bylaws are set forth to comply with the requirements of the Utah Code Annotated. In case there is any conflict between these Bylaws and the Utah Code Annotated, the provisions of the Utah Code Annotated will supersede and apply.

Adopted and executed by the undersigned Declarant on the 27th day of January, 2005.

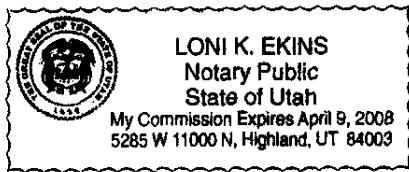
PORTFOLIO INVESTMENTS, LLC,
a Utah limited liability company



SCOTT M. BRAND, Manager

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

On this 27th day of January, 2005, personally appeared before me Scott M. Brand, Manager of Portfolio Investments, LLC, and on his oath acknowledged that he is a Manager of Portfolio Investments, LLC and that he signed this instrument with the authority and on behalf of said limited liability company.



NOTARY PUBLIC