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**SECOND AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM**

FOR

**ESCALA LODGES CONDOMINIUMS
(an Expandable Condominium Project)**

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**SECOND AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM**

FOR

**ESCALA LODGES CONDOMINIUMS
(an Expandable Condominium Project)**

THIS SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR ESCALA LODGES CONDOMINIUMS (an Expandable Condominium Project) (this "Declaration") is made and executed by MORINDA PROPERTIES ESCALA LODGES LC, a Utah limited liability company ("Escala Lodges Declarant"), and MORINDA PROPERTIES WEIGHT PARCEL, LLC, a Utah limited liability company ("Sunrise Declarant"), pursuant to the provisions of Title 57, Chapter 8, Utah Code Annotated, as amended. Escala Lodges Declarant and Sunrise Declarant are sometimes hereinafter collectively referred to as "Declarant."

RECITALS

A. Declarant holds both legal and equitable title to the real property located in the County of Summit, State of Utah, hereinafter more particularly described, upon which Declarant desires to develop a condominium project, known as "Escala Lodges Condominiums" (the "Project") and is intended to be a condominium project pursuant to the Act.

B. Declarant executed that certain Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions, and Bylaws for Escala Lodges Condominium and Escala Lodges Subdivision, Plat A, dated June 17, 2005, and recorded in the Official Records of Summit County, Utah on June 17, 2005, as Entry No. 00739709, in Book 1708, beginning at Page 1216 and that certain First Supplement and Amendment to said Declaration, which First Supplement and Amendment were recorded in the Official Records of Summit County, Utah, on July 31, 2006, as Entry No. 00785232, in Book 1806, beginning at Page 1480 (together, the "Original Declaration").

C. Declarant recorded that certain Amended and Restated Declaration of Condominium for Escala Lodges Condominiums on January 28, 2009, in the Official Records of Summit County, Utah, as Entry No. 863832, in Book 1964, at Page 1774 (the "Amended and Restated Declaration"), which replaced and superseded the Original Declaration in its entirety.

D. Pursuant to Section 30.2 of the Amended and Restated Declaration, Declarant may unilaterally amend the Amended and Restated Declaration at any time prior to the expiration of the Declarant Control Period, as defined therein, which has not yet expired as of the date hereof, provided that such amendment does not materially and adversely affect title to any property at the Project.

E. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed and to establish thereon a condominium.

F. Declarant desires to amend the Amended and Restated Declaration to enable a timeshare regime to be created in Phase 2 of the Project. Such amendment will not materially adversely affect title to the property at the Project.

G. Declarant further desires to amend the Amended and Restated Declaration to track recent amendments to the Act and to make certain other amendments as set forth below. Such amendments will not materially adversely affect title to the property at the Project.

H. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land. This Declaration amends in its entirety, restates, supersedes, and completely replaces both the Original Declaration and the Amended and Restated Declaration. Upon Recording of this Declaration, the terms and provisions of the Original Declaration and of the Amended and Restated Declaration shall be and are hereby terminated.

I. Recorded simultaneously with the Amended and Restated Declaration was the Plat of the Project as required by the Act.

J. The Project is also located within the Canyons Specially Planned Area Zone District ("Canyons SPA") pursuant to Summit County Ordinance No. 333A and any amendments thereto. Pursuant thereto, all properties located within the Canyons SPA, including the Project, are subject to various assessments and costs promulgated and levied pursuant to the Amended and Restated Development Agreement for the Canyons Specially Planned Area, the Canyons Resort Village Management Agreement, the SPA Design Guidelines and the Articles of Incorporation and Bylaws for The Canyons Resort Village Association, a Utah non-profit corporation (collectively, the "Canyons SPA Documents").

K. The Escala Lodges Condominiums Association (the "Association") shall be a member of The Canyons Resort Village Association, a Utah non-profit corporation, d.b.a. The Canyons Resort Village Management Association, organized for purposes set forth in the Canyons SPA Documents ("RVMA"). Thus, in addition to the Project being subject to the terms and conditions of this Declaration, the Project is also subject to any terms and conditions of the Canyons SPA Documents, including but not limited to the RVMA Assessments, except to the extent the Project, Declarant or Owners, if any, are specifically excepted therefrom.

L. Declarant intends to create within the Project several types of ownership consisting of the ownership of one or more Commercial Units, Lodging Units, Parking Units, Storage Units and Support Commercial Units.

M. Declarant has prepared the necessary documents for the incorporation and organization of the Association, which Association will maintain and provide for the management and operation of the Common Areas and Facilities within the Project as hereinafter described, levy and collect Common Assessments, and administer and enforce the terms of this Declaration.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows that each of the Recitals A through M is incorporated into and made a part of this Declaration for all purposes and further declares, covenants and agrees as follows:

1. DEFINITIONS.

Unless the context clearly indicates otherwise, certain terms as used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Article 1. Certain terms not defined in this Article 1 are defined elsewhere in this Declaration.

1.1 Act shall mean the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code), as amended or restated.

1.2 Additional Land shall mean the land that may be added to the Project in accordance with the provisions of Article 11, as depicted in Exhibit D hereto, and as may be designated on the Plat. In no event shall the references to Additional Land or the description of Additional Land in Exhibit D be deemed to encumber the Additional Land or cloud title thereto.

1.3 Amendment shall mean any Supplemental Declaration or any other amendment to this Declaration made in accordance with this Declaration and the Act.

1.4 Articles shall mean the Second Amended and Restated Articles of Incorporation of the Association, as amended from time to time.

1.5 Association shall mean Escala Lodges Condominiums Association, Inc., a Utah nonprofit corporation, organized for the purposes set forth in this Declaration.

1.6 Budget Committee shall mean one or more committees that may be unilaterally appointed by Escala Lodges Declarant with respect to Phase 1 and Sunrise Declarant with respect to Phase 2 during the Declarant Control Period, and thereafter appointed by the Management Committee, to manage the affairs of Owners of Units in Phase 1 and Phase 2, respectively, as may be more particularly described in the Project Rules. The Budget Committee(s), if established, may assist the Management Committee in determining the expenses specifically associated with each Phase of the Project, including, without limitation, expenses for maintenance, reserves, repair, refurbishment and replacement, as applicable, of the Units within a particular Phase of the Project, and administration, management and any other additional services or benefits incurred exclusively for the benefit of the Owners in such Phase(s). The Management Committee may authorize the Budget Committee(s) to take any action or do any act not prohibited by the Act, this Declaration or which does not conflict with the rights, power and authority granted to the Management Committee by this Declaration. After the expiration of the Declarant Control Period, all members of the Budget Committee for Phase 1 shall be appointed by the member of the Management Committee representing the Commercial Owner of Unit C-3, and all members of the Budget Committee for Phase 2 shall be appointed by the member of the Management Committee representing the Owner of Unit C-80, pursuant to Section 20.1 hereof.

1.7 Building(s) shall mean the buildings constructed as part of the Project, as described in Section 2.2 .

1.8 Buildings 4 and 5 Interiors shall mean the interior elements of Buildings 4 and 5 within Phase 2 as described in Section 5.2 below, including all interior and certain exterior elements of the Common Areas and Facilities directly related, adjacent, or appurtenant to

Buildings 4 and 5, including, without limitation, all entry areas, foyers and hallways, decks, patios and balconies appurtenant to the Units in Phase 2, and all sliding glass doors appurtenant to such balconies, patios and decks.

1.9 Bylaws shall mean the Second Amended and Restated Bylaws of the Association, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference, as amended from time to time.

1.10 Canyons Design Review Committee shall mean the design review committee created pursuant to the Canyons SPA Documents.

1.11 Canyons SPA shall mean the Canyons Specially Planned Area Zone District, as further described in Recital F above.

1.12 Canyons SPA Documents shall mean those certain documents defined in Recital J above.

1.13 Commercial Owner shall mean any person or entity or combination thereof, including either Declarant or a Declarant Affiliate, at any time owning a Commercial Unit. The term "Commercial Owner" shall not include any Mortgagee (unless such Mortgagee has acquired title for other than security purposes).

1.14 Commercial Unit shall mean a Unit within the Project which has been designated in Exhibit A attached hereto and incorporated herein by this reference, or any amendment thereto, and/or on the Plat as a Commercial Unit.

1.15 Common Area Manager shall mean the person(s), firm(s) or company(s) designated by the Management Committee to manage, in whole or in part, the affairs of the Association and the Common Areas and Facilities. Declarant shall have the right to appoint the first Common Area Manager, which Common Area Manager may be Declarant or a Declarant Affiliate. Pursuant to Section 20.6 hereof, the Management Committee may engage different Common Area Managers with respect to all or any portions of Phase 1 and Phase 2.

1.16 Common Areas and Facilities shall mean all portions of the Project other than the Units, as described in Section 5.1 below, including the Limited Common Areas and Facilities and any real property or improvements within the Project that the Association has the obligation to maintain, repair or replace for the common benefit of the Owners, including without limitation, any "Ski Easement," "Public Utility Easement," and "Trail Easements" which may be labeled or depicted on the Plat. The Common Areas and Facilities may also include, but are not limited to, perimeter fencing or walls, multi-purpose recreational trails, ski trails, open space and related improvements, private streets, sidewalks, landscaping, Project signage (subject to the Commercial Owners' signage easement set forth in Section 31.14 below), street signage, Project lighting and such other similar improvements. For the avoidance of doubt, Common Areas and Facilities includes the HVAC system and cooling towers serving the Project, without regard to in which Phase of the Project such system may be found. The undivided interest in the Common Areas and Facilities appurtenant to each Unit is based upon the Par Value of a Unit as described in Section 5.3 below and is set forth in Exhibit A attached hereto.

1.17 Common Assessments shall mean those charges and assessments described in Article 21 to fund the Common Expenses with respect to Phase 1, Phase 2, or the entire Project and include Regular Common Assessments, Special Common Assessments and any other assessments or charges levied by the Management Committee on behalf of the Association and any Budget Committee that may from time to time be created by the Management Committee.

1.18 Common Expense Fund shall mean one or more deposit or investment accounts of the Association into which are deposited the Common Assessments. The Common Expense Fund shall consist of at least one operating fund for daily operating expenses and at least one capital fund for reserve and replacement expenses.

1.19 Common Expenses shall mean all charges and expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities, including without limitation all ski and recreational trails, all premiums for insurance (including deductibles) obtained by the Management Committee on behalf of the Association for the benefit of the Project, all expenses associated with the PBX switch, all expenses of and lease payments associated with utilities, cable, satellite television, internet, and all other telecommunications equipment servicing the Units, and all other expenses denominated as Common Expenses by this Declaration or by the Act, which are assessed by the Management Committee on behalf of the Association and any Budget Committee that may from time to time be created by the Management Committee. To the maximum extent practicable to the extent not prohibited by the Act, Common Expenses shall be allocated in good faith by the Management Committee between Phase 1 and Phase 2, and Common Assessments levied against the Owners of Units in such Phases shall reflect such allocation.

1.20 Common Furnishings shall mean all furniture, furnishings, appliances, vehicles, fixtures and equipment, and all other personal property, from time to time, owned or leased by the Association or held for use at the Project.

1.21 Convertible Land shall mean certain open space and building sites which are a portion of the Common Areas and Facilities within the Project which may be converted into one or more Units or Limited Common Areas and Facilities, as provided in Article 9 hereof, as described in Exhibit E hereto, and as may be designated on the Plat.

1.22 Convertible Space shall mean those portions of the Buildings within the Project which may be converted into one or more Units, Common Areas and Facilities, and Limited Common Areas and Facilities, as provided in Article 10 hereof, as depicted in Exhibit F hereto, and as designated on the Plat.

1.23 Cost of Living Index shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items 1982-1984 = 100 compiled by the Bureau of Labor Statistics, United States Department of Labor. The Index for December 2008 is the reference base index. Declarant or the Association may select any other comparable index which measures changes in the cost of living.

1.24 Declarant shall mean, unless the context otherwise requires, Escala Lodges Declarant and Sunrise Declarant, collectively. Whenever a particular action is authorized by, or

a particular right is granted to, "Declarant" hereunder, then unless otherwise expressly stated herein to the contrary or the context otherwise requires, such action or right may be taken or exercised (a) by Escala Lodges Declarant, to the extent that the matter in question relates exclusively to Phase 1; (b) by Sunrise Declarant, to the extent that the matter in question relates exclusively to Phase 2; and (c) only upon the joint written agreement of Escala Lodges Declarant and Sunrise Declarant, to the extent that the matter in question relates, in whole or in part, to both Phases. In the event of any dispute or disagreement between Escala Lodges Declarant and Sunrise Declarant with respect to any action, decision, or other matter that requires their joint consent, approval, agreement, or determination hereunder or under any of the other Governing Documents, such dispute or disagreement shall be resolved to the extent possible pursuant to the dispute resolution procedures set forth in Section 20.2 below.

1.25 Declarant Affiliate shall mean, with respect to Escala Lodges Declarant or Sunrise Declarant, as appropriate, any person or entity directly or indirectly controlling, controlled by or under common control with such Declarant, and shall include, without limitation any general or limited partnership, limited liability company, limited liability partnership or corporation in which such Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder or any third party that acquires title to the entire Project or a particular Phase thereof as successor in interest to either Declarant.

1.26 Declarant Control Period shall mean the period of Declarant control of the Association described in Section 18.4 below.

1.27 Declaration shall mean this Second Amended and Restated Declaration of Condominium for Escala Lodges Condominiums, and all amendments, modifications and supplements hereto. This Declaration supersedes and replaces any prior declaration encumbering the Property.

1.28 Developmental Rights shall mean, unless the context otherwise requires, the Escala Lodges Developmental Rights and the Sunrise Developmental Rights, collectively.

1.29 Eligible Mortgagee shall mean and refer to a First Mortgagee that has requested notice of certain matters from the Association in accordance with Section 29.1 below.

1.30 Escala Lodges Condominiums shall mean, depending on the context, the Property, including Phase 1 and Phase 2 together with all improvements now or hereafter located thereon, including all facilities, roadways, Common Furnishings, equipment and all other appurtenances thereunto belonging and which are governed by this Declaration. Escala Lodges Condominiums shall also be deemed to include any and all additional real property, personal property and recreational or other rights from time to time acquired by the Association for the benefit of Owners subject to the provisions hereof.

1.31 Escala Lodges Declarant shall mean Morinda Properties Escala Lodges LC, a Utah limited liability company, or its successor in interest by express assignment of some or all of the Developmental Rights and other rights of Escala Lodges Declarant hereunder by an instrument executed by Escala Lodges Declarant in favor of its successor in interest and Recorded.

1.32 Escala Lodges Developmental Rights shall mean Escala Lodges Declarant's right, under the Act and this Declaration, to exercise: (a) the Option to Contract pursuant to Article 8 below; (b) the Option to Convert Land pursuant to Article 9 below; (c) the Option to Convert Space exclusive to Phase 1 pursuant to Article 10 below; (d) the Option to Expand pursuant to Article 11 below; (e) any of the rights set forth in Article 18 below, including rights with respect to Excess Project Density with respect to Phase 1; (f) any of the unilateral amendment rights set forth in Article 30 below; and (g) the Right to Create a Shared Ownership Program in Phase 1 as defined in Section 19.3 below; and (h) any other right, benefit, privilege, entitlement, easement, license, or Trademark granted to or reserved by Escala Lodges Declarant pursuant to this Declaration, the Bylaws or the Act.

1.33 Excess Project Density shall mean the total assigned Maximum Gross Building Areas in the Project as set forth on the Plat less the gross Square Feet of Units constructed within the Project above finished grade as set forth in Exhibit A attached hereto. The below grade Square Footage of any Unit and the Square Footage of all Parking Units shall not be included in the calculations of the Excess Project Density in the Project. The Excess Project Density constitutes "transferrable development rights (TDRs)" under the Canyons SPA Documents.

1.34 Exempt Property shall mean any Unit owned by either Declarant or any Declarant Affiliate.

1.35 Governing Documents shall mean this Declaration, the Plat, the Bylaws, the Articles, the Project Rules, the Management Committee's authorized resolutions, and The Canyons SPA Documents, as each document may be amended and/or restated from time to time.

1.36 Governing Project Maintenance Standard shall mean the Project Maintenance Standard governing the Buildings 4 and 5 Interiors and/or the separate Project Maintenance Standard governing the Phase 1 Managed Areas.

1.37 Guest shall mean an Owner's accompanied or unaccompanied family member, guest, invitee, licensee, renter, tenant and any person or occupant who has the right to use and occupy a Unit.

1.38 Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities allocated by this Declaration or the Act, or as may be shown on the Plat, for the exclusive use of one or more, but fewer than all, of the Units, which may include, without limitation, certain decks, patio areas and storage areas.

1.39 Lodging Unit shall mean any Unit designated as a Lodging Unit on the Plat, or any amendment thereto, used and occupied for lodging purposes as described in Article 12 below.

1.40 Lodging Unit Owner shall mean any person or entity, including either Declarant or a Declarant Affiliate, at any time owning a Lodging Unit. The term "Lodging Unit Owner" shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.41 Management Committee shall mean the Board of Directors, Board of Managers, Board of Trustees or Executive Board (regardless of the specific term used) of the Association, appointed or elected in accordance with this Declaration and the Articles and Bylaws.

1.42 Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Unit or any part thereof or interest therein.

1.43 Mortgagee shall mean any person or entity named as the mortgagee, beneficiary or holder of the seller's interest under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person under such Mortgage. A First Mortgagee shall mean any person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee protections contained in this Declaration shall also protect either Declarant to the extent that it is the holder of a First Mortgage of a Unit or any interest therein.

1.44 Owner shall mean any person or entity, including either Declarant or a Declarant Affiliate, at any time owning fee simple title to a Unit within the Project. The term "Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.45 Par Value shall mean the number of points assigned to each Unit as described herein and in the Act and used to determine ownership interests and votes of Units. In accordance with the provisions of the Act, the statement of Par Value should not be considered to reflect or control the sales price or fair market value of any Unit.

1.46 Parking Owner shall mean any person or entity, including either Declarant or a Declarant Affiliate, at any time owning a Parking Unit. The term "Parking Owner" shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.47 Parking Unit shall mean a Unit in the Project which has been designated in Exhibit A hereto, or any amendment thereto, and/or on the Plat as a Parking Unit.

1.48 Phase shall mean Phase 1 or Phase 2.

1.49 Phase 1, commonly known as "Escala Lodges," shall mean all Units in Buildings 1, 2 and 3 of the Project, as depicted on the Plat, together with all Common Areas and Facilities, easements, licenses, Trademarks (as defined in Section 36.1 hereof) and other rights, benefits, privileges, and entitlements of any and every kind related or appurtenant thereto.

1.50 Phase 1 Common Areas and Facilities shall mean for management, budgeting and such other purposes as are described herein, as depicted in Exhibit I attached hereto and incorporated herein by this reference or as Escala Lodges Declarant and Sunrise Declarant may jointly determine from time to time, all interior and exterior elements of the Common Areas and Facilities Common Areas and Facilities directly related, adjacent, or appurtenant to Buildings 1, 2, and 3 within Phase 1, including, without limitation, exterior signage, siding, roofing, lighting,

landscaped areas, windows, walkways and swimming pools, as further described in Section 5.2 below, some or all of which areas may be managed by a separate Common Area Manager engaged by the Association to manage Phase 1. The Phase 1 Common Areas and Facilities shall be separate and distinct from the Phase 2 Common Areas and Facilities.

1.51 Phase 1 Managed Areas shall mean (i) all Units in Buildings 1, 2 and 3; (ii) the Phase 1 Common Areas and Facilities; (iii) the Phase 2 Common Areas and Facilities except for the Buildings 4 and 5 Interiors; (iv) all other Common Areas and Facilities within the Project other than the Buildings 4 and 5 Interiors (except the HVAC system), including without limitation the exterior signage, siding, roofing, lighting, landscaped areas, windows, walkways and both swimming pools; and (v) the HVAC system, related mechanical components and central plant serving the Project, including Buildings 4 and 5 (but not filters, vents and non-mechanical components thereof).

1.52 Phase 2, commonly known as "Sunrise at Escala," shall mean all Units in Buildings 4 and 5 of the Project, as depicted on the Plat, together with all Common Areas and Facilities, easements, licenses, Trademarks (as defined in Section 36.1 hereof) and other rights, benefits, privileges, and entitlements of any and every kind related or appurtenant thereto.

1.53 Phase 2 Common Areas and Facilities shall mean for management, budgeting and such other purposes as are described herein and depicted in Exhibit J attached hereto and incorporated herein by this reference or as Escala Lodges Declarant and Sunrise Declarant may jointly determine from time to time, all interior and exterior elements of the Common Areas and Facilities directly related, adjacent, or appurtenant to Buildings 4 and 5 within Phase 2, including, without limitation, exterior signage, siding, roofing, lighting, landscaped areas, windows, walkways and swimming pools, as further described in Section 5.2 below, some or all of which areas may be managed by a separate Common Area Manager engaged by the Association to manage Phase 2. The Phase 2 Common Areas and Facilities shall be separate and distinct from the Phase 1 Common Areas and Facilities.

1.54 Plat shall mean the Escala Lodges Condominiums Amended & Restated Condominium Plat, which has been Recorded, together with all Supplemental Plats, as the same may be amended from time to time pursuant to this Declaration and the Act.

1.55 Project shall mean the Property, the Units, the Common Areas and Facilities, the Building(s) and all improvements submitted by this Declaration to the provisions of the Act.

1.56 Project Design Guidelines shall mean the written review standards promulgated by the Project Design Review Committee pursuant to this Declaration.

1.57 Project Design Review Committee shall mean the design review committee created pursuant to Article 22 of this Declaration.

1.58 Project Maintenance Standard shall mean the standards of construction, operation, service, maintenance, repair and refurbishment of the Project which shall be at the level of service and quality of a first class hotel and lodging project and reasonably likely to protect and preserve the assets that comprise the Project and optimize the long-term value of the Project over the life of the Project as Escala Lodges Declarant and Sunrise Declarant shall jointly determine

in their sole and exclusive discretion so long as they have any Developmental Rights under this Declaration, and thereafter, the Commercial Owner(s) of Unit Nos. C-3 and C-80. This definition of Project Maintenance Standard may not be amended without the prior written consent of both Declarants so long as they have any Developmental Rights under this Declaration, and thereafter, without the prior written consent of the Commercial Owner(s) of Unit Nos. C-3 and C-80. Notwithstanding the foregoing provisions of this Section 1.58 or any other provision of this Declaration to the contrary, under no circumstances shall the Project Maintenance Standard applicable to the Phase 1 Managed Areas or the Buildings 4 and 5 Interiors ever be reduced below that of a first class resort standard at a quality level (physically and operationally) equal to or greater than the standards set forth in any applicable management agreement between the Common Area Manager for Phase 1 and the Association for the management of the Phase 1 Managed Areas and the Common Area Manager for the Buildings 4 and 5 Interiors and the Association for the management of the Buildings 4 and 5 Interiors, respectively.

1.59 Project Rules means all rules and regulations of the Association promulgated by the Management Committee covering the operation and maintenance of the Project, the Units and any Budget Committee, as the same may from time to time be amended. Pursuant to Section 20.3 hereof, the Management Committee may promulgate different Project Rules covering the operation and maintenance of each Phase.

1.60 Property shall mean that certain real property situated in Summit County, State of Utah, more particularly described in Section 2.1, and Exhibit C hereinafter, on which the Units and other improvements are or will be located.

1.61 Record, Recording, Recorded and Recordation shall mean placing or having placed an instrument of public record in the Official Records of Summit County, Utah.

1.62 Regular Common Assessments shall mean the annual assessments levied by the Association to pay the budgeted Common Expenses.

1.63 RVMA shall mean The Canyons Resort Village Association, a Utah non-profit corporation, d.b.a. The Canyons Resort Village Management Association, and its successors and assigns, as also described in Recital K above.

1.64 RVMA Assessment shall mean any assessment levied and assessed by the RVMA pursuant to the Canyons SPA Documents.

1.65 Special Common Assessments shall mean assessments which the Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

1.66 Square Feet or Square Footage shall mean (a) for purposes of calculating the undivided interest in the Common Areas and Facilities appurtenant to each Unit, the gross square feet of a Unit constructed within the Project; and (b) for purposes of calculating the "Maximum Gross Building Area" in the Project under the Canyons SPA, the gross square feet of a Unit (except for Parking Units) constructed within the Project above finished grade in accordance with the allocations set forth on the Plat. The below grade Square Footage of any Unit and the

Square Footage of all Parking Units shall not be included in the calculations of the Maximum Gross Building Area in the Project in accordance with the Project's entitlements as approved by the County. The Square Footage shall be determined as Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) shall exclusively assign and as measured and unilaterally calculated by each such Declarant during the Declarant Control Period, and thereafter, the Management Committee, on a consistent basis, as set forth in the Plat and Exhibit A hereto. Certain spaces within the Units including, without limitation, attics and other areas may, but need not, be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all Units in the Project. The calculation of square footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such square footages. In the event of any disagreement or uncertainty as to the calculation of Square Footage in the Project and/or as to which Units and improvements are constructed above or below finished grade, Escala Lodges Declarant and Sunrise Declarant jointly, so long as they have any Developmental Rights hereunder, and thereafter, the Management Committee, shall have the sole and exclusive power to make such determination, and such Declarants or the Management Committee's determination shall be conclusive, final and unappealable.

1.67 Storage Owner shall mean any person or entity, including either Declarant or a Declarant Affiliate, at any time owning a Storage Unit. The term "Storage Owner" shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.68 Storage Unit shall mean a Unit in the Project which has been designated in Exhibit A hereto, or any amendment thereto, and/or on the Plat as a Storage Unit.

1.69 Sunrise Declarant shall mean Morinda Properties Weight Parcel, LLC, a Utah limited liability company, or its successor in interest by express assignment of some or all of the Developmental Rights and other rights of Sunrise Declarant hereunder by an instrument executed by Sunrise Declarant in favor of its successor in interest and Recorded.

1.70 Sunrise Developmental Rights shall mean Sunrise Declarant's right, under the Act and this Declaration, to exercise: (a) the Option to Convert Space exclusive to Phase 2 pursuant to Article 10 below; (b) any of the rights set forth in Article 18 below, including rights with respect to Excess Project Density with respect to Phase 2; (c) any of the unilateral amendment rights set forth in Article 30 below; (d) the Right to Create a Shared Ownership Program in Phase 2 as defined in Section 19.3 below, and (e) any other right, benefit, privilege, entitlement, easement, license, or Trademark granted to or reserved by Sunrise Declarant pursuant to this Declaration, the Bylaws or the Act.

1.71 Sunrise Timeshare Documents shall have the meaning ascribed to it in Section 19.3 hereof.

1.72 Supplemental Declaration shall mean any amendment to this Declaration Recorded in connection with either Declarant's exercise of any of its Developmental Rights.

1.73 Supplemental Plat shall mean any amendment to the Plat made in accordance with this Declaration and the Act.

1.74 Support Commercial Owner shall mean any person or entity, including either Declarant or a Declarant Affiliate, at any time owning a Support Commercial Unit. The term "Support Commercial Owner" shall not include any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

1.75 Support Commercial Unit shall mean a Unit in the Project which has been designated in Exhibit A hereto, or any amendment thereto, and/or on the Plat as a Support Commercial Unit.

1.76 Total Votes of the Association shall mean the total votes appertaining to all Units, as described in Article 23 below.

1.77 Unit shall mean a physical portion of the Project designed for separate ownership and occupancy as described in Article 4 hereof.

1.78 Unit Number shall mean the number, letter or combination of name, numbers and letters that identifies only one Unit in the Project.

1.79 Withdrawable Land shall mean the land which may be withdrawn from the Project in accordance with the provisions of Article 8, and as described in Exhibit G hereto.

2. DESCRIPTION OF THE PROPERTY AND THE IMPROVEMENTS.

2.1 Description of the Property; No Encumbrance of Additional Land. The Property on which the Units and improvements are located is situated in Summit County, Utah and more particularly described on Exhibit C attached hereto and incorporated herein by this reference. Pursuant to the Amended and Restated Declaration, Declarant unilaterally amended and restated the Property legal description set forth in Article 2 of the Original Declaration and hereby redeclares that from and after the date that this Declaration is Recorded (the "Effective Date"), Lots 2, 3, 4, 5, and Potential Receiving Site (collectively the "Lots") as depicted on Plat "A", Escala Lodges Subdivision, according to the official Recorded plat thereof are not submitted to, nor governed by, the provisions of the Original Declaration, the Amended and Restated Declaration or this Declaration, or any amendments or supplements thereto or hereto. The Lots constitute Additional Land and shall be treated as if the Original Declaration, the Amended and Restated Declaration, and this Declaration had never encumbered such parcels of real estate and shall not be subject to assessments or any other obligations under the Original Declaration, the Amended and Restated Declaration or this Declaration. Moreover, from and after the Effective Date, title to the Lots shall remain vested in and held by Escala Lodges Declarant or its Declarant Affiliate, and none of the Owners, nor the Association, the Management Committee, Sunrise Declarant, or any other person or entity having any right or interest in all or any portion of the Project shall have any claim, occupancy rights or title to or interest in the Lots.

2.2 Initial Improvements. The initial improvements will consist of five (5) freestanding Buildings with basements and between four (4) and seven (7) floors, containing approximately thirty-six (36) Commercial Units, thirty-eight (38) Parking Units, one hundred

thirty-two (132) Storage Units, sixteen (16) Support Commercial Units and one hundred sixty eight (168) Lodging Units. The Lodging Units shall include approximately twelve (12) Studio Units, thirty-five (35) One-Bedroom Units, sixty-eight (68) Two-Bedroom Units, forty (40) Three-Bedroom Units and thirteen (13) Four-Bedroom Units. The structure of the Buildings in Phase 1 is concrete with metal studs frame and wood, metal, composite, and stone siding. The roofs are sloped and flat with asphalt shingles and metal covering on the sloped portions and a membrane covering the flat portions. The structure of the Buildings in Phase 2 is a wood and metal frame with wood, metal and stone siding. The roofs are sloped and flat with metal covering on the sloped portions and a membrane covering on the flat portions. The Buildings are supplied with telephone, cable or satellite television, electricity, natural gas, water, and sewer service. In addition to the Buildings, the initial improvements may also include maintenance facilities and other improvements.

2.3 Disclaimer of Development Representations. All persons, including without limitation all Owners, are hereby advised that, except as expressly set forth in this Declaration and in the Plat, no representations, warranties or commitments have been or are made by Declarant, Declarant Affiliates or any other person with regard to the present or future development, ownership, operation or configuration of the Project, including the Units, improvements and Common Areas and Facilities, whether or not depicted on any other land use plan, sales brochure or other marketing display, rendering or plan or statements made by any real estate broker or agent in any sales presentation. No purported representation, warranty or commitment, written or oral, in such regard shall ever be effective without an amendment hereto executed by each Declarant.

3. SUBMISSION TO ACT.

3.1 Submission to the Act. Declarant hereby submits the Property, the Building(s), and all other improvements thereon to the provisions of the Act. All of said Project is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as Lodging Units, Commercial Units, Parking Units, Storage Units and Support Commercial Units. All of said Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan for improvement of said Project and division thereof into Units; further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit to Declarant, the successors and assigns of Declarant, and any person acquiring, leasing, subleasing or owning an interest in the real property and improvements comprising the Project, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

3.2 Common Scheme; Phases. By this Declaration, Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interest therein conveyed and to establish thereon a condominium. However, for management, budgeting and such other purposes as Escala Lodges Declarant and Sunrise Declarant shall determine, in their exclusive discretion, all or portions of Phase 1 and Phase 2 of the Project may be separately managed and operated. Due to differing construction and design elements and related factors, Owners of Units in such Phases may be subject to additional provisions detailed in the Project Rules. Each Owner, by the acceptance of

a deed to a Unit in the Project, shall be deemed to have consented to all provisions of this Article 3.

4. DESCRIPTION OF UNITS.

The boundary lines of each Unit are as set forth on the Plat and consist of the undecorated and/or unfinished interior surfaces of its perimeter walls, bearing walls, lowermost floor, uppermost ceiling, and the interior surfaces of windows and doors. The interior surfaces of the doors and windows mean the points at which such surfaces are located when such window or door is closed. Without limitation, a Unit shall include any finishing material applied or affixed to the interior surfaces of the interior walls, floors and ceilings; non-supporting interior walls; and all utility outlets, fixtures or appliances found within the boundary lines of the Unit and servicing only that Unit. Notwithstanding the fact that they may be within the boundaries of the Unit, the following are not part of any Unit: bearing walls, floors, ceilings and roofs (except the interior finished surfaces thereof), foundations, ceiling equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except the outlets thereof when located within the Unit. The Plat and/or Exhibit A hereto contain the Unit Number and Square Footage of each Unit in the Project.

5. DESCRIPTION AND OWNERSHIP OF COMMON AREAS AND FACILITIES.

5.1 Description of Common Areas and Facilities. The Common Areas and Facilities shall mean and include the Property on which all Units are located and all portions of the Project not included as part of any Unit, including, but not by way of limitation the foundations, columns, girders, beams, supports, exterior and bearing walls and roofs of the Building; the grounds and recreational facilities, if any, including, but not limited to any swimming pool area, hot tub area, game rooms, parking areas and certain other areas in the Project designated as part of the Common Areas and Facilities on the Plat (unless such areas are designated as a Unit), installations of all central services, including power, light, natural gas, hot and cold water, heating, ventilating, air conditioning and garbage collection; tanks, pumps, motors, fans, ducts and, in general, all apparatuses and installations existing for common use; all utility pipes, lines or systems servicing the Units; all ducts, flues, chutes, wires, television antennas, conduits, transformers, water lines, power lines, natural gas lines, sewer lines and other accessories and utility installations to the outlets used therewith; the underground water drainage system around the Building perimeter; and, all other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities on the Plat or any Supplemental Plat made in accordance with this Declaration and the Act; and all repairs and replacements of any of the foregoing. In the event of any disagreement or uncertainty as to which Common Areas and Facilities are Phase 1 Common Areas and Facilities and which Common Areas and Facilities are Phase 2 Common Areas and Facilities in connection with the exercise of any Developmental Rights under this Declaration and the other Governing Documents, Escala Lodges Declarant and Sunrise Declarant, upon their joint written determination during the Declarant Control Period, and thereafter, the Management Committee, shall have the sole power to make such determination, in its reasonable discretion, subject to the input of the members of the Management Committee elected solely by the votes of the Commercial Owners of Unit Nos. C-3 and C-80.

5.2 Description of Management Areas. For management, budgeting and such other purposes as are described herein or as Escala Lodges Declarant and Sunrise Declarant may jointly determine from time to time, the Phase 1 Managed Areas, as defined in Section 1.51 above, and the Buildings 4 and 5 Interiors, as defined in Section 1.8 above, may be managed by separate Common Area Managers engaged by the Association. The Common Area Manager for the Phase 1 Managed Areas shall have the right to enter into Buildings 4 and 5, and into any Unit located therein, for the purpose of discharging its management duties and responsibilities with respect to the Phase 1 Managed Areas, subject to providing reasonable advance notice to the Common Areas Manager for the Buildings 4 and 5 Interiors.

5.2.1 For purposes of this Declaration, the "interior elements" of the Common Areas and Facilities shall include all interior spaces, flooring, partitions, party walls, plaster, gypsum drywall, wallpaper, paint, ceilings, all other materials constituting part of the interior surfaces of the Buildings and Units and other similar interior fixtures, all doorsteps, decks, patios and balconies appurtenant to such Units, and the sliding glass doors appurtenant to such decks, patios and balconies, as such similar interior improvements may be further determined by the Management Committee in its sole and exclusive discretion.

5.2.2 For purposes of this Declaration, the "exterior elements" of the Buildings shall include all utilities, whether public or private-company owned, located on the Common Areas and Facilities, but do not include any interior portion of such utilities located within a Building which constitute interior elements as further defined in Section 5.2.1 above, rooftops, shutters, exterior windows and other similar exterior improvements as may be further determined by the Management Committee in its sole and exclusive discretion.

5.2.3 In the event of any disagreement or uncertainty as to which improvements or elements of a Building constitute "interior elements" or "exterior elements" in connection with the provision of management services under this Declaration and the other Governing Documents, Escala Lodges Declarant and Sunrise Declarant, upon their joint written determination during the Declarant Control Period, and thereafter, the Management Committee, shall have the sole and exclusive power to make such determination, and both Declarants' or the Management Committee's determination, as applicable, shall be conclusive, final and unappealable.

5.3 Calculation of Undivided Interests. The undivided interest in the Common Areas and Facilities appurtenant to each Unit in the Project is based upon the Par Value of such Unit, which is determined by the number of points allocated to each Unit. There shall be one (1) point allocated to each Square Foot in a Parking Unit or Storage Unit, two (2) points allocated to each Square Foot in a Support Commercial Unit, three (3) points allocated to each Square Foot in a Commercial Unit, and seven (7) points allocated to each Square Foot in a Lodging Unit. Consequently, the total number of points allocated to each Parking Unit or Storage Unit is the Square Footage area of such Unit, the total number of points for each Support Commercial Unit is calculated by multiplying the Square Footage area of such Unit by two, the total number of points for each Commercial Unit is calculated by multiplying the Square Footage area of such Unit by three, and the total number of points allocated to each Lodging Unit is calculated by

multiplying the Square Footage area of such Unit by seven. The percentage of undivided interest in the Common Areas and Facilities and the votes appurtenant to each Unit has been determined by dividing the number of points allocated to that Unit by the total number of points allocated to all Units in the Project. In accordance with the provisions of the Act, the statement of Par Value shall not be considered to reflect or control the sales price or fair market value of any Unit. The undivided interest appurtenant to each Unit shall have a permanent character and shall not be altered, except as provided in this Declaration and the Act. The sum of the undivided interests and votes in the Common Areas and Facilities allocated to all Units shall at all times equal one hundred percent (100%). Declarant has rounded the undivided interest of one or more Units in order to cause the total to equal one hundred percent (100%).

6. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES.

Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities reserved for the use of certain Owners to the exclusion of other Owners, including but not limited to any porches, decks, balconies, foyers, storage closets, hot tubs, patios, attics and other areas as indicated by this Declaration, the Plat or the Act to be for the exclusive use of one or more but fewer than all of the Units. Mechanical systems or utility closets serving only certain Units shall be Limited Common Areas and Facilities with respect to the Units which they serve. The Limited Common Areas and Facilities shall be those areas designated as such on the Plat, in this Declaration or as provided for by the Act. The use and occupancy of designated Limited Common Areas and Facilities shall be reserved to the Units to which such Limited Common Areas is adjacent, unless otherwise shown on the Plat or as specified in this Declaration. Owners may not reallocate Limited Common Areas and Facilities between or among Units in which they have an interest.

7. MOUNTAIN RESORT DEVELOPMENT.

7.1 Assumption of Risk, Waiver and General Release of Claims. Each Owner, by his, her or its purchase of a Unit, hereby acknowledges that the Project is a mountain resort community with resort-type activities, which may include, without limitation: skiing, ski runs and trails, hiking trails, mountain biking trails, open spaces, wildlife, rugged terrain, snowmaking, horses and horseback riding, games and activities, running, snow shoeing, alpine and cross country skiing and mountain bike courses and/or races and/or other competitions of various kinds, and other resort-type facilities, events, activities and programs (collectively, “Resort Activities”), and each such Owner expressly assumes the risk of noise, nuisances, hazards, personal injury, or property damage related to any and all Resort Activities, including without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance may take place at any time(s) of the day or night), (b) noise caused by Resort Activities and participants, (c) noise from snowmaking systems and trail grooming machinery, (d) construction and development activities, (e) view restrictions caused by installation, relocation and maturation of trees and shrubbery, (f) reduction in privacy, including that related to maintenance activities, (g) errant equipment, including skis and mountain bikes, and (h) The Canyons Ski Resort (“The Canyons”) facilities design. Each such Owner agrees that neither Declarant, the Association, any Common Area Manager, the Project Design Review Committee, any other committee created by the Association, any of the Declarant’s Affiliates or agents, nor any Resort Activities participant (unless acting recklessly or in a willfully wrongful manner)

shall be liable to an Owner or any other person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to: (a) the proximity of an Owner's Unit to any ski run, ski easement, ski trail, hiking trail, or other Resort Activity venue; (b) any claim arising in whole or in part from the negligence of Declarant, any of Declarant's Affiliates or agents, any Common Area Manager, the Association, the Project Design Review Committee, or any other committee created by the Association (and all of their respective affiliates, subsidiaries, parent companies and other related companies, and all of their respective past and present directors, officers, shareholders, and all of their respective agents, representatives, attorneys, and employees of any of the foregoing) (collectively referred to herein as "Released Parties"); or (c) any Resort Activity (collectively referred to herein as the "Waived Claims"). Each Owner, on behalf of itself, and his, her or its heirs, spouse, administrators, representatives, successors, affiliates, agents, and assigns (hereinafter, "Releasors"), does hereby fully, finally, and unconditionally release, and forever discharge the Released Parties from and waives all actions, causes of action, lawsuits, appeals, claims, charges, complaints, debts, obligations, demands, rights, grievances, promises, liability, damages, costs and/or fees whatsoever in law or equity related to the Resort Activities and all Waived Claims asserted by such Owner and/or by such Owner's Guest. Each Owner and Guest understands and agrees that the waiver and release set forth in this Article 7 is intended to be a "general release" and is not an admission of wrongdoing or liability by or on the part of any Released Party. Nothing in this Article 7 shall in any way be construed as an admission by any Released Party that it acted wrongfully with respect to the Releasors. Each Owner and Guest agrees that he, she or it will not, directly or indirectly, disparage, defame, or make defamatory or disparaging statements to any person or entity, including the press, regarding the Released Parties, any Waived Claim, or either Declarant's present management, directors, officers, employees, and agents. If any covenant or provision of this Article 7 is declared invalid, illegal, or incapable of being enforced by reason of any rule of law, administrative order, judicial decision, or public policy, all other covenants and provisions herein shall, nevertheless, remain in full force and effect. If any portion of this Article 7 is held to be illegal, void, or unenforceable, each Owner on behalf of itself and its Guests agrees to execute a valid release, waiver, or covenant satisfactory to each Released Party without additional consideration. Neither an Owner nor any Guest shall seek to have any court or other adjudicative body determine that any portion of this Article 7 is illegal, invalid, or unenforceable. In the event an Owner or Guest commences, joins in, continues, or in any manner asserts or attempts to assert any Waived Claim released by this Article 7, such Owner or Guest shall indemnify and hold harmless any affected Released Party from and against all losses incurred thereby, including without limitation its attorneys' fees and other costs associated with defending against such claim and enforcing its rights under this Article 7.

7.2 Disclaimer Regarding The Canyons. All persons, including without limitation all Owners, are hereby advised that, except as expressly set forth in this Declaration, no representations, warranties or commitments have been or are made by either Declarant, any Declarant Affiliates or any other person or entity with regard to the present or future development, ownership, operation or configuration of, or right to use, The Canyons including its ski runs, lifts or related facilities within, near or adjacent to the Project, whether or not depicted on the Plat, or any other land use plan, sales brochure or other marketing display, rendering or plan. No purported representation, warranty or commitment, written or oral, in such

regard shall ever be effective without an amendment hereto executed by each Declarant. Further, the ownership, operation or configuration of, or rights to use, any such ski resort or related facilities may change at any time and from time to time. No Owner or occupant shall have any ownership interest in or right to use, or right to exercise any degree of control over The Canyons or related facilities solely by virtue of: (i) his, her or its membership in the Association; or (ii) his, her or its ownership, use or occupancy of any Unit, or portion thereof or interest therein.

7.3 Ski Run Easements. It is contemplated there will be certain nonexclusive easements for ski runs, chair lifts, gondolas, towers, trails, bridges and accessways which may or may not be designated as "Ski Easements" on the Plat, or portions thereof, which may be used for skiing and snowboarding, grooming, maintenance and vehicle access, and unhindered access between said easements and The Canyons. Nothing shall be placed or maintained in any such Ski Easement areas which shall materially interfere with the utilization thereof as part of the Project. All Owners agree and acknowledge that Declarant, during the Declarant Control Period, and thereafter the Management Committee, shall have the right to designate, and re-designate from time to time, without the consent of any Owners (but subject to any necessary approvals of the municipal authority having jurisdiction thereover), the actual location of the Ski Easements should Declarant or the Management Committee determine such relocation is necessary for the proper configuration of the Ski Easements. Moreover, Declarant, Declarant Affiliates, the Management Committee or their respective designees, including without limitation the operator of The Canyons, by specific grant via a separately recorded instrument executed by Declarant, the Management Committee, the operator or The Canyons and/or the RVMA, as appropriate and applicable, shall have the right to develop and construct improvements on the Ski Easement areas, including, but not limited to, ski runs, ski lifts, snowmaking and other skiing improvement, trails and, provided such developments and improvements do not unreasonably limit or impair the Owners' ski-in access rights.

7.4 Operation of the Ski Resort. Each Owner acknowledges that the operation and maintenance of any ski resort within, near or adjacent to the Project, including but not limited to, all facilities that are now or hereinafter part of The Canyons, will require that maintenance personnel and other workers perform work relating to the operation and maintenance of such ski resort and that snowmaking, snow grooming and other equipment may operate at any time(s) of the day or night. In connection therewith, each Owner and occupant agrees that the Released Parties shall not be responsible or accountable for, liable for and shall be held harmless from, any claims, causes of action, loss or liability arising in connection with or associated with any noise or inconvenience normally associated with such ski and resort operations.

7.5 Other Ski Agreements. No Owner shall (or permit his, her or its occupants, guests, invitees, employees, agents or contractors to) interfere in any way with skiing and related Resort Activities within the Ski Easement areas (whether in the form of physical interference, noise, harassment of skiers or spectators, or otherwise). Each Owner (for such Owner and its occupants, guests and invitees) recognizes, agrees and accepts that: (a) operation of a year-round resort and related facilities will often involve parties, events and other gatherings (whether or not related to skiing, and including without limitation weddings and other social functions) at or on the Project and The Canyons property, competitions, loud music, use of public address systems and the like, supplemental lighting and other similar or dissimilar activities from early in the morning until late at night; (b) by their very nature, ski resorts present certain potentially

hazardous conditions which may include, without limitation, man-made or naturally occurring snow, avalanches and topographical features such as washes, gullies, canyons, uneven surfaces and the like; (c) grooming and snowmaking or related facilities may result in snow drifting or blowing onto adjacent or nearby Units and the Common Areas and Facilities; and (d) neither such Owner nor his, her or its Guests shall make any claim against the Released Parties in connection with the matters described or referenced in (a), (b) and (c) above, whether in the nature of a claim for damages relating to personal injury or property damage, or otherwise.

8. ESCALA LODGES DECLARANT'S OPTION TO CONTRACT OR WITHDRAW LAND – TOWNHOUSE PARCEL.

8.1 Reservation of Option to Contract. Escala Lodges Declarant hereby reserves, pursuant to Section 57-8-13.8 of the Act, the unilateral and exclusive option to withdraw land from the Project (the "Option to Contract") without the prior consent of the Owners, Mortgagees, Sunrise Declarant, Management Committee or any other person or entity having any right or interest in all or any portion of the Project. Each Option to Contract may be exercised at any time prior to the expiration of seven (7) years from the date of Recording of the Original Declaration or such longer period of time as otherwise provided by the Act. The terms and conditions of the Option to Contract shall be as follows:

8.1.1 Withdrawable Land. The real property subject to this Option to Contract consists of the real property, commonly known as the "Townhouse Parcel" and sometimes hereinafter referred to as the "Withdrawable Land," being more particularly described in Exhibit G attached hereto and incorporated herein by this reference.

8.1.2 Exercise of the Option to Contract. The Option to Contract may be exercised as to the entire parcel described in Section 8.1.1 and Exhibit G, or to any portion thereof, and in any order and at different times. No assurance is made with regard to which portions of the Withdrawable Land, if any, will be withdrawn from the Project or the order in which such portions will be so withdrawn. In the event the Option to Contract is exercised with respect to a portion of the Withdrawable Land, the Option to Contract may subsequently be exercised with respect to any other portion of the Withdrawable Land. There are no limitations as to which portions of the Withdrawable Land may be withdrawn.

8.1.3 No Other Land. Other than the Withdrawable Land described in Section 8.1.1 above, no other real property within the boundaries of the Project shall be subject to the Option to Contract. The legal description of all of the land within the Project to which the Option to Contract does not extend is described in Exhibit H attached hereto and incorporated herein by this reference.

8.1.4 Effectiveness of Withdrawal. A withdrawal of the Withdrawable Land from the Project shall be deemed to have occurred at the time of the Recording of a Supplemental Declaration and a Supplemental Plat (if necessary or required), executed by Escala Lodges Declarant and the Sunrise Declarant (if necessary), containing the legal description of the Withdrawable Land being withdrawn, or any portion thereof. After the Recording of such Supplemental Declaration reflecting Escala Lodges Declarant's

exercise of the Option to Contract, or any part thereof, title to each such portion of the Withdrawable Land shall be vested in and held by Escala Lodges Declarant and none of the Owners, Mortgagees, Sunrise Declarant, the Management Committee nor any other person having any right or interest in all or any portion of the Project prior to or subsequent to withdrawing all or portions of the Withdrawable Land shall have any claim of title to or interest in such Withdrawable Land. Any withdrawn land may be utilized by Escala Lodges Declarant for any lawful purpose in Escala Lodges Declarant's sole and exclusive discretion, and shall no longer be subject to this Declaration.

8.2 Undivided Interest. The undivided ownership interest in the Common Areas and Facilities, the corresponding responsibility for Common Assessments and the votes for all Units in the Project shall be changed at the time Escala Lodges Declarant records a Supplemental Declaration and Supplemental Plat (if necessary or required) reflecting Escala Lodges Declarant's exercise of the Option to Contract in accordance with the provisions set forth in this Article 8. Said changes in ownership interest and votes shall be reflected in an amended Exhibit A to this Declaration to be Recorded as part of the Supplemental Declaration. It is contemplated that there may be multiple Supplemental Declarations filed by Escala Lodges Declarant and such Supplemental Declarations are hereby expressly authorized.

8.3 Third Party Units. Escala Lodges Declarant shall have no right to withdraw any land from the Project which contains Units which have been conveyed to a third-party purchaser other than a Declarant Affiliate.

8.4 Consent. Each Owner, by acceptance of a deed to a Unit in either Phase of the Project, shall be deemed to have consented to all provisions of this Article 8, including the procedure for adjustment of Unit ownership interests pursuant to Section 8.2 hereof. Escala Lodges Declarant shall not be required to obtain the consent of any Owner, of Sunrise Declarant or of any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to withdrawing all or portions of the Withdrawable Land.

8.5 Reservation of Easements Over Project. If all or part of the Withdrawable Land is withdrawn from the Project, the owner(s) of the Withdrawable Land, including Escala Lodges Declarant or its Declarant Affiliates, shall have an easement over and across the Project for vehicular, pedestrian and construction access to and from such Withdrawable Land, for utilities, and for such other purposes as Escala Lodges Declarant or such other owner of the Withdrawable Land may deem necessary or desirable in order to develop and use such Withdrawable Land. Subject to the prior written consent of the Management Committee, Escala Lodges Declarant shall have the unilateral right to execute and Record separate easement agreements to evidence the aforesaid easements over the Project and may unilaterally amend this Declaration to include reference to the Recorded easement(s) as authorized by Section 31.2 below. Unilateral preparation and Recordation by Escala Lodges Declarant of an easement pursuant to this Section 8.5 shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section 8.5.

9. ESCALA LODGES DECLARANT'S OPTION TO CONVERT LAND.

9.1 Reservation of Option to Convert Land. Escala Lodges Declarant hereby reserves the unilateral and exclusive option, pursuant to Section 57-8-13.2 of the Act, to commence construction of Buildings and create one or more additional Units and/or Limited Common Areas and Facilities within portions of the Convertible Land located within Phase 1, as depicted on Exhibit E, attached hereto and incorporated herein by this reference, including the Phase 1 Common Areas and Facilities (collectively the "Option to Convert Land") upon the terms and provisions set forth in this Article 9 without the prior consent of the Owners, Mortgagees, Sunrise Declarant, Management Committee or any other person or entity having any right of interest in all or any portion of the Project. Each Option to Convert Land may be exercised at any time prior to the expiration of five (5) years from the date of Recording of the Original Declaration or such longer period of time as otherwise provided by the Act, unless seventy-five percent (75%) of Owners vote in favor of converting the Convertible Land after such five-year time period has expired. Any portion of the real property which is so utilized is or may be referred to as land "Converted" under this option or "Convertible Land." The terms and conditions of the Option to Convert Land shall only apply to Phase 1 and shall be as follows:

9.1.1 Convertible Land. The real property subject to the Option to Convert Land consists of the real property in Phase 1 being more particularly described in Exhibit E attached hereto and incorporated herein by this reference.

9.1.2 Exercise of Option to Convert Land. Subject to the provisions of Section 9.1.3 herein, the Option to Convert Land may be exercised at different times as to portions of the Convertible Land described in Section 9.1.1 and in any order elected by Escala Lodges Declarant. No assurance is made with regard to which portions of the Convertible Land, if any, will be converted to Buildings, Units and Limited Common Areas and Facilities, or the order in which such portions will be so converted. In the event the Option to Convert Land is exercised with respect to a portion of the Convertible Land, the Option to Convert Land may or may not, at Escala Lodges Declarant's sole discretion, be exercised with respect to any other portion of the Convertible Land.

9.1.3 Restrictions. Escala Lodges Declarant shall not be restricted in the location of improvements on the Convertible Land or in the number, size or type of Units and Limited Common Areas and Facilities that may be created on the Convertible Land, except as may be required by applicable zoning requirements, ordinances or regulations; provided, however, the total number of Units in the Project shall not exceed nine hundred (900) total Units. Notwithstanding the foregoing, the maximum percentage of the aggregate land and floor area or the maximum gross building area which is not restricted to lodging use shall be thirty percent (30%).

9.1.4 Units Created. The Units to be located on the Convertible Land shall be subject to the provisions of this Declaration as applicable. Escala Lodges Declarant reserves the right to exercise all Developmental Rights with respect to any Units located on the Convertible Land. Any Lodging Units built on the Convertible Land shall be substantially identical to the Lodging Units depicted on the Plat. Any Commercial Units, Storage Units, Parking Units or Support Commercial Units built on the Convertible Land

may be similar or dissimilar in configuration to any Commercial Units, Storage Units, Parking Units or Support Commercial Units on other portions of the Property within the Project in Escala Lodges Declarant's sole and exclusive discretion. Escala Lodges Declarant reserves the right to construct any other type of improvement on the Convertible Land that may be developed as authorized by applicable zoning requirements, ordinances or regulations. Future improvements on the Convertible Land may or may not be substantially similar with the initial structures in structure type, quality of construction, principal materials to be used and architectural style. Improvements other than Buildings containing Units may be erected on the Convertible Land. Further improvements on the Convertible Land may include all improvements deemed necessary or desirable by Escala Lodges Declarant, including without limitation, certain recreational facilities, parking areas, signage, flag poles, walkways and/or landscaping, but Escala Lodges Declarant makes no assurances regarding such other improvements. Escala Lodges Declarant reserves the right to add additional Limited Common Areas and Facilities to the Convertible Land without any limitation regarding types, sizes or maximum numbers. Escala Lodges Declarant further reserves the right to exercise all Developmental Rights with respect to any Units and Limited Common Areas and Facilities located on the Convertible Land. In accordance with Section 57-8-13.10(1)(b) of the Act, any Units not described in detail in this Section 9.1.4 as to the type of Unit are expressly prohibited.

9.1.5 Undivided Interest. To the extent Escala Lodges Declarant adds Units to the Project, the undivided ownership interest in the Common Areas and Facilities and the corresponding responsibility for Common Assessments and votes for all Units in the Project shall be adjusted in accordance with Section 11.1.7 below and as may be further described in any Supplemental Declaration and Supplemental Plat Recorded in connection with Escala Lodges Declarant's exercise of its Option to Convert Land. All Owners will continue to pay Common Assessments in accordance with Exhibit A attached hereto until such time as certificates of occupancy are issued and Common Assessments are triggered in accordance with Article 21 for the Units constructed according to the Supplemental Declaration and Supplemental Plat. It is contemplated that there may be multiple Supplemental Declarations filed by Escala Lodges Declarant and such Supplemental Declarations are hereby expressly authorized.

9.2 Recording a Supplemental Plat and Supplemental Declaration. In order to convert all or any portion of the Convertible Land, Escala Lodges Declarant shall:

9.2.1 Supplemental Plat. Record, with regard to the Convertible Land or any portion thereof that is being converted to Units and/or Limited Common Areas and Facilities, a Supplemental Plat showing the location and dimensions of the vertical and horizontal boundaries of each Unit, Common Areas and Facilities and Limited Common Areas and Facilities, if any, formed out of the Convertible Land or a portion thereof, and assigning or reassigning any Limited Common Areas and Facilities which are to be appurtenant to any such Unit. Each such Supplemental Plat shall be certified as to its accuracy and compliance with the requirements of the Act by the engineer or land surveyor who prepared or supervised the preparation of it; and

9.2.2 Supplemental Declaration. Record simultaneously with each Supplemental Plat a Supplemental Declaration describing the conversion. Each such Supplemental Declaration shall assign a Unit number to each Unit, if any, formed out of the Convertible Land or a portion thereof and shall reallocate to each Unit, on the basis provided for in Section 11.1.7 of this Declaration, the percentage of undivided ownership interest in the Common Areas and Facilities appertaining to all Units following such conversion. Except as otherwise provided by the Act, each such Supplemental Declaration shall also describe the Limited Common Areas and Facilities, if any, formed out of the Convertible Land or a portion thereof, and showing or designating the Unit or Units to which each is assigned.

9.3 Creation of Limited Common Areas and Facilities. Escala Lodges Declarant reserves the right to create and designate Limited Common Areas and Facilities within the Convertible Land including balconies, parking stalls or other apparatus or air space intended to serve a single Unit or multiple Units. The size, type and total number of such Limited Common Areas and Facilities shall be reasonable as determined by Escala Lodges Declarant and shall be appropriate to the Units involved in light of the number and nature of Units created within the Convertible Land.

9.4 Consent. Each Owner, by acceptance of a deed to a Unit in the Project, shall be deemed to have consented to all provisions of this Article 9, including the procedure for adjustment of undivided ownership interests in the Common Areas pursuant to Section 9.1.5 hereof. After the filing for record of any amended Exhibit A to this Declaration and the Supplemental Plat reflecting Escala Lodges Declarant's exercise of the Option to Convert, or any part thereof, legal and equitable title to each Unit thereby created within the Convertible Land including its appurtenant ownership interest in the Common Areas and Facilities shall be vested in and held by Escala Lodges Declarant and none of the other Owners shall have any claim or title to or interest in such Unit or its appurtenant ownership interest in the Common Areas and Facilities. Escala Lodges Declarant shall not be required to obtain the consent of Sunrise Declarant or of any Owner or of any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to converting all or portions of the Convertible Land.

10. OPTION TO CONVERT SPACE FOR PHASE 1 AND PHASE 2.

10.1 Reservation of Option to Convert Space. Escala Lodges Declarant as to Phase 1, and Sunrise Declarant as to Phase 2, hereby reserve the unilateral and exclusive option, pursuant to Section 57-8-13.4 of the Act, to create one or more additional Units, Common Areas and Facilities, or Limited Common Areas and Facilities within certain portions of the Buildings in the respective Phases (collectively, the "Option to Convert Space") upon the terms and provisions set forth in this Section. Except for either Declarant's conversion of the Convertible Space into Common Areas and Facilities and/or Limited Common Areas and Facilities, which conversion shall require the consent of both Declarants pursuant to Section 10.1.2 below, either Declarant may exercise its Option to Convert Space as to the respective Phase without the prior consent of the other Declarant, any Owners or Mortgagees, the Management Committee, or any other person or entity having any right or interest in all or any portion of the Project. Each Option to Convert Space may be exercised at any time prior to the expiration of thirty (30) years

from the date of Recording of the Original Declaration. The terms and conditions of the Option to Convert Space shall be as follows:

10.1.1 Convertible Space. The area of the Building subject to this Option to Convert Space consists of those certain areas designated as "Convertible Space" on the Plat and those certain airspace areas located above all Parking Units (the "Convertible Space").

10.1.2 Exercise of the Option to Convert Space. Either Declarant may convert from time to time and at different times, all or any portion or portions of the Convertible Space within the relevant Phase into one or more Lodging Units, Commercial Units (including retail uses if approved by the County), Common Areas and Facilities and/or Limited Common Areas and Facilities, so long as such conversion is made pursuant to the provisions of this Article 10. All Convertible Space converted to Common Areas and Facilities must be owned by the applicable Declarant at the time of conversion and shall require the prior written consent of the other Declarant. No assurance is made with regard to which portions of the Convertible Space, if any, will be so converted, or the order in which such portions will be converted. In the event the Option to Convert Space is exercised by the applicable Declarant with respect to a portion of the Convertible Space in a particular Phase, such Option may subsequently be exercised by such Declarant with respect to any other portion of the Convertible Space in that Phase.

10.1.3 Units Created. Any Convertible Space converted to Units shall be subject to the provisions of this Declaration as applicable. Conversion of any Convertible Space to Units shall only occur to the extent Excess Project Density is owned by and available to the respective Declarant under the Canyons SPA Documents as necessary or required by Summit County to complete such conversion to Units. Until the Convertible Space is converted, it may be utilized for any of the purposes authorized in this Declaration. Any Lodging Units to be created from the Convertible Space shall be substantially similar to existing Lodging Units located at the Project. Any Commercial Units to be created from the Convertible Space shall be similar or dissimilar in configuration to any Commercial Units on other portions of the Property within the Project in the applicable Declarant's sole and exclusive discretion. Declarants reserve the right to exercise all other Developmental Rights with respect to any Units created from the Convertible Space.

10.2 Undivided Interest. To the extent either Declarant creates new Units, the undivided ownership interest in the Common Areas and Facilities and the corresponding responsibility for Common Assessments and votes for all Units in the Project shall be adjusted in accordance with Section 11.1.7 below and as may be further described in the Supplemental Declaration and Supplemental Plat Recorded in connection with such Declarant's exercise of its Option to Convert Space. All Owners will continue to pay Common Assessments in accordance with Exhibit A attached hereto until such time as certificates of occupancy are issued and Common Assessments are triggered in accordance with Article 21 for the Units constructed according to the Supplemental Declaration and Supplemental Plat. It is contemplated that there may be multiple Supplemental Declarations filed by Declarants and such Supplemental Declarations are hereby expressly authorized. If all of the Convertible Space is converted into Common Areas and Facilities, the undivided interest appurtenant to the Convertible Space shall

afterward become appurtenant to the remaining Units and shall be allocated among them in proportion to their undivided interest in the Common Areas and Facilities.

10.3 Recording Supplemental Plat and Supplemental Declaration. In order to convert all or any portion of the Convertible Space in a particular Phase, the applicable Declarant shall:

10.3.1 Supplemental Plat. Record, with regard to the Convertible Space or any portion thereof that is being converted to Units, Common Areas and Facilities or Limited Common Areas and Facilities, a Supplemental Plat showing the location and dimensions of the vertical and horizontal boundaries of each Unit, Common Areas and Facilities, or Limited Common Areas and Facilities if any, formed out of the Convertible Space or a portion thereof, and assigning or reassigning any Limited Common Areas and Facilities which are to be appurtenant to any such Unit. Each such Supplemental Plat shall be certified as to its accuracy and compliance with the requirements of the Act by the engineer or land surveyor who prepared or supervised the preparation of it; and

10.3.2 Supplemental Declaration. Record simultaneously with each Supplemental Plat a Supplemental Declaration describing the conversion. Each such Supplemental Declaration shall assign a Unit Number to each Unit, if any, formed out of the Convertible Space or a portion thereof and shall reallocate to each Unit, on the basis provided for in Section 11.1.7 of this Declaration, the percentage of undivided ownership interest in the Common Areas and Facilities appertaining to all Units following such conversion. Except as otherwise provided by the Act, each such Supplemental Declaration shall also describe the Common Areas and Facilities and the Limited Common Areas and Facilities, if any, formed out of the Convertible Space or a portion thereof, showing or designating the Unit or Units to which each is assigned.

10.4 Airspace Encroachment Easement. Upon either Declarant's exercise of its Option to Convert that certain portion of Convertible Space constituting the airspace above the Parking Units, it is anticipated that certain interior construction elements of certain future Units and other improvements (collectively, the "Airspace Improvements") will encroach or may encroach on a certain portion of the Parking Units and Common Areas and Facilities. If any part of the Airspace Improvements encroaches or shall encroach upon the Parking Units and/or Common Areas and Facilities, an exclusive easement for such Airspace Improvements encroachment benefiting the applicable Declarant, a Declarant Affiliate or such other encroaching party and for the maintenance of the same by the applicable Declarant, a Declarant Affiliate or other encroaching party shall and does exist.

10.5 Treatment of Convertible Space. In accordance with Section 57-8-13.4(3) of the Act, each Convertible Space not converted in accordance with the provisions of this Article 10 and the Act shall be treated for all purposes as a single Unit, until and unless it is so converted. The Act and this Declaration shall be deemed applicable to the Convertible Space as though the same were a Unit. The Convertible Space shall be assessed its appropriate portion of the Common Expenses related to the Project. Each Declarant shall pay its respective portion of the Common Expenses attributable to such Convertible Space based upon the Square Footage of each Convertible Space in the Project as further described in Section 5.3 above.

10.6 Consent. Each Owner, by acceptance of a deed to a Unit in either Phase, shall be deemed to have consented to all provisions of this Article 10, including the procedure for adjustment of undivided ownership interests in the Common Areas pursuant to Section 10.2 hereof. After the Recordation of any Supplemental Declaration and Supplemental Plat reflecting either Declarant's exercise of the Option to Convert Space, or any part thereof, legal and equitable title to each Unit thereby created within the Convertible Space, including its appurtenant ownership interest in the Common Areas, shall be vested in and held by the respective Declarant, and none of the other Owners or the other Declarant shall have any claim or title to or interest in such Unit or its appurtenant ownership interest in the Common Areas and Facilities. Neither Declarant shall be required to obtain the consent of any Owner, the other Declarant, or of any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to converting all or portions of the Convertible Space into Units or Common Areas and Facilities, including without limitation Limited Common Areas. Notwithstanding the foregoing, any Convertible Space converted from Units to Common Areas and Facilities and/or Limited Common Areas and Facilities shall require the prior written consent of the other Declarant.

11. ESCALA LODGES DECLARANT'S OPTION TO EXPAND.

11.1 Reservation of Option to Expand. Escala Lodges Declarant hereby reserves, pursuant to Section 57-8-13.6 of the Act, the option to expand the Project (the "Option to Expand") upon the terms and provisions set forth in this Article 11 without the prior consent of Sunrise Declarant or the other Owners or the Association. The Option to Expand must be exercised no later than seven (7) years from the date of Recording of the Original Declaration or such longer period of time as otherwise provided by the Act. The terms and conditions of the Option to Expand shall be as follows:

11.1.1 Additional Land. The real property subject to the Option to Expand consists of the real property sometimes hereinafter referred to as "the Additional Land," being more particularly described in Exhibit D attached hereto and incorporated herein by this reference.

11.1.2 Exercise of Option to Expand. Subject to the provisions of Section 11.1.3 below, the Option to Expand may be exercised at different times as to portions of the Additional Land described in Section 11.1.1 and in any order elected by Escala Lodges Declarant. No assurance is made with regard to which portions of the Additional Land, if any, will be added to the Project or the order in which such portions will be so added. In the event the Option to Expand is exercised with respect to a portion of the Additional Land, the Option to Expand may subsequently be exercised with respect to any other portion of the Additional Land. There are no limitations as to which portions of the Additional Land may be added.

11.1.3 Restrictions as to Location or Improvements. Escala Lodges Declarant shall not be restricted in the location of Buildings or improvements on the Additional Land or in the number of Buildings or Units that may be created on the Additional Land, except as may be required by applicable zoning requirements, ordinances or regulations, provided the Project when completed shall not exceed nine hundred (900) Units. The

maximum number of Units per acre shall not exceed one hundred seventy (170). The use of some or all of the Units to be constructed on the Additional Land may or may not, in Escala Lodges Declarant's sole discretion, be restricted to lodging purposes. There shall be no maximum percentage of the aggregate land and floor area which is not restricted to residential purposes.

11.1.4 Restrictions as to Use. The Units to be located on the Additional Land shall be subject to the same uses as provided in Article 19 hereof and elsewhere as applicable. The use of some or all of the Units constructed on the Additional Land may or may not, in Escala Lodges Declarant's sole discretion, be restricted to lodging purposes. Escala Lodges Declarant reserves the right to exercise all Developmental Rights with respect to any Units located on the Additional Land.

11.1.5 Units Created. The Units to be located on the Additional Land may include Lodging Units, Commercial Units, Support Commercial Units, Parking Units, Storage Units and Convertible Space, or any other improvements authorized under The Canyons SPA Documents and shall be subject to the restrictions set forth herein as applicable. The Units to be built on the Additional Land need not be substantially similar to the initial Units or each other, but shall be compatible with the initial Units in quality of construction, principal materials to be used and architectural style. The Units and Buildings to be built on the Additional Land may be substantially different in design, layout and building type. Improvements other than Buildings containing Units may be erected on the Additional Land. Additional improvements may include monuments and architectural features, recreational facilities, parking areas, walkways and landscaping of the Common Areas and Facilities contained therein, but Escala Lodges Declarant makes no assurances regarding such other improvements. Escala Lodges Declarant reserves the right to add additional Common Areas and Facilities and Limited Common Areas and Facilities to the Additional Land without limitation. In accordance with Section 57-8-13.10(1)(b) of the Act, any Units not described in detail in this Section 11.1.5 as to type of Unit are expressly prohibited.

11.1.6 Ownership. The ownership interest in the Common Areas and Facilities, the corresponding responsibility for Common Assessments and the votes for all Units in the Project shall be changed at the time Escala Lodges Declarant Records an Amendment and Supplemental Plat reflecting Escala Lodges Declarant's exercise of the Option to Expand in accordance with the provisions set forth in Section 11.1.7 below. Said changes in ownership interest and votes shall be reflected in an amended Exhibit A to this Declaration to be Recorded as part of the Amendment. It is contemplated that there may be multiple Supplemental Declarations filed by Escala Lodges Declarant and such Supplemental Declarations are hereby expressly authorized.

11.1.7 Calculation of Undivided Interest. Upon Escala Lodges Declarant's exercise of its Option to Expand, Escala Lodges Declarant shall calculate and revise the undivided ownership interest and votes for each Unit in the Project based upon the following formula:

Number of points assigned
to a Unit

Number of points assigned
to all Units

=

Votes and Ownership Interest
in the Common Areas and
Facilities of the Project

Escala Lodges Declarant shall have the right to adjust the resulting ownership interests and votes of all Units in the Common Areas and Facilities of the Project as may be necessary to assure that the total ownership interest equals 100% (or one) as required by the Act.

11.1.8 Owner Acknowledgement of Option to Expand. Each Owner by the acceptance of a deed to a Unit in the Project in either Phase shall be deemed to have consented to all provisions of this Section, including the procedure for adjustment of Unit ownership interests pursuant to Section 11.1.7 hereof. After the Recordation of any amended Exhibit A to this Declaration and the amended Plat reflecting Escala Lodges Declarant's exercise of the Option to Expand, or any part thereof, legal and equitable title to each Unit thereby created within the Additional Land including its appurtenant ownership interest in the Common Areas and Facilities and voting rights shall be vested in and held by Escala Lodges Declarant, and Sunrise Declarant and none of the other Owners shall have any claim or title to or interest in such Unit or its appurtenant ownership interest in the Common Areas and Facilities.

11.1.9 Creation of Limited Common Areas and Facilities. Escala Lodges Declarant reserves the right to create Limited Common Areas and Facilities within the Additional Land including porches, balconies, whirlpools, parking areas or other improvements intended to serve a single Unit. In addition, Escala Lodges Declarant reserves the right to designate hallways and other portions of the improvements constructed on the Additional Land as Limited Common Areas and Facilities in accordance with the other terms and provisions of this Declaration. The size, type and total number of such Limited Common Areas and Facilities shall be reasonable and shall be appropriate to the Units involved in light of the number and nature of Units created within the Additional Land.

11.1.10 No Third Party Consent. Escala Lodges Declarant shall not be required to obtain the consent of Sunrise Declarant or any Owners or of any other person or entity having any right or interest in all or any portion of the Project prior to or subsequent to adding all or portions of the Additional Land.

12. NATURE AND INCIDENTS OF LODGING UNIT OWNERSHIP.

12.1 Nature of Lodging Units. Each Lodging Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration and the Canyons SPA Documents.

12.2 Use of Property. Subject to the limitations contained in this Declaration and the Canyons SPA Documents, each Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use his or her Unit and any Limited Common Areas and Facilities designated for exclusive use by such Owner or all Owners. The Lodging Unit may be used and occupied for lodging and temporary, overnight occupancy accommodations. Nothing in this Declaration shall limit the rights of either Declarant or any other Owner to operate Lodging Units owned by him, her or it for transient rental purposes.

12.3 Alteration of Interiors. Except as otherwise provided herein: (a) each Owner of a Lodging Unit shall have the exclusive right to paint, repaint, tile, wax, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries; and (b) each Owner of a Lodging Unit shall keep the interior of his or her Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. In the event that the Management Committee determines that any such Lodging Unit has developed an unsanitary condition or has fallen into a state of disrepair and in the event that the Owner of such Lodging Unit should fail to correct such condition or state of disrepair promptly following written notice from the Management Committee, the Management Committee shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Lodging Unit and correct or eliminate said unsanitary condition or state of disrepair. Except as otherwise provided herein (including, without limitation, Section 19.3 hereof), no Owner may subdivide his or her Unit.

12.4 Use of Deck Areas. Each Lodging Unit Owner of Lodging Unit Nos. 138, 141 and 219 may install certain types of approved whirlpools within the deck area that constitutes Limited Common Areas and Facilities appurtenant to such Lodging Unit, subject to the prior written approval of the Management Committee and the design review process set forth in Article 22 below. No other Lodging Unit Owner may install any hot tub within any deck area which is a part of his or her Lodging Unit or the Limited Common Areas and Facilities appurtenant to his or her Lodging Unit. No Lodging Unit Owner shall store or locate skis, mountain bikes or other similar personal property within deck areas whether located in the Lodging Unit or within Limited Common Areas and Facilities appurtenant to said Unit. No Lodging Unit Owner may install, display or locate outdoor furniture sets, decorating improvements or any other items or materials on the deck area appurtenant to such Owner's Lodging Unit without the prior written approval of the Management Committee. The Management Committee, or applicable Common Area Manager on its behalf, shall have the power to establish specific rules and regulations governing use of deck areas and the types, color and quality of outdoor furniture sets, decorating improvements or any other items or materials on the deck area appurtenant to any Unit.

12.5 Telephone. Each Lodging Unit Owner must maintain at least one telephone per bedroom and support communications equipment related thereto, including without limitation voicemail services and communication software, hardware and facilities in such Owner's Lodging Unit in accordance with the Project Rules, which telephone and communication services must be connected to the private branch exchange ("PBX") switch within the Project.

The Management Committee, or applicable Common Area Manager on its behalf, shall have the power to establish specific rules and regulations governing telephone and communications devices within the Project.

12.6 Right of Entry. The Management Committee, or the applicable Common Area Manager on its behalf, shall have the right to enter into any Unit for the purpose of emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous, unlawful or unauthorized activity. The Common Area Manager for Phase 1 shall only have the right to enter into any Unit located within Phase 1, unless otherwise required for the discharge of its management duties with respect to the Phase 1 Common Areas and Facilities as described in Section 5.2 above. The Common Area Manager for Phase 2 shall only have the right to enter into any Unit located within Phase 2.

12.7 Rentals. Nothing in this Declaration shall limit the rights of either Declarant to operate any Lodging Units owned by it for transient rental purposes, and each Declarant reserves to itself and shall have the right to operate its Units in the Project for, among other things, transient rental purposes.

12.8 Membership in the Association. The persons or entities who are at the time of reference Owners shall be members of the Association, the characteristics and nature of which are determined by the Act, this Declaration, the Bylaws, the Articles and other applicable Utah law.

13. NATURE AND INCIDENTS OF COMMERCIAL UNIT OWNERSHIP.

13.1 Nature of Commercial Units. Each Commercial Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

13.2 Interior of Commercial Units. Each Commercial Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of his or her Commercial Unit and surfaces of all walls, ceilings, floors and doors within such boundaries. Each Commercial Owner shall keep the interior of his or her Commercial Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair. In the event that the Management Committee determines that such Commercial Unit has developed an unsanitary condition or fallen into a state of disrepair and in the event that the Owner of such Unit should fail to correct such condition or state of disrepair promptly following written notice from the Management Committee, the Management Committee shall have the right, at the expense of the Commercial Owner and without liability to the Commercial Owner for trespass or otherwise, to enter said Commercial Unit and correct or eliminate said unsanitary condition or state of disrepair.

13.3 Combination of Adjacent Commercial Units. Upon written notice to the Management Committee, two or more adjoining Commercial Units may be utilized by the Commercial Owner(s) thereof as if they were one Unit. Any walls, floors or other structural

separations between any two such Commercial Units, may, for as long as the two Commercial Units are utilized as one Unit, be utilized by the Commercial Owner(s) of the adjoining Units as Limited Common Areas and Facilities, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Project. At any time, upon the request of the Commercial Owner of one of such adjoining Commercial Units, any opening between the two Commercial Units which, but for joint utilization of the two Units, would have been occupied by the structural separation, shall be closed, at the equal expense of the Commercial Owner(s) of each of the two Commercial Units and the structural separations between the two Commercial Units shall thereupon become Common Areas and Facilities.

13.4 Subdivision of Commercial Units. Commercial Units may be subdivided or combined as set forth in the following paragraphs:

13.4.1 No Commercial Unit or Units shall be subdivided either by agreement or legal proceedings, except as provided in this Section 13.4. A Commercial Owner or Owners may subdivide Commercial Units by giving notice in writing to the Management Committee, the Mortgagees of the Commercial Unit(s) to be subdivided and, if required by local law, to Summit County. The notice must include complete plans and specifications for accomplishing the subdivision and proposed amendments of this Declaration and the Plat.

13.4.2 The subdivision of a Commercial Unit will be accepted only if approved in writing by the Mortgagees of the Commercial Unit(s) to be subdivided, if required by their Mortgages, and by Summit County, to the extent required by applicable law. The Management Committee may approve the subdivision only as to form and legal sufficiency. Summit County, if required, may approve the proposal as to applicable planning, zoning and other permitting requirements.

13.4.3 A subdivision of Commercial Units shall provide for reallocation of the percentage ownership in the Common Areas and Facilities among the resulting Units on a pro rata basis based upon the total Square Footage of each resulting Commercial Unit, consistent with the provisions of Section 5.3 above, so that the combined percentages of ownership of the resulting Unit(s), are identical with the combined percentage ownerships of the subdivided Unit(s) prior to subdivision.

13.4.4 The Commercial Owner(s) of the Commercial Unit(s) to be subdivided shall be responsible for all costs associated with its implementation including but not limited to costs of amendment and Recording of the Amendment and supplemental Plat to effect the proposal; review of the documents for form, including reasonable attorneys' fees incurred by the Management Committee; and the cost of any modifications to the Project to implement the proposal.

13.4.5 Upon receipt of all approvals, the Commercial Owner(s) may proceed according to the proposed plans and specifications; provided that the Management Committee may, in its discretion, require that the Management Committee or its agent administer the work, or that provisions for the protection of other Units or Common

Areas and Facilities and/or reasonable deadlines for completion of the work be inserted in the contracts for the work. The Management Committee may require the Commercial Owner(s) to provide completion bonds in form and amount satisfactory to the Management Committee. The changes in the Plat, if any, and the changes in this Declaration shall be Recorded, at the requesting Commercial Owner's expense, as amendments thereto.

13.5 Commercial Purposes. The Commercial Units may be used and occupied for commercial purposes only. Any Owner may lease all or any portion of its Commercial Unit for such purpose.

13.6 No Use of Lodging Limited Common Areas and Facilities. Owners of Commercial Units shall not use, and shall not permit their guests or invitees to use, any waiting area, library, stairway, elevator, patio, walkway, hallway, spa, storage area, restroom or other portion of the Project which is designated on the Plat as Limited Common Areas and Facilities for exclusive use by Owners of Lodging Units.

13.7 Improvements to Commercial Units. Notwithstanding anything to the contrary contained in this Declaration, an Owner of a Commercial Unit may make improvements or alterations to its Commercial Unit or the Limited Common Areas and Facilities designed to serve only its Commercial Unit without the consent of any Owner or the Association, on the conditions that:

13.7.1 The improvement or alteration does not impair any other Unit or any Limited Common Area and Facility designed to serve any Unit;

13.7.2 The Owner of the Commercial Unit promptly repairs any damage to any Common Areas and Facilities caused thereby at its cost and expense; and

13.7.3 The improvement or alteration complies with all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

13.8 Additional Rights of Commercial Owners. Notwithstanding anything to the contrary contained in this Declaration, and in addition to the rights of an Owner of a Commercial Unit under this Article 13:

13.8.1 The Owner of a Commercial Unit shall have the right to install, operate, maintain, repair and replace machinery, equipment, utility lines, wires, circuits, cables, and conduits serving such Commercial Unit, along across and through any and all Common Areas and Facilities and any Limited Common Areas and Facilities, on the conditions that (a) the Owner of the Commercial Unit, at its sole cost and expense, shall repair, replace and restore any damage to the Common Areas and Facilities, and (b) such installation, maintenance, repair or replacement complies with all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

13.8.2 The Owner of a Commercial Unit shall have the right to alter that portion of the Project's building façade that serves as the boundary of that Commercial Unit and other Common Areas and Facilities located immediately adjacent to that Commercial Unit (including without limitation, the creation, removal and relocation of entrances, exits, windows, window boxes, signage and other architectural features), without consent of any Owner or the Association, on the conditions that (a) the Owner of the Commercial Unit repairs any damage to any Common Areas and Facilities caused thereby at its expense, (b) the Owner obtains the consent of the Management Committee, and (c) such alteration complies with all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction.

13.8.3 In the event consumption of electricity in a Commercial Unit exceeds the normal amount supplied by the Association to other Commercial Units at the Project, the Owner of the Commercial Unit, at the cost and expense of such Owner, shall install a separate electrical meter to be installed at the Commercial Unit in order to measure the amount of electricity consumed for any such use. The Owner of the Commercial Unit shall pay such electrical charges as may be separately metered. In the event the electricity for a Commercial Unit is separately metered, the Common Assessments assessed to such Owner shall be reduced in order to eliminate that part of the Common Assessments attributable to the electrical costs at the Project.

13.9 Use of Commercial Units. Notwithstanding anything to the contrary in this Article 13, the Owner of a Commercial Unit may:

13.9.1 Perform such activities within its Commercial Unit as are common to or necessary for the conduct of resort management operations, transient occupancy support services, and other commercial operations, including, without limitation, spa, beauty and wellness services and classes, food and beverage service, restaurant, bar and private club operations (including, without limitation, sales of food and alcoholic and non-alcoholic beverages for consumption on and immediately adjacent to the Project and at other locations, preparation of hot and cold food and beverages at indoor and outdoor facilities on and immediately adjacent to the Project), meeting rooms, offices and retail operations, and any other uses or activities permitted by law, and any lights, sounds and odors which result from such Commercial Activities shall not violate the terms of this Declaration.

13.9.2 Apply for and obtain special use permits and licenses which are necessary or appropriate for the conduct of commercial activities in its Unit and for the sale or service of food or alcoholic beverages on the Project in accordance with the Condominium Documents, without obtaining the approval of the Management Committee, or the applicable Common Area Manager on its behalf, on the condition that such permits and licenses are consistent with the existing zoning and actual uses of the Commercial Unit at the time the permit or license is applied for.

13.9.3 Erect and attach signs, banners, window boxes, decorations and other similar items on the exterior of the Project or projections from the exterior of the Project on the condition that such signs, banners, window boxes, decorations and other similar

items and their locations are approved by the Management Committee, and otherwise comply with the Governing Documents.

13.9.4 Apply for and obtain special use permits and licenses (e.g., liquor licenses) which are necessary or appropriate for the conduct of commercial activities in its Unit in accordance with the Governing Documents, without obtaining the approval of the Management Committee, on the condition that such permits and licenses are consistent with the existing zoning and actual uses of the Commercial Unit at the time the permit or license is applied for.

13.10 Membership in the Association. The persons or entities who are at the time of reference Commercial Owners shall be members of the Association, the characteristics and nature of which are determined by the Act, this Declaration, the Bylaws, the Articles and other applicable Utah law.

14. NATURE AND INCIDENTS OF PARKING UNIT OWNERSHIP.

14.1 Nature of Parking Units. Each Parking Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

14.2 Use of Parking Units. Subject to the limitations contained in this Declaration, each Parking Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use their Parking Unit and any Limited Common Areas and Facilities designated for exclusive use by such Parking Owner or all Parking Owners.

14.3 Maintenance of Parking Units. Each Parking Owner shall keep its Parking Unit in a good state of repair, consistent with the condition of other parking stalls and Parking Units in the Project in accordance with the applicable Governing Project Maintenance Standard. It is contemplated, without obligation, that the applicable Common Area Manager, or another parking manager, will operate and maintain all of the parking facilities within the Project as the Parking Owners shall determine in their sole and exclusive discretion. Each Parking Owner agrees to repair and maintain its Parking Unit in the same fashion as all other parking stalls are repaired and maintained in the Project in accordance with the applicable Governing Project Maintenance Standard. In the event that any such Parking Unit should fall into a state of disrepair and in the event that the Owner of such Parking Unit should fail to correct such condition or state of disrepair promptly following written notice from the Management Committee, the Management Committee shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Parking Unit and correct or eliminate said state of disrepair. Upon written notice to the Management Committee, two or more adjoining Parking Units may be utilized by the Owner(s) thereof as if they were one Parking Unit. Declarant reserves as a Developmental Right an option to further subdivide any Parking Unit that it owns; provided, however, no non-Declarant Owner other than a Declarant Affiliate may further subdivide his, her or its Parking Unit.

14.4 Right of Entry. The Management Committee, or the applicable Common Area Manager on its behalf, shall have the right, at the expense of the Parking Owner and without liability to the Parking Owner for trespass or otherwise, to enter upon any Parking Unit for the purpose of cleaning, maintenance, repairs, including emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous or unlawful activity.

14.5 Parking Restrictions. In connection with the Parking Units, or any other parking areas that constitute Limited Common Areas and Facilities designed for the exclusive use and occupancy of certain Owners to the exclusion of other Owners, for so long as either Declarant is an Owner of a Parking Unit within the Project, Escala Lodges Declarant (with respect to Parking Units in Phase 1) and Sunrise Declarant (with respect to Parking Units in Phase 2) expressly reserves and shall have the right to designate a separate area in Phase 1 and Phase 2, respectively, constituting a portion of the parking floor(s) of a Building in such Phase with restricted access based on the use of keycards and/or other devices for the purpose of maximizing all available parking spaces for the benefit of some, but not necessarily all, Owners and Guests at the Project. Each Declarant expressly reserves an easement across the applicable portion of the Common Areas and Facilities, as appropriate, for such purposes, and shall have the right to impose parking charges on use of the parking areas as it shall determine in its sole and exclusive discretion, other than on use by Lodging Unit Owners in residence in accordance with the terms and provisions of this Declaration.

14.6 Membership in the Association. The persons or entities who are at the time of reference Parking Owners shall, together with all other Owners, be members of the Association, the characteristics and nature of which are determined by the Act, this Declaration, the Bylaws, the Articles and other applicable Utah law.

15. NATURE AND INCIDENTS OF STORAGE UNIT OWNERSHIP.

15.1 Interior of Storage Units. Each Storage Owner shall have the exclusive right to paint, repaint, tile, wax or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Storage Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries. Each Storage Owner shall keep the interior of their Storage Unit, including without limitation, interior walls, ceilings, floors and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. Each Storage Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

15.2 Use of Storage Units. Subject to the limitations contained in this Declaration, each Storage Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use their Storage Unit and any Limited Common Areas and Facilities designated for exclusive use by such Storage Owner or all Storage Owners.

15.3 Maintenance of Storage Units; Combination of Adjacent Storage Units. Each Storage Owner shall keep its Storage Unit in a good state of repair, consistent with the condition of other storage spaces in the Project in accordance with the applicable Governing Project Maintenance Standard. In the event that any such Storage Unit should fall into a state of

disrepair and in the event that the Owner of such Storage Unit should fail to correct such condition or state of disrepair promptly following written notice from the Management Committee, the Management Committee shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Storage Unit and correct or eliminate said state of disrepair. Upon written notice to the Management Committee, two or more adjoining Storage Units may be utilized by the Owner(s) thereof as if they were one Storage Unit. Any walls, floors or other structural separations between any two such Storage Units, may, for as long as the two Storage Units are utilized as one Unit, be utilized by the Storage Owner(s) of the adjoining Units as Limited Common Areas and Facilities, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Storage Units, any opening between the two Storage Units which, but for joint utilization of the two Units, would have been occupied by the structural separation, shall be closed, at the equal expense of the Owner(s) of each of the two Storage Units and the structural separations between the two Storage Units shall thereupon become Common Areas and Facilities. Each Declarant reserves as a Developmental Right an option to further subdivide any Storage Unit that it owns; provided, however, no non-Declarant Owner other than a Declarant Affiliate may further subdivide his, her or its Storage Unit.

15.4 Right of Entry. The Management Committee, or the applicable Common Area Manager on its behalf, shall have the right, at the expense of the Storage Owner and without liability to the Storage Owner for trespass or otherwise, to enter upon any Storage Unit for the purpose of cleaning, maintenance, repairs, including emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous or unlawful activity.

15.5 Membership in the Association. The persons or entities who are at the time of reference Storage Owners shall, together with all other Owners, be members of the Association, the characteristics and nature of which are determined by the Act, this Declaration, the Bylaws, the Articles and other applicable Utah law.

16. NATURE AND INCIDENTS OF SUPPORT COMMERCIAL UNIT OWNERSHIP.

16.1 Nature of Support Commercial Unit. The Support Commercial Unit is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Declaration.

16.2 Interior of Support Commercial Units. The Support Commercial Owner shall have the exclusive right to paint, repaint, tile, wallpaper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors within such boundaries. The Support Commercial Owner shall keep the interior of the Support Commercial Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a state of good repair.

16.3 Use of the Support Commercial Unit. The Support Commercial Unit may be used and occupied for commercial operations, commercial support-related functions and all other activities necessary, related or incidental to the operation of a Commercial Unit. The Owner of

the Support Commercial Unit may lease all or any portion of the Support Commercial Unit for any such purpose. Notwithstanding anything to the contrary contained herein, the Support Commercial Owner may:

16.3.1 Perform such activities within its Support Commercial Unit as are common to or necessary for the conduct of commercial operations, and any lights, sounds and odors which result from such activities shall not violate the terms of this Declaration.

16.3.2 Apply for and obtain special use permits and licenses which are necessary or appropriate for the conduct of lodging or transient occupancy activities in accordance with the Governing Documents, without obtaining the approval of the Management Committee, on the condition that such permits and licenses are consistent with the existing zoning and actual uses of the Support Commercial Unit at the time the permit or license is applied for.

16.4 Additional Rights of the Support Commercial Owner. Notwithstanding anything to the contrary contained in this Declaration, the Support Commercial Owner(s) of Support Commercial Unit No. 5, Phase 1 (Escala Lodges), and Support Commercial Unit Nos. 63, 96, 97 and 100, Phase 2 (Sunrise at Escala), shall have the right to install, operate, maintain, repair and replace machinery, equipment, utility lines, wires, circuits, cables, and conduits serving such Support Commercial Units, along, across and through any and all Common Areas and Facilities and any Limited Common Areas and Facilities, on the conditions that (a) the Support Commercial Owner, at its sole cost and expense, shall repair, replace and restore any damage to the Common Areas and Facilities, and (b) such installation, maintenance, repair or replacement complies with all laws, ordinances, regulations and rules of governmental and quasi-governmental authorities with jurisdiction. Upon written notice to the Management Committee, two or more adjoining Support Commercial Units may be utilized by the Owner(s) thereof as if they were one Support Commercial Unit. Any walls, floors or other structural separations between any two such Support Commercial Units, may, for as long as the two Support Commercial Units are utilized as one Unit, be utilized by the Support Commercial Owner(s) of the adjoining Units as Limited Common Areas and Facilities, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Project. At any time, upon the request of the Owner of one of such adjoining Support Commercial Units, any opening between the two Support Commercial Units which, but for joint utilization of the two Units, would have been occupied by the structural separation, shall be closed, at the equal expense of the Owner(s) of each of the two Support Commercial Units and the structural separations between the two Support Commercial Units shall thereupon become Common Areas and Facilities. Each Declarant reserves as a Developmental Right an option to further subdivide any Support Commercial Unit that it owns; provided, however, no non-Declarant Owner other than a Declarant Affiliate may further subdivide his, her or its Support Commercial Unit.

16.5 Contracts with the Management Committee and Association. The Support Commercial Owner may contract or cooperate with the Management Committee and Association as convenient or necessary to provide services and privileges to the Support Commercial Unit and its appurtenant Limited Common Areas and Facilities, including but not limited to commercial services, to mitigate duplication of such services and privileges between the Support

Commercial Unit, the Limited Common Areas and Facilities and the Project. The costs associated with such contract shall constitute a Common Expense.

16.6 Private Branch Exchange. The Support Commercial Owner, or the applicable Common Area Manager on behalf of the Support Commercial Owner, may own and operate a PBX switch within the Project and all telephones within the Lodging Units must be connected to such PBX switch in accordance with Section 12.5 above. Costs of all acquisition, repair, replacement, maintenance, lease payments, and all other costs and expenses associated with the PBX switch within the Project shall be Common Expenses.

16.7 Amendments to Article 16. Any Amendment to this Article 16 and/or any other restrictions subsequently imposed on the use of the Support Commercial Unit, whether in this Declaration or any other Governing Document, shall require the consent of sixty-seven percent (67%) of the Total Votes of the Association, which percent shall include the consent of one hundred percent (100%) of the votes held by the Support Commercial Owner, subject to Support Commercial Owner's right to cast its votes for or against such action as it shall determine in its sole and exclusive discretion. Such consent and agreement must be reflected in an Amendment duly executed by the Management Committee on behalf of the Association and Recorded in accordance with the provisions of this Declaration.

17. TITLE TO UNITS.

17.1 Title to Units. Title to a Unit within the Project 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.

17.2 Title Inseparable. Except as otherwise provided herein (including, without limitation, Section 19.3 below), title to no part of a Unit within the Project may be separated from any other part thereof during the period of ownership, and each Unit and the undivided interest in the Common Areas and Facilities appurtenant thereto shall always be conveyed, devised, encumbered and otherwise affected only as a complete Unit. Furthermore, notwithstanding references herein to "Phase 1 Common Areas and Facilities" and "Phase 2 Common Areas and Facilities" for certain limited purposes, the Project's Common Areas and Facilities shall always remain legally inseparable. Except as otherwise provided herein (including without limitation, Section 19.3 below), every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Unit, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth. Excluding the initial transfer of Units by Declarant, upon an Owner's transfer of his or her Unit, the Management Committee may charge a reasonable transfer fee to cover the cost to the Management Committee of changing its books and records.

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

17.4 Right to Mortgage. Each Owner shall have the right to encumber his or her interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas and Facilities or any part thereof except the undivided interest therein appurtenant to his or her interest in a Unit. Any Mortgage of any Unit within the Project shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

17.5 Labor and Services; Liens. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in this Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner may remove his Unit from a lien against two or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his Unit.

17.6 Legal Description of Units. Every contract for the sale of a Unit and every other instrument affecting title to a Unit within the Project may describe a Unit by the name of the Project, the recording date for this Declaration, the county wherein the Project is located and its Unit Number as indicated in this Declaration or as shown on the Plat. Such description will be construed to describe the Unit together with the appurtenant undivided interest in the Common Areas and Facilities, and to incorporate all the rights incident to ownership of a Unit within the Project and all of the limitations on such ownership as described in this Declaration.

17.7 Notice of Ownership to be Provided. Any person, on becoming an Owner, will furnish the Secretary of the Association with a photocopy of the recorded deed or other instrument or such other evidence as may be specified by the Management Committee under the Bylaws or the Association rules, vesting the person with the interest required to make him, her or it an Owner. At the same time, the Owner will provide the Association with the single name and address to which the Association will send any notices given pursuant to the Governing Documents. In the event of any change in the facts reported in the original written notice including any change of ownership, the Owner will give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Owner.

18. CERTAIN ADDITIONAL DEVELOPMENTAL RIGHTS.

The following additional Developmental Rights are hereby granted or reserved by Declarant:

18.1 Reservation of Easement. Escala Lodges Declarant hereby reserves an easement over the Common Areas and Facilities throughout Phase 1, and Sunrise Declarant hereby reserves an easement over the Common Areas and Facilities throughout Phase 2, for a period of ten (10) years from the Recording of this Declaration for the purpose of completing all improvements contemplated by this Declaration and the Plat, including but not limited to improvements to the Additional Land and Convertible Land.

18.2 Additional Construction. Each Declarant as to its respective Phase hereby reserves the right, but is not obligated to construct:

18.2.1 any improvements in such Phase, as shown on the Plat; and

18.2.2 any other buildings, structures or improvements that Escala Lodges Declarant desires to construct on the Property in connection with its exercise of the Escala Lodges Developmental Rights concerning Phase 1, including, without limitation, the Phase 1 Common Areas and Facilities, or any other real estate owned by Escala Lodges Declarant, regardless of whether the same ever becomes part of the Project. Escala Lodges Declarant's rights to construct under this subsection shall only apply with respect to Phase 1, and Escala Lodges Declarant shall not construct any buildings, structures or improvements on Phase 2.

18.3 Sales and Management Offices. Escala Lodges Declarant (with respect to Phase 1 only) and Sunrise Declarant (with respect to Phase 2 only) hereby reserve the right to maintain sales offices, management offices, signs advertising the applicable Phase of the Project and models in any of the Units which it owns or leases within the applicable Phase or on the Phase 1 Common Areas and Facilities or the Phase 2 Common Areas and Facilities, respectively, for so long as such Declarant is an Owner of a Unit within such Phase. All signage shall comply with Summit County regulations and the Canyons SPA Documents, as the same may be changed from time to time. Unless otherwise permitted in writing by the Management Committee, the Common Area Manager for the Phase 1 Managed Areas, and the Common Area Manager for the Buildings 4 and 5 Interiors, there shall be no signs attached to any exterior elements of the Buildings. All signs must be installed and maintained in accordance with the applicable Governing Project Maintenance Standard. Escala Lodges Declarant and Sunrise Declarant shall be entitled to utilize, at any one time, any number of Units which it owns or leases and some or all of the Phase 1 Common Areas and Facilities or the Phase 2 Common Areas and Facilities, respectively, as sales offices, management offices, and models anywhere in such Phase. Each Declarant may relocate sales offices, management offices and models to other Units or the Phase 1 Common Areas and Facilities Common Areas or Phase 2 Common Areas and Facilities as appropriate, at any time. Notwithstanding an Owner's right to resell his or her Unit and list such Unit with any firm or agency as he or she shall determine, no person or entity other than Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) and/or its Declarant Affiliate or their duly appointed affiliates, successors, agents or assigns, shall have the right to market or initially sell Units within the Project. Moreover, Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) also reserve the right to establish, operate, and maintain a bar or other beverage stand, providing alcoholic and/or nonalcoholic beverages open to the public and to Owners and Occupants and which may be located in any of the Commercial Units in the applicable Phase of the Project, and the Limited Common Areas attached thereto, owned by such Declarant.

18.4 Declarant Control Period. There is hereby established a Declarant Control Period, during which period, subject to Article 20 below, each Declarant or persons designated by it shall have the authority to appoint and remove the Association officers and members of the Management Committee. The Declarant Control Period shall terminate no later than the earlier of:

18.4.1 six (6) years after the first Unit is conveyed to an Owner (or such longer period of time as otherwise provided by the Act); or

18.4.2 after Units to which three-fourths (3/4) of the undivided interest in the Common Areas and Facilities appertain have been conveyed to Owners, or after all Additional Land has been added to the project and all Convertible Land has been converted, whichever last occurs.

18.5 Change Project Name; Declarant's Exemption. During the Declarant Control Period, Escala Lodges Declarant hereby reserves the right to unilaterally change the name of Phase 1, and Sunrise Declarant hereby reserves the right to unilaterally change the name of Phase 2, in both cases without the consent of the other Declarant or any other Owner or of the Management Committee. Nothing contained in this Declaration shall be construed to prevent the sales of Units or the construction, installation or maintenance of sales area improvements by either Declarant, any Declarant Affiliate, or any agents or contractors thereof, during the development and sales period deemed necessary or convenient by the respective Declarant as to the applicable Phase, in its sole and exclusive discretion.

18.6 Project Maintenance Standard. So long as either Declarant has any Developmental Rights under this Declaration, Escala Lodges Declarant and Sunrise Declarant, and thereafter, the Commercial Owner(s) of Unit Nos. C-3 and C-80, hereby reserve the right upon their joint written consent to unilaterally promulgate certain rules, guidelines and restrictions regarding the appearance, design, maintenance, upkeep, decorating, furnishing and cleanliness of the Project, which rules, guidelines and restrictions shall be referred to as the "Project Maintenance Standard." Subject to Section 1.58 hereof, the Project Maintenance Standard as applicable to both the operational and physical components of the Project shall be subject to change over time, upon the joint written consent of Escala Lodges Declarant and Sunrise Declarant, as each Declarant, or the Commercial Owner(s) of Unit Nos. C-3 and C-80, upon the joint written consent of such Commercial Owners, determines is necessary or desirable, in order to adapt to technology, general market conditions, consumer preferences, trends and standards in the resort industry. Escala Lodges Declarant and Sunrise Declarant, upon their joint written consent during the Declarant Control Period; and thereafter, upon the joint written consent of the Commercial Owner(s) of Unit Nos. C-3 and C-80, hereby reserve the right to promulgate different Project Maintenance Standards for the Phase 1 Managed Areas and the Buildings 4 and 5 Interiors.

18.7 Conveyance of Units to the Association. Each Declarant hereby reserves the right, but not the obligation, to convey any Unit(s) owned by such Declarant free of monetary liens to the Association and to the extent necessary or required, to unilaterally amend this Declaration to effect the same, subject to the other Declarant's prior written consent. The Association shall maintain, repair and replace such Units in the same manner as the Common Areas and Facilities in accordance with the applicable Governing Project Maintenance Standard. Upon the completion of any such conveyance, and subject to the other Declarant's prior written consent, Declarant's obligation to pay all Common Assessments and other sums and amounts attributed to the Unit(s) will cease, and the attributed Common Assessments will be allocated as Common Expenses among the other Units in the applicable Phase which are subject to assessment. Further, the Association shall not have the right to exercise any of the voting rights

associated with the Unit(s) that have been conveyed by either Declarant to the Association. The right to convey Units, and, to the extent necessary, to amend this Declaration to effect the same, shall occur at any time prior to the date when either Declarant both owns no Units and has no further Developmental Rights under this Declaration. Both Declarants may, without being required to obtain the consent or joinder of any other Owner, Mortgagee lien holder or other persons, jointly execute, deliver and Record any deed of conveyance and/or amendments to this Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the foregoing rights, powers or privileges.

18.8 Excess Project Density. Escala Lodges Declarant is the owner of all of the Excess Project Density in Phase 1. Sunrise Declarant is the owner of all of the Excess Project Density in Phase 2.

18.9 No Actions Adverse to Developmental Rights. Neither the Association, the Management Committee, nor any Owner may take any action or adopt any rule or regulation that interferes or diminishes any Developmental Rights hereunder without each Declarant's prior written consent. Furthermore, neither Declarant may take any action or adopt or amend any of the Governing Documents, including but not limited to this Declaration, the Bylaws, or the Project Rules, that interferes or diminishes any Developmental Rights granted to the other Declarant hereunder without such other Declarant's prior written consent. Any action taken in violation of this Section 18.9 shall be null and void and have no force or effect. Each Declarant hereby specifically agrees and acknowledges that it shall cooperate in good faith with the other Declarant to effectuate such amendments to this Declaration and the Plat as may reasonably be requested by the other Declarant, at the requesting Declarant's sole cost and expense, so long as any such amendment does not materially and adversely affect the substantive rights of the other Declarant under this Declaration or adversely affect title to any Units.

19. RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY.

19.1 Restrictions on Use. Subject to the Developmental Rights, the Units, the Additional Land, the Convertible Land and Common Areas and Facilities, including but not limited to the Limited Common Areas and Facilities, except as otherwise permitted in writing by the Management Committee, shall be used in accordance with the following restrictions:

19.1.1 Commercial Use of Non-Commercial Units. Except to the extent specifically permitted by this Declaration, Owners shall not make any commercial use of the Project or any portion thereof, with the specific exception of the Commercial Units, subject to the Project Rules; provided, however, that nothing in this subsection shall prevent either Declarant or a Declarant Affiliate or their duly authorized agent from using any Unit owned or leased by such Declarant as a sales office and model unit or a property management office as provided in Section 18.3 above. Use of Units shall be pursuant to the Governing Documents.

19.1.2 Rental and Leasing. Any Owner shall have the right to lease or allow occupancy of a Unit upon such terms and conditions as the Owner may deem advisable, subject to the following, and to other restrictions regarding short-term and overnight rentals, which may be contained in the Project Rules:

19.1.2.1 Any Owner who rents or leases his or her Unit shall advise the applicable Common Area Manager in writing that the Unit has been leased or rented.

19.1.2.2 Short-term occupancies and rentals (of less than 30 days) of Units for resort lodging to overnight and short-term guests shall be subject to reasonable regulation of the Management Committee.

19.1.2.3 All short-term occupancies, leases and rental agreements of Units shall state that the failure of the tenant, renter or guest to comply with the terms of the Governing Documents shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

19.1.2.4 All occupancies of Guests shall be subject to the right of the Association to remove and/or evict the Guest for failure to comply with the terms of the Governing Documents.

19.1.2.5 Except as restricted in this Declaration and the Project Rules, the right to lease or allow occupancy of a Unit shall not be restricted.

19.1.2.6 Any Owner who rents or leases or otherwise permits any other person to utilize his or her Unit shall be responsible for the conduct of his or her tenants or occupants, and upon written notice from the Management Committee or the applicable Common Area Manager, said Owner shall be responsible for correcting violations of the Governing Documents committed by such tenants or occupants.

19.1.3 Occupancy and Use of Common Areas and Facilities. Subject to the payment of all Common Assessments and other charges approved by the Association and levied against the Owners, and subject to compliance with the provisions of the Governing Documents, each Owner shall have the right with all other Owners to occupy and use the Common Areas and Facilities, subject to the Project Rules, which may impose reasonable restrictions upon the rights of Owners of Units in Phase 1 to occupy and use the Phase 2 Common Areas and Facilities and may impose reasonable restrictions upon the rights of Owners of Units in Phase 2 to occupy and use the Phase 1 Common Areas and Facilities.

19.1.4 Use of Common Areas and Facilities. No Owner shall erect or construct, in the Common Areas and Facilities, any structure of any type whatsoever without the prior written approval of the Management Committee. No Owner shall place, store, keep or permit to be placed, stored or kept, upon the Common Areas and Facilities any personal property, including, but not limited to, vehicles of any type except pursuant to the Project Rules without the prior written approval of the Management Committee. Notwithstanding that the HVAC system, cooling towers and related improvements servicing the Project may be located wholly within one Phase of the Project, the HVAC system, cooling towers and related improvements constitute Common Areas and

Facilities serving the Project as a whole for the use and benefit of all Owners. Except as expressly provided in this Declaration, no Owner shall have the right to redecorate or make alterations or repairs to any Common Areas and Facilities or Common Furnishings, nor shall any Owner have the right to subject the Project or any portion thereof to any liens for the making of improvements or repairs to the Project or any portion thereof. The provisions of this Article are intended to benefit and protect First Mortgagees as well as Owners and may be enforced by any First Mortgagee, the Management Committee or by an Owner.

19.1.5 Nuisance. No noxious, offensive, illegal or unauthorized activity shall be carried on in or upon any part of the Project nor shall anything be done on or placed in or upon any part of the Project which is or may become a nuisance or may cause unreasonable embarrassment, disturbance or annoyance to Owners. Normal construction activities shall not be considered to violate the terms and conditions of this Section and by accepting a deed to a Unit, an Owner acknowledges that noises, lights and odors common to recreational and commercial activities, as well as construction activities, may exist on or near the Property, at any time and from time to time.

19.1.6 Prohibition of Hazardous Activities. No activities shall be conducted, or improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

19.1.7 Prohibition of Signs. Subject to Section 18.3 above, no signs, flags or advertising devices of any nature, including, without limitation, for sale or for rent signs, political, informational or directional signs or devices, shall be erected or maintained on any part of the Project, except as may be necessary temporarily to caution or warn of danger, except as may be used by either Declarant as part of its sales program, except to advertise the Project or Commercial Units, or except as otherwise approved by Declarant or, after expiration of the Declarant Control Period, the Management Committee. All signage must comply with the applicable Governing Project Maintenance Standard.

19.1.8 Prohibition of Combustible Devices. No solid-fuel burning devices such as charcoal grills and wood burning stoves or wood burning fireplaces shall be used, kept or stored within any Units.

19.1.9 Storage of Vehicles. No motor vehicle classed by manufacturing rating as exceeding three-quarter ton and no motor home, trailer, detached camper or camper shell, boat or other similar equipment vehicle may be kept or parked at the Project.

19.1.10 Prohibition of Vehicle Repairs. No motor vehicle shall be constructed, repaired or serviced at the Project.

19.1.11 Prohibition of Littering. Owners shall not, and shall not permit their Guests to litter. No burning trash, garbage or other waste materials will be permitted on the Property.

19.1.12 Window Coverings. Except for the Commercial Units, the draperies, shades and other interior window coverings in Units shall present a uniform appearance

from the outside of the Units. All draperies, shades or other interior window coverings shall be installed or employed in each Unit by or at the direction of the Management Committee or with the prior inspection and written approval of the Management Committee.

19.1.13 Restriction on Alterations. Except as otherwise permitted by this Declaration, no Owner shall, without the prior written consent of the Management Committee, make or permit to be made any alteration, improvement or addition in or to any Unit. No Owner shall, without the prior written consent of the Management Committee, do any act that would impair the structural soundness or integrity of the Building(s) or the safety of property, impair any easement or hereditament appurtenant to the Project, or make or permit to be made any alteration, improvement or addition to the Common Areas and Facilities, notwithstanding Sections 12.3 , 13.2 , 14.3 , 15.1 and 16.2 above.

19.1.14 Safety. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over what the Association but for such activity, would pay, without the prior written consent of the Management Committee. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or Guest, lessee, licensee or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or her or his or her Guests, lessees, licensees or invitees.

19.1.15 Compliance with Project Rules. No Owner shall violate the Project Rules for the use of Units and Common Areas and Facilities as adopted from time to time by the Management Committee.

19.1.16 Animals. No animals of any kind shall be kept, raised or bred on any portion of the Project, except not more than two interior confined household pets, such as dogs and/or cats, may be kept by an Owner. The Management Committee may promulgate different pet policies for each Phase. Unless otherwise permitted by the Management Committee in the Project Rules, no Guest or person other than a Unit Owner may keep a pet at the Project. The Project Rules may further regulate, permit or prohibit the kind and number of such pets from time to time.

19.1.16.1 Household pets, such as dogs and cats, must be contained in a Unit or on the deck or patio that is assigned to a Unit as a Limited Common Area. Such pets may not be permitted to run at large at any time.

19.1.16.2 Pedestrians within the Project who are accompanied by pets permitted under this Declaration must have the pets under the pedestrians' direct control by use of a leash not to exceed ten (10) feet in length.

19.1.16.3 Owners of pets at the Project will be required to take all steps necessary to control excessive barking or other disturbances caused by their pets. Each Owner bringing or keeping an animal within the Project shall be absolutely liable to the applicable Declarant and other Unit Owners and occupants for any damage to persons or property caused by any animal brought upon or kept upon the Project by such person or by members of its family or its invitees. Each Unit Owner shall clean up after such animals that have deposited droppings or otherwise used any portion of the Project.

19.1.16.4 If the Management Committee determines, in its sole subjective discretion, that a pet is a nuisance or a disruption to other Owners, it may require an Owner to permanently remove the pet from the Project.

19.2 Waiver of Right of Partition. By accepting title to a Unit, each Owner, for himself or herself and for his or her heirs, successors-in-title, and assigns, does absolutely and forever waive any right to seek or obtain physical partition of the Project or any portion thereof, and does further waive the right to seek or obtain partition of the Project or any portion thereof by means of the sale of the Project or any portion thereof unless the institution of such suit or action for partition has been approved by the affirmative vote of the same number of Owners that would be required to sell all or any portion of the Project pursuant to and in compliance with this Declaration and Declarant during the Declarant Control Period. Notwithstanding the foregoing, there shall be no limitation on judicial sale in lieu of partition in the case of co-Owners of individual Units.

19.3 No Further Subdivision of Lodging Units; Declarants' Rights to Create Shared Ownership Program. No Owner shall have the right to create or operate, or permit the creation or operation of, a timeshare, fractional, club, or any other shared ownership or use program in any Lodging Unit within the Project, whereby the right to exclusive use of a Unit rotates among participants in such program, regardless of whether use is allocated on a fixed, floating or reserved time basis, without each Declarant's prior written consent, which consent may be withheld for any reason or no reason as each Declarant shall determine in its sole and exclusive discretion.

19.3.1 Notwithstanding the foregoing, Sunrise Declarant shall have the right to create or operate, or permit the creation or operation of, a timeshare, fractional, club, or any other shared ownership or use program in any Lodging Unit within Phase 2 of the Project, and Escala Lodges Declarant shall have the right to create or operate, or permit the creation or operation of, a timeshare, fractional, club, or any other shared ownership or use program in any Lodging Unit within Phase 1 of the Project ("Right to Create Shared Ownership Program"). Escala Lodges Declarant may exercise its Right to Create Shared Ownership Program with respect to Phase 1 without the prior consent of any Owners or Mortgagees, the Management Committee, or any other person or entity having any right or interest in all or any portion of the Project, subject to Sunrise Declarant's

prior written consent so long as Sunrise Declarant is in active sales of timeshare, fractional, club, or other shared ownership interests ("Shared Ownership Interests") in Phase 2. Sunrise Declarant's prior written consent to Escala Lodges Declarant's exercise of its Right to Create Shared Ownership Program in Phase 1 shall terminate upon the earlier of (a) when Phase 2 has achieved ninety-five percent (95%) sell-out of all Shared Ownership Interests available for sale within Phase 2; (b) after the initial sale of a Shared Ownership Interest within Phase 2 by Sunrise Declarant, Sunrise Declarant has ceased offering Shared Ownership Interests within Phase 2 for six (6) consecutive months; or (c) the date that is four (4) years after the Recording of this Declaration. Sunrise Declarant may exercise its Right to Create Shared Ownership Program with respect to Phase 2 without the prior consent of Escala Lodges Declarant, any Owners or Mortgagees, the Management Committee, or any other person or entity having any right or interest in all or any portion of the Project. In connection with its exercise of its Right to Create Shared Ownership Program, Escala Lodges Declarant and Sunrise Declarant, as applicable, may cause the formation of a timeshare, fractional, club, or other shared ownership or use sub-association governing the applicable Phase and create and Record such covenants, restrictions, and conditions governing such sub-association and its members as each Declarant, in its sole and absolute discretion, deems reasonably necessary or appropriate for the respective Phase (collectively, including any related articles of incorporation, bylaws, rules and regulations, and other documents pertaining solely to Phase 2, the "Sunrise Timeshare Documents").

19.3.2 The Sunrise Timeshare Documents shall provide that the management company engaged by the timeshare sub-association organized for the purposes set forth in the Sunrise Timeshare Documents (the "Sunrise Timeshare Association") shall have sole responsibility to (i) manage the Lodging Units dedicated to the timeshare plan in Phase 2 (the "Dedicated Timeshare Units"); (ii) prepare a separate operating budget for the Sunrise Timeshare Association; (iii) bill and collect all dues, assessments and fees charged by the Sunrise Timeshare Association to administer and operate the Phase 2 timeshare plan; (iv) bill and collect (and take enforcement actions to collect) all dues, Common Assessments, charges and fees levied hereunder by the Association with respect to the Dedicated Timeshare Units. The Association shall send all bills solely to, and look solely to, the Sunrise Timeshare Association for the payment and collection of all dues, Common Assessments and fees levied by the Association with respect to the Dedicated Timeshare Units; (v) enter into contracts solely on behalf of the Sunrise Timeshare Association that are not binding on the Association to the extent such contracts relate to the timeshare plan (e.g., contracts with exchange companies); (vi) operate the timeshare plan's reservation system; (vii) foreclose, lockout or otherwise enforce remedies for non-payment of dues, Common Assessments and fees levied by the Association or the Sunrise Timeshare Association with respect to the Dedicated Timeshare Units; and (viii) handle all Sunrise Timeshare Association governance matters such as meeting notices, elections and meetings. In the event that Escala Lodges Declarant exercises its Right to Create Shared Ownership Program with respect to Phase 1, then the timeshare sub-association organized for the purposes set forth in the timeshare documents for Phase 1 shall comply with the requirements applicable to the Sunrise Timeshare Association as described in this Section 19.3.2 .

19.4 Compliance with Project Governing Documents. It is intended that this Declaration alone, incorporating by reference the other Governing Documents, shall govern all rights with respect to the use, possession, enjoyment, management and disposition of Units in the Project. Accordingly, all rights with respect to the use, possession, enjoyment, management and disposition of any Units which an Owner might otherwise have as a tenant-in-common (including, but not limited to, any common law or statutory right jointly to use, possess or manage commonly-owned property), are hereby unconditionally and irrevocably subordinated to this Declaration and related Governing Documents for so long as this Declaration shall remain in effect.

20. ASSOCIATION AND MANAGEMENT COMMITTEE.

The Association shall be governed by the following provisions:

20.1 Management Committee. During the Declarant Control Period, the management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Management Committee consisting of four (4) natural persons as provided in the Bylaws. During the Declarant Control Period, Escala Lodges Declarant and Sunrise Declarant shall each appoint two (2) members of the Management Committee. Upon the termination of the Declarant Control Period, the management and maintenance of the Project and the administration of the affairs of the Association shall be conducted by a Management Committee consisting of five (5) natural persons who shall be elected by the Owners as provided in this Declaration and in the Bylaws. The Commercial Owner of Unit No. C-3 and the Commercial Owner of Unit No. C-80 shall each have the respective perpetual right to elect at least one (1) member of the Management Committee that shall represent such Unit Owner concerning all Association matters related to Phase 1 and Phase 2, respectively. Accordingly, after termination of the Declarant Control Period, the Management Committee shall consist of one (1) member elected solely by the Commercial Owner of Unit No. C-3; one (1) member elected solely by the Commercial Owner of Unit No. C-80; one (1) member elected solely by the Owners of Units within Phase 1; one (1) member elected solely by the Owners of Units within Phase 2; and one (1) at-large member elected by all Owners within the Project.

20.2 Dispute Resolution Procedures. The mediation procedures set forth in this Section shall apply to the following disputes (collectively, the "Disputes"): (i) Sunrise Declarant and Escala Lodges Declarant are unable to agree on a decision, action, determination, appointment, consent, approval or other matter required by the Governing Documents to be taken, made, approved, consented to, or agreed upon, by both Sunrise Declarant and Escala Lodges Declarant; (ii) the four (4) members of the Management Committee during the Declarant Control Period are unable to agree on a decision, action, determination, appointment, consent, approval or other matter required by the Governing Documents to be taken, made, approved or agreed upon, by the Management Committee; (iii) the Commercial Owners of Unit Nos. C-3 and C-80 are unable to agree on a decision, action, determination, appointment, consent, approval or other matter required by such Commercial Owners; and/or (iv) the Common Area Managers with respect to all or any portions of Phase 1 and Phase 2 are unable to agree on a decision, action, determination, or other matter required by such Common Area Managers.

20.2.1 Within fifteen (15) days after any Dispute arises, Escala Lodges Declarant and Sunrise Declarant, the four (4) members of the Management Committee, the Commercial Owners of Unit Nos. C-3 and C-80, or the Common Area Managers, as appropriate, shall submit the Dispute to mediation by a mutually acceptable expert ("Expert") in Summit County, Utah, by written demand in accordance with the procedures of the American Arbitration Association and bear equally the costs of the mediation. Such Expert shall (a) have demonstrated experience and expertise in the resolution of condominium-related disputes of the type involved; (b) not have any direct relationship with any party to the Dispute or any other conflict of interest; and (c) be generally familiar with the geographic area in which the Project is located. If the parties to the Dispute are unable to agree on such an Expert, then they shall request that the American Arbitration Association designate such Expert.

20.2.1 The parties to the Dispute, who shall cooperate in good faith with the Expert, shall equally bear the costs of the mediation, including any fees and other compensation charged by the Expert. If the parties are unable to agree upon a location, the mediation shall be conducted in Park City, Utah.

20.2.3 If, within forty-five (45) days after such mediation was initiated, the mediation does not result in a mutually satisfactory resolution of the Dispute, then the Dispute shall be deemed unresolved, and the applicable decision, action, determination, appointment, consent, or approval shall definitively be deemed not to have occurred.

20.3 Powers of Management Committee. Except as otherwise provided herein, the Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and the Bylaws, including but not limited to the following:

20.3.1 To make and enforce all Project Rules, including different Project Rules governing each Phase.

20.3.2 To engage the services of either a single Common Area Manager or different Common Area Managers with respect to all or any portions of Phase 1 and Phase 2, accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.

20.3.3 To operate, maintain, repair, improve and replace the Common Areas and Facilities in accordance with the applicable Governing Project Maintenance Standard.

20.3.4 To determine and pay the Common Expenses.

20.3.5 To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

20.3.6 To open bank accounts on behalf of the Association and to designate the signatories therefor.

20.3.7 To purchase, hold, sell, convey or mortgage any one or more Units in the name of the Association or its designee.

20.3.8 To bring, prosecute and settle litigation for itself, the Association and the Project, provided that it shall make no settlement which results in a liability against the Management Committee, the Association or the Project in excess of \$200,000 (as measured in year 2008 dollars and thereafter adjusted by the Cost of Living Index) without the prior approval of a majority of the Total Votes of the Association at a meeting or by written ballot distributed to Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Association's insurance carrier and which in either case results in no actual liability of funds of the Association in excess of \$100,000 shall not require Association approval.

20.3.9 To obtain insurance for the Association with respect to the Units and the Common Areas and Facilities, as well as worker's compensation insurance.

20.3.10 To repair or restore the Project following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.

20.3.11 To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary for or convenient to the management of the business and affairs of the Association and the Management Committee and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

20.3.12 To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Project by Owners in accordance with the terms of the Bylaws. Such books and records shall include detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred. The Association or the Management Committee shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Unit current copies of this Declaration, Articles, Bylaws and other rules governing the Project and other books, records and financial statements of the Association. "Available" shall mean available for inspection, no later than fourteen (14) days after written request, during normal business hours or under other reasonable circumstances.

20.3.13 To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

20.3.14 To prepare, adopt, amend and disseminate budgets (including separate budgets for each Phase) and other information from time to time in accordance with the terms of the Bylaws.

20.3.15 To grant conveyances, easements and rights-of-way over the Common Areas and Facilities and to approve signage for the Project, subject to Section 18.3 above.

20.3.16 To enforce the rules, regulations, policies and procedures of the Management Committee.

20.3.17 Subject to the limitations of Section 20.6 of the Act and any other applicable law, the Management Committee may delegate to one (1) or more Common Area Managers by written agreement all of the foregoing powers, duties and responsibilities referred to in this Section 20.3 .

20.3.18 Members of the Management Committee, the officers and any assistant officers, agents and employees of the Association (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for and/or by them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

20.3.19 When a member of the Management Committee is sued for liability for actions undertaken in his or her role as a member of the Management Committee, the Association shall indemnify him or her for losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof the Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Management Committee who so acted. Members of the Management Committee are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association, but may be recovered from persons whose gross negligence gave rise to the damages.

20.4 Project Maintenance Standard. The Management Committee shall provide for the repair, replacement, management and maintenance of the Common Areas and Facilities and any Units that the Association may own or lease, or in the future may own or lease, in accordance with the applicable Governing Project Maintenance Standard so that the Project will reflect a high grade of maintenance. In this connection, the Association may, subject to any applicable provisions on Special Common Assessments, in the discretion of the Management Committee, reconstruct, repair, replace or refinish any Unit that it may own or lease, or any improvement or portion thereof upon the Common Areas and Facilities, and do all such other and further acts which the Management Committee deems necessary to preserve and protect the Units it may own or lease, or in the future may own or lease, and the Common Areas and Facilities and the

beauty thereof, in accordance with the applicable Governing Project Maintenance Standard and the general purposes specified in this Declaration.

20.5 No Sale of Property. Neither the Management Committee nor any Common Area Manager shall sell any property of the Association except as permitted by the Act and this Declaration.

20.6 Common Area Manager. The Association, acting through the Management Committee, pursuant to Section 20.3.2 hereof, may enter into a single contract with a Common Area Manager for the management of the entire Project or separate contracts with different Common Area Managers for the management of all or any portions of Phase 1 and Phase 2. Any Common Area Manager so engaged shall be responsible for managing the Project or the applicable Phase or portion thereof for the benefit of the Association and the Owners and shall, to the extent permitted by law and by the terms of the applicable agreement with the Association, be authorized to perform any of the functions or acts required to be performed by the Association itself. Notwithstanding any provision of this Declaration or any of the other Governing Documents to the contrary, the Common Area Manager engaged with respect to all or any portion of Phase 2 (if any) may, and the Common Area Manager engaged with respect to all or any portion of Phase 1 may, in their respective sole and absolute discretion, assign, delegate, and/or subcontract some or all of its rights and obligations, under the applicable management agreement to a third party professional management company that is licensed and otherwise qualified to act in such capacity pursuant to applicable law.

20.7 Service Districts. Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) reserve the right, for a period of fifteen (15) years following the Recording of this Declaration, to unilaterally and without notice to or consent of the Owners or the Association, bind the Property and the Building(s) in the respective Phases to the utilization of the services of any service company, service district or improvement district or any entity or organization acting in a similar capacity, including the applicable Declarant and Declarant Affiliates (collectively referred to as "Service District"), established for the purpose of providing utility service or quasi-utility services or similar common service to the Property and/or other adjacent or proximate parcels of property comprising the applicable Phase, and to include the charges and assessments from such Service Company as a "Common Expense" allocated to the applicable Phase.

20.8 Providing Payoff Information: Written Statement. The Management Committee may charge a reasonable fee (to be paid after closing) for providing Association payoff information needed in connection with the closing of an Owner's financing, refinancing or sale of a Unit. Such fee shall not exceed the maximum amount (if any) set forth in the Act. The Management Committee must provide payoff information within five (5) business days after the closing agent for a transaction requests such information. Such request shall include all information required by the Act and be delivered in accordance with the requirements set forth in the Act. Even when not needed in connection with the closing of an Owner's financing, refinancing or sale of a Unit, an Owner may request in writing a written statement from the Management Committee indicating any unpaid assessments with respect to the Owner's Unit. The Association may charge the Owner requesting the statement a fee not to exceed the maximum amount (if any) set forth in the Act.

20.9 Registration with the Department of Commerce. Within ninety (90) days after a change of any information provided in the Association's registration with the Department of Commerce, the Management Committee shall submit an updated registration in the manner established by the Department of Commerce and the Act.

21. ASSESSMENT OF UNITS BY THE ASSOCIATION.

21.1 Common Assessments. The making and collection of Common Assessments by the Association from Owners of Units for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

21.1.1 Liability for Payment. Each Owner, including Declarant, for each Unit which it owns, shall be liable for a proportionate share of the Common Expenses, such share being the same as the ownership interest in the Common Areas and Facilities appurtenant to the Unit owned by him or her, subject, however, to the last sentence of Section 1.19 above. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses. Such combined expenses shall constitute the Common Expenses, and the funds received from Common Assessments under this Article 21 shall be the Common Expense Fund. Common Assessments shall include both Regular Common Assessments and Special Common Assessments. After an assessment has been made by the Association, Regular Common Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Regular Common Assessments shall be levied against each separate Unit, and shall commence as to all Units in the Project on the first day of the month following the closing of the first sale of a Unit.

21.1.2 Special Common Assessments. In addition to the Regular Common Assessments, the Association may levy in any calendar year, Special Common Assessments applicable to that year only, for any purpose that the Management Committee may determine in its sole and exclusive determination, including without limitation for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon any Common Areas and Facilities, including the necessary fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Common Assessments from the Owners; structural alterations or capital additions or capital improvements to the Common Areas and Facilities as are necessary in the Management Committee's sole and exclusive judgment to preserve or maintain the integrity of the Common Areas and Facilities; to pay an increase in real property taxes; or imposing a special assessment against an individual Owner as a remedy utilized by the Management Committee to reimburse the Association for costs incurred in bringing the Owner and/or his or her Unit into compliance with the provisions of the Governing Documents. The portion of any Special Common Assessment levied against a particular Unit shall be equal to the percentage of undivided interest in the Common Areas and Facilities appurtenant to such Unit. The Management Committee shall provide notice by first class mail to all Owners of any Special Common Assessments not less than thirty (30) nor more than sixty (60) days prior to the date such Assessment is due.

21.1.3 Budget Committee Assessments. Any Common Expense or portion thereof benefiting fewer than all of the Units, including but not limited to those included in a particular Phase, may be assessed exclusively against the Units benefited as the Management Committee shall determine in its sole and reasonable discretion. Accordingly, in addition to the Common Assessments, the Association shall levy Assessments against Owners as part of the Common Assessments when requested by the applicable Budget Committee(s) to cover Common Expenses associated with certain Units or all Units included in a particular Phase of the Project and as may be provided in the Project Rules. If levied, separate and distinct funds shall be created and maintained under this Section 21.1.3 for the payment of Common Expenses established by a Budget Committee(s) pertaining to fewer than all of the Units or a particular Phase of the Project.

21.1.4 RVMA Assessments. In addition to the Common Assessments, each Owner shall be liable and responsible for payment of all RVMA Assessments pursuant to the Canyons SPA Documents. Among other things, the RVMA is authorized and legally entitled to assess member assessments, retail assessments, transient occupancy assessments, real estate transfer assessments, and other charges as set forth in the Canyons SPA Documents.

21.1.5 Extension of Collection Rights. To the extent any Owner fails to pay its RVMA Assessments, all of the lien rights and other remedies contained in this Article 21 shall be available to the Association in order to cause collection of said RVMA Assessments.

21.1.6 No Assessment of Certain Exempt Property. Notwithstanding any other provision of this Declaration to the contrary, no Common Assessments shall be levied against Exempt Property owned by either Declarant or a Declarant Affiliate. However, for as long as either Declarant or its Declarant Affiliate owns any Exempt Property, such Declarant shall subsidize the Association for the amount by which (i) the actual cost and expense of operating and administering Phase 1 (with respect to Escala Lodges Declarant) or Phase 2 (with respect to Sunrise Declarant) and maintaining reasonable reserves for maintenance, replacement and repairs and for contingencies related to the applicable Phase, all as provided in this Declaration, exceeds (ii) the total amount of Common Assessments levied against and collected from Owners of Units in the applicable Phase other than the applicable Declarant (a "Shortfall"). The subsidy required of each Declarant under this Section may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, provided that "in-kind" contributions of goods or services must directly reduce the Association's costs and expenses for which a Common Assessment is being levied as set forth in the Association's budget, with such goods or services being valued at the amount the budgeted costs and expenses of the Association are so reduced. Each Declarant shall make payments or contributions in respect to its subsidy obligations, if any, under this Section at such time as the Management Committee may reasonably request from time to time as necessary to insure that there are sufficient funds available for payment of Association costs and expenses and accumulation of adequate reserves (but in any event not more often than monthly); provided, however, that neither Declarants' subsidy obligation shall in any event exceed the amount of Common Assessments that would be

levied against the Exempt Property owned by such Declarant or its Declarant Affiliate were such property not Exempt Property, and further provided that the respective subsidy obligations of Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) shall be several and not joint such that Escala Lodges Declarant shall have no obligation whatsoever to subsidize any Shortfall related to Phase 2, and Sunrise Declarant shall have no obligation whatsoever to subsidize any Shortfall related to Phase 1. Within thirty (30) days of the end of each assessment period, the Management Committee shall make an accounting of each Declarant's subsidy obligations for that period, what amounts have been paid by each Declarant (whether in cash, goods or services) with respect to such obligations, and what amounts, if any, are due. A copy of the accounting shall be sent to each Declarant and to each Owner. Each Declarant shall make payments or contributions in respect of its subsidy obligations, if any, under this Section at such times as the Management Committee may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly); at the end of each assessment period, either (iii) a Declarant shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by such Declarant during such assessment period; or (iv) the Management Committee shall pay to such Declarant or credit against such Declarant's subsidy obligation for the immediately following assessment period, as such Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by such Declarant during such assessment period exceeded the total subsidy obligation of such Declarant for such assessment period under this Section.

21.1.7 Interest; Late Fees. All Common Assessments shall be due as determined pursuant to the Bylaws. Common Assessments and any installments thereof not paid on or before sixty (60) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Management Committee, from the date when due until paid. Furthermore, Owners who do not pay their Common Assessments within thirty (30) days of when due shall be subject to a late fee of up to one hundred dollars (\$100.00), adjustable from year to year at the discretion of the Management Committee pursuant to the Cost of Living Index. All payments of Common Assessments shall be first applied to accrued interest and late fees, and then to the Common Assessment payment first due. All Common Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to their liabilities for Common Expenses. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Unit(s). If the Owners' percentage interests in the Common Areas and Facilities are reallocated, assessments for Common Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests of the Owners.

21.1.8 Lien for Assessments. There shall be a lien upon the applicable Unit for all unpaid Common Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to this Declaration and the Act. The lien for unpaid Common Assessments and related charges shall be effective upon Recordation of a

written notice of lien by the Management Committee or the applicable Common Area Manager. The written notice of lien shall set forth the amount of the Common Assessment, the date(s) due, the amount remaining unpaid, the name of the Owner of the Unit and a description of the Unit. No notice of lien shall be Recorded until there is a delinquency in payment of the Common Assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanic's lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code, as amended from time to time.

21.1.9 Appointment of Trustee. In any foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Common Assessments against the Unit which shall become due during the period of foreclosure, and all such Common Assessments shall be secured by the lien being foreclosed. In furtherance of such foreclosure rights, the Association may bring an action at law against the Owner personally obligated to pay the same or the Association may foreclose the lien in accordance with the provisions of the Act. Each Declarant, the Association and each Owner hereby convey and warrant pursuant to Utah Code Annotated Sections 57-1-20 and 57-8-45 to First Title Insurance Agency, with power of sale, the Units and all improvements to the Units for the purpose of securing payment of assessments under the terms of this Declaration. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code Annotated. The Association may, through its duly authorized agents, bid on the Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The lien of the Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a First Mortgage on a Unit as provided for in Section 29.2 hereof and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Unit. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

At least thirty (30) calendar days before initiating a nonjudicial foreclosure, the Association shall provide notice ("Foreclosure Notice") to the Owner that is the intended subject of the nonjudicial foreclosure. The Foreclosure Notice shall: (i) notify the Owner that the Association intends to pursue nonjudicial foreclosure with respect to the Owner's Unit to enforce the Association's lien for unpaid assessments; (ii) notify the Owner of the Owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure; (iii) be sent to the Owner by certified mail, return receipt requested and be included with other Association correspondence to the Owner; and (iv) be in substantially the following form:

NOTICE OF NONJUDICIAL FORECLOSURE

AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The Escala Lodges Condominiums Association, Inc., a Utah nonprofit corporation (the "Association"), the association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that 'I demand a judicial foreclosure proceeding upon my unit,' or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is _____ (insert the address of the Association for receipt of a demand).

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

21.1.10 Priority of Lien. The lien of the Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances Recorded before Recordation of this Declaration, a First Mortgage on a Unit as provided for herein and assessments, liens and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Unit. The lien procedures described herein do not prohibit actions to recover sums for which

the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. The Management Committee, upon written request, shall furnish to an Owner a statement setting forth the amount of unpaid assessments against the Unit. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Management Committee, the applicable Common Area Manager and every Owner, in favor of all who rely on such statement in good faith.

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

21.1.12 Lien Unaffected. The personal obligation of an Owner to pay unpaid assessments against his Unit shall not pass to successors in title unless assumed by them. Provided, however, a lien to secure unpaid assessments shall not be affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further assessments.

21.2 Capital Improvements. The Association through the Management Committee shall include in the Common Assessments amounts representing sums to be used for the replacement of or additions to capital items or improvements in the Project.

21.3 Reserves. The Management Committee shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas and Facilities for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Furthermore, the Association shall not use money in a reserve fund for daily maintenance expenses, unless sixty-seven percent (67%) of the Total Votes of the Association consent and vote to approve the use of the reserve fund money for that purpose. Upon the approval of sixty-seven percent (67%) of the Total Votes of the Association, the Management Committee may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Management Committee may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Management Committee shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to

recover the full amount of the expended funds within the time limit specified above. Any such Special Assessment shall not be subject to the limitations set forth in Section 21.1.2 hereof. At least once every three (3) years the Management Committee shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Management Committee shall, thereafter, annually review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review.

Upon the expiration of the Declarant Control Period, the Management Committee shall present the reserve account study to the Owners at either the annual meeting of the Owners or at a special meeting of the Owners. At such meeting, the Owners shall have an opportunity to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount. The Association shall prepare and keep minutes of each meeting held pursuant to this paragraph, and indicate in the minutes any decision relating to funding a reserve fund.

Any reserve account study shall include, at a minimum:

21.3.1 Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of less than thirty (30) years.

21.3.2 Identification of the probable remaining useful life of the components identified in subparagraph 21.3.1 above, as of the date of the study.

21.3.3 An estimate of the cost of repair, replacement, restoration or maintenance of each major component identified in subparagraph 21.3.1 above, during and at the end of its useful life.

21.3.4 An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Management Committee has determined are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain in accordance with the applicable Governing Project Maintenance Standard.

21.4 Leased Units. If an Owner fails to pay assessments and other amounts due under this Declaration for a period of more than sixty (60) days after such amounts are due and payable, the Association may require a Tenant (defined below) under a Lease (defined below) with an Owner to pay the Association all future Lease payments due to the Owner beginning with the next monthly or periodic payment due from the Tenant and until the Association is paid the Amount Owning (defined below).

Before requiring a Tenant to pay Lease payments to the Association, the applicable Common Area Manager or Management Committee shall give the Owner notice ("Notice to Landlord"), in accordance with this Declaration. The Notice to Landlord shall state: (i) the

amount of the assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of Lease payments; and (iii) that the Association intends to demand payment of future Lease payments from the Owner's Tenant if the Owner does not pay the Amount Owing within fifteen (15) days.

If an Owner fails to pay the Amount Owing within fifteen (15) days after the applicable Common Area Manager or Management Committee gives the Notice to Landlord, the applicable Common Area Manager or Management Committee may exercise the Association's rights to collect Lease payments by delivering written notice ("Notice to Tenant") to the Tenant. The Notice to Tenant shall state that: (i) due to the Owner's failure to pay an assessment within the required time, the applicable Common Area Manager or the Management Committee has notified the Owner of the Association's intent to collect all Lease payments until the Amount Owing is paid; (ii) the law requires the Tenant to make all future Lease payments, beginning with the next monthly or other periodic payment, to the Association, until the Amount Owing is paid; and (iii) the Tenant's payment of Lease payments to the Association does not constitute a default under the terms of the Lease with the Owner. The applicable Common Area Manager or Management Committee shall mail a copy of the Notice to Tenant to the Owner.

A Tenant to whom the Notice to Tenant has been given shall pay to the Association all future Lease payments as they become due and owing to the Owner: (i) beginning with the next monthly or other periodic payment after the Notice to Tenant is delivered to the Tenant; and (ii) until the Association notifies the Tenant that the Amount Owing is paid. An Owner shall credit each payment that the Tenant makes to the Association under this Section against any obligation that the Tenant owes to the Owner as though the Tenant made the payment to the Owner. An Owner may not initiate a suit or other action against a Tenant for failure to make a Lease payment that the Tenant pays to the Association as required under this Section. Within five (5) business days after the Amount Owing is paid, the applicable Common Area Manager or Management Committee shall notify the Tenant in writing (and mail a copy thereof to the Owner) that the Tenant is no longer required to pay future Lease payments to the Association.

The Association shall deposit money paid to the Association under this Section in a separate account and disburse that money to the Association until the Amount Owing is paid and any cost of administration, not to exceed the maximum amount set forth in the Act (if any) is paid. The Association shall, within five (5) business days after the Amount Owing is paid, pay to the Owner any remaining balance.

As used in this Section "Amount Owing" means the total of any assessment or obligation under this Declaration that is due and owing together with any applicable interest, late fee, and cost of collection, "Lease" means an arrangement under which a Tenant occupies a Lodging Unit in exchange for the Owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument, and "Tenant" means a person, other than the Owner, who has regular, exclusive occupancy of an Owner's Unit.

21.5 Termination of Delinquent Owner's Rights. The Management Committee may terminate a Delinquent Owner's (defined below) right to receive a utility service for which the

Owner pays as a Common Expense and may also terminate the right of access to and use of recreational facilities at the Project (collectively, the "Owner's Rights").

Before terminating an Owner's Rights, the applicable Common Area Manager or the Management Committee shall give the Delinquent Owner notice ("Notice of Delinquency") of such termination. The Notice of Delinquency shall state: (i) that the Association will terminate any of the Owner's Rights, if the Association does not receive payment of the assessment owed to the Association within fourteen (14) days after the Delinquent Owner receives the Notice of Delinquency; (ii) the amount of the assessment due, including any interest or late payment fee; and (iii) the Owner's right to request a hearing.

A Delinquent Owner may submit a written request to the Management Committee for an informal hearing to dispute the assessment. Such request shall be submitted within fourteen (14) days after the date the Delinquent Owner receives the Notice of Delinquency. The Management Committee shall conduct the informal hearing in accordance with the standards provided in the Governing Documents. If a Delinquent Owner requests a hearing, the Association may not terminate the Owner's Rights until after the Management Committee conducts the hearing and enters a final decision.

If the Association terminates an Owner's Rights, the Association shall take immediate action to reinstate the service or right following the Owner's payment of the assessment, including any interest, late payment fee or other charges. An Association may assess an Owner for the cost associated with reinstating a utility service that the Association terminates and demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in the Notice of Delinquency.

As used in this Section, "Delinquent Owner" means an Owner who fails to pay an assessment or other amounts owed to the Association when due.

22. PROJECT DESIGN REVIEW COMMITTEE.

22.1 Purpose. Prior to any review or approval by Summit County and/or the Canyons Design Review Committee, the Project Design Review Committee shall be the first to review, study and either approve, reject or request resubmittal of proposed improvements to a Unit, all in compliance with this Declaration and the applicable Governing Project Maintenance Standard, and as further set forth in the rules and regulations of the Project Design Review Committee, and the Project Design Guidelines. The Project Design Review Committee reserves the right, but not the obligation, to promulgate, enforce and interpret the Project Design Guidelines, provided that the Project Design Review Committee's determinations or functions do not contradict or supersede the duties and responsibilities of Summit County and/or the Canyons Design Review Committee as set forth in the Governing Documents. The Project Design Review Committee further reserves the right, but not the obligation, to delegate its design review powers to the Canyons Design Review Committee.

22.2 Membership of Project Design Review Committee. The Project Design Review Committee shall be composed of individuals or entities as Escala Lodges Declarant and Sunrise Declarant may determine in their sole and exclusive discretion, who need not be Owners. So

long as either Declarant owns any Unit or other property within the Project, the Project Design Review Committee shall consist of four (4) regular members, two (2) of whom shall be appointed, removed and replaced by, and serve at the pleasure of, each Declarant, in its sole and exclusive discretion. At such time as either Declarant no longer owns any Unit or other property within the Project, the Project Design Review Committee shall consist of such number of regular and alternate members as the Management Committee may deem appropriate from time to time (but in no event less than three (3) nor more than seven (7) regular members, nor less than one (1) nor more than three (3) alternate members), each of whom shall be appointed by, and serve at the pleasure of, the Management Committee in accordance with any rules and regulations of the Project Design Review Committee and/or the Project Design Guidelines. Either Declarant may at any time voluntarily surrender in writing its right, as Declarant, to appoint and remove two (2) members of the Project Design Review Committee pursuant to this Section 22.2 and in that event, such Declarant may require, for so long as such Declarant owns any Unit or other property within the Project, that specified actions of the Project Design Review Committee, as described in a Recorded instrument executed by such Declarant, be approved by such Declarant before they become effective.

22.3 Expenses of the Project Design Review Committee. All expenses of the Project Design Review Committee shall be paid by the Association, subject to each Declarant's or the Association's right to charge a reasonable design review fee to defray such expenses.

22.4 Project Design Guidelines. The Project Design Review Committee may adopt, establish, and publish from time to time the Project Design Guidelines. The Project Design Guidelines are designed to complement and be consistent with the resort and hotel operations at the Project. The Project Design Guidelines, if adopted, shall define and describe the design standards for the Project and the various uses within the Project and shall not contradict the purposes expressed in the Condominium Documents or the Canyons SPA Documents. The Project Design Guidelines may be modified or amended from time to time by the Project Design Review Committee. The Project Design Review Committee, in its sole discretion, may excuse compliance with such Project Design Guidelines as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. The Project Design Guidelines shall not be subject to modification or amendment by the Management Committee or Association members. The Project Design Guidelines shall be established solely by the Project Design Review Committee and both Declarants. Should the Project Design Review Committee elect not to adopt Project Design Guidelines, proposed developments and/or improvements to a Unit shall be subject to reasonable review by the Project Design Review Committee in compliance with the overall nature of the Project.

22.5 Procedural Rules. As part of the Project Design Guidelines, if any are adopted the Project Design Review Committee shall make and publish such rules and regulations as it may deem appropriate to govern its proceedings. Appeals shall be conducted as provided in the Project Rules and/or Project Design Guidelines.

22.6 Limitation of Liability. The Project Design Review Committee shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Project Design Review Committee, nor any individual Project Design Review Committee member, shall be liable to any person for any official act of the Project Design

Review Committee in connection with submitted plans and specifications, except to the extent the Project Design Review Committee or any individual Project Design Review Committee member acted with willful misconduct, intent to inflict harm on the Association or an Association member or gross negligence. Approval by the Project Design Review Committee does not necessarily assure approval by Summit County and/or the Canyons Design Review Committee. Notwithstanding that the Project Design Review Committee has approved plans and specifications, neither the Project Design Review Committee, any of its members, either Declarant, the Association, nor the Management Committee, shall be responsible or liable to any Owner, other developer or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval of the construction of any Unit or other improvement. Neither the Management Committee, the Project Design Review Committee, or any agent thereof, either Declarant, any Declarant Affiliate, and any of either Declarant's members, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Governing Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Project Design Review Committee shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Project Design Review Committee's decision. The Association, however, shall not be obligated to indemnify any member of the Project Design Review Committee to the extent any such member of the Project Design Review Committee shall be adjudged to be liable for willful misconduct, intentional infliction or harm on the Association or an Association member of gross negligence or in the performance of his or her duty as a member of the Project Design Review Committee, unless and then only to the extent that the court in which such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

23. VOTING.

23.1 Voting Rights. At any meeting of the Association, each Owner of a Unit, including each Declarant, either in person or by proxy, shall be entitled to vote the same number of votes as specified in Exhibit A. The voting rights appurtenant to each Unit shall vest upon execution and Recording of this Declaration.

23.2 Character of Votes. The vote appurtenant to each respective Unit shall be based on the undivided interest of the Unit in the Common Areas and Facilities as set forth in Exhibit A. The vote appurtenant to each Unit shall have a permanent character, and, except as otherwise permitted and provided for in this Declaration, shall not be altered without the unanimous consent of all Owners expressed in a duly Recorded Amendment. The votes may be expressed in whole numbers. In cases where the value of such whole number calculations is less than one, including without limitation votes associated with Storage Units and Parking Units, a value of .50 may be assigned.

23.3 RVMA Matters. Each Owner, by acceptance of a deed to his, her or its Unit, acknowledges and agrees that the Association is vested with the exclusive authority to represent and act on behalf of all of the Owners as members of the RVMA. All membership and voting rights and obligations relating to the Owners shall be undertaken by the Association's

representative (the “Association’s RVMA Representative”), who shall be a member of the Management Committee selected jointly by Escala Lodges Declarant and Sunrise Declarant during the Declarant Control Period, in connection with all Canyons SPA and RVMA matters, provided, however, that the Association’s RVMA Representative shall act with respect to all such Canyons SPA and RVMA matters, including but not limited to the exercise of the Association’s RVMA-related voting rights, only as expressly directed by the Management Committee.

24. MAINTENANCE, ALTERATION AND IMPROVEMENT.

24.1 Maintenance of Common Areas and Facilities. The maintenance, replacement and repair of the Common Areas and Facilities in accordance with the applicable Governing Project Maintenance Standard shall be the responsibility of the Association, and the cost thereof shall be a Common Expense allocated to Phase 1 only, Phase 2 only, or the entire Project, as reasonably and in good faith determined by the Management Committee. Subject to Section 5.2 above, the Association shall also maintain, replace and repair all common porches and decks and all conduits, ducts, plumbing and wiring and other central facilities for the furnishing of heat, air conditioning, gas, light, power, water and sewer service. All incidental damages caused to a Unit by the maintenance, replacement and repairs of the Common Areas and Facilities or utility services shall be repaired promptly and the cost thereof charged as a Common Expense.

24.2 Right of Access. Some of the Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association and the applicable Common Area Manager on its behalf shall have the irrevocable right to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Unit. The Association and the applicable Common Area Manager on its behalf shall also have the irrevocable right to have access to any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association or the applicable Common Area Manager on its behalf.

25. INSURANCE.

25.1 Insurance. The Association shall at all times maintain in force insurance meeting the following requirements:

25.1.1 Blanket Insurance. A “master” or “blanket” type policy of property insurance shall be maintained covering the entire Project including: Common Areas and Facilities; all Buildings including all Units; all Ski Easements; fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas and Facilities or owned by the Association, but excluding items normally not covered by such policies. References herein to a “master” or “blanket” type policy of property insurance

are intended to denote single entity insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, and by all other perils which are customarily covered with respect to projects similar to the Project (in construction, location, and use, including, without limitation, all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies.

Property insurance shall include coverage for any fixture, improvement, or betterment installed by an Owner to a Unit or to Limited Common Areas and Facilities, including floor coverings, cabinets, light fixtures, electrical fixtures, heating or plumbing fixtures, paint, wall coverings, windows, and any other item permanently part of or affixed to a Unit or to Limited Common Areas and Facilities.

If the Management Committee becomes aware that property insurance under this Section is not reasonably available, the Management Committee shall, within seven (7) calendar days after becoming aware, give all Owners notice that the insurance is not reasonably available.

25.1.2. Replacement Endorsements; Deductibles. If the Management Committee deems such advisable and as long as it is available at a reasonable cost, the insurance policy described in Section 25.1.1 above shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). Unless the Management Committee otherwise determines, the maximum deductible amount for such a policy covering the Common Areas and Facilities shall be Ten Thousand Dollars (\$10,000) and for losses related to individual Units that are covered by such a policy, the deductible related to each individual Unit shall be Ten Thousand Dollars (\$10,000). If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner: (i) the Association's policy provides primary insurance coverage; and (ii) the Owner's policy applies to that portion of the loss attributable to the policy deductible of the Association.

An Owner who owns a Unit that has suffered Unit Damage (defined below) as part of a Covered Loss (defined below) is responsible for an amount calculated by applying the Unit Damage Percentage (defined below) for that Unit to the amount of the deductible under the property insurance policy of the Association. If an Owner does not pay such amount within thirty (30) days after substantial completion of the repairs to the Unit, the Association may levy an assessment against the Owner for that amount. As

used in this paragraph, "Covered Loss" means a loss, resulting from a single event or occurrence, that is covered by a property insurance policy of the Association. "Unit Damage" means damage to a Unit or to Limited Common Areas and Facilities applicable to that Unit, or both, and "Unit Damage Percentage" means the percentage of total damage resulting in a covered loss that is attributable to Unit Damage. If, in the exercise of the business judgment rule, the Management Committee determines that a claim is likely not to exceed the property insurance policy deductible of the Association: (i) the Owner's policy is considered the policy for primary coverage to the amount of the policy deductible of the Association; (ii) an Owner who does not have a policy to cover the property insurance policy deductible of the Association is responsible for the loss to the amount of the policy deductible of the Association, as provided above in this Section; and (iii) the Association need not tender the claim to the Association's insurer.

The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or ten thousand dollars (\$10,000.00), whichever is less.

25.1.3 Flood Insurance. If any habitable structure located within the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Plat, a "master" or "blanket" policy of flood insurance shall be maintained covering the Buildings (a separate policy is required for each separate multi-story building that houses Units), any machinery and equipment that are not part of a Building and all Common Areas and Facilities within the Project (hereinafter "Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under the National Flood Insurance Administration Program for all Buildings and Insurable Property within any portion of the Project located within a designated flood hazard area; or (2) one hundred percent (100%) of the insurable value of all such facilities. The maximum deductible amount for any such policy shall be the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the policy face amount.

25.1.4 Designation of Insured. The name of the insured under each policy required to be maintained by the foregoing Sections 25.1.1 and 25.1.3 shall be the Association for the use and benefit of the individual Owners. Said Owners shall be designated by name, if required by law. Notwithstanding the requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

25.1.5 Required Endorsements. Each policy required to be maintained by the foregoing Sections 25.1.1 and 25.1.3 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private

institutional mortgage investors in the area in which the Project is located. In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

25.1.6 Additional Provisions. Each policy required to be maintained by the foregoing Sections 25.1.J and 25.1.3 shall provide, if it is available at a reasonable cost to the Association, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners, individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively or the Association; and the policy is primary in the event the Owner has other insurance covering the same loss.

25.1.7 Management Committee Duties. In contracting for the policies of insurance required to be maintained by the foregoing Section 25.1.J, the Management Committee shall make reasonable efforts to secure, if the Management Committee deems such advisable and if it is available at a reasonable cost to the Association, coverage which provides the following endorsements: (1) "Inflation Guard Endorsement;" (2) "Building Ordinance or Law Endorsement," if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Steam Boiler and Machinery Coverage Endorsement," if the project has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000) or the insurable value of the Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

25.1.8 Fidelity Bonds. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, employees of the Association and for all other persons handling or responsible for funds of or administered by the Association, whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Common Area Manager, such Common Area Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for such Common Area Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the applicable Common Area Manager, as the case may be, at any given time during the term of each bond.

25.1.9 General Liability Insurance. The Association shall maintain in force and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Common Areas and Facilities, Ski Easements, Building exteriors,

public ways in the Project, all other areas of the Project that are under the Association's supervision, and any commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Alternatively, the Association may obtain an umbrella policy for such general liability coverage as determined by the Management Committee in its sole and exclusive discretion. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, Building exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Coverage under such policy shall include, without limitation, medical payments insurance, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, Building exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Each Owner is an insured person under a liability insurance policy that the Association obtains that insures against liability arising from the Owner's interest in the Common Areas and Facilities or from membership in the Association. If the Management Committee becomes aware that liability insurance under this Section is not reasonably available, the Management Committee shall, within seven (7) calendar days after becoming aware, give all Owners notice that the insurance is not reasonably available. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each First Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

25.110 Additional Insureds. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

25.1.11 Insurance Provider Performance Requirements. Each insurance policy maintained pursuant to the foregoing Sections 25.1.1 , 25.1.3 , 25.1.8 , and 25.1.9 shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has an A general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Management Committee, or the Association; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Management Committee, the Association, or Owner) from collecting insurance proceeds. The provisions of this Section 25.1.11 and of the foregoing Sections 25.1.1 , 25.1.3 , 25.1.8 and 25.1.9 shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

25.1.12 Annual Review. All insurance policies shall be reviewed at least annually by the Management Committee in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

25.2 Owner to Insure. Notwithstanding anything in this Article 25 to the contrary, it shall be the responsibility of each Owner, at such Owner's expense, to maintain physical damage insurance on such Owner's personal property and on any other portions of, or items in, the Unit that are not covered by the Association's insurance policies pursuant to Sections 25.1.1 and 25.1.9 of this Declaration. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Unit as the Owner in the Owner's sole discretion shall conclude to be desirable. However, except as otherwise provided in this Declaration, none of such insurance coverages obtained by such Owner shall affect any insurance coverage maintained by the Association or cause the diminution or termination of that insurance coverage, nor (except as otherwise provided in this Declaration) shall such insurance coverage of an Owner result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association as a result of insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a default Assessment, with the understanding that the Management Committee on behalf of the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners.

25.3 Allocation Between Phases. Notwithstanding any provision of this Article 25 to the contrary, all premiums, deductibles, and other insurance-related costs of any type shall

reasonably and in good faith be allocated by the Management Committee to the Phase in connection with which such costs were incurred.

26. DESTRUCTION OR DAMAGE.

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

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

26.3 Association Duties. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

26.3.1 Notice. The Association shall give timely written notice to any holder of any First Mortgage on a Unit who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas or Facilities or a Unit subject to such First Mortgage.

26.3.2 Estimates. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

26.3.3 Sufficient Proceeds. If the proceeds of the insurance maintained by the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

26.3.4 Insufficient Proceeds; Repair and Replacement. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Common Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Common Assessment shall be allocated and collected as provided in Article 21 above. Further levies may be made in like manner if the amounts collected

(together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

26.3.5 Insufficient Proceeds: Vote to Repair or Replace. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the Total Votes of the Association vote to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the Total Votes of the Association to carry out such repair and reconstruction and if, to the extent permitted by the Act, Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by Eligible Mortgagees do not approve such repair and reconstruction, the Association shall Record a notice setting forth such facts. Upon the Recording of such notice, the following shall occur:

26.3.5.1 The Project shall be deemed to be owned in common by the Owners;

26.3.5.2 Each Owner shall own an undivided interest in the Project equal to his ownership interest in the Common Areas and Facilities;

26.3.5.3 Any liens affecting any of the Units shall be deemed to be transferred, in accordance with the existing priorities, to the undivided interest of the respective Owner in the Project;

26.3.5.4 The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in an amount equal to the percentage of undivided interest owned by each Owner in the Project after first paying out of the respective share of each Owner, to the extent sufficient for the purposes, all liens on the undivided interest in the Project owned by such Owner; and

26.3.5.5 In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

26.4 Diligence. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly

provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original architectural plans and specifications.

26.5 Repair Fund. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from Common Assessments made pursuant to Article 21 above shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

26.6 Restrictions on Amendment. This Article 26 shall not be amended unless Owners entitled to vote at least seventy-five percent (75%) of the Total Votes of the Association consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Association and Recorded in accordance with the provisions of this Declaration.

27. TERMINATION

27.1 Termination; Vote Required. Except as otherwise provided in this Declaration, including but not limited to Article 28 below, the Project may be terminated only by agreement of Owners entitled to vote all of the votes of all Units.

27.2 Removal from the Act. All of the Owners may remove the Project from the provisions of the Act by an instrument duly Recorded to that effect, provided that the holders of all liens affecting any of the Units consent or agree by instruments duly Recorded that their liens are transferred to the undivided ownership interest of the Owners in the Project. Provided further, as long as either Declarant has ownership rights in the Project, its consent shall also be required to remove the Project from the provisions of the Act. Upon removal of the Project from the provisions of the Act, the Project shall be deemed to be owned in common by the Owners. The undivided interest in the Project owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and Facilities.

27.3 Sale of Project Following Termination. A termination agreement may provide that all the Project shall be sold following termination. If, pursuant to the agreement, any real estate in the Project is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

27.4 Sale of Property Following Termination. The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, but the contract is not binding on the Owners until approved pursuant to the Act. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect

the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to Owners and Mortgagees as their interests may appear, based on the relative value of each Unit. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and their successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and their successors in interest remain liable for all assessments and other obligations imposed on Owners by this Declaration.

27.5 Distribution of Proceeds. Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, shall be held by the Association as trustee for Owners and Mortgagees as their interests may appear. Following termination, Mortgagees holding Mortgages on the Units which were Recorded before termination may enforce those liens in the same manner as any lienholder.

28. EMINENT DOMAIN.

28.1 Notices. Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Management Committee and each Owner shall be entitled to notice thereof and the Management Committee shall, and the Owners at their respective expense may, participate in the proceedings incident thereto.

28.2 Condemnation of Common Areas and Facilities. With respect to the Common or Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein. After such determination, each Owner shall be entitled to a share in the damages in the same proportion as his ownership interest in the Common Areas and Facilities. This provision does not prohibit a majority of the Owners from authorizing the Management Committee to use such damages or awards for replacing or restoring the Common Areas and Facilities so taken on the remaining land or on other acquired land, provided that this Declaration and the Plat are duly amended.

28.3 Condemnation of Unit(s). With respect to one or more Units or portions thereof, the damages or awards for such taking shall be deemed to be proceeds from insurance on account of damage or destruction pursuant to Article 26 above and shall be deposited with the Management Committee as trustee. Even though the damages or awards may be payable to one or more Owners, the Owners shall deposit the damages or awards with the Management Committee as trustee. In the event an Owner refuses to so deposit his award with the Management Committee, then at the option of the Management Committee, either a Special Common Assessment shall be made against the defaulting Owner and his Unit in the amount of this award or the amount of such award shall be set off against the sum hereafter made payable to such Owner.

28.4 Removal from the Act. In the event the Project is removed from the provisions of the Act pursuant to Article 26 above, the proceeds of the damages or awards shall be distributed

or used in accordance with the Owners' respective undivided interest in the Common Areas and Facilities.

28.5 Result of Condemnation. If one or more Units are taken, in whole or in part, and the Project is not removed from the provisions of the Act, the taking shall have the following effects:

28.5.1 Reduction in Size of Unit(s). If the taking reduces the size of a Unit and the remaining portion of the Unit may be made tenable, the Unit shall be made tenable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Owners of the Unit. The balance of the award, if any, shall be distributed to the Mortgagee to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owner.

28.5.2 Condemnation of Entire Unit. If the taking destroys or so reduces the size of a Unit that it cannot be made tenable, the award shall be distributed to the Mortgagee of the Unit to the extent of the unpaid balance of its Mortgage and the excess, if any, shall be distributed to the Owners thereof. The remaining portion of such Unit, if any, shall become a part of the Common Areas and Facilities and shall be placed in condition for use by all Owners in the manner approved by the Management Committee. The ownership interest in the Common Areas and Facilities appurtenant to the Units that continue as part of the Project shall be equitably adjusted to distribute the ownership of the Common Areas and Facilities among the reduced number of Owners.

28.6 Amendment Following Condemnation. Changes in Units, in the Common Areas and Facilities and in the ownership of the Common Areas and Facilities that are affected by the taking referred to in this Article 28 shall be evidenced by an amendment to this Declaration and the Plat, which need not be approved by the Owners.

29. MORTGAGEE PROTECTION.

29.1 Roster of Eligible Mortgagees; Notice. The Management Committee shall maintain a roster containing the name and address of each First Mortgagee that has provided the Management Committee with written notice as described in this Section 29.1 ("Eligible Mortgagee"). To be considered an Eligible Mortgagee, a First Mortgagee shall provide the Management Committee with a certified copy of its Recorded First Mortgage and the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage together with a written request that it receive notice of the matters and actions described below. The Eligible Mortgagee shall be stricken from the roster upon request by such Eligible Mortgagee or upon receipt by the Management Committee of a certified copy of a Recorded full release or satisfaction of the Eligible Mortgage. Notice of such removal shall be given to the Eligible Mortgagee unless the removal is requested by the Eligible Mortgagee. Upon the Association's receipt of such written request, an Eligible Mortgagee shall be entitled to timely written notice of:

29.1.1 Loss. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor;

29.1.2 Delinquency. Any delinquency in the payment of assessments or charges owed by an Owner whose Unit is subject to a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days; and

29.1.3 Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond or insurance maintained by the Association.

29.2 Subordination of Lien. The assessment or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit, and the First Mortgagee thereunder which comes into possession of or which obtains title to such Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, assessment lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit therein, affected or previously affected by the First Mortgage concerned.

29.3 Payment of Charges. In the event any taxes or other charges which may or have become a lien on the Common Areas and Facilities are not timely paid, or in the event the required hazard insurance described in Article 25 lapses, is not maintained, or the premiums therefor are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly pay such taxes or premiums or secure such insurance. Any First Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

29.4 No Priority in Case of Distributions. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas and Facilities. All proceeds or awards shall be paid directly to any Mortgagees of record, as their interest may appear.

30. AMENDMENT

30.1 Amendment by Association. Except as provided elsewhere in this Declaration, any amendment to this Declaration or the Plat shall require the affirmative vote of at least sixty-seven percent (67%) of the Total Votes of the Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any Amendment authorized pursuant to this Section shall be accomplished through the

Recordation of an instrument executed by the Association. In such instrument an officer or trustee of the Association shall certify that the vote required by this Section for Amendment has occurred.

30.2 Amendment by Declarant. Escala Lodges Declarant and Sunrise Declarant may amend or terminate this Declaration, the Articles and the Bylaws prior to the closing of a sale of the first Unit. Notwithstanding anything contained in this Declaration to the contrary, this Declaration, the Articles and the Bylaws may be amended at any time and from time to time upon the joint written consent of both Escala Lodges Declarant and Sunrise Declarant if such Amendment is deemed by them to be (i) necessary to correct typographical errors or inadvertent omissions; (ii) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (iii) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Unit unless the Owner thereof shall consent thereto in writing. Further, prior to the expiration of the Declarant Control Period, Escala Lodges Declarant and Sunrise Declarant, upon their joint written consent, may unilaterally amend any of the Governing Documents for any other purpose; provided, however, any such Amendment shall not materially adversely affect title to any property without the consent of the affected Owner, and further provided that Escala Lodges Declarant shall have no right whatsoever to amend any of the Sunrise Timeshare Documents (if applicable). For purposes of this Section 30.2 and other applicable sections of the Declaration, "materially adversely affect title" shall mean an action which prevents any reputable title insurance company from issuing title insurance coverage with respect to the Units subject to this Declaration or a material reduction of the Square Footage of a Unit as Escala Lodges Declarant (with respect to Phase 1) or Sunrise Declarant (with respect to Phase 2) shall determine in its sole and reasonable discretion.

30.3 Amendment to Comply with Law. Anything in this Article 30 or this Declaration to the contrary notwithstanding, Escala Lodges Declarant and Sunrise Declarant, upon their joint written consent, reserve the right to amend all or any part of this Declaration, the Articles and the Bylaws to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration or approval of the sale of Units, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Unit(s) or any portions thereof. Any such amendment shall be effected by the Recordation by Escala Lodges Declarant and Sunrise Declarant of an Amendment duly signed by each Declarant, specifying the nature of the qualifying reason for such amendment pursuant to this Section 30.3. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when Recorded, shall be binding upon all Units and all persons having an interest therein.

30.4 Declarant's Reserved Right to Amend Plat. Notwithstanding anything contained in this Declaration to the contrary, because the Plat has been Recorded prior to the construction of the Units, Escala Lodges Declarant and Sunrise Declarant, upon their joint written consent,

reserve the right to unilaterally amend the Plat at any time and from time to time if such Amendment is necessary to make technical corrections, to satisfy the requirements of any governmental authority, to correct mistakes, remove/clarify ambiguities or to accurately reflect the "as-built" Units on the Plat or for any other purpose so long as such amendment to the Plat does not materially adversely affect title to any property without the consent of the affected Owner. For purposes of this Section 30.4, "materially adversely affect title" shall mean an action which prevents any reputable title insurance company from issuing title insurance coverage with respect to the Units subject to this Declaration or a material reduction of the Square Footage of a Unit as Declarant shall determine in its sole and reasonable discretion. By acceptance of a deed to a Unit in the Project, so long as Declarant has an Option to Expand, each and every party by acquisition of a Unit hereby (i) consents to such Plat amendments as provided in this Section 30.4, and to the Recordation of any and all documents necessary to effect the same; (ii) agrees to execute, deliver and record such documents and instruments and do such other things as may be reasonably necessary or convenient to effect the same; and (iii) appoints Declarant and its assigns as his, her or its attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on his, her or its behalf to effectuate the purposes of this Section 30.4, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties; which grant of such power shall be binding upon any assignee of, or successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assignee or successor-in-interest upon any transfer of any Unit, whether by deed, mortgage, or any other instrument of conveyance.

30.5 No Violation of Governing Documents. Notwithstanding the foregoing, no Amendment to this Declaration may be Recorded that would render the Project in violation of the Canyons SPA Documents without the prior written consent of Summit County or the RVMA, as applicable or necessary. Declarant's Option to Convert Land and Option to Convert Space are subject to all terms, conditions, restrictions, uses, limitations and obligations of The Canyons SPA Documents and controlling Summit County regulations, including but not limited to municipal authority review, RVMA approval, design review requirements and Maximum Gross Building Area and density restrictions. Declarant shall not contradict the purposes, Maximum Gross Building Area allocations, design review requirements, use restrictions and all other controlling provisions in The Canyons SPA Documents in connection with its exercise of such Developmental Rights.

30.6 Preservation of Developmental Rights and Control. It is the desire of each Declarant to preserve its respective Developmental Rights and retain control of the Association and its activities during the anticipated period of planning and development of the Project. Any Amendment pursuant to the provisions of this Article 30 that diminishes or alters any Developmental Right or such control of the Association shall be deemed null, void, and of no effect whatsoever unless the affected Declarant has joined in the execution of such Amendment.

31. EASEMENTS AND LICENSES.

31.1 General Grant of Easement. If any part of the Common Areas and Facilities and common and private utility systems, telecommunications facilities, blowers, infrastructure hardware and similar improvements encroaches or shall hereafter encroach upon a Unit or Units,

an easement for such encroachment and for the repair, replacement and maintenance of the same shall and does exist for the benefit of the Association, each Declarant and their applicable Declarant Affiliates. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Unit or Units, an easement for such encroachment and for the repair, replacement and maintenance of the same shall and does exist for the benefit of the Lodging Unit Owner. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

31.2 Easement for Subsequent Phases; Amenities Access Easement for Phase 1. Improvements, including Units, Common Areas and Facilities and Limited Common Areas and Facilities, constructed as subsequent phases of the Project may encroach upon portions of the Common Areas and Facilities of earlier phases of the Project. A perpetual easement for such encroachment and the activities necessary to repair, maintain and operate such improvements is hereby granted. Escala Lodges Declarant hereby reserves, and the Association hereby grants and conveys to Escala Lodges Declarant and its Declarant Affiliates, a perpetual non-exclusive right to use, occupy and enjoy those certain portions of the Common Areas Facilities which constitute amenity and recreational facilities within Phase 1 as determined by Escala Lodges Declarant in its reasonable discretion ("Phase 1 Amenity Facilities") pursuant to the terms and provisions of this Declaration and the Project Rules for the benefit of itself and its successors, assigns, employees, agents, customers, tenants, occupants, guests, invitees and licensees and for the benefit of Escala Lodges Declarant and its Declarant Affiliates, regardless of whether or not Escala Lodges Declarant or its Declarant Affiliate is an Owner at the Project. In exchange for such access rights, Escala Lodges Declarant and its applicable Declarant Affiliates, their successors and assigns, shall pay to the Association on an annual, quarterly or monthly basis an amount equal to the Regular Common Assessment levied against each Lodging Unit Owner for each townhome, condominium unit, single-family home and other lodging improvement situated on the Additional Land which has authorized access to the Phase 1 Amenity Facilities pursuant to the access easement hereunder. The Management Committee shall have all powers necessary to provide for the sharing of the Phase 1 Amenity Facilities with Escala Lodges Declarant and any of its Declarant Affiliates, their respective successors and assigns, and its employees, agents, customers, tenants, occupants, guests, invitees and licensees, including without limitation the express power to grant any ingress and egress easements and licenses across Phase 1 necessary to effectuate the same and to assess and collect the access fee described herein.

31.3 Ingress and Egress; Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas and Facilities as necessary for access to his or her Unit and to any Limited Common Areas and Facilities appurtenant to his or her Unit, and shall have the right to the horizontal, vertical and lateral support of his or her Unit.

31.4 Exclusive Development Easement. The Association hereby grants and conveys to Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) an exclusive easement to make such use of the Phase 1 Common Areas and Facilities and the

Phase 2 Common Areas and Facilities, respectively, as may be necessary or convenient to perform the duties and functions that each Declarant is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the applicable Common Areas and Facilities.

31.5 Temporary Construction Easement. Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) hereby reserves for itself and its Declarant Affiliates and assignees a temporary construction easement over the Phase 1 Common Areas and Facilities and the Phase 2 Common Areas and Facilities, respectively, for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements to such Phase, including all physical improvements as well as all Units and Common Areas and Facilities in the applicable Phase. The Owners of Units do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their Units and the Common Areas and Facilities appurtenant thereto until all improvements are complete, and such Owners do hereby waive any right to object to such construction activity; provided, however, each Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners of Units in the Project. Neither Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the restrictions set forth in Article 19 above.

31.6 Easement for Infrastructure. Each Declarant reserves a non-exclusive easement for itself and its Declarant Affiliates and assignees over, through and under the Property for ingress to, egress from, and installation, replacement, repair and maintenance of, all utility and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity and cable communication that service the Property or any portion thereof as well as any such lines and systems which service property owned by such Declarant.

31.7 Easement for Improvements. Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) reserves a non-exclusive, transferable easement over and on the Common Areas and Facilities within Phase 1 and the Common Areas and Facilities within Phase 2, respectively, for the purpose of making improvements to the applicable Phase and for the purpose of doing all things reasonably necessary and proper in connection with the same.

31.8 Telecommunications Easement. Each Declarant reserves a non-exclusive easement for itself and Declarant Affiliates and assignees to construct, operate, maintain, repair and replace all types of telecommunication facilities, including but not limited to roof antennas, within suitable locations for such facilities ("Facilities Locations") within the Project. Each Declarant further reserves a right of access to the Facilities Locations over, across, and through all other Common Areas and Facilities of the Project in order to access the Facilities Locations to exercise the rights established herein. Each Declarant reserves the perpetual right to transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Each Declarant may exercise all of the rights under this Section 31.8 without the consent of any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be

requested by Declarant documenting the rights hereunder, in form satisfactory to each Declarant, and any assignee of its rights hereunder.

31.9 Parking Easement. While occupying a Unit, all Owners are entitled to use the parking areas designated as Common Areas and Facilities, in accordance with the Project Rules, which Project Rules may, among other things, regulate times, areas and location of parking spaces.

31.10 Access to Commercial Units. All customers, clients, patrons, and licensees of Owners of Commercial Units shall be permitted to enter upon the Project, and each Declarant hereby grants and conveys to such parties a non-exclusive license across the Common Areas and Facilities to the extent reasonably necessary for access to such Commercial Units.

31.11 Relocation of Easements; Grant Implied. Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2), prior to the expiration of the Declarant Control Period, or thereafter, the Association, shall have the right to relocate and/or reconfigure any and all the easements or licenses described in this Declaration from time to time as it sees fit without the consent of any Owners; provided, however, that no such relocation and/or reconfiguration shall have a material adverse effect on either Declarant or on any Units owned by them. All conveyances of Units within the Project hereafter made, whether by either Declarant or otherwise, shall be construed to grant and reserve such easements and/or licenses as are provided herein, even though no specific reference to such easements appears in any such conveyance.

31.12 Communication and Design Elements Easement. Each Declarant reserves for itself, its Declarant Affiliates and their assignees a non-exclusive easement and right-of-way across, over, above, through, within and under such portions of the Project as may be reasonably necessary to construct, install, operate, maintain, repair and replace all types of telecommunication facilities, solar power installations, solar energy improvements and products, Leadership in Energy and Environmental Design (LEED) features, and all other types of green and environmental features that save water and energy ("Communication and Design Elements"). Each Declarant further reserves a right to exclusive ownership and control of and access to such Communication and Design Elements over, across, and through all other Common Areas and Facilities of the Project, including without limitation all heating, ventilation and air conditioning systems, rooftops, eaves and all exterior components of the Buildings, in order to access, service, maintain, install and own the Communication and Design Elements and to exercise the rights established herein. Each Declarant may transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more providers of or to the Communication and Design Elements. Each Declarant may unilaterally exercise all of the rights under this Section 31.12 without the consent of the other Declarant, any Owner, Mortgagee or the Association. The Management Committee, on behalf of all Owners and the Association, agrees to execute such further and additional instruments as may be requested by either Declarant documenting the rights hereunder, in form satisfactory to such Declarant, and any assignee of its rights hereunder.

31.13 Commercial Services Easement. There is reserved to the Owners of the Commercial Units, their express successors, transferees, designees, agents, assigns and co-

licensees, the exclusive right to provide room service and any other hotel services on the Project, including the non-exclusive right to sell, serve and deliver alcoholic beverages of every kind and character to and within all portions of the Project, specifically including the Commercial Units, the Lodging Units, the Common Areas and Facilities, and all Limited Common Areas and Facilities appurtenant to such Units. The exercise or grant of such exclusive and non-exclusive rights shall not be deemed to preclude, prevent or prohibit other uses of the Common Areas and Facilities or the Units not in conflict with such exclusive and non-exclusive rights (for example, a Commercial Unit may include a bar and the service and sale of alcoholic beverages to its guests and patrons). Grantees of any interest in the Project, by acceptance of any deed, lease or license, shall be and are hereby bound by such reservation of rights.

31.14 Signage Easement. The Commercial Owner(s) of Unit Nos. C-3 and C-80 shall have a permanent non-exclusive easement over, across and upon the Phase 1 Common Areas and Facilities and the Phase 2 Common Areas and Facilities, respectively, for (i) the placement and construction of signs associated with the hotel and rental operations, and (ii) access to such signs for the purposes of operation, maintenance, service, repair, improvement and replacement thereof, the costs of which shall constitute a Common Expense. Except to the extent permitted pursuant to Section 18.3 hereof, there shall be no signs attached to the exterior elements of the Buildings. The size, content, style and location of such signs shall be at the sole discretion and control of the Commercial Owner(s) of Unit Nos. C-3 and C-80 and shall comply with the applicable Governing Project Maintenance Standard. Notwithstanding each Declarant's reserved rights to maintain signs in connection with its marketing and sale of Units or interests therein as set forth in Section 18.3, the Commercial Owner(s) owning the foregoing Commercial Units shall have the exclusive right to maintain any signs, flags or advertising devices of any nature on the Phase 1 Common Areas and Facilities and the Phase 2 Common Areas and Facilities, respectively, including, without limitation, promotional, political, informational or directional signs or devices, or signs advertising the Project, subject to the applicable Governing Project Maintenance Standard.

31.15 Equipment Easement. Each Declarant reserves a non-exclusive easement for itself, its Declarant Affiliates and their assignees to construct, operate, maintain, repair and replace all types of technology and related equipment and facilities within the Project, including but not limited to the use of satellites, cell phone towers and solar panels. Each Declarant further reserves a right of access to such facilities over, across, and through all other Common Areas and Facilities of the Project in order to access such equipment to exercise the rights established herein. Each Declarant may transfer by easement, license agreement or other conveyance the rights reserved hereunder to one or more technology service providers. Each Declarant may exercise all of the rights under this Section 31.15 without the consent of the other Declarant, any Owner, Mortgagee or the Association. The Association, on behalf of all Owners, agrees to execute such further and additional instruments as may be requested by either Declarant documenting the rights hereunder, in form satisfactory to such Declarant, and any assignee of its rights hereunder.

32. NOTICES.

Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof

of delivery, by facsimile transmission, or by other electronic means, including email or the website of the Association. Notwithstanding the foregoing, an Owner may, by written demand, require that the Association provide notice to the Owner by mail. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Management Committee for the purpose of service of such notice or to the Unit of such Owner if no such address has been given to the Management Committee. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office at which it is received, on the next regular business day; if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid; if by email, the date on which the notice is transmitted; and if on the website of the Association, the date the notice is posted on the website. Such address may be changed from time to time by notice in writing to the Management Committee addressed to:

Management Committee
Escala Lodges Condominiums Association, Inc.
6965 Union Park Center, Suite 440
Salt Lake City, Utah 84047
Attn: President

With a copy to:

Management Committee
Escala Lodges Condominiums Association, Inc.
100 Crescent Court, Suite 260
Dallas, Texas 75201
Attn: Secretary

33. NO WAIVER.

The failure of the Management Committee or its agents or designees to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of any of the Governing Documents, to exercise any right or option herein contained or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Management Committee or its agents or designees of the payment of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Management Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Management Committee.

34. ENFORCEMENT.

34.1 Compliance with Governing Documents. All Owners, guests or lessees of an Owner, and persons under Owner's control shall strictly comply with the provisions of the Governing Documents and decisions of the Management Committee or any Common Area Manager on its behalf issued pursuant thereto. The Association and any aggrieved Owner shall

have a right of action against Owners who fail to comply with provisions of this Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; and/or (ii) the Management Committee to impose monetary penalties, temporary suspensions of an Owner's right to the use of a Unit or the Common Areas and Facilities, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Management Committee shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Management Committee. The Management Committee may delegate to the applicable Common Area Manager, the power and authority to carry out disciplinary actions duly imposed.

34.2. No Forfeiture; Exceptions. The Association shall not be empowered to cause the absolute forfeiture of an Owner's right, title or interest in the Project on account of the Owner's failure to comply with the provisions of this Declaration or the Project Rules except pursuant to:

34.2.1 The judgment of a court; or

34.2.2 A foreclosure for the failure of an Owner to pay assessments duly levied by the Association.

34.3 Judicial Authority Required. The Association shall only be empowered to cause or require alteration or demolition of any construction to enforce any restrictions contained in this Declaration pursuant to judicial proceedings.

35. BINDING ARBITRATION AND ENFORCEMENT OF CONDOMINIUM DOCUMENTS.

35.1 Opt-Out Right. IF AN OWNER DOES NOT WANT THE FOLLOWING ARBITRATION PROVISION TO APPLY, THE OWNER MUST SEND A LETTER TO DECLARANT, SIGNED BY THE OWNER (AND ANY CO-OWNER OF THE SAME UNIT) AND ADDRESSED TO SDI PROPERTIES, 222 EAST 860 SOUTH, OREM UTAH 84058, ATTN: ARBITRATION OPT-OUT. THE LETTER MUST BE SENT (I) WITHIN THIRTY (30) DAYS AFTER THE DATE OF THE OWNER'S REAL ESTATE PURCHASE CONTRACT, OR (II) IN THE CASE OF A UNIT UNDER CONTRACT ON THE DATE THIS DECLARATION IS RECORDED, WITHIN THIRTY (30) DAYS OF THE DATE THE DEED OF CONVEYANCE TRANSFERRING THE UNIT IS RECORDED IN THE OFFICIAL RECORDS OF SUMMIT COUNTY, UTAH, AND MUST STATE THAT THE OWNER DOES NOT WANT ARBITRATION TO APPLY TO THE MATTERS DESCRIBED IN THIS ARTICLE 35. ANY OPT OUT WILL RENDER THIS ARBITRATION PROVISION NULL AND VOID BUT WILL HAVE NO OTHER EFFECT ON THE OWNER'S RIGHTS.

35.2 Arbitration Terms Defined. In the arbitration provision described in this Article 35 ("Arbitration Provision"), the following capitalized words, phrases or terms have the meanings set forth below:

35.2.1 “Institutional Party” means each Declarant and its Declarant Affiliates; the Condominium Association during the Declarant Control Period; any third party that provides any product or service to a Consumer Party in connection with this Declaration, if and only if such third party is named as a co-party with another Institutional Party in a Claim asserted by a Consumer Party, their successors and assigns; and the agents, representatives, members, employees, officers and/or directors of the foregoing entities.

35.2.2 “Consumer Party” means the Owners; their heirs, successors and assigns; and the Condominium Association after the Declarant Control Period.

35.2.3 “Bound Party” means any Institutional Party or Consumer Party who asserts a Claim or has a Claim asserted against such party.

35.2.4 “Claim” means any claim, dispute or controversy between an Institutional Party and a Consumer Party, other than an Exempt Claim, arising out of or relating in any way to this Declaration or any other Condominium Documents, the Property, the Project, the Units or the Buildings, including any such claim, dispute or controversy regarding or arising over the marketing and sale of Units; the terms of this Declaration or any other Condominium Documents, the design, specifications, surveying, planning, supervision, testing, observation of construction or construction of an Improvement to, or survey of the Property; or the maintenance or use of the Property. This includes, without limitation, disputes concerning the validity, enforceability, arbitrability or scope of this Arbitration Provision or this Declaration; disputes involving alleged fraud or misrepresentation, breach of contract, negligence or violation of statute, regulation or common law; and disputes involving requests for declaratory relief, injunctions or other equitable relief.

35.2.5 “Exempt Claim” means any of the following Claims, which will not be subject to this Arbitration Provision: (i) any individual action brought by a Consumer Party in small claims court or a relevant state’s equivalent court, unless such action is transferred, removed, or appealed to a different court; (ii) any action to effect a judicial or non-judicial foreclosure; (iii) any eviction or other summary proceeding to secure possession of real property or an interest therein; (iv) any action in any bankruptcy proceeding to assert, collect, protect, realize upon or obtain possession of the collateral for any amount owed; (v) any action to quiet title; (vi) any action insofar as it seeks provisional or ancillary remedies in connection with any of the foregoing; (vii) any self-help remedy, such as the refusal of an Institutional Party to allow a Consumer Party to use a Unit, or any individual action in court by one party that is limited to preventing the other party from using a self-help remedy and that does not involve a request for damages or monetary relief of any kind; and (viii) any dispute concerning the validity and effect of Section 35.8 below, the ban on class actions and certain other proceedings (the “Class Action Ban”). Notwithstanding the prior sentence, at the request of a Consumer Party, the Institutional Parties will agree to arbitrate under this Arbitration Provision any matter covered by items (ii)–(vi) above if arbitration will afford the parties substantially the same rights and remedies as a court action. Any dispute regarding the question of whether arbitration will afford the parties substantially the same rights and remedies as a court action is also an Exempt Claim and shall be determined exclusively by the court

and not by an arbitrator. If one or more Institutional Parties are allowed to proceed outside arbitration with respect to any of the matters covered by items (ii)–(vi) above, the Consumer Party may assert in court on an individual basis any related defenses or Claims such Consumer Party may have.

35.2.6 “Administrator” means either of the following companies to be selected by the Bound Party initiating the arbitration: National Arbitration Forum (“NAF”), P.O. Box 50191, Minneapolis, MN 55405, <http://www.arb-forum.com>, or the American Arbitration Association (“AAA”), 1633 Broadway, 10th Floor, New York, NY 10019, <http://www.adr.org>. However, neither NAF nor AAA may serve as Administrator, without the consent of all Bound Parties asserting or defending a Claim, if it adopts or has in place any formal or informal policy that is inconsistent with and purports to override the terms of the Class Action Ban.

35.3 Arbitration of Claims. Unless a Consumer Party has opted out of this Arbitration Provision, upon the election of any Consumer Party or Institutional Party asserting or defending a Claim, such Claim shall be resolved by binding individual (and not class) arbitration. Notice of an election to arbitrate a Claim may be given after a lawsuit begins and may be given in papers filed in the lawsuit. Any arbitration will be conducted in accordance with this Arbitration Provision and, to the extent consistent with this Arbitration Provision, the rules of the Administrator in effect at the time the Claim is filed.

35.4 Fees. If a Consumer Party cannot obtain a waiver of any fees of the Administrator or arbitrator, the Institutional Parties will consider in good faith any request for them to pay such fees for the Consumer Party. Each Bound Party shall bear the fees and expenses of that Bound Party’s attorneys, experts, and witnesses, provided that the Institutional Parties will bear the reasonable fees and expenses incurred by a Consumer Party if the Consumer Party prevails on a Claim the Consumer Party has asserted against the Institutional Parties. Also, the Institutional Parties will pay any arbitration, attorneys’ and/or other fees and expenses they are required to pay by applicable law or they are required to pay in order to enforce this Arbitration Provision. If a participatory arbitration hearing is requested, it will take place in Summit County, Utah or, if the Administrator determines that such location would be unfair to a Consumer Party, at a location reasonably convenient to such Consumer Party and the Institutional Parties.

35.5 Governing Law. This Arbitration Provision shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1–16 (the “FAA”) and not state arbitration laws, provided that Utah law shall govern to the extent that state law is relevant under the FAA in determining the enforceability of this Arbitration Provision. The arbitrator shall be obligated to follow applicable substantive laws, statutes of limitations and privilege rules related to any Claim. The arbitrator shall award the remedies, if any, that would be available in an individual court proceeding if arbitration had not been elected. This includes, without limitation, compensatory, statutory and punitive damages (which shall be governed by the constitutional standards applicable in judicial proceedings); declaratory, injunctive and other equitable relief; and attorneys’ fees and costs. Upon the timely request of any Bound Party, the arbitrator shall write a brief explanation of the grounds for his or her decision. In addition to the Bound Parties’ rights under the Administrator’s rules to obtain information prior to the hearing, any Bound Party may ask the

arbitrator for more information from the other party. The arbitrator will decide the issue in his or her sole discretion, after allowing the other Bound Party the opportunity to object.

35.6 Appeal of Arbitrator's Decision. Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitrator's decision will be final and binding, except for any appeal right under the FAA. However, for Claims involving more than \$50,000, any Bound Party may appeal the award to a three-arbitrator panel appointed by the Administrator, which will reconsider from the start any aspect of the initial award that is appealed. The panel's decision will be final and binding, except for any appeal right under the FAA. Fees and costs associated with an appeal shall be governed by Section 35.4 above.

35.7 Jury Trial Waiver. IF A BOUND PARTY ELECTS TO ARBITRATE A CLAIM, NO BOUND PARTY WILL HAVE THE RIGHT TO PURSUE THAT CLAIM IN COURT OR HAVE A JURY DECIDE THE CLAIM.

35.8 Class Action Ban. NO BOUND PARTY MAY PARTICIPATE IN A CLASS ACTION IN COURT OR IN CLASS-WIDE ARBITRATION, EITHER AS A REPRESENTATIVE, CLASS MEMBER OR OTHERWISE. NO BOUND PARTY MAY PARTICIPATE IN A PRIVATE ATTORNEY GENERAL PROCEEDING IN COURT OR IN ARBITRATION. NO CLAIMS BY OR AGAINST A BOUND PARTY MAY BE JOINED OR CONSOLIDATED WITH CLAIMS BY OR AGAINST ANY OTHER PERSON (EXCEPT FOR CLAIMS INVOLVING THE HEIRS AND SUCCESSORS OF SUCH CONSUMER PARTIES). THE ARBITRATOR SHALL HAVE NO AUTHORITY TO CONDUCT A CLASS-WIDE ARBITRATION, PRIVATE ATTORNEY GENERAL ARBITRATION OR MULTI-PARTY ARBITRATION INCONSISTENT WITH THIS SECTION. Notwithstanding any language in this Arbitration Provision to the contrary, any dispute about the validity or effect of the above Class Action Ban shall be resolved by a court and not an arbitrator or the Administrator.

35.9 Severability. If a determination is made that any part of this Arbitration Provision is unenforceable (other than the Class Action Ban) or that this Arbitration Provision is unenforceable as to any party or parties, this provision shall nonetheless remain enforceable in all other respects and as to all other parties. If the Class Action Ban is held to be unenforceable in connection with any Claim subject to the Class Action Ban, this Arbitration Provision (other than this sentence) shall be null and void in such proceeding, provided that the Institutional Party seeking to enforce the Class Action Ban shall have the right to appeal at the earliest possible time any holding that the Class Action Ban is unenforceable.

35.10 Notice of Claim; Right to Address. Prior to asserting a Claim, the Bound Party with the Claim (the "Claimant") shall give the Bound Party that is the subject of the Claim written notice of the Claim and a reasonable opportunity, not less than thirty (30) days, to resolve the Claim. The Claimant's claim notice must include the Claimant's name, address and telephone number. Any claim notice must explain the nature of the Claim and the relief that is demanded. A Consumer Party may only submit a claim notice on his or her own behalf and not on behalf of any other party. The Claimant must reasonably cooperate in providing any information about the Claim that the other Bound Party reasonably requests. If: (i) a Consumer Party submits a claim notice in accordance with this Section on his or her own behalf (and not on

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behalf of any other party); (ii) the Institutional Party refuses to provide the requested relief; and (iii) an arbitrator subsequently determines that the Consumer Party was entitled to such relief (or greater relief), the arbitrator shall award the Consumer Party at least \$5,100 (not including any arbitration fees and attorneys' fees and costs to which the Consumer Party may be entitled under this Arbitration Provision or applicable law).

36. RESERVATION OF RIGHTS TO PROJECT NAME.

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36.1 Trademarks. Declarant is the owner of all rights in the "Escala Lodges Condominiums," "Escala," "Sunrise at Escala" and "Sunrise" names and trademarks, including all related trademarks, trade names, service marks, designs and logos, including the goodwill associated therewith ("Trademarks"), including but not limited to all rights in the Trademarks in connection with the Project, and any variant or combination of the Trademarks. Neither the Association nor the Owners have any license to use or other interest in the Trademarks. By accepting a deed or other instrument of conveyance to a Unit in which this Declaration is deemed to be incorporated, each Owner hereby agrees and acknowledges (i) the ownership of the Trademarks in Declarant, (ii) all use of the Trademarks in the Project shall inure to the benefit of and be on behalf of Declarant, (iii) nothing in this Declaration shall give the Association or Owner any right, title or interest in the Trademarks other than the non-exclusive right to use the Trademarks in accordance with this Section 36.1, and (iv) the great value of the goodwill that Declarant has developed in the Trademarks, and hereby stipulates that he, she or it will do nothing to damage such goodwill.

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36.2 Association Rights. Notwithstanding the foregoing reservation of rights by Declarant, the Association and Owners may identify Phase 1 of the Project as "Escala Lodges" and Phase 2 of the Project as "Sunrise at Escala." The Association may use the term "Escala Lodges Condominiums" in its name for a period of ten (10) years from the Recording of this Declaration, with automatic consecutive five (5) year extensions unless Escala Lodges Declarant (with respect to "Escala Lodges") or Sunrise Declarant (with respect to "Sunrise at Escala"), in its sole and exclusive discretion, provides a written "Termination Notice" to the Condominium Association (which Termination Notice shall be deemed to be notice to each Owner) that it shall no longer be permitted to use such Trademarks to identify the respective Phases of the Project or the Association. Upon receipt of a Termination Notice, the Association and each Owner shall immediately take steps to cease all use of the Trademarks identified in the Termination Notice to identify the applicable Phase of the Project, and shall immediately take the steps necessary to cease and desist from using any and all Trademarks as soon as possible as further described in the Termination Notice, but in any event, within three (3) months.

Unofficial Copy

36.3 Compliance with Standards. The Association shall comply with all standards and instructions as either Declarant may reasonably establish with respect to the style, appearance and manner of use of the Trademarks. The Management Committee shall promptly notify each Declarant of any unauthorized use of the Trademarks by any third party and will confer with Declarant about appropriate action. Escala Lodges Declarant (with respect to "Escala Lodges") and Sunrise Declarant (with respect to "Sunrise at Escala") shall have the sole right to determine whether any unauthorized use of the applicable Trademarks is an infringement and whether to take any action.

36.4 Enforcement. The provisions of this Article 36 may be enforced by any remedy at law or equity, including mandatory and/or prohibitory injunctions, and the remedies hereunder are cumulative to any other rights or remedies that may be granted by law. By accepting a deed or other instrument of conveyance to a Unit in which this Declaration is deemed to be incorporated, each Owner hereby agrees and acknowledges that in the event of non-performance of any of the above described restrictions, each Declarant's remedies at law shall be deemed inadequate to enforce the terms of this Article 36. The failure of either Declarant to exercise any right, power or option granted to it under this Article 36, or to insist upon strict compliance with the terms hereof by the Association, an Owner and any other person or entity shall not constitute a waiver of any term and/or condition of this provision with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with the terms and/or conditions set forth herein. Notwithstanding any provision of this Declaration to the contrary, this Article 36 shall not be amended without the prior written consent of both Declarants, which consent may be withheld for any reason or no reason as either Declarant shall determine in its sole and exclusive discretion.

37. SECURITY.

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

38. DECLARANT.

The term "Declarant" as used herein shall mean, unless the context otherwise requires, Escala Lodges Declarant and Sunrise Declarant, collectively, and any person or entity that might acquire title from it to all or some of the unsold Units, Convertible Space, Convertible Land or Additional Land through purchase, assignment or other transfer, including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Units, Convertible Space, Convertible Land or Additional Land in a sale in the nature of a bulk

sale. The person acquiring any of such property from either Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Declaration and the Act. Any Developmental Right or any other right or interest reserved or contained in this Declaration for the benefit of either Declarant may be transferred, pledged, mortgaged or assigned by such Declarant (the "Assigning Declarant"), either separately or with one or more other such rights or interests, to any person, corporation, partnership, condominium association, or other entity, only by written instrument executed by the Assigning Declarant and the transferee or assignee and Recorded in the Office of the Summit County Recorder, State of Utah. Upon such Recording, the assigning Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such instrument.

39. AGENT FOR SERVICE OF PROCESS.

The initial agent for service of process under the Act shall be Adam Loser, SDI Properties, 222 East 860 South, Orem Utah 84058.

40. SEVERABILITY.

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

41. CAPTIONS.

The captions in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

42. LAW CONTROLLING.

This Declaration and the Plat shall be construed and controlled by and under the laws of the State of Utah.

43. EFFECTIVE DATE.


This Declaration shall take effect when Recorded.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have executed this instrument this 2 day of May, 2012.

ESCALA LODGES DECLARANT:

MORINDA PROPERTIES ESCALA LODGES LC, a Utah limited liability company

By: 
Kim S. Asay, Manager

SUNRISE DECLARANT:

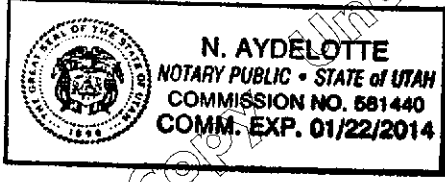
MORINDA PROPERTIES WEIGHT PARCEL, LLC, a Utah limited liability company

By: 
Kim S. Asay, Manager

STATE OF Utah)
)
) :ss.
COUNTY OF Utah)

On this 2 day of May, 2012, before me, the undersigned, a Notary Public in and for the State of Utah, duly commissioned and sworn, personally appeared Kim S. Asay, the Manager of MORINDA PROPERTIES ESCALA LODGES LC, a Utah limited liability company.

Witness my hand and official seal affixed the day and year first above written.

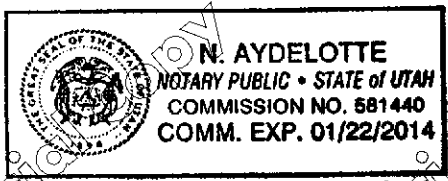


N. Aydelotte
Notary Public in and for the State of
Residing at Utah County
My appointment expires: _____

STATE OF)
) :ss.
COUNTY OF)

On this 2 day of May, 2012, before me, the undersigned, a Notary Public in and for the State of Utah, duly commissioned and sworn, personally appeared Kim S. Asay, the Manager of MORINDA PROPERTIES WEIGHT PARCEL, LLC, a Utah limited liability company.

Witness my hand and official seal affixed the day and year first above written.



N. Aydelotte
Notary Public in and for the State of
Residing at Utah County
My appointment expires: _____

EXHIBIT A

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

I. Lodging

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
201	1	Lodging	2025	7	14175	8	0.781814%
202	1	Lodging	680	7	4760	3	0.262535%
207	1	Lodging	1255	7	8785	5	0.484532%
209	1	Lodging	1515	7	10605	6	0.584913%
213	1	Lodging	1255	7	8785	5	0.484532%
219	1	Lodging	1850	7	12950	7	0.714250%
301	1	Lodging	1956	7	13692	7	0.755175%
302	1	Lodging	680	7	4760	3	0.262535%
304	1	Lodging	1255	7	8785	5	0.484532%
305	1	Lodging	2550	7	17850	10	0.859031%
308	1	Lodging	2661	7	18627	10	1.027362%
313	1	Lodging	1515	7	10605	6	0.584913%
316	1	Lodging	1255	7	8785	5	0.484532%
317	1	Lodging	2560	7	17920	9	0.857100%
318	1	Lodging	1255	7	8785	5	0.484532%
321	1	Lodging	2025	7	14175	8	0.781814%
322	1	Lodging	680	7	4760	3	0.262535%
401	1	Lodging	2025	7	14175	8	0.781814%
402	1	Lodging	680	7	4760	3	0.262535%
404	1	Lodging	1255	7	8785	5	0.484532%
408	1	Lodging	2710	7	18970	10	1.046280%
413	1	Lodging	1515	7	10605	6	0.584913%
416	1	Lodging	1255	7	8785	5	0.484532%
418	1	Lodging	1255	7	8785	5	0.484532%
423	1	Lodging	2810	7	19670	11	1.084888%

¹ The Square Footage shall be determined as Escala Lodges Declarant or Sunrise Declarant, as appropriate, shall exclusively assign and as measured and unilaterally calculated by the applicable Declarant during the Declarant Control Period, and thereafter the Management Committee, on a consistent basis, as set forth in the Plat. The calculation of square footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such square footages.

² Whole numbers shown reflect the correct rounded votes per Unit. In cases where this value was less than 1 a value of .50 has been assigned.

³ May total slightly greater than or less than 100% due to rounding.

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
501	1	Lodging	2810	7	19670	11	1.084888%
504	1	Lodging	1255	7	8785	5	0.484532%
505	1	Lodging	2550	7	17850	9	0.859031%
508	1	Lodging	2710	7	18970	10	1.046280%
513	1	Lodging	3064	7	21448	11	1.059793%
516	1	Lodging	1255	7	8785	5	0.484532%
517	1	Lodging	2560	7	17920	9	0.857100%
518	1	Lodging	1255	7	8785	5	0.484532%
521	1	Lodging	2810	7	19670	11	1.084888%
601	1	Lodging	2495	7	17465	10	0.963273%
604	1	Lodging	1255	7	8785	5	0.484532%
608	1	Lodging	2710	7	18970	10	1.046280%
616	1	Lodging	1255	7	8785	5	0.484532%
618	1	Lodging	1255	7	8785	5	0.484532%
623	1	Lodging	2495	7	17465	10	0.963273%
TOTAL:			72211	280	505477	279	27.24%
138	2	Lodging	2125	7	14875	8	0.820423%
225	2	Lodging	2026	7	14182	8	0.782201%
226	2	Lodging	680	7	4760	3	0.262535%
228	2	Lodging	1500	7	10500	6	0.579122%
231	2	Lodging	1185	7	8295	5	0.457506%
232	2	Lodging	2553	7	17871	9	0.857100%
233	2	Lodging	1185	7	8295	5	0.457506%
237	2	Lodging	680	7	4760	3	0.262535%
238	2	Lodging	2026	7	14182	8	0.782201%
325	2	Lodging	2495	7	17465	10	0.963273%
328	2	Lodging	1500	7	10500	6	0.579122%
331	2	Lodging	1185	7	8295	5	0.457506%
333	2	Lodging	1185	7	8295	5	0.457506%
338	2	Lodging	2495	7	17465	10	0.963273%
TOTAL:			22820	98	159740	91	8.68%
141	3	Lodging	1740	7	12180	7	0.671781%

The Square Footage shall be determined as Escala Lodges Declarant or Sunrise Declarant, as appropriate, shall exclusively assign and as measured and unilaterally calculated by the applicable Declarant during the Declarant Control Period, and thereafter the Management Committee, on a consistent basis, as set forth in the Plat. The calculation of square footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such square footages.

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³ May total slightly greater than or less than 100% due to rounding.

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
142	3	Lodging	680	7	4760	3	0.262535%
144	3	Lodging	1255	7	8785	5	0.484532%
145	3	Lodging	2560	7	17920	9	0.857100%
148	3	Lodging	935	7	6545	4	0.360986%
149	3	Lodging	2405	7	16835	9	0.928525%
150	3	Lodging	1670	7	11690	6	0.644756%
154	3	Lodging	2325	7	16275	9	0.897639%
241	3	Lodging	2030	7	14210	8	0.783745%
242	3	Lodging	680	7	4760	3	0.262535%
244	3	Lodging	1255	7	8785	5	0.484532%
248	3	Lodging	935	7	6545	4	0.360986%
250	3	Lodging	1670	7	11690	6	0.644756%
251	3	Lodging	2405	7	16835	9	0.928525%
252	3	Lodging	680	7	4760	3	0.262535%
254	3	Lodging	2030	7	14210	8	0.783745%
341	3	Lodging	2025	7	14175	8	0.781814%
342	3	Lodging	680	7	4760	3	0.262535%
344	3	Lodging	1255	7	8785	5	0.484532%
347	3	Lodging	1255	7	8785	5	0.484532%
348	3	Lodging	935	7	6545	4	0.360986%
350	3	Lodging	1670	7	11690	6	0.644756%
351	3	Lodging	814	7	5698	3	0.314270%
353	3	Lodging	1556	7	10892	6	0.600742%
354	3	Lodging	2820	7	19740	11	1.088749%
441	3	Lodging	2495	7	17465	10	0.963273%
444	3	Lodging	1255	7	8785	5	0.484532%
447	3	Lodging	1255	7	8785	5	0.484532%
450	3	Lodging	2650	7	18550	10	1.023115%
451	3	Lodging	2405	7	16835	9	0.928525%
456	3	Lodging	2495	7	17465	10	0.963273%
TOTAL:			50820	217	355740	198	19.49%
4-100	4	Lodging	1402	7	9814	5	0.541286%
4-105	4	Lodging	886	7	6202	3	0.342068%

The Square Footage shall be determined as Escala Lodges Declarant or Sunrise Declarant, as appropriate, shall exclusively assign and as measured and unilaterally calculated by the applicable Declarant during the Declarant Control Period, and thereafter the Management Committee, on a consistent basis, as set forth in the Plat. The calculation of square footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such square footages.

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Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
4-106	4	Lodging	1254	7	8778	5	0.484146%
4-109	4	Lodging	347	7	2429	1	0.133970%
4-111	4	Lodging	347	7	2429	1	0.133970%
4-112	4	Lodging	1254	7	8778	5	0.484146%
4-113	4	Lodging	886	7	6202	3	0.342068%
4-118	4	Lodging	1487	7	10409	6	0.574103%
4-119	4	Lodging	1047	7	7329	4	0.404227%
4-120	4	Lodging	886	7	6202	3	0.342068%
4-126	4	Lodging	2166	7	15162	8	0.836252%
4-130	4	Lodging	1381	7	9667	5	0.533178%
4-135	4	Lodging	1256	7	8792	5	0.484918%
4-136	4	Lodging	1254	7	8778	5	0.484146%
4-141	4	Lodging	1254	7	8778	5	0.484146%
4-142	4	Lodging	1254	7	8778	5	0.484146%
4-147	4	Lodging	1254	7	8778	5	0.484146%
4-148	4	Lodging	1254	7	8778	5	0.484146%
4-151	4	Lodging	347	7	2429	1	0.133970%
4-153	4	Lodging	886	7	6202	3	0.342068%
4-154	4	Lodging	1300	7	9100	5	0.501906%
4-200	4	Lodging	1346	7	9422	5	0.519665%
4-205	4	Lodging	886	7	6202	3	0.342068%
4-206	4	Lodging	1254	7	8778	5	0.484146%
4-209	4	Lodging	347	7	2429	1	0.133970%
4-211	4	Lodging	347	7	2429	1	0.133970%
4-212	4	Lodging	1254	7	8778	5	0.484146%
4-213	4	Lodging	886	7	6202	3	0.342068%
4-218	4	Lodging	1487	7	10409	6	0.574103%
4-219	4	Lodging	886	7	6202	3	0.342068%
4-220	4	Lodging	886	7	6202	3	0.342068%
4-226	4	Lodging	2756	7	19292	11	1.064040%
4-230	4	Lodging	1381	7	9667	5	0.533178%
4-235	4	Lodging	886	7	6202	3	0.342068%
4-236	4	Lodging	1254	7	8778	5	0.484146%
4-237	4	Lodging	347	7	2429	1	0.133970%

The Square Footage shall be determined as Escala Lodges Declarant or Sunrise Declarant, as appropriate, shall exclusively assign and as measured and unilaterally calculated by the applicable Declarant during the Declarant Control Period, and thereafter the Management Committee, on a consistent basis, as set forth in the Plat. The calculation of square footage as contained in this Declaration and as shown on the Plat is final and binding upon all Owners irrespective of any later measurement of such square footages.

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Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
4-241	4	Lodging	1254	7	8778	5	0.484146%
4-242	4	Lodging	1254	7	8778	5	0.484146%
4-247	4	Lodging	1254	7	8778	5	0.484146%
4-248	4	Lodging	1254	7	8778	5	0.484146%
4-253	4	Lodging	1254	7	8778	5	0.484146%
4-254	4	Lodging	1300	7	9100	5	0.501906%
4-300	4	Lodging	1346	7	9422	5	0.519665%
4-305	4	Lodging	2018	7	14126	6	0.630471%
4-306	4	Lodging	2018	7	14126	6	0.630471%
4-312	4	Lodging	2511	7	17577	9	0.857872%
4-313	4	Lodging	2511	7	17577	9	0.857872%
4-318	4	Lodging	1487	7	10409	6	0.574103%
4-319	4	Lodging	1491	7	10437	4	0.445152%
4-320	4	Lodging	1491	7	10437	4	0.445152%
4-326	4	Lodging	2756	7	19292	11	1.064040%
4-330	4	Lodging	1381	7	9667	5	0.533178%
4-335	4	Lodging	1858	7	13006	6	0.586843%
4-336	4	Lodging	1858	7	13006	6	0.586843%
4-341	4	Lodging	2511	7	17577	9	0.857872%
4-342	4	Lodging	2507	7	17549	9	0.857872%
4-347	4	Lodging	1858	7	13006	6	0.586843%
4-348	4	Lodging	1858	7	13006	6	0.586843%
4-353	4	Lodging	1120	7	7840	4	0.432411%
4-354	4	Lodging	1839	7	12873	6	0.609236%
4-400	4	Lodging	1234	7	8638	5	0.476424%
4-430	4	Lodging	1236	7	8652	5	0.477196%
TOTAL:			84064	434	588448	305	30.83%
5-160	5	Lodging	2166	7	15162	8	0.836252%
5-167	5	Lodging	886	7	6202	3	0.342068%
5-168	5	Lodging	886	7	6202	3	0.342068%
5-169	5	Lodging	347	7	2429	1	0.133970%
5-171	5	Lodging	347	7	2429	1	0.133970%
5-173	5	Lodging	886	7	6202	3	0.342068%

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³ May total slightly greater than or less than 100% due to rounding.

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
5-174	5	Lodging	1300	7	9100	5	0.501906%
5-260	5	Lodging	2518	7	17626	10	0.972153%
5-267	5	Lodging	886	7	6202	3	0.342068%
5-268	5	Lodging	886	7	6202	3	0.342068%
5-269	5	Lodging	347	7	2429	1	0.133970%
5-271	5	Lodging	347	7	2429	1	0.133970%
5-273	5	Lodging	886	7	6202	3	0.342068%
5-274	5	Lodging	1300	7	9100	5	0.501906%
5-360	5	Lodging	2518	7	17626	10	0.972153%
5-367	5	Lodging	894	7	6258	3	0.345157%
5-368	5	Lodging	887	7	6209	3	0.342454%
5-369	5	Lodging	347	7	2429	1	0.133970%
5-371	5	Lodging	347	7	2429	1	0.133970%
5-373	5	Lodging	894	7	6258	3	0.345157%
5-374	5	Lodging	1301	7	9107	5	0.502292%
TOTAL:			21176	147	148232	76	8.18%

II. Commercial

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
C-1	1	Commercial	3950	3	11850	7	0.653580%
C-2	1	Commercial	700	3	2100	1	0.115824%
C-3	1	Commercial	751	3	2253	1	0.124263%
C-4	1	Commercial	286	3	858	0.5	0.047323%
C-5	1	Commercial	208	3	624	0.5	0.034416%
C-6	1	Commercial	201	3	603	0.5	0.033258%
C-7	1	Commercial	95	3	285	0.5	0.015719%
C-8	1	Commercial	133	3	399	0.5	0.022007%

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C-9	1	Commercial	1201	3	3603	2	0.198722%
C-10	1	Commercial	1045	3	3135	2	0.172909%
C-12	1	Commercial	1245	3	3735	2	0.206002%
C-16	1	Commercial	114	3	342	0.5	0.018863%
C-17	1	Commercial	426	3	1278	1	0.070487%
C-23	1	Commercial	2707	3	8121	4	0.447909%
C-55	1	Commercial	1227	3	3681	2	0.203024%
C-56	1	Commercial	101	3	303	0.5	0.016712%
TOTAL:			14390	48	43170	25.5	2.38%
C-26	2	Commercial	1237	3	3711	2	0.204678%
C-28	2	Commercial	709	3	2127	1	0.117314%
C-29	2	Commercial	375	3	1125	1	0.062049%
C-31	2	Commercial	1829	3	5487	3	0.302633%
C-32	2	Commercial	552	3	1656	1	0.091336%
C-33	2	Commercial	908	3	2724	2	0.150241%
C-34	2	Commercial	578	3	1734	1	0.095638%
C-60	2	Commercial	596	3	1788	1	0.098616%
TOTAL:			6784	24	20352	12	1.12%
C-57	3	Commercial	68	3	204	0.5	0.011252%
TOTAL:			68	3	204	0.5	0.01%
C-65	4	Commercial	1756	3	5268	3	0.290554%
C-68	4	Commercial	816	3	2448	1	0.135018%
C-73	4	Commercial	178	3	534	0.5	0.029452%
C-76	4	Commercial	181	3	543	0.5	0.029949%
C-80	4	Commercial	108	3	324	0.5	0.017870%
C-82	4	Commercial	143	3	429	0.5	0.023661%
C-88	4	Commercial	369	3	1107	1	0.061056%
C-93	4	Commercial	335	3	1005	1	0.055430%
C-94	4	Commercial	98	3	294	0.5	0.016215%
C-97	4	Commercial	108	3	324	0.5	0.017870%
TOTAL:			4092	30	12276	9	0.68%
C-86	5	Commercial	62	3	186	0.5	0.010259%
TOTAL:			62	3	186	0.5	0.01%

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III. Support Commercial

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
SC-1	1	Support Commercial	118	2	236	0.5	0.013016%
SC-5	1	Support Commercial	107	2	214	0.5	0.011803%
SC-57	1	Support Commercial	210	2	420	0.5	0.023165%
SC-58	1	Support Commercial	250	2	500	0.5	0.027577%
TOTAL:			685	8	1370	2	0.08%
SC-27	2	Support Commercial	99	2	198	0.5	0.010921%
TOTAL:			99	2	198	0.5	0.01%
SC-59	3	Support Commercial	213	2	426	0.5	0.023496%
TOTAL:			213	2	426	0.5	0.02%
SC-63	4	Support Commercial	222	2	444	0.5	0.024489%
SC-67	4	Support Commercial	199	2	398	0.5	0.021951%
SC-85	4	Support Commercial	153	2	306	0.5	0.016877%
SC-86	4	Support Commercial	447	2	894	0.5	0.049308%
SC-94	4	Support Commercial	683	2	1366	0.5	0.075341%
SC-97	4	Support Commercial	114	2	228	0.5	0.012675%
SC-98	4	Support Commercial	45	2	90	0.5	0.004964%
SC-99	4	Support Commercial	45	2	90	0.5	0.004964%
TOTAL			1908	16	3816	4	0.21%

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SC-96	5	Support Commercial	52	2	104	0.5	0.005736%
SC-100	5	Support Commercial	64	2	128	0.5	0.007060%
TOTAL:			116	4	232	1	0.01%

IV. Storage

Unit Number	Building	Unit Type	Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
S-45	1	Storage	40	1	40	0.5	0.002206%
S-46	1	Storage	40	1	40	0.5	0.002206%
S-47	1	Storage	46	1	46	0.5	0.002537%
S-48	1	Storage	42	1	42	0.5	0.002316%
S-49	1	Storage	40	1	40	0.5	0.002206%
S-50	1	Storage	40	1	40	0.5	0.002206%
S-51	1	Storage	39	1	39	0.5	0.002151%
S-52	1	Storage	45	1	45	0.5	0.002482%
S-53	1	Storage	54	1	54	0.5	0.002978%
S-54	1	Storage	50	1	50	0.5	0.002758%
S-55	1	Storage	83	1	83	0.5	0.004578%
S-56	1	Storage	45	1	45	0.5	0.002482%
S-57	1	Storage	36	1	36	0.5	0.001986%
S-58	1	Storage	35	1	35	0.5	0.001930%
S-59	1	Storage	37	1	37	0.5	0.002041%
S-60	1	Storage	38	1	38	0.5	0.002096%
S-61	1	Storage	38	1	38	0.5	0.002096%
S-62	1	Storage	35	1	35	0.5	0.001930%
S-63	1	Storage	33	1	33	0.5	0.001820%
S-64	1	Storage	33	1	33	0.5	0.001820%
S-65	1	Storage	32	1	32	0.5	0.001765%
TOTAL:			881	21	881	10.5	0.05%
S-1	2	Storage	39	1	39	0.5	0.002151%
S-2	2	Storage	38	1	38	0.5	0.002096%

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S-3	2	Storage	37	1	37	0.5	0.002041%
S-4	2	Storage	33	1	33	0.5	0.001820%
S-5	2	Storage	42	1	42	0.5	0.002316%
S-6	2	Storage	36	1	36	0.5	0.001986%
S-7	2	Storage	35	1	35	0.5	0.001930%
S-8	2	Storage	35	1	35	0.5	0.001930%
S-9	2	Storage	67	1	67	0.5	0.003695%
S-10	2	Storage	62	1	62	0.5	0.003420%
S-11	2	Storage	38	1	38	0.5	0.002096%
S-12	2	Storage	40	1	40	0.5	0.002206%
S-13	2	Storage	40	1	40	0.5	0.002206%
S-14	2	Storage	40	1	40	0.5	0.002206%
S-15	2	Storage	40	1	40	0.5	0.002206%
S-16	2	Storage	40	1	40	0.5	0.002206%
S-17	2	Storage	40	1	40	0.5	0.002206%
S-18	2	Storage	64	1	64	0.5	0.003530%
S-19	2	Storage	35	1	35	0.5	0.001930%
S-20	2	Storage	33	1	33	0.5	0.001820%
S-21	2	Storage	33	1	33	0.5	0.001820%
S-22	2	Storage	32	1	32	0.5	0.001765%
S-23	2	Storage	39	1	39	0.5	0.002151%
S-24	2	Storage	33	1	33	0.5	0.001820%
S-25	2	Storage	33	1	33	0.5	0.001820%
S-26	2	Storage	42	1	42	0.5	0.002316%
S-27	2	Storage	36	1	36	0.5	0.001986%
S-28	2	Storage	39	1	39	0.5	0.002151%
S-29	2	Storage	39	1	39	0.5	0.002151%
S-30	2	Storage	39	1	39	0.5	0.002151%
S-31	2	Storage	31	1	31	0.5	0.001710%
S-32	2	Storage	32	1	32	0.5	0.001765%
S-33	2	Storage	34	1	34	0.5	0.001875%
S-34	2	Storage	32	1	32	0.5	0.001765%
S-35	2	Storage	32	1	32	0.5	0.001765%
S-36	2	Storage	33	1	33	0.5	0.001820%
S-37	2	Storage	33	1	33	0.5	0.001820%
S-38	2	Storage	33	1	33	0.5	0.001820%
S-39	2	Storage	33	1	33	0.5	0.001820%
S-40	2	Storage	33	1	33	0.5	0.001820%

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S-41	2	Storage	33	1	33	0.5	0.001820%
S-42	2	Storage	33	1	33	0.5	0.001820%
S-43	2	Storage	33	1	33	0.5	0.001820%
S-44	2	Storage	30	1	30	0.5	0.001655%
S-93	2	Storage	31	1	31	0.5	0.001710%
S-94	2	Storage	30	1	30	0.5	0.001655%
S-95	2	Storage	31	1	31	0.5	0.001710%
S-96	2	Storage	31	1	31	0.5	0.001710%
S-97	2	Storage	31	1	31	0.5	0.001710%
S-98	2	Storage	34	1	34	0.5	0.001875%
S-99	2	Storage	32	1	32	0.5	0.001765%
S-100	2	Storage	32	1	32	0.5	0.001765%
S-101	2	Storage	35	1	35	0.5	0.001930%
S-102	2	Storage	26	1	26	0.5	0.001434%
TOTAL:			1967	54	1967	27	0.11%
S-66	3	Storage	34	1	34	0.5	0.001875%
S-67	3	Storage	37	1	37	0.5	0.002041%
S-68	3	Storage	35	1	35	0.5	0.001930%
S-69	3	Storage	50	1	50	0.5	0.002758%
S-70	3	Storage	38	1	38	0.5	0.002096%
S-71	3	Storage	38	1	38	0.5	0.002096%
S-72	3	Storage	38	1	38	0.5	0.002096%
S-73	3	Storage	27	1	27	0.5	0.001489%
S-74	3	Storage	31	1	31	0.5	0.001710%
S-75	3	Storage	40	1	40	0.5	0.002206%
S-76	3	Storage	37	1	37	0.5	0.002041%
S-77	3	Storage	38	1	38	0.5	0.002096%
S-78	3	Storage	38	1	38	0.5	0.002096%
S-79	3	Storage	52	1	52	0.5	0.002868%
S-80	3	Storage	38	1	38	0.5	0.002096%
S-81	3	Storage	41	1	41	0.5	0.002261%
S-82	3	Storage	40	1	40	0.5	0.002206%
S-83	3	Storage	38	1	38	0.5	0.002096%
S-84	3	Storage	60	1	60	0.5	0.003309%
S-85	3	Storage	41	1	41	0.5	0.002261%
S-86	3	Storage	39	1	39	0.5	0.002151%
S-87	3	Storage	38	1	38	0.5	0.002096%

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S-88	3	Storage	38	1	38	0.5	0.002096%
S-89	3	Storage	38	1	38	0.5	0.002096%
S-90	3	Storage	59	1	59	0.5	0.003254%
S-91	3	Storage	41	1	41	0.5	0.002261%
S-92	3	Storage	1319	1	1319	0.5	0.072749%
TOTAL:			2363	27	2363	13.5	0.13%
S-128	4	Storage	337	1	337	0.5	0.018587%
S-129	4	Storage	3029	1	3029	0.5	0.167063%
S-130	4	Storage	182	1	182	0.5	0.010038%
S-131	4	Storage	461	1	461	0.5	0.025426%
S-132	4	Storage	176	1	176	0.5	0.009707%
S-133	4	Storage	176	1	176	0.5	0.009707%
S-136	4	Storage	294	1	294	0.5	0.016215%
S-137	4	Storage	350	1	350	0.5	0.019304%
S-138	4	Storage	862	1	862	0.5	0.047543%
TOTAL:			5867	9	5867	4.5	0.32%
S-107	5	Storage	29	1	29	0.5	0.001599%
S-108	5	Storage	29	1	29	0.5	0.001599%
S-109	5	Storage	29	1	29	0.5	0.001599%
S-110	5	Storage	29	1	29	0.5	0.001599%
S-111	5	Storage	29	1	29	0.5	0.001599%
S-112	5	Storage	29	1	29	0.5	0.001599%
S-113	5	Storage	29	1	29	0.5	0.001599%
S-114	5	Storage	29	1	29	0.5	0.001599%
S-115	5	Storage	29	1	29	0.5	0.001599%
S-116	5	Storage	29	1	29	0.5	0.001599%
S-117	5	Storage	29	1	29	0.5	0.001599%
S-118	5	Storage	29	1	29	0.5	0.001599%
S-119	5	Storage	29	1	29	0.5	0.001599%
S-120	5	Storage	29	1	29	0.5	0.001599%
S-121	5	Storage	29	1	29	0.5	0.001599%
S-122	5	Storage	29	1	29	0.5	0.001599%
S-123	5	Storage	29	1	29	0.5	0.001599%
S-124	5	Storage	29	1	29	0.5	0.001599%
S-125	5	Storage	27	1	27	0.5	0.001489%
S-126	5	Storage	29	1	29	0.5	0.001599%

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S-127	5	Storage	34	1	34	0.5	0.001875%
TOTAL:			612	21	612	10.5	0.03%

IV. Parking

Unit Number	Building	Unit Type	Approx Sq Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
P-18	1	Parking	171	1	171	0.5	0.009431%
P-19	1	Parking	171	1	171	0.5	0.009431%
P-20	1	Parking	171	1	171	0.5	0.009431%
P-21	1	Parking	171	1	171	0.5	0.009431%
P-22	1	Parking	190	1	190	0.5	0.010479%
P-23	1	Parking	162	1	162	0.5	0.008935%
P-24	1	Parking	162	1	162	0.5	0.008935%
P-25	1	Parking	162	1	162	0.5	0.008935%
P-26	1	Parking	162	1	162	0.5	0.008935%
P-27	1	Parking	162	1	162	0.5	0.008935%
P-28	1	Parking	171	1	171	0.5	0.009431%
P-29	1	Parking	162	1	162	0.5	0.008935%
P-30	1	Parking	231	1	231	0.5	0.012741%
TOTAL:			2248	13	2248	6.5	0.12%
P-1	2	Parking	171	1	171	0.5	0.009431%
P-2	2	Parking	171	1	171	0.5	0.009431%
P-3	2	Parking	171	1	171	0.5	0.009431%
P-4	2	Parking	171	1	171	0.5	0.009431%
P-6	2	Parking	288	1	288	0.5	0.015884%
P-7	2	Parking	155	1	155	0.5	0.008549%
P-8	2	Parking	155	1	155	0.5	0.008549%
P-9	2	Parking	155	1	155	0.5	0.008549%
P-10	2	Parking	204	1	204	0.5	0.011252%
P-11	2	Parking	171	1	171	0.5	0.009431%
P-15	2	Parking	180	1	180	0.5	0.009928%
P-16	2	Parking	207	1	207	0.5	0.011417%
P-17	2	Parking	231	1	231	0.5	0.012741%
TOTAL:			2430	13	2430	6.5	0.13%

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P-5	3	Parking	262	1	262	0.5	0.014450%
P-12	3	Parking	204	1	204	0.5	0.011252%
P-13	3	Parking	162	1	162	0.5	0.008935%
P-14	3	Parking	207	1	207	0.5	0.011417%
P-31	3	Parking	171	1	171	0.5	0.009431%
P-32	3	Parking	204	1	204	0.5	0.011252%
P-33	3	Parking	171	1	171	0.5	0.009431%
TOTAL:			1381	7	1381	3.5	0.08%
P-34	5	Parking	185	1	185	0.5	0.010204%
P-35	5	Parking	255	1	255	0.5	0.014064%
P-36	5	Parking	255	1	255	0.5	0.014064%
P-37	5	Parking	255	1	255	0.5	0.014064%
P-38	5	Parking	255	1	255	0.5	0.014064%
TOTAL:			1205	5	1205	2.5	0.07%

		Approx. Sq. Footage of Unit ¹	Points Per Square Foot	No. of Par Value Points Per Unit	No. of Votes Per Unit ²	Undivided Interest Per Unit ³
Totals:		298462	1486	1858821	1089.5	100.00%

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EXHIBIT B

Association Bylaws

**SECOND AMENDED AND RESTATED BYLAWS
FOR
ESCALA LODGES CONDOMINIUMS ASSOCIATION, INC.**

[Attached hereto and incorporated herein by this reference.]

SECOND AMENDED AND RESTATED BYLAWS

for

ESCALA LODGES CONDOMINIUMS ASSOCIATION, INC.

**SECOND AMENDED AND RESTATED
BYLAWS**

ESCALA LODGES CONDOMINIUMS ASSOCIATION, INC.

The administration of ESCALA LODGES CONDOMINIUMS ASSOCIATION, INC., a Utah nonprofit corporation ("Association") shall be governed by the Declaration, the Articles, these Bylaws, the Utah Condominium Ownership Act (Title 57, Chapter 8, Utah Code) (the "Act") and the Utah Revised Nonprofit Corporation Act (Title 16, Chapter 6a, Utah Code) (the "Nonprofit Act"). The original Bylaws (the "Original Bylaws") were amended and restated by the Management Committee, pursuant to the Amended and Restated Bylaws adopted by the Management Committee as of January 28, 2009 (the "Amended and Restated Bylaws"). The Management Committee now desires to exercise its right to further amend and restate the Amended and Restated Bylaws, which, together with the Original Bylaws, are hereby terminated in their entirety and replaced with these Second Amended and Restated Bylaws (the "Bylaws").

**ARTICLE 1
DEFINITIONS**

Terms which are capitalized in these Bylaws and which are not otherwise defined herein shall have the meanings set forth in Article 1 of the Second Amended and Restated Declaration of Condominium for Escala Lodges Condominiums (the "Declaration").

**ARTICLE 2
APPLICATION OF BYLAWS**

All present and future Owners, Mortgagees, lessees and occupants of Units, and their employees and Guests, and any other persons who may use the facilities of the Project in any manner are subject to the Declaration, these Bylaws and all Project Rules and regulations made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance of a Unit, or the occupancy of any Unit, shall constitute a ratification and acceptance of and an agreement to comply with the provisions of the Declaration, these Bylaws and the Project Rules, as each may be amended from time to time.

**ARTICLE 3
MANAGEMENT COMMITTEE**

3.1 Members. The management and maintenance of the Project and the administration of the affairs of the Association shall, in accordance with the provisions of Section 20.1 of the Declaration, be conducted by a Management Committee consisting of: (i) four (4) natural persons during the Declarant Control Period (defined in Section 3.2 below); and (ii) five (5) natural persons upon the termination of the Declarant Control Period ("Directors").

3.2 Declarant Control of Management Committee. Notwithstanding the other provisions of this Article 3, the Declaration establishes a period of Declarant control of the Association (the "Declarant Control Period"), during which period Escala Lodges Declarant and Sunrise

Declarant each have authority to appoint and remove two (2) members of the Management Committee, who may or may not be Owners. During the Declarant Control Period, all disputes or disagreements between members of the Management Committee shall be resolved pursuant to Section 20.2 of the Declaration. The Declarant Control Period under the Declaration shall terminate upon the earlier to occur of:

3.2.1 six (6) years after the first Unit is conveyed to an Owner; or

3.2.2 after Units to which three-fourths (3/4) of the undivided interest in the Common Areas and Facilities appertain have been conveyed to Owners, or after all Additional Land has been added to the project and all Convertible Land has been converted, whichever last occurs.

3.3 Election of Management Committee by Owners. Upon the termination of the Declarant Control Period, the Management Committee shall consist of five (5) natural persons who shall be elected by the Owners as provided in these Bylaws and in the Declaration. The Commercial Owner of Unit No. C-3 and the Commercial Owner of Unit No. C-80 shall each have the respective perpetual right to elect at least one (1) member of the Management Committee that shall represent such Unit Owner concerning all Association matters related to Phase 1 and Phase 2, respectively. Accordingly, pursuant to Section 20.1 of the Declaration, after termination of the Declarant Control Period, the Management Committee shall consist of one (1) member elected solely by the Commercial Owner of Unit No. C-3 (the "Unit No. C-3 Elected Member"); one (1) member elected solely by the Commercial Owner of Unit No. C-80 (the "Unit No. C-80 Elected Member"); one (1) member elected solely by the Owners of Units within Phase 1 (the "Phase 1 Elected Member"); one (1) member elected solely by the Owners of Units within Phase 2 (the "Phase 2 Elected Member"); and one (1) at-large member elected by all Owners within the Project, none of whom need be Owners. The members and officers of the Management Committee shall take office upon election. Thereafter, at every annual meeting, the Association shall elect the members of the Management Committee to fill those positions becoming vacant at such meeting, pursuant to the terms of this Article 3.

3.4 Nominating Committee. The Management Committee may elect from the Owners a nominating committee of not less than three (3) members, none of whom shall be at that time members of the Management Committee. If elected by the Management Committee, the nominating committee shall recommend to the Association at least one nominee for each position on the Management Committee to be filled at that particular annual meeting. Nominations for positions on the Management Committee may also be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by one or more Owners and the nominee named therein indicating his or her willingness to serve as a member of the Management Committee, if elected.

3.5 Voting for the Management Committee. Voting for the Management Committee shall be by secret written ballot. At any meeting of the Association, each Owner, either in person or by proxy, for each director position to be filled, shall be entitled to the number of votes set forth in the Declaration for each Unit. When there are multiple positions to be filled, Owners may not cumulate votes or cast all votes in favor of a single candidate. Notwithstanding any-

thing to the contrary contained in these Bylaws, (a) the Owners of Unit Nos. C-3 and C-80 shall have the perpetual right to elect at least one (1) member of the Management Committee; and (b) at least one member of the Management Committee must be elected solely by the votes of Commercial Owners. The initial members of the Management Committee appointed by Escala Lodges Declarant and Sunrise Declarant shall be the following persons and each shall hold the office indicated:

Adam Loser	President
William T. Phillips	Vice President
William Srinivasan	Secretary
Cory Williams	Treasurer

3.6 **Term.** Members of the Management Committee shall serve for terms of two (2) years beginning immediately upon their election by the Association; provided, however, that three (3) of the members of the Management Committee elected at the first annual meeting following the termination of the Declarant Control Period shall serve for initial terms of two (2) years, and the other two (2) members of the Management Committee elected at such meeting shall serve for initial terms of three (3) years. Thereafter, all members of the Management Committee elected shall serve for two (2) year terms. The members of the Management Committee shall serve until their respective successors are elected, or until death, resignation, or removal.

3.7 **Resignation and Removal.** Any member of the Management Committee may resign at any time by giving written notice to the President of the Association or to the remaining Management Committee members. Any member of the Management Committee who fails to attend three (3) consecutive Management Committee meetings or fails to attend at least twenty-five percent (25%) of the Management Committee meetings held during any fiscal year either in person or via telephone shall be deemed to have tendered his or her resignation, and his or her position shall be vacant following confirmation of the failure to attend by the affirmative vote of the remaining members of the Management Committee, though less than a quorum. The Owners representing at least eighty percent (80%) of the Total Votes of the Association present and entitled to vote at any meeting of the Owners at which a quorum is present may remove any member of the Management Committee with or without cause, other than a member appointed by Escala Lodges Declarant, Sunrise Declarant, the Unit No. C-3 Elected Member, or the Unit No. C-80-Elected Member. A member of the Management Committee may only be removed by the Owners at a meeting called for the purpose of removing such member and if the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of such member of the Management Committee.

3.8 **Vacancies.** If vacancies shall occur in the Management Committee by reason of the death or resignation of a Management Committee member, the Management Committee members then in office shall continue to act, and such vacancies shall be filled by a vote of the Management Committee members then in office, though less than a quorum. Any vacancy in the Management Committee occurring by reason of removal of a Management Committee member by the Association may be filled by election at the meeting at which such Management Committee member is removed or any subsequent regular or special meeting of the Association. A va-

cancy resulting from a removal shall only be filled by the vote or written consent of a majority of the Total Votes of the Association; provided, however, that any such removed Management Committee member elected pursuant to Section 3.5(a) or (b) above may only be replaced by the Owner(s) entitled to elect such Management Committee member in the first place.

3.9 No Compensation. The members of the Management Committee shall receive no compensation for their services unless expressly approved by the vote or written assent of a majority of the Total Votes of the Association; provided, however, that members of the Management Committee shall be reimbursed by the Association for transportation expenses actually incurred and a reasonable per diem payment for attendance at regular and special meetings of the Management Committee. Any member of the Management Committee may be employed by the Association in another capacity and receive compensation for such employment; provided further, that such employment shall be approved by vote or in writing by all members of the Management Committee not including the member to be employed.

3.10 Powers. The Management Committee, for the benefit of the Project and the Association, shall manage the business, property and affairs of the Project and the Association and enforce the provisions of the Declaration, these Bylaws and the Project Rules. The Management Committee is authorized to adopt the Project Rules governing the use and operation of the Project, which shall become effective thirty (30) days after adoption by the Management Committee. The Management Committee shall have the powers, duties and responsibilities with respect to the Project as contained in the Declaration, the Articles and these Bylaws.

3.11 Management Committee Meetings. The regular meetings of the Management Committee shall be held at least semi-annually at such times and places within the Project, or some other reasonable and suitable location in Summit County, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Management Committee members, as the Management Committee shall determine. Management Committee members may participate in Management Committee meetings by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time and by any other means permitted under Utah law. Such participation shall constitute presence in person at the meeting.

3.12 Special Meetings. Special meetings of the Management Committee may be called by written notice signed by any two (2) members of the Management Committee. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Project or some other reasonable location in Summit County unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the members of the Management Committee, as the Management Committee shall determine. Written notice of any special meeting shall be sent to all members of the Management Committee in the manner set forth in Section 3.13 below. If an agenda is prepared for a special meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

3.13 Notice. Unless otherwise provided by Utah law, regular meetings of the Management Committee may be held without notice of the date, time, place, or purpose of the meet-

ing. Special meetings of the Management Committee must be preceded by two days' notice of the date, time and place of the meeting. The notice need not describe the purpose of the special meeting unless required by Utah law. The giving of notice of any special meeting shall be governed by the rules set forth in Section 103 of the Nonprofit Act.

3.14 Waiver of Notice. A member of the Management Committee may waive any notice of a meeting before or after the time and date of the meeting stated in the notice by signing a written waiver. A member's attendance at or participation in a meeting waives any required notice to that member of the meeting unless such member, at the beginning of the meeting or promptly upon the member's arrival at the meeting, objects to the holding of the meeting or transacting business at the meeting because of lack of notice or defective notice and the objecting member does not vote for or assent to action taken at the meeting.

3.15 Actions and Open Meetings. The Management Committee members shall act only as a Management Committee, and individual Management Committee members shall have no powers as such. Regular and special meetings of the Management Committee shall be open to all members of the Association; provided, however, that the Association members who are not on the Management Committee may not participate in any deliberation or discussion unless permission to speak is requested on his or her behalf by a Management Committee member. In such case, the President may limit the time any Association member may speak. The Management Committee may, with the approval of a majority of a quorum of its members, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature.

3.16 Quorum and Voting. During the Declarant Control Period, all four (4) members of the Management Committee shall constitute a quorum, and if a quorum is present, the decision of a majority of those Management Committee members present shall be the act of the Management Committee. Upon the termination of the Declarant Control Period and the election of five (5) Management Committee members, pursuant to Section 3.3 hereof, the Unit No. C-3 Elected Member, the Unit No. C-80 Elected Member, the Phase 1 Elected Member, and the Phase 2 Elected Member shall constitute a quorum, and if a quorum is present, the decision of eighty percent (80%) of those Management Committee members present shall be the act of the Management Committee. If less than a quorum is present at the meeting, a majority of the members present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No Management Committee member may vote or act by proxy at any Management Committee meeting.

3.17 Action Without a Meeting. Any action that is required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Management Committee members and such signed consents are filed with the records of the Association. Such consent shall have the same force and effect as a unanimous vote.

3.18 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Management Committee. In the absence of a Management Committee resolution, the fiscal year shall be the calendar year.

3.19 **Special Committees.** The Management Committee may designate by resolution such committees and subcommittees as the Management Committee deems appropriate, from time to time. Each committee shall exercise those powers granted to it by an enabling resolution of the Management Committee; provided, however, that no committee shall exercise any power which is excluded from the delegation of power of the Management Committee by the laws of the State of Utah, the Articles, or these Bylaws.

3.20 **Eligibility.** An officer, employee, agent or director of a corporate Owner of a Unit, a trustee or designated beneficiary of a trust that owns a Unit, a partner of a partnership that owns a Unit, a member or officer of a limited liability company that owns a Unit, and a fiduciary of an estate that owns a Unit may be considered an Owner for the purpose of determining eligibility for membership of the Management Committee. In all events where the person serving or offering to serve as an officer or member of the Management Committee is not the record Owner, they shall file proof of authority in the records of the Association.

3.21 **Budget Committee.** In addition to the committees described in Section 3.19 above, one or more Budget Committees may be appointed by (a) Escala Lodges Declarant (with respect to Phase 1) and Sunrise Declarant (with respect to Phase 2) during the Declarant Control Period; and (b) the Owner of Unit No. C-3 (with respect to Phase 1) and the Owner of Unit No. C-80 (with respect to Phase 2), as provided in Section 1.6 of the Declaration. Such Budget Committee(s) shall have the power, duties and authority set forth in the Declaration and, to the extent applicable, the Project Rules. The Budget Committee shall not exercise any power which is excluded from the powers set forth in the Declaration, by the laws of the State of Utah, the Articles, or these Bylaws. Subject to Sections 1.18 and 20.6 of the Declaration, Assessments shall be assessed by the Association following certification by the Budget Committee of the Common Expenses to the Association in accordance with the Declaration and the Project Rules.

3.22 **Common Area Manager.** Subject to the provisions and limitations set forth in the Declaration, the Act and any other applicable law, the Management Committee may delegate to a single Common Area Manager or different Common Area Managers with respect to Phase 1 and Phase 2 by written agreement(s) all of the powers, duties and responsibilities of the Management Committee referred to in this Article 3 and in the Declaration to the extent such duties and obligations are properly delegable.

ARTICLE 4 MEMBERSHIP, VOTING AND MEETINGS OF THE ASSOCIATION

4.1 **Membership.** Every Owner of a Unit, including each Declarant, shall be a member of the Association. The foregoing is not intended to include a Mortgagee.

4.2 **Annual Meeting.** The first meeting of the Association shall be held within one year after the closing of the sale of the first Unit sold in the Project. Thereafter, there shall be an annual meeting of the Association on a date and at a time designated by the Management Committee at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Owners.

4.3 Special Meetings. Special meetings of the Association may be called by either Declarant, the President, a majority of the Management Committee, or Owners representing at least twenty five percent (25%) or more of the Total Votes of the Association and may be held at a reasonable place in the Project or some other location that is readily accessible at reasonable cost to the largest possible number of Owners. Written notice of a special meeting of the Association shall be sent to Owners in the manner described in Section 4.4 below.

4.4 Notice of Meetings. Notice of the annual meeting of the Association and of any special meetings of the Association shall be hand delivered or sent by first-class or certified mail, no fewer than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting to each Owner entitled to vote at such meeting at such Owner's address as shown in the records of the Association or to any other mailing address designated in writing by the Owner. Such notice shall specify the place, date and hour of the meeting and a description of any matters that must be approved by the Owners for which the Owners' approval is sought at such meeting. The notice of a special meeting shall also include a description of the purposes for which the meeting is called. If any annual or special meeting of the Owners is adjourned to a different date, time or place, notice need not be given of the new date, time and place if the new date, time and place are announced at the meeting before adjournment. Notwithstanding the foregoing sentence, if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed under Section 706 of the Nonprofit Act and Section 4.5 of these Bylaws, notice of the adjourned meeting must be given pursuant to the requirements of this Section 4.4 to Owners entitled to vote at the meeting.

4.5 Quorum. The presence in person or by proxy of Owners holding ten percent (10%) or more of the Total Votes of the Association at any meeting of the Association held in response to notice to all Owners of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) nor more than thirty (30) days from the original meeting date. The quorum for an adjourned meeting shall also be ten percent (10%) of the Total Votes of the Association. If the time and place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings of the Association. Unless otherwise expressly provided in the Act, the Nonprofit Act, the Declaration, or these Bylaws, any action may be taken at any meeting of the Owners representing at least two thirds (2/3) of the Total Votes of the Association present in person or by proxy and entitled to vote at such meeting. Notwithstanding anything to the contrary herein, the Owners of Units in Phase 1 shall not vote for or take any action that would materially adversely affect the use, occupancy and enjoyment of the Owners of Units, or portions thereof or interests therein, in Phase 2 and the Owners of Units in Phase 2 shall not vote for or take any action that would materially adversely affect the use, occupancy and enjoyment of the Owners of Units in Phase 1.

4.6 Conduct of Meeting. Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meeting when not in conflict with the Declaration or these Bylaws.

4.7 Action Without Meeting. Other than the election of Directors, any action that may be taken at any annual or special meeting of the Association may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted. Such consents shall be signed, dated and delivered to the Association within a sixty (60) day period. Notice must be given to those Owners who have not consented at least ten (10) days before the action takes effect.

4.8 Action by Written Ballot. Any action that may be taken at any annual, regular, or special meeting of the Owners may be taken without a meeting if the Association delivers a written ballot to every Owner entitled to vote on the matter. The written ballot shall set forth each proposed action; and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when:

4.8.1 The time by which all ballots must be received by the Association has passed so that a quorum can be determined; and

4.8.2 The number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

4.9 Voting and Proxies. At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy. The right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by their attorney-in-fact thereunto duly authorized in writing. The instrument authorizing the proxy shall be delivered, at the beginning of the meeting, to the Secretary of the Association, or such other officer or person who may be acting as the secretary at the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting. An Owner may revoke a proxy given pursuant to this Section only by actual notice of revocation to the Association. A proxy is void if it is not dated or purports to be revocable without notice.

4.10 Exercise of Voting. In the event that a Unit is owned by more than one Owner, then by the majority written agreement of all Owners after the initial conveyance of such Unit, one Owner shall be appointed as the designated owner ("Designated Owner") for the Unit for the purposes of voting on Association matters and for billing purposes. This Designated Owner may be changed at any time by delivering to the Association written notification of such change signed by all the Owners of the Unit. In the absence of such a designation, if only one of several Owners of a Unit is present at a meeting of the Association, that Owner is entitled to cast all the votes allocated to that Unit. If more than one of the Owners of a Unit is present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of such Owners. There shall be deemed to be majority agreement if any one of the Owners casts the votes allocated to the Unit owned without protest made promptly to the person presiding over the meeting by any of the other Owners of such Unit.

4.11 Minutes. If required by Utah law, minutes of the annual and special meetings of the Association shall be distributed to each member within sixty (60) days after the meeting.

4.12 Transfer of Condominium Association Membership. The rights and obligations of any member of the Association other than either Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit, and then only to the transferee of ownership of the Unit. A transfer of ownership of a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Unit shall operate to transfer the membership appurtenant to said Unit to the new Owner thereof. Each purchaser shall notify the Association of his, her or its purchase of a Unit.

4.13 Condominium Association Members of Record. For the purpose of determining members of the Association entitled to notice of or to vote at a meeting of the Association, or in order to make a determination of members of the Association for any other proper purpose, the Management Committee shall fix in advance a date as the record date for any such determination of members. The record date shall not be more than thirty (30) days prior to the date of the particular meeting of the Association or the date on which the particular action requiring such determination of the members of the Association is to be taken, as applicable, unless otherwise extended by the Management Committee. If no record date is fixed, the record date for such determination of members entitled to vote shall be four o'clock in the afternoon on the day before the day on which notice of the meeting is mailed or delivered. When a determination of members entitled to vote at any meeting of the Association has been made as provided in this Section 4.13, such determination shall apply to any continuation of such meeting following an adjournment.

ARTICLE 5 OFFICERS

5.1 Designation. All officers and employees of the Association shall serve at the will of the Management Committee. The officers shall be a President, a Vice President, a Secretary, and a Treasurer ("Officers"). The Management Committee may appoint additional Vice Presidents and such other assistant officers as the Management Committee may deem necessary ("Assistant Officers"). Each Officer shall be required to be member of the Management Committee. Each Assistant Officer shall be required to be an Owner or a member of the Management Committee. No Officer shall receive compensation for serving as such. Officers shall be annually elected by the Management Committee and may be removed and replaced by the Management Committee. The Management Committee shall require that officers (and other employees of the Association) be subject to fidelity bond coverage.

5.2 President. The President shall be the chief executive of the Management Committee and shall preside at all meetings of the Association and of the Management Committee and may exercise the power ordinarily allowable to the presiding officer of an association, including the appointment of committees. The President shall exercise general supervision over the Project and its affairs. He or she shall sign, and the Secretary shall witness, on behalf of the

Association, all conveyances, mortgages and contracts of material importance to its business. He or she shall do and perform all acts which the Management Committee may require.

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

5.4 Secretary. The Secretary shall keep minutes of all proceedings of the Management Committee and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Owners and the Management Committee.

5.5 Treasurer. The Treasurer shall be responsible for the fiscal affairs of the Association, but may delegate the daily handling of funds and the keeping of records to the Common Area Manager(s).

5.6 Execution of Amendments. Any officer may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

ARTICLE 6 ASSESSMENTS AND EXPENSES

6.1 Common Assessments. All Common Assessments shall be made in accordance with the Declaration. Assessments shall be assessed on a monthly, quarterly or annual basis, at the election of the Management Committee.

6.2 Common Expenses. The Management Committee shall approve or disapprove the estimated Common Expenses and capital contributions for the coming fiscal year.

6.3 No Waiver. The failure by the Management Committee before the expiration of any fiscal year to estimate the Common Expenses as required herein shall not be deemed a waiver or modification in any respect of the provisions of the Declaration or these Bylaws or a release of the Owners from the obligation to pay any past or future Common Assessments, and the estimated Common Expenses fixed for the previous and current year shall continue until a new estimate is made.

6.4 No Exemption. No Owner shall be exempt from liability for Common Expenses by waiver of the use or enjoyment of the Project or by abandonment of his or her Unit.

6.5 Records. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project, specifying and itemizing the maintenance, repair and replacement expenses of the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Management Committee in assessing Common Expenses against the Units, the Treasurer shall keep an accurate record of such Common Assessments and of the payments thereof by each Owner.

6.6 **Personal Obligation.** All Common Assessments shall be a separate, distinct and personal liability of the applicable Owners at the time each Common Assessment is made. The Management Committee shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of Common Assessments.

6.7 **Statements for Purchasers.** Any person who shall have entered into a written agreement to purchase a Unit, by written request directed to the Management Committee, shall be entitled to obtain a written statement from the Treasurer setting forth the amount of the monthly, quarterly, annual or other periodic Common Assessment and the amount of unpaid Common Assessments charged against such Unit and its Owner(s), and if such statement does not reveal the full amount of the unpaid Common Assessments as of the date it is rendered, neither the purchaser nor the Unit shall be liable for the payment of an amount in excess of the unpaid Common Assessments as shown thereon, provided that the former Owner shall remain so liable. Any such excess which cannot be promptly collected from the former Owner-grantor shall be reassessed by the Management Committee as a Common Expense to be collected from all Owners, including without limitation the purchaser of such Unit, his or her successors and assigns. The new Owner shall, and the former Owner shall not, be liable for any Common Assessments made after the date of transfer of title, even though the expenses incurred or the advances made by the Management Committee for which the Common Assessment is made relate in whole or in part to any period prior to that date. The Management Committee is authorized to require a reasonable fee for furnishing such statements.

6.8 **Statements for Owners and Mortgagees.** In addition to the statements issuable to purchasers, the Management Committee shall, upon ten (10) days prior written request therefor, provide to any Owner, to any person who shall have entered into a binding agreement to purchase a Unit and to any Mortgagee, on request at reasonable intervals a current statement of unpaid Common Assessments with respect to a Unit. The Management Committee is authorized to require a reasonable fee for furnishing such statements.

6.9 **Collection.** In all cases where all or part of any Common Assessments for Common Expenses and capital contributions and for any expenses of and advances by the Management Committee cannot be promptly collected from the persons or entities liable therefor under the Declaration or these Bylaws, the Management Committee shall reassess the same as a Common Expense without prejudice to its right of collection against such persons or entities, or without prejudice to its lien for such Common Assessments.

ARTICLE 7 INDEMNIFICATION

7.1 **Indemnification of Members of Management Committee.** The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he or she is or was a member of the Management Committee or an officer of the Association, who is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys fees and costs) judgments, fines, amounts paid in settle-

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

ARTICLE 8 LITIGATION

8.1 **Expenses.** If any action is brought by a member of the Management Committee on behalf of the Association, the expenses of suit, including reasonable attorneys' fees, shall be a Common Expense. Except as otherwise provided, if any action is brought against the Owners or against the Management Committee or the officers, employees or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the expenses of suit, including attorneys' fees, shall be a Common Expense. If any action is brought against one or more, but less than all Owners, with the result that the ultimate liability would, if proved, be borne solely by such Owners, the expenses of suit, including attorneys' fees, shall not be charged to or borne by the other Owners, as a Common Expense or otherwise.

8.2 **Defense.** Except as otherwise provided by the Act, any action brought against the Association, the Management Committee or the officers, employees or agents thereof, in their respective capacities as such, or the Project as a whole, shall be directed to the Management Committee, and shall be defended by the Management Committee; and the Owners and Mortgagees shall have no right to participate in such defense other than through the Management Committee. Actions against one or more, but less than all Owners, shall be directed to such Owners, who shall promptly give written notice thereof to the Management Committee, and shall be defended by such Owners.

ARTICLE 9 ABATEMENT AND ENJOINMENT OF VIOLATIONS BY OWNERS

9.1 **Violations.** The violation of any Project Rules, the breach of any provision contained herein or the breach of any provision of the Declaration shall give the Management Committee the right, in addition to any other rights set forth in these Bylaws:

9.1.1 To enter the Unit in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner or Owners, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Management Committee shall not thereby be deemed guilty in any manner of trespass provided that items of construction may not be altered or demolished without proper judicial proceedings; and/or

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

9.2 Monetary Fines. The Management Committee may assess a fine against an Owner for violations of the Governing Documents provided that the Management Committee shall give notice to the Owner of the violation and inform the Owner that a fine will be imposed if the violation is not cured within the time designated by the Management Committee, which shall be at least 48 hours. The Management Committee may levy fines in the amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Governing Documents provided that cumulative fines for a continuing violation may not exceed \$500 per month unless otherwise allowed by law. An Owner who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed.

9.3 Cause of Action. The Management Committee shall have a right of action against Owners who fail to comply with any provision of the Governing Documents or the decisions of the Association or Management Committee. Before pursuing such cause of action, the Management Committee shall provide the Owner notice of the alleged violation and the opportunity to request an informal hearing.

9.4 Temporary Suspension. The Management Committee may impose a temporary suspension of a Condominium Association Member's right to use the Common Areas and Facilities or other appropriate discipline against a Condominium Association Member who has failed to comply with any provision of the Condominium Documents. Prior to such suspension or other discipline, the Management Committee shall provide the Condominium Association Member notice of the alleged violation and the opportunity to request an informal hearing.

9.5 Remedies Cumulative. These remedies are cumulative to other remedies provided in the Declaration and these Bylaws, the Project Rules, or in any other applicable laws.

ARTICLE 10

ACCOUNTING AND MAINTENANCE AND INSPECTION OF RECORDS

10.1 Accounting. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the Treasurer. A budget for each fiscal year shall be adopted by the Management Committee and distributed to all members of the Association prior to the beginning of the fiscal year to which the budget applies. The Management Committee shall distribute to the Owners an unaudited financial statement, within one hundred twenty (120) days after the close of each fiscal year.

10.2 **Inspection of Records.** The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Association, of the Management Committee and of committees of the Management Committee and all other records of the Project maintained by the Association or the Common Area Manager(s) shall be made available for inspection and copying by any member of the Association or his or her duly appointed representative upon written request at any reasonable time and for a purpose reasonably related to his or her interest as an Owner, at the office where the records are maintained. Upon receipt of an authenticated written request from an Owner along with the fee prescribed by the Management Committee to defray the costs of reproduction, the applicable Common Area Manager or other custodian of records of the Association shall prepare and transmit to the Owner a copy of any and all records requested. The Association may, as a condition to permitting an Owner to inspect the membership register or to its furnishing information from the register, require that the Owner agree in writing not to use, or allow the use, of information from the membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Owner's interest in the Association. The Management Committee shall establish reasonable rules with respect to:

10.2.1 Notice to be given to the custodian of the records by the Owner desiring to make the inspection or obtain copies;

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

10.2.3 Payment of the cost of reproducing copies of documents requested by an Owner.

Every member of the Management Committee shall have the absolute right at any time to inspect all books, records and documents of the Association and to inspect all real and personal properties owned or controlled by the Association. This right of inspection shall include the right to make extracts and copies of records, subject only to the right of the Association to require that the Management Committee member agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Management Committee member's interest in such Association.

10.3 **Financial Statements.** Within fifteen (15) days of receipt of a written request of any Owner, the Association shall mail to the requesting Owner its most recent annual or quarterly financial statement.

ARTICLE 11 RENTAL OR LEASE OF UNITS BY OWNERS

11.1 **Rental.** Any Owner shall have the right to lease or allow occupancy of a Unit upon such terms and conditions as the Owner may deem advisable, subject to the provisions set forth in the Declaration, and to other restrictions regarding short-term and overnight rentals, which may be contained in the Project Rules. The provisions of Section 9 of these Bylaws shall apply with equal force to renters or lessees of Units.

11.2 **Conduct of Tenants.** Any Owner who rents or leases or otherwise permits any other person to utilize his or her Unit shall be responsible for the conduct of his or her tenants or occupants, and upon written notice from the Management Committee or the applicable Common Area Manager, said Owner shall be responsible for correcting violations of the Declaration, By-laws or the Project Rules committed by such tenants or occupants.

11.3 **Violations.** If an Owner fails to correct violations by tenants within seventy-two (72) hours of such notice, the Management Committee or applicable Common Area Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the reasonable costs of such action, including but not limited to fees and costs paid to third parties, to be assessed to the Owner and payable within thirty (30) days of assessment. Such costs shall be collected and enforced in the same manner as Common Expenses under the Declaration.

11.4 **Enforcement.** The power of the Management Committee or the Common Area Manager(s) hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Owner by the act of renting, leasing or otherwise permitting any other person to utilize his or her Unit shall be deemed to have consented to these procedures and shall indemnify and save harmless the Management Committee and the Common Area Manager(s) from and against any and all liability therefor. It is expressly understood that the remedies available to the Management Committee or Common Area Manager(s) shall include but not be limited to the right to seek eviction of the tenant without any liability to the Owner.

11.5 **Default in Payment of Common Assessments.** If an Owner fails to pay assessments and other amounts due under this Declaration for a period of more than sixty (60) days after such amounts are due and payable, the Association may require a Tenant (defined below) under a Lease (defined below) with an Owner to pay the Association all future Lease payments due to the Owner beginning with the next monthly or periodic payment due from the Tenant and until the Association is paid the Amount Owing (defined below).

Before requiring a Tenant to pay Lease payments to the Association, the applicable Common Area Manager or Management Committee shall give the Owner notice ("Notice to Landlord"), in accordance with the Declaration. The Notice to Landlord shall state: (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of Lease payments; and (iii) that the Association intends to demand payment of future Lease payments from the Owner's Tenant if the Owner does not pay the Amount Owing within fifteen (15) days.

If an Owner fails to pay the Amount Owing within fifteen (15) days after the applicable Common Area Manager or Management Committee gives the Notice to Landlord, the applicable Common Area Manager or Management Committee may exercise the Association's rights to collect Lease payments by delivering written notice ("Notice to Tenant") to the Tenant. The Notice to Tenant shall state that: (i) due to the Owner's failure to pay an assessment within the required time, the applicable Common Area Manager or the Management Committee has notified the Owner of the Association's intent to collect all Lease payments until the Amount Owing is paid;

(ii) the law requires the Tenant to make all future Lease payments, beginning with the next monthly or other periodic payment, to the Association, until the Amount Owing is paid; and (iii) the Tenant's payment of Lease payments to the Association does not constitute a default under the terms of the Lease with the Owner. The applicable Common Area Manager or Management Committee shall mail a copy of the Notice to Tenant to the Owner.

A Tenant to whom the Notice to Tenant has been given shall pay to the Association all future Lease payments as they become due and owing to the Owner: (i) beginning with the next monthly or other periodic payment after the Notice to Tenant is delivered to the Tenant; and (ii) until the Association notifies the Tenant that the Amount Owing is paid. An Owner shall credit each payment that the Tenant makes to the Association under this section against any obligation that the Tenant owes to the Owner as though the Tenant made the payment to the Owner. An Owner may not initiate a suit or other action against a Tenant for failure to make a Lease payment that the Tenant pays to the Association as required under this section. Within five business days after the Amount Owing is paid, the applicable Common Area Manager or Management Committee shall notify the Tenant in writing (and mail a copy thereof to the Owner) that the Tenant is no longer required to pay future Lease payments to the Association.

The Association shall deposit money paid to the Association under this section in a separate account and disburse that money to the Association until the Amount Owing is paid and any cost of administration, not to exceed twenty-five dollars (\$25), is paid. The Association shall, within five (5) business days after the Amount Owing is paid, pay to the Owner any remaining balance.

As used in this section "Amount Owing" means the total of any assessment or obligation under this Declaration that is due and owing together with any applicable interest, late fee, and cost of collection, "Lease" means an arrangement under which a Tenant occupies a Lodging Unit in exchange for the Owner receiving a consideration or benefit, including a fee, service, gratuity, or emolument, and "Tenant" means a person, other than the Owner, who has regular, exclusive occupancy of an Owner's Unit.

ARTICLE 12 AMENDMENT OF BYLAWS

Except as otherwise provided by Utah law, the Declaration or these Bylaws, these Bylaws may be amended by the vote or written assent of Owners holding two thirds (2/3) of the Total Votes of the Association present in person or by proxy at a meeting duly called for such purpose; or without a meeting by the written assent of the Owners holding at least a majority of the Total Votes of the Association. Provided, however, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Upon such an affirmative vote, the Management Committee shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the Owners, and the amendment shall be effective upon Recording. Notwithstanding the foregoing, during the Declarant Control Period, Escala Lodges Declarant and Sunrise Declarant, upon their joint written consent, shall have the right to amend these By-

laws without the vote or consent of the Management Committee or any Owner, pursuant to the unilateral amendment procedures reserved to Escala Lodges Declarant and Sunrise Declarant herein and under the Declaration. Notwithstanding anything to the contrary herein, the Owners of Units in Phase 1 shall not vote for any amendment to these Bylaws that would materially adversely affect the use, occupancy and enjoyment of the Owners of Units, or portions thereof or interests therein, in Phase 2 and the Owners of Units in Phase 2 shall not vote for any amendment to these Bylaws that would materially adversely affect the use, occupancy and enjoyment of the Owners of Units in Phase 1.

ARTICLE 13 NOTICES

All notices, demands, and communications under these Bylaws shall be given in accordance with Section 32 of the Declaration.

ARTICLE 14 SEVERABILITY

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

ARTICLE 15 WAIVER

The failure of the management Committee to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of these Bylaws shall be deemed to have been waived unless such waiver is in writing and signed by the Management Committee.

ARTICLE 16 CAPTIONS

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

ARTICLE 17 EFFECTIVE DATE

These Bylaws shall take effect as of the date of the Declaration, having been duly adopted by the Management Committee.

**ARTICLE 18
SEAL**

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

**ARTICLE 19
COUNTERPARTS**

These Bylaws may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signatures appear on following page.]

EXECUTED this 2nd day of May, 2012.

MANAGEMENT COMMITTEE


Cory Williams, Director


Adam Loser, Director


Matt Schwartz, Director

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of The Escala Lodges Condominiums Association, Inc., a Utah nonprofit corporation,

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted by the Management Committee.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association (if any) this 2 day of May, 2012.


Matt Schwartz, Secretary

Certified to be the Bylaws adopted by the Management Committee of THE ESCALA LODGES CONDOMINIUMS ASSOCIATION, INC. dated May 2, 2012.

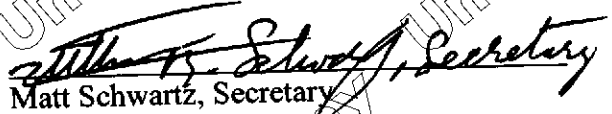

Matt Schwartz, Secretary

EXHIBIT C

Project Legal Description

ALL UNITS, ESCALA LODGES CONDOMINIUMS, AS THE SAME ARE IDENTIFIED IN THAT CERTAIN AMENDED AND RESTATED CONDOMINIUM PLAT FOR ESCALA LODGES CONDOMINIUMS RECORDED ON JANUARY 28, 2009 IN THE OFFICE OF THE SUMMIT COUNTY RECORDER AS ENTRY NO. 863831, AS AMENDED OR SUPPLEMENTED TOGETHER WITH THE UNDIVIDED OWNERSHIP INTERESTS IN THE COMMON AREAS AND FACILITIES WHICH ARE APPURTENANT TO SAID UNITS.

THE PROJECT IS ALSO DESCRIBED IN METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH SECTION LINE OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST, S.L.B&M. WHICH IS N.89°59'43"W 1477.57 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 1 FEET;
THENCE S.0°0'0"E. 524.26 FEET; THENCE N.89°59'38"W. 409.45 FEET;
THENCE N.0°0'0"E. 44.87 FEET; THENCE N.90°0'0"W. 147.29 FEET;
THENCE S.0°0'0"E. 25.00 FEET; THENCE N.90°0'0"W. 188.72 FEET;
THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 321.00 A DELTA ANGLE OF 4° 02' 16", AND WHOSE LONG CHORD BEARS N.27°53'15"W. 22.62 FEET; THENCE N.29°54'24"W. 110.40 FEET;
THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 279.00 A DELTA ANGLE OF 27° 10' 45", AND WHOSE LONG CHORD BEARS N.16°19'1"W. 131.11 FEET; THENCE N.2°43'39"W. 186.90 FEET;
THENCE N.67°52'5"E. 202.53 FEET; THENCE N.90°0'0"E. 92.46 FEET;
THENCE S.0°0'0"E. 66.00 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 60.00 A DELTA ANGLE OF 60° 00' 00", AND WHOSE LONG CHORD BEARS S.30°00'00"E. 60.00 FEET; THENCE S.60°0'0"E. 29.92 FEET; THENCE N.29°59'60"E. 143.02 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 A DELTA ANGLE OF 11° 40' 46", AND WHOSE LONG CHORD BEARS N.78°25'26"E. 40.70 FEET; THENCE N.0°18'21"W. 0.74 FEET; THENCE N.90°0'0"E. 409.45; TO THE POINT OF BEGINNING. SAID DESCRIBED PARCEL CONTAINS 405251.804 SQUARE FEET (9.303 ACRES), MORE OR LESS, SUBJECT TO ANY AND ALL EASEMENTS, RESERVATIONS, RESTRICTIONS AND CONVEYANCES OF RECORD.

TOGETHER WITH AN UNDIVIDED INTEREST IN A PERPETUAL RIGHT-OF-WAY AND EASEMENT FOR ROADWAY PURPOSES AND FOR THE CONSTRUCTION, ALTERATION, MAINTENANCE AND REPAIR OF UNDERGROUND UTILITIES INCLUDING WATER, ELECTRICAL POWER,

TELEPHONE AND NATURAL GAS, FIFTY (50) FEET IN WIDTH, TWENTY-FIVE (25) FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT IN THE SOUTH LINE OF A COUNTRY ROAD WHICH IS 1253 FEET NORTH AND 750 FEET WEST FROM THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST, S.L.B&M AND RUNNING THENCE SOUTH 680.6 FEET; THENCE SOUTH 10°00' EAST 355 FEET; THENCE 1112.96 FEET ALONG THE ARC OF A 636.62 FOOT RADIUS CURVE TO THE RIGHT FEET; THENCE WEST 881 FEET.

LESS AND EXCEPT

COMMENCING AT A FOUND MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST SLB&M; THENCE N.89°59'43"W. ALONG THE SECTION LINE 1722.02 FEET; THENCE SOUTH 420.37 FEET TO THE REAL POINT OF BEGINNING; THENCE SOUTH 70.00 FEET; THENCE WEST 40.00 FEET; THENCE NORTH 70.00 FEET; THENCE EAST 40.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.06 ACRES.

TAX ID NUMBERS: ESCLAL-201-AM, ESCLAL-202-AM, ESCLAL-207-AM, ESCLAL-209-AM, ESCLAL-213-AM, ESCLAL-219-AM, ESCLAL-301-AM, ESCLAL-302-AM, ESCLAL-304-AM, ESCLAL-305-AM, ESCLAL-308-AM, ESCLAL-313-AM, ESCLAL-316-AM, ESCLAL-317-AM, ESCLAL-318-AM, ESCLAL-321-AM, ESCLAL-322-AM, ESCLAL-401-AM, ESCLAL-402-AM, ESCLAL-404-AM, ESCLAL-408-AM, ESCLAL-413-AM, ESCLAL-416-AM, ESCLAL-423-AM, ESCLAL-501-AM, ESCLAL-504-AM, ESCLAL-505-AM, ESCLAL-508-AM, ESCLAL-513-AM, ESCLAL-516-AM, ESCLAL-517-AM, ESCLAL-521-AM, ESCLAL-604-AM, ESCLAL-608-AM, ESCLAL-616-AM, ESCLAL-623-AM, ESCLAL-138-AM, ESCLAL-225-AM, ESCLAL-226-AM, ESCLAL-228-AM, ESCLAL-231-AM, ESCLAL-232-AM, ESCLAL-233-AM, ESCLAL-237-AM, ESCLAL-238-AM, ESCLAL-325-AM, ESCLAL-328-AM, ESCLAL-331-AM, ESCLAL-333-AM, ESCLAL-338-AM, ESCLAL-141-AM, ESCLAL-142-AM, ESCLAL-145-AM, ESCLAL-148-AM, ESCLAL-149-AM, ESCLAL-150-AM, ESCLAL-154-AM, ESCLAL-241-AM, ESCLAL-242-AM, ESCLAL-244-AM, ESCLAL-248-AM, ESCLAL-250-AM, ESCLAL-251-AM, ESCLAL-252-AM, ESCLAL-254-AM, ESCLAL-341-AM, ESCLAL-342-AM, ESCLAL-347-AM, ESCLAL-348-AM, ESCLAL-350-AM, ESCLAL-351-AM, ESCLAL-353-AM, ESCLAL-441-AM, ESCLAL-444-AM, ESCLAL-447-AM, ESCLAL-450-AM, ESCLAL-451-AM, ESCLAL-456-AM, ESCLAL-144-AM, ESCLAL-618-AM, ESCLAL-518-AM, ESCLAL-C-1-AM, ESCLAL-C-2-AM, ESCLAL-C-3-AM, ESCLAL-C-4-AM, ESCLAL-C-5-AM, ESCLAL-C-6-AM, ESCLAL-C-7-AM, ESCLAL-C-8-AM, ESCLAL-C-9-AM, ESCLAL-C-10-AM, ESCLAL-C-12-AM, ESCLAL-C-23-AM, ESCLAL-C-31-AM, ESCLAL-C-

26-AM, ESCLAL-SC-27-AM, ESCLAL-SC-5-AM, ESCLAL-C-34-AM, ESCLAL-C-16-AM, ESCLAL-C-17-AM, ESCLAL-C-28-AM, ESCLAL-C-29-AM, ESCLAL-C-32-AM, ESCLAL-C-33-AM, ESCLAL-C-55-AM, ESCLAL-C-56-AM, ESCLAL-C-57-AM, ESCLAL-C-60-AM, ESCLAL-SC-1-AM, ESCLAL-SC-57-AM, ESCLAL-SC-58-AM, ESCLAL-SC-59-AM, ESCLAL-S-1-AM, ESCLAL-S-2-AM, ESCLAL-S-3-AM, ESCLAL-S-4-AM, ESCLAL-S-5-AM, ESCLAL-S-6-AM, ESCLAL-S-7-AM, ESCLAL-S-8-AM, ESCLAL-S-9-AM, ESCLAL-S-10-AM, ESCLAL-S-11-AM, ESCLAL-S-12-AM, ESCLAL-S-13-AM, ESCLAL-S-14-AM, ESCLAL-S-15-AM, ESCLAL-S-16-AM, ESCLAL-S-17-AM, ESCLAL-S-18-AM, ESCLAL-S-19-AM, ESCLAL-S-20-AM, ESCLAL-S-21-AM, ESCLAL-S-22-AM, ESCLAL-S-23-AM, ESCLAL-S-24-AM, ESCLAL-S-25-AM, ESCLAL-S-26-AM, ESCLAL-S-27-AM, ESCLAL-S-28-AM, ESCLAL-S-29-AM, ESCLAL-S-30-AM, ESCLAL-S-31-AM, ESCLAL-S-32-AM, ESCLAL-S-33-AM, ESCLAL-S-34-AM, ESCLAL-S-35-AM, ESCLAL-S-36-AM, ESCLAL-S-37-AM, ESCLAL-S-38-AM, ESCLAL-S-39-AM, ESCLAL-S-40-AM, ESCLAL-S-41-AM, ESCLAL-S-42-AM, ESCLAL-S-43-AM, ESCLAL-S-44-AM, ESCLAL-S-45-AM, ESCLAL-S-46-AM, ESCLAL-S-47-AM, ESCLAL-S-48-AM, ESCLAL-S-49-AM, ESCLAL-S-50-AM, ESCLAL-S-51-AM, ESCLAL-S-52-AM, ESCLAL-S-53-AM, ESCLAL-S-54-AM, ESCLAL-S-55-AM, ESCLAL-S-56-AM, ESCLAL-S-57-AM, ESCLAL-S-58-AM, ESCLAL-S-59-AM, ESCLAL-S-60-AM, ESCLAL-S-61-AM, ESCLAL-S-62-AM, ESCLAL-S-63-AM, ESCLAL-S-64-AM, ESCLAL-S-65-AM, ESCLAL-S-66-AM, ESCLAL-S-67-AM, ESCLAL-S-68-AM, ESCLAL-S-69-AM, ESCLAL-S-70-AM, ESCLAL-S-71-AM, ESCLAL-S-72-AM, ESCLAL-S-73-AM, ESCLAL-S-74-AM, ESCLAL-S-75-AM, ESCLAL-S-76-AM, ESCLAL-S-77-AM, ESCLAL-S-78-AM, ESCLAL-S-79-AM, ESCLAL-S-80-AM, ESCLAL-S-81-AM, ESCLAL-S-82-AM, ESCLAL-S-83-AM, ESCLAL-S-84-AM, ESCLAL-S-85-AM, ESCLAL-S-86-AM, ESCLAL-S-87-AM, ESCLAL-S-88-AM, ESCLAL-S-89-AM, ESCLAL-S-90-AM, ESCLAL-S-91-AM, ESCLAL-S-92-AM, ESCLAL-S-93-AM, ESCLAL-S-94-AM, ESCLAL-S-95-AM, ESCLAL-S-96-AM, ESCLAL-S-97-AM, ESCLAL-S-98-AM, ESCLAL-S-99-AM, ESCLAL-S-100-AM, ESCLAL-S-101-AM, ESCLAL-S-102-AM, ESCLAL-P-1-AM, ESCLAL-P-2-AM, ESCLAL-P-3-AM, ESCLAL-P-4-AM, ESCLAL-P-5-AM, ESCLAL-P-6-AM, ESCLAL-P-7-AM, ESCLAL-P-8-AM, ESCLAL-P-9-AM, ESCLAL-P-10-AM, ESCLAL-P-11-AM, ESCLAL-P-12-AM, ESCLAL-P-13-AM, ESCLAL-P-13-AM, ESCLAL-P-14-AM, ESCLAL-P-15-AM, ESCLAL-P-16-AM, ESCLAL-P-17-AM, ESCLAL-P-18-AM, ESCLAL-P-19-AM, ESCLAL-P-20-AM, ESCLAL-P-21-AM, ESCLAL-P-22-AM, ESCLAL-P-23-AM, ESCLAL-P-24-AM, ESCLAL-P-25-AM, ESCLAL-P-26-AM, ESCLAL-P-27-AM, ESCLAL-P-28-AM, ESCLAL-P-29-AM, ESCLAL-P-30-AM, ESCLAL-P-31-AM, ESCLAL-P-32-AM, ESCLAL-P-33-AM, ESCLAL-4-100-AM, ESCLAL-4-105-AM, ESCLAL-4-106-AM, ESCLAL-4-109-AM, ESCLAL-4-111-AM, ESCLAL-4-112-AM, ESCLAL-4-113-AM, ESCLAL-4-118-AM, ESCLAL-4-119-AM, ESCLAL-4-120-AM, ESCLAL-4-126-AM, ESCLAL-4-130-AM, ESCLAL-4-135-AM, ESCLAL-4-136-AM, ESCLAL-4-141-AM, ESCLAL-4-142-AM, ESCLAL-4-147-AM, ESCLAL-4-148-AM,

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EXHIBIT D

Legal Description of Additional Land

LEGAL DESCRIPTION OF ADDITIONAL LAND-CABIN LOT AREA
COMMENCING AT A POINT WHICH IS N.89°59'43"W 1477.57 FEET
ALONG THE SECTION LINE AND N.89°59'12"W 669.19 FEET FROM THE
NORTHEAST CORNER OF SAID SECTION 1, TOWNSHIP 2 SOUTH,
RANGE 3 EAST, S.L.B&M. FEET;

THENCE S.67°52'5"W. 202.53 FEET; THENCE S.2°43'39"E. 132.14 FEET;
THENCE N.29°5'6.608"W. 0.004 FEET; THENCE S.87°16'21"W. 42.00 FEET;
THENCE S.3°26'27"E. 80.02 FEET; THENCE ALONG A CURVE TO THE
LEFT, HAVING A RADIUS OF 321.00 A DELTA ANGLE OF 22° 40' 02",
AND WHOSE LONG CHORD BEARS S.18°34'22"E. 126.17 FEET; THENCE
S.29°54'24"E. 109.30 FEET; THENCE N.90°0'0"W. 63.74 FEET; THENCE
N.0°0'0"E. 25.00 FEET; THENCE N.90°0'0"W. 126.23 FEET; THENCE
N.0°0'0"E. 479.50 FEET; THENCE N.90°0'0"E. 313.77 TO THE POINT OF
BEGINNING. CONTAINING 67,026 SQ FT OR 1.539 ACRES OF LAND.

LEGAL DESCRIPTION OF ADDITIONAL LAND-BIRD BEAK AREA
COMMENCING AT A POINT WHICH IS N.89°59'43"W 1477.57 FEET
ALONG THE SECTION LINE AND N.89°53'47"W 409.45 FEET FROM THE
NORTHEAST CORNER OF SAID SECTION 1, TOWNSHIP 2 SOUTH,
RANGE 3 EAST, S.L.B&M. FEET;

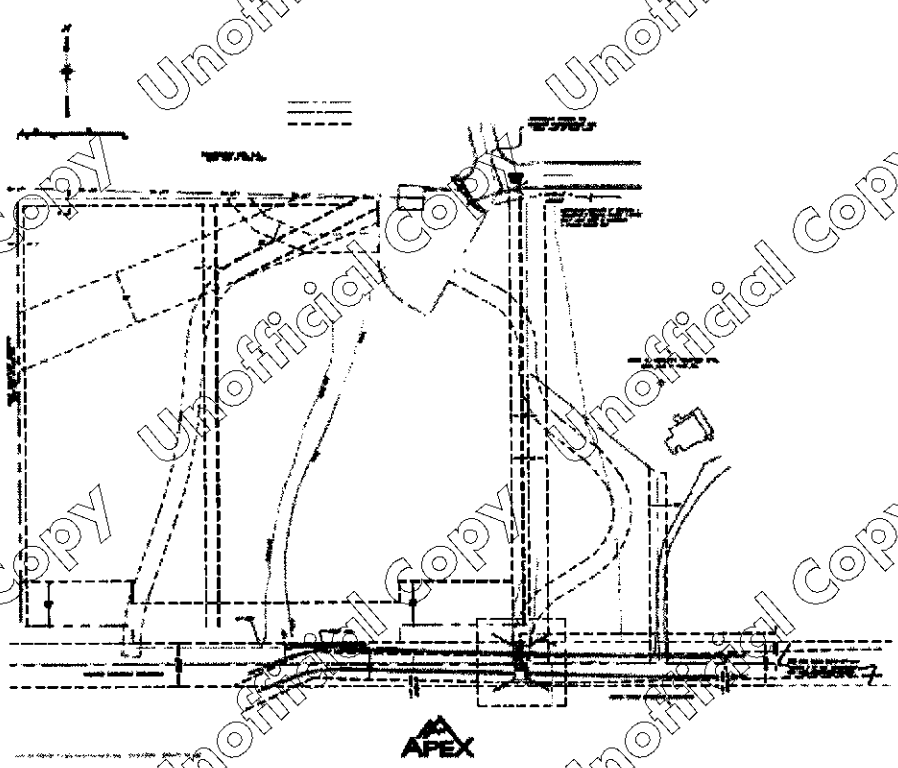
THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 200.00
A DELTA ANGLE OF 11° 40' 46", AND WHOSE LONG CHORD BEARS
S.78°25'26"W. 40.70 FEET; THENCE S.29°59'60"W. 143.02 FEET; THENCE
N.60°0'0"W. 29.92 FEET; THENCE ALONG A CURVE TO THE RIGHT,
HAVING A RADIUS OF 60.00 A DELTA ANGLE OF 60°00' 00", AND
WHOSE LONG CHORD BEARS N.29°59'60"W. 60.00 FEET; THENCE
N.0°0'0"E. 66.00 FEET; THENCE S.89°41'36"E. 167.29 TO THE POINT OF
BEGINNING. CONTAINING 11,508 SQ FT OR 0.264 ACRES OF LAND.

LESS AND EXCEPT
COMMENCING AT A FOUND MONUMENT MARKING THE NORTHEAST
CORNER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST, SLB&M;
THENCE N.89°59'43"W. ALONG THE SECTION LINE 1722.02 FEET;
THENCE SOUTH 420.37 FEET TO THE REAL POINT OF BEGINNING;
THENCE SOUTH 70.00 FEET; THENCE WEST 40.00 FEET; THENCE
NORTH 70.00 FEET; THENCE EAST 40.00 FEET TO THE POINT OF
BEGINNING. CONTAINING 0.06 ACRES.

EXHIBIT E

Legal Description of Convertible Land

Attached hereto and incorporated herein by this reference.



Commencing at the Northeast corner of Section 1, Township 2 South, Range 3 East, Salt Lake Base & Meridian; thence North $89^{\circ}59'43''$ West 1887.02 feet; thence South 0.89 feet to the Southern Right-of-Way line of High Mountain Road and the Easterly line of Lot 16 of the Park City West Plat No. 2, on file in the record of the Office of the Summit county Recorder, said point being the point of Beginning; thence South along the East line of said Lot 16, a distance of 193.48 feet; thence leaving said East line South $51^{\circ}34'55''$ East, a distance of 185.07 feet; thence South, a distance of 215.00 feet to the Center Line of Red Pine Road Right-of-Way; thence along said center line, West, a distance of 145.00 feet; thence leaving said center line North, a distance of 44.87 feet to the Southwest corner of vacated Lot 14 of said subdivision; thence along the South line of said vacated Lot 14, West, a distance of 147.29 feet to the Southwest corner of said vacated Lot 14, thence leaving said vacated Lot 14 and along the boundary of said Park City West Plat No. 2 the following calls: South, a distance of 25.00 feet; thence West, a distance of 300.00 feet; thence North, a distance of 25.00 feet; thence West, a distance a 126.23 feet to the Southwest Corner of vacated Lot 13 of said subdivision; thence along the West line of said Lot, North, a distance of 479.50 feet to the Northwest Corner of said vacated Lot 13; thence East along the said subdivision boundary, a distance of 406.23 feet to the vacated center line of Brad Avenue of said Park City West Plat No. 2; thence along said Center Line in the following calls: South, a distance of 66.00 feet to a point of curve to the left having a radius of 60.00 feet and a Central angle of $60^{\circ}00'00''$; thence Southeasterly along the arc a distance of 62.83 feet; thence South $60^{\circ}00'00''$ East, a distance of 29.92 feet to the intersection of the Center Line of vacated Jeannine Drive; thence along the Center Line of the vacated Jeannine Drive North $30^{\circ}00'00''$ East, a distance of 143.02 feet to the southerly right of way line of said High Mountain Road and point of curvature of a 200 foot radius curve to the right, radius point bears South $17^{\circ}24'57''$ East; thence along the arc of said curve and said right of way 40.77 feet through a central angle of $11^{\circ}40'46''$ to the curve's end and the point of Beginning.

Containing 7.136 acres, more or less

Together with a Right-of-Way for roadway purposes, as granted in that certain Warranty Deed recorded August 2, 1977 as Entry No. 139351 in Book M97 at Page 730 of the Official Records; being more particularly described as being fifty (50) feet in width, twenty-five (25) feet on either side of the following described center line:

Beginning at a point on the South line of a County Road which is 1253 feet North and 750 West from the Northeast corner of Section 1, Township 2 South, Range 3 East, Salt Lake Base and Meridian; and running thence South 680.6 feet; thence South $10^{\circ}00'$ East 355 feet; thence 1112.96 feet along the arc of a 636.62 foot radius curve to the right; thence West 881 feet.

EXHIBIT F

Depiction of Convertible Space

PHASE 1:

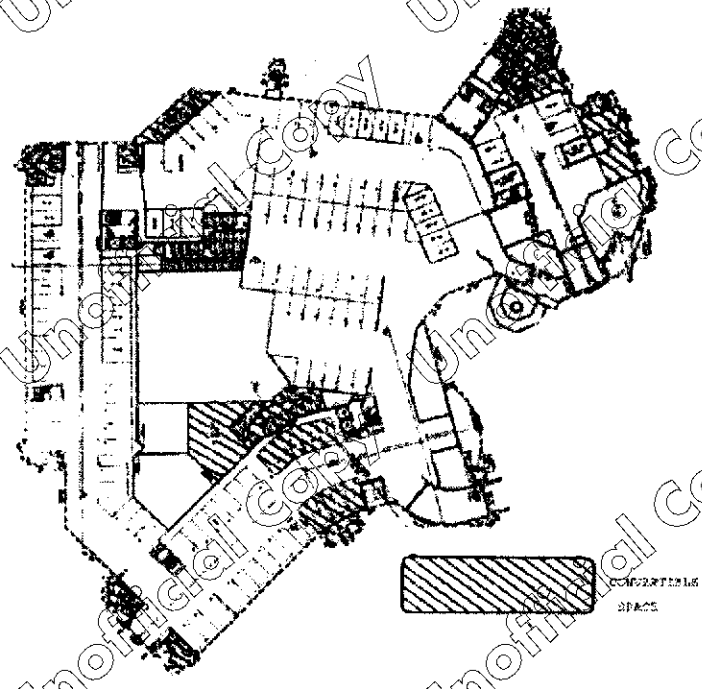
Those certain portions of Buildings 1, 2 and 3 within the Project as depicted on the Plat and in this Exhibit.

PHASE 2:

Those certain portions of Buildings 4 and 5 within the Project as depicted on the Plat and in this Exhibit.

Depictions attached hereto and incorporated herein by this reference.

EXHIBIT F
Depiction of Convertible Space
Buildings 1, 2 and 3
"Convertible Space for Phase 1"
Parking Level

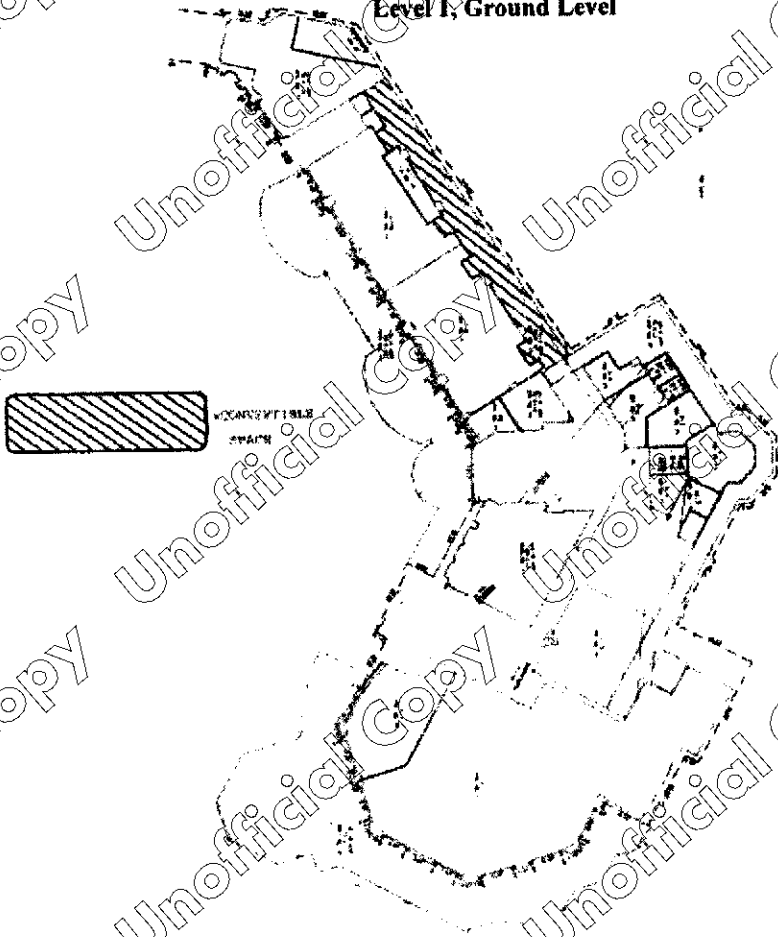


These areas shall remain part of the project and shall be used in accordance with the project which may be converted into use to make use of the areas and facilities, and limited common areas and facilities, as provided in Article 12 of the Declaration, and as designated in the plan.

EXHIBIT F

Depiction of Convertible Space

**Building 1
"Convertible Space for Phase 1"
Level 1, Ground Level**

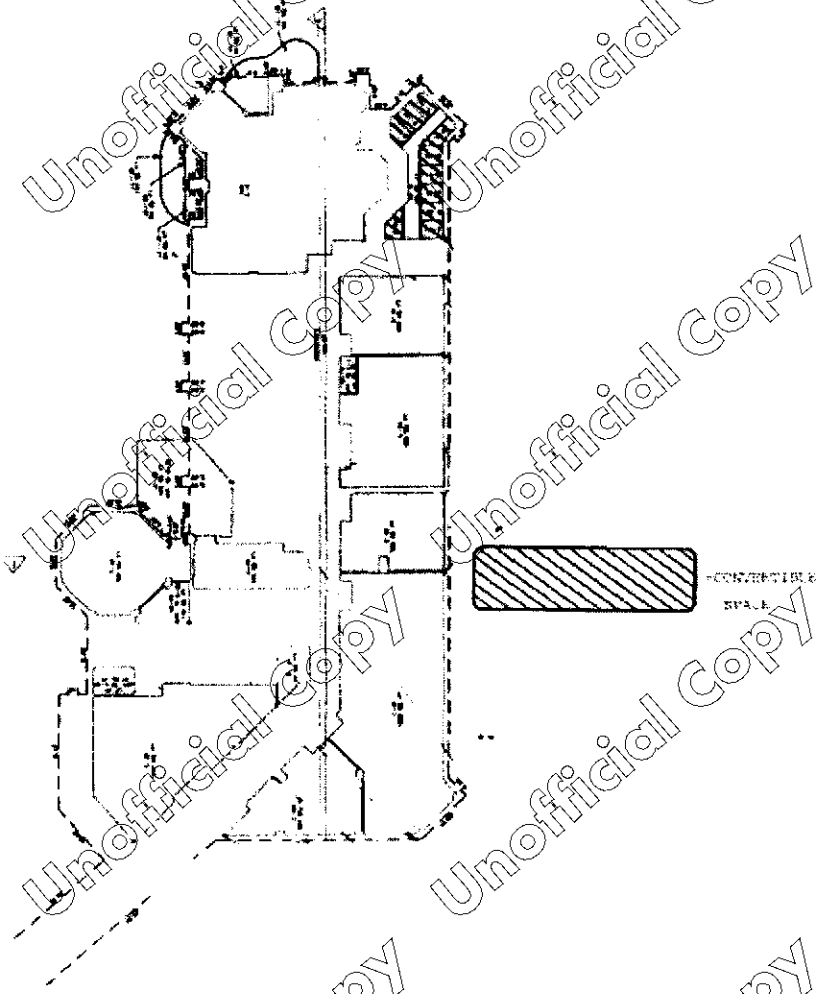


Convertible Space means those portions of the building within the project area that, as indicated on the site plan, are designated as convertible space and are subject to the terms, conditions and restrictions as provided in Article 10 of the regulations and are not restricted in use.

EXHIBIT F

Depiction of Convertible Space

**Building 2
"Convertible Space for Phase 1"
Level 1, Ground Level**



Convertible space means that portion of the Building within the Project which the DA (applicant) has identified as convertible space under the provisions of the Colorado State and Local Codes and which is not currently used for the purposes of the Building and is designated as such on the plans.

EXHIBIT F

Depiction of Convertible Space

**Buildings 4 and 5
"Convertible Space for Phase 2"
Parking Level**

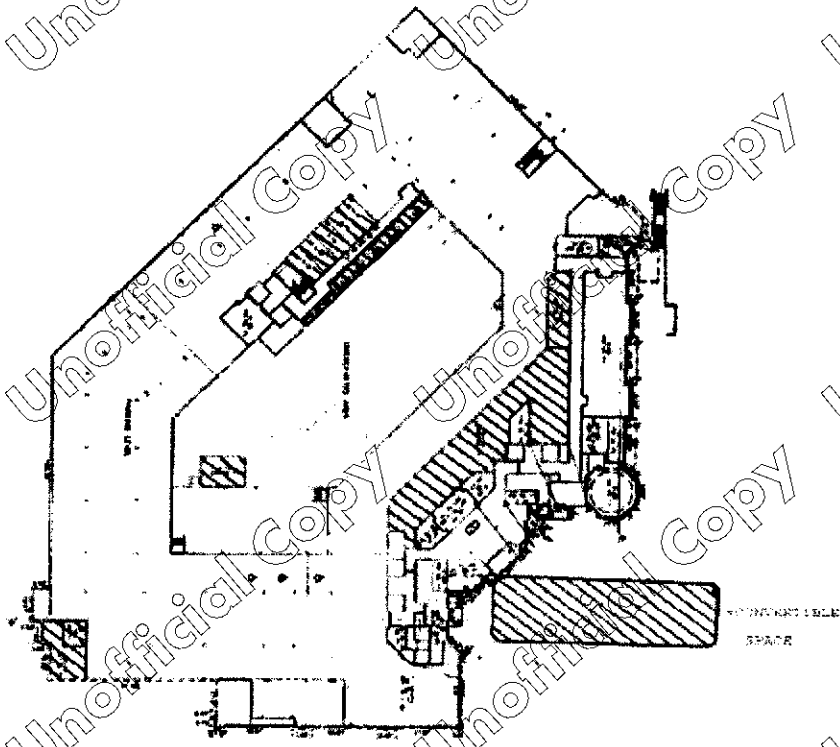
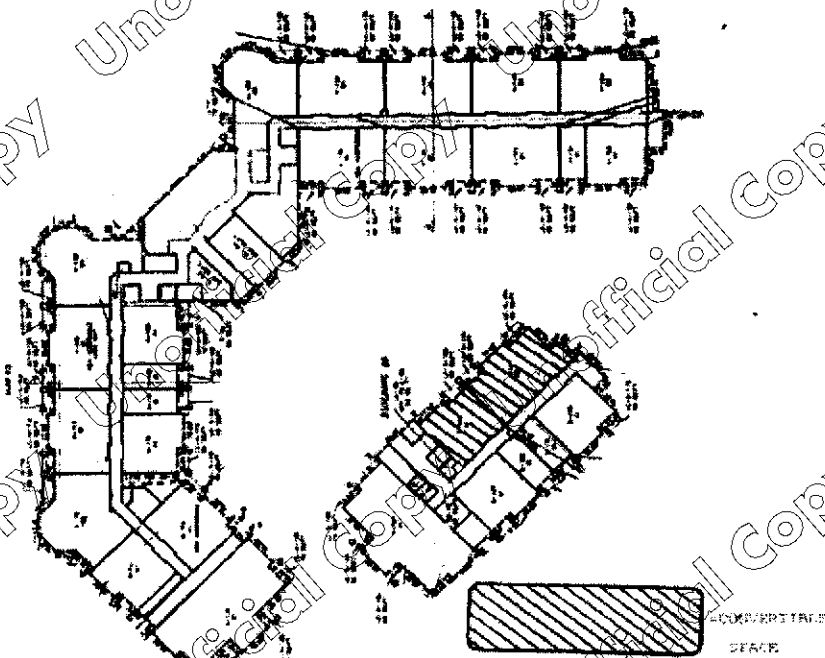


EXHIBIT F

Depiction of Convertible Space

**Building 5
"Convertible Space for Phase 2"
Level 1**

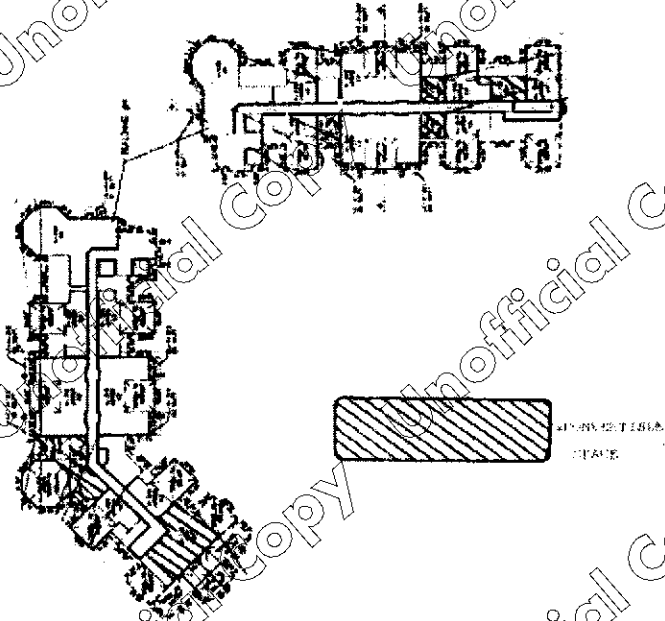


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EXHIBIT F

Depiction of Convertible Space

**Building 4
"Convertible Space for Phase 2"
Level 4**



The plan shows the space within the building to be used for the... (text is partially obscured by watermarks)

EXHIBIT G

Legal Description of Withdrawable Land

COMMENCING AT A POINT WHICH IS N.89°59'43"W. 1477.57 FEET AND SOUTH 367.59 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 1 TOWNSHIP 2 SOUTH, RANGE 3 EAST, S.L.B&M. FEET;

THENCE S.0°0'0"E. 156.67 FEET; THENCE N.89°59'38"W. 264.45 FEET; THENCE N.0°0'0"E. 156.64 FEET; THENCE N.90°0'0"E. 264.45 FEET TO THE POINT OF BEGINNING. CONTAINING 41426 SQ. FT. OR 0.95 ACRES OF LAND.

LESS AND EXCEPT

COMMENCING AT A FOUND MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST, SLB&M; THENCE N.89°59'43"W. ALONG THE SECTION LINE 1722.02 FEET; THENCE SOUTH 420.37 FEET TO THE REAL POINT OF BEGINNING; THENCE SOUTH 70.00 FEET; THENCE WEST 40.00 FEET; THENCE NORTH 70.00 FEET; THENCE EAST 40.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.06 ACRES.

EXHIBIT H

Property Not Subject to the Option to Contract

COMMENCING AT A POINT ON THE NORTH SECTION LINE OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST, S.L.B&M. WHICH IS N.89°59'43"W 1477.57 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 1 FEET;

THENCE S.0°0'0"E. 367.59 FEET; THENCE N.90°0'0"W. 264.45 FEET; THENCE S.0°0'0"E. 156.64 FEET; THENCE N.89°59'38"W. 145.00 FEET; THENCE N.0°0'0"E. 44.87 FEET; THENCE N.90°0'0"W. 147.29 FEET; THENCE S.0°0'0"E. 25.00 FEET; THENCE N.90°0'0"W. 188.72 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 321.00 A DELTA ANGLE OF 4° 02' 16", AND WHOSE LONG CHORD BEARS N.27°53'15"W. 22.62 FEET; THENCE N.29°54'24"W. 110.40 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 279.00 A DELTA ANGLE OF 27° 10' 45", AND WHOSE LONG CHORD BEARS N.16°19'1"W. 131.11 FEET; THENCE N.2°43'39"W. 186.90 FEET; THENCE N.67°52'5"E. 202.53 FEET; THENCE N.90°0'0"E. 92.46 FEET; THENCE S.0°0'0"E. 66.00 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 60.00 A DELTA ANGLE OF 60° 00' 00", AND WHOSE LONG CHORD BEARS S.30°00'00"E. 60.00 FEET; THENCE S.60°0'0"E. 29.92 FEET; THENCE N.29°59'60"E. 143.02 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 A DELTA ANGLE OF 11° 40' 46", AND WHOSE LONG CHORD BEARS N.78°25'26"E. 40.70 FEET; THENCE N.0°18'21"W. 0.74 FEET; THENCE N.90°0'0"E. 409.45 TO THE POINT OF BEGINNING. SAID DESCRIBED PARCEL CONTAINS 363,826 SQUARE FEET (8.352 ACRES), MORE OR LESS.

LESS AND EXCEPTING THE WITHDRAWABLE LAND DESCRIBED IN EXHIBIT G:

COMMENCING AT A POINT WHICH IS N.89°59'43"W. 1477.57 FEET AND SOUTH 367.59 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 1 TOWNSHIP 2 SOUTH, RANGE 3 EAST, S.L.B&M. FEET;

THENCE S.0°0'0"E. 156.67 FEET; THENCE N.89°59'38"W. 264.45 FEET; THENCE N.0°0'0"E. 156.64 FEET; THENCE N.90°0'0"E. 264.45 FEET TO THE POINT OF BEGINNING. CONTAINING 41426 SQ. FT. OR 0.95 ACRES OF LAND.

LESS AND EXCEPT

COMMENCING AT A FOUND MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 3 EAST, SLB&M; THENCE N.89°59'43"W. ALONG THE SECTION LINE 1722.02 FEET; THENCE SOUTH 420.37 FEET TO THE REAL POINT OF BEGINNING; THENCE SOUTH 70.00 FEET; THENCE WEST 40.00 FEET; THENCE NORTH 70.00 FEET; THENCE EAST 40.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.06 ACRES.

EXHIBIT I

PHASE 1 COMMON AREAS AND FACILITIES

Attached hereto and incorporated herein by this reference

EXHIBIT I

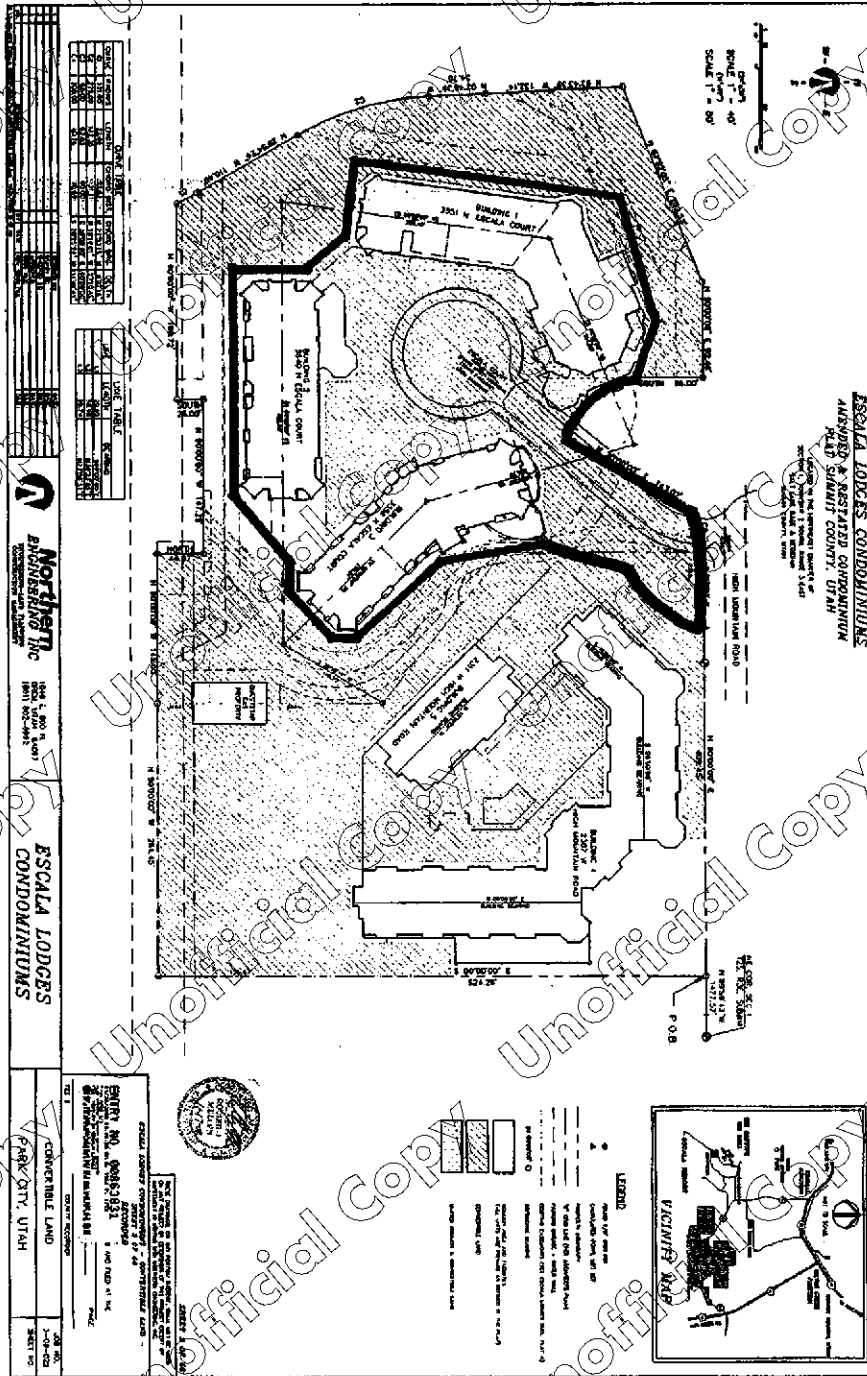


EXHIBIT J

PHASE 2 COMMON AREAS AND FACILITIES

Attached hereto and incorporated herein by this reference.

