

DOC # 20060051813

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Russell Shirts Washington County Recorder
11/07/2006 03:55:17 PM Fee \$ 134.00 By NELSON GALEN



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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR

CORAL SPRINGS

A Resort Condominium Development.

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EXHIBITS

- A. Legal Description
- B. Bylaws for the Coral Springs Condominiums Owners Association
- C. Legal Description for Additional Property

**Declaration of Covenants, Conditions, and Restrictions for
CORAL SPRINGS**

This Declaration of Covenants, Conditions and Restrictions is made pursuant to the Utah Condominium Ownership Act to establish CORAL SPRINGS, a residential condominium development.

PURPOSE AND INTENT

Declarant is the owner of certain real property located in Washington County, State of Utah, which is more particularly described below. Declarant is desirous of subjecting this real property, along with all improvements constructed or to be constructed thereon, to the Utah Condominium Ownership Act, Title 57, Chapter 8 of the Utah Code, dividing, selling and conveying the same to various purchasers subject to the covenants, conditions, easements, and restrictions contained in this Declaration and the provisions of the Condominium Ownership Act.

DECLARATION

Declarant does hereby declare that the following described real property located in Washington County, Utah, is subject to the Utah Condominium Ownership Act and the following covenants, conditions, restrictions, easements, assessments, charges and liens, and the Condominium Plat recorded herewith:

*See legal description attached hereto as Exhibit A and
incorporated herein by this reference*

which all are for the purpose of protecting the value and desirability of the Property as a harmonious and attractive residential and resort community, and which shall be construed as covenants of equitable servitude and shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1
DEFINITIONS AND CONCEPTS

The following definitions and concepts shall control in this Declaration. Where a term is not defined herein, it shall have its ordinary meaning, unless it is defined the Act, in which case it shall have the meaning set forth in the Act.

1.1. "Act" means the Utah Condominium Ownership Act, Utah Code Ann. § 57-8-1 to -38 (2000 & Supp. 2005). With respect to any amendments to the Act which become effective after the date of recording of this Declaration, unless such amendments are, by the terms of the Act, made applicable to existing condominium projects, then the provisions of the Act as it exists upon recording of this Declaration shall control unless the Management Committee, by resolution, determines otherwise.

1.2. "Articles" means and refers to the Articles of Incorporation of The Coral Springs Condominium Owners Association, which has been filed with the Utah Division of Corporations and Commercial Code, and includes any amendments thereto. The purpose of the Articles is to establish the Association as a non-profit corporation under Utah law.

1.3. "Association" means the Coral Springs Condominium Owners Association, a Utah non-profit corporation, its successors and assigns.

1.4. "Building" means and refers to the separately numbered buildings located on the Property that contain Units.

1.5. "Bylaws" means and refers to the Bylaws of the Association, appended hereto as Exhibit B, and includes any amendments thereto. The purpose of the Bylaws is to govern the Association's internal affairs, such as (for purposes of example but not limitation) voting, elections, and meetings.

1.6. "Common Areas and Facilities" means and refers to the area designated "common area" on the Condominium Plat and all other area within the Condominium Project, whether leasehold or in fee simple, except for the Units.

1.7. "Common Expenses" means and includes: (a) all sums lawfully assessed against the Unit Owners; (b) expenses of administration, maintenance, repair, or replacement of the Common Areas and Facilities; (c) expenses agreed upon as Common Expenses by the Association; and (d) expenses declared Common Expenses by the provisions of the Act, this Declaration, the Bylaws, the Articles, or by rule or resolution adopted by the Management Committee.

1.8. **"Condominium Project"** means and refers to the entirety of the Buildings, the Units, the Common Areas and Facilities and Limited Common Areas, and the Property.

1.9. **"Condominium Plat"** means and refers to the plat that is made and prepared by a registered Utah land surveyor in accordance with section 57-8-13 of the Act and recorded concurrently herewith, and includes any amendments or replacements thereof or additions thereto, and other condominium plats prepared in accordance with the Act for additional property annexed into the Condominium Project and subjected to this Declaration.

1.10. **"Declarant"** means Coral Springs, LLC, a Utah limited liability company, and its successors or assigns.

1.11. **"Declarant Control Period"** means and refers to the period of time in which the Declarant has the right to unilaterally expand the Property as set forth in Article 13.

1.12. **"Declaration"** means and refers to this instrument, and any amendments, supplements, or additions hereto.

1.13. **"Eligible Mortgagee"** means a first Mortgagee or any insurer or guarantor of a first Mortgage which has notified the Association in writing of its name and address and status as holder, insurer, or guarantor of a first Mortgage. Such notice will be deemed to include a request that an Eligible Mortgagee be given notices and other rights described in the Project Documents.

1.14. **"Limited Common Areas"** means and refers to those Common Areas and Facilities designated herein as reserved for use of a certain Unit or Units to the exclusion of other Units or area that is otherwise designated by the Management Committee or the Declarant for a reserved use.

1.15. **"Management Committee"** means and refers to the governing body of the Condominium Project.

1.16. **"Mortgage"** means a mortgage, a deed of trust, a deed to secure a debt, or any other form of security instrument which is held by an institutional lender and affects title to any Unit.

1.17. **"Master Declaration"** means and refers to the Master Declaration of Restrictive Covenants which was recorded in the Office of the Washington County Recorder on December 12, 2005, as Entry No. 00990935, at Book 1823, Pages 2394-2419, and affects the Property as well as other real property subject thereto, all set forth therein, and includes the

Supplemental Declaration of Restrictive Covenants recorded in the Office of the Washington County Recorder on February 24, 2006, as Document No. 20060005013. The Supplemental Declaration affects only the Property.

1.18. "Mortgagee" means and refers to a lender holding a Mortgage on any Unit.

1.19. "Project Documents" means, collectively, this Declaration, the Bylaws, the Articles, any rules and regulations established pursuant to the authority of the Act or this Declaration, the Bylaws, or the Articles, and includes any amendments or supplements to the foregoing documents.

1.20. "Property" means that certain real property hereinbefore described and includes any expansion property once the same is subjected to this Declaration as provided for herein.

1.21. "Unit" means and refers to the area or space contained in the perimeter walls of each of the individually numbered areas on the Condominium Plat designated for private ownership, together with an undivided interest in the Common Areas and Facilities.

1.22. "Unit Owner" means and refers to the person, persons, entity, or entities owning a Unit in fee simple and an appurtenant undivided interest in the fee simple estate of the Common Areas and Facilities. Regardless of the number of parties participating in ownership of each Unit, those parties shall be treated as, collectively, one "Unit Owner."

ARTICLE 2

BOUNDARIES, DESCRIPTIONS, AND OWNERSHIP INTERESTS

2.1. **Units.** In order to establish a plan of condominium ownership, the Condominium Project is hereby initially divided into divided into twenty six (26) separately designated and legally described freehold estates consisting of the Units as defined above and designated on the Condominium Plat recorded herewith.

(a) Unit Boundaries. The boundaries of each Unit consist horizontally of the area within the interior surface of the sheet rock on walls which form the exterior of the Building, and the lines as drawn on the Condominium Plat as constituting boundaries between the Unit and Common Areas and Facilities or between the Unit and other Units, and vertically from the interior surface of the floor of the Unit up to the interior surface of the ceiling.

(b) Additional Portions of the Unit. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning and compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of the interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim consisting of, inter alia and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members of any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the Building within which the Unit is situated shall be considered part of the Unit.

(c) Description of Units. Units will range from between approximately 1,225 to 1,463 square feet, as more particularly described on the Condominium Plat. Each Unit shall contain a minimum of two bedrooms and two baths. Each Unit constructed will be finished as follows: tile and carpet floor coverings, self-contained equipment to supply heat and hot water; laundry hook-ups; covered outside patios/decks; and interior walls of painted sheet rock. Each Unit will be separately metered for electricity. Water will be metered in common. Each Unit's water supply system will be connected to a sewage collection system which will be connected to a public sewage disposal system as set forth herein. A more detailed description of the Units, including the square footage is found on the Condominium Plat. Revised Unit descriptions may be contained in subsequent plats, expansions, or amendments.

(d) Inseparability of Unit. No part of a Unit or the legal rights comprising ownership of a Unit may be partitioned or separated from any other part thereof. Each Unit shall always be conveyed, transferred, devised, bequeathed, encumbered, and otherwise affected only as a complete Unit. Every conveyance, transfer devise, bequest, encumbrance, or other disposition of the Unit shall be presumed to be a disposition of the entire Unit, together with all appurtenant rights and interests created by law or by this Declaration, including the Unit Owner's membership in the Association. No Unit may be further subdivided.

2.2. Common Areas and Facilities.

(a) Description of Common Areas and Facilities. The Common Areas and Facilities, as defined above, generally consist of and include all foundations, columns, girders, beams, supports, main walls, roofs, stairways, stairwells, exterior walkways, driveways, streets, such recreational areas and facilities as may be

provided, yards, fences, service and parking areas and entrances and exits, and in general all other apparatus, installations and other parts of the Condominium Project not within the boundary of a Unit, whether or not expressly listed herein. The Common Areas and Facilities within the Condominium Project include or will include a recreation center with indoor and outdoor swimming pools and hot tubs, an exercise room, outdoor courts, a club house and gathering room, open space and park areas, guest parking areas, and other amenities all as depicted and described on the Condominium Plat.

(b) Sewer Lines and Related Facilities. Pursuant to the requirements of and agreement with the Ash Creek Special Service District, a special service district organized and existing under the laws of the State of Utah (hereafter "*Ash Creek*"), which agreement is recorded in the Office of the Washington County Recorder (hereafter referred to as the "*Ash Creek Agreement*"), the sewer lines and related facilities within the Condominium Project must be privately owned and maintained. By this Declaration, such sewer lines and related facilities are hereby designated as Common Areas and Facilities and all right, title, and interest in such sewer lines and related facilities are hereby transferred to the Unit Owners, as their interests may appear herein, to be maintained, repaired, and replaced, as necessary, by the Association in accordance with the Ash Creek Agreement and with this Declaration. The sewer lines and related facilities within the Condominium Project are for collection purposes only and are connected to and discharged into Ash Creek's system for disposal by Ash Creek.

(c) Rights of Use and Rules and Regulations Concerning the Common Areas and Facilities. Every Unit Owner shall have a right and easement of use and enjoyment in and to the Common Areas and Facilities which easement shall be appurtenant to and shall pass with the title to every Unit, subject to the Project Documents and the Act. The Management Committee shall have the right to establish and enforce rules and regulations governing the use of the Common Areas and Facilities, including but not limited to rights of use, hours of use, and delegation of use. Additional rights to establish rules and regulations governing the Common Areas and Facilities may be set forth and established elsewhere in the Project Documents and the Act.

(d) Management Committee Rights in Common Areas and Facilities. The Management Committee shall have the right, for and on behalf of the Association, to:

(i) enter into agreements or leases which provide for use of the Common Areas and Facilities by a similar association in consideration for use

of the common areas and facilities of the other association or for cash consideration, or by third parties for cash consideration;

(ii) with the approval of at least seventy-five percent (75%) of Unit Owners and at least fifty-one percent (51%) of Eligible Mortgagees (based on one vote for each Mortgage held) to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the Common Areas and Facilities to any private individual, corporate entity, public agency, authority, or utility;

(iii) grant easements for public utilities or other public purposes consistent with the intended use of the Common Areas and Facilities;

(iv) take such steps as are reasonably necessary or desirable to protect the Common Areas and Facilities against foreclosure;

(v) maintain, repair, and replace, as necessary, all sewer lines and related facilities within the Condominium Project in a prompt and timely manner. This duty shall include—as required by the Ash Creek Agreement and in addition to all other necessary maintenance, repair, and replacement—flushing and cleaning the sewer lines at least once every two years. In addition, the Management Committee has the right and authority to enter into agreements with Ash Creek or any other qualified service provider, to provide routine and periodic maintenance and other necessary service for the sewer lines and related facilities.; and

(vi) take such other actions with respect to the Common Areas and Facilities which are authorized by or otherwise consistent with the Project Documents or the Act.

(e) Ownership Interest in Common Areas and Facilities. Each Unit is allocated an equal undivided interest in the Common Areas and Facilities. This interest is appurtenant to and inseparable from each Unit. No Unit Owner shall execute any deed, Mortgage, lease or other instrument conveying, leasing or encumbering title to the Unit without including therein all interests appurtenant thereto. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed to include any omitted interest, even though not expressly mentioned or described therein.

(f) Inseparability of Common Areas and Facilities. Subject to the provisions of this Declaration and the Act, the Common Areas and Facilities shall remain physically undivided, and no Unit Owner shall bring any action for partition or division of the Common Areas and Facilities. Any conveyance, encumbrance, judicial sale, or other transfer (voluntarily or involuntarily) of an individual interest in the Common Areas and Facilities shall be and hereby is declared void unless the Unit to which that interest is allocated is also transferred. By acceptance of a deed or other instrument of conveyance to a Unit, each Unit Owner of a Unit shall be deemed to have specifically waived such his right to institute or maintain a partition action or any other cause of action designed to cause a division of the Common Areas and Facilities, and this section may be pleaded as a bar to the maintenance of such an action. Any Unit Owner who initiates or otherwise maintains any such action shall be liable to and hereby agrees to reimburse the Association for the Association's attorney fees and costs incurred in defending any such action. Such fees and costs shall automatically become a charge and lien against the Unit Owner and his Unit which may be enforced by the Association in accordance with Article 5.

2.3. **Limited Common Areas.**

(a) Description of Limited Common Areas. Limited Common Areas may be designated on the Condominium Plat or may otherwise be assigned or designated in this Declaration or by the Declarant or Management Committee consistent with the Project Documents. Limited Common Areas include: the underground parking spaces designated for use by Unit Owners in a particular Building or otherwise assigned to particular Units; storage facilities located on the garage floor of each Building which are designated and assigned on the Condominium Plat for the use of particular Units; and covered decks and patios as depicted on the Condominium Plat which reserved for the exclusive use of appurtenant Units. Limited Common Areas also include, but are not limited to, any shutters, awnings, window boxes, doorsteps, porches, or other apparatus or area intended to serve a particular Unit, but located outside the boundaries of that Unit.

(b) Rights of Use and Rules and Regulations Concerning the Limited Common Areas. Each Unit Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas reserved exclusively for the use of his Unit, subject to the rights of the Declarant and the Management Committee as set forth in the Project Documents and the Act. The right of exclusive use and occupancy does not include the right to repaint, remodel, erect structures upon or attach any apparatus to without the express written consent of the Management Committee.

(c) Management Committee Rights in Limited Common Area. The Management Committee's right of regulation in the Limited Common Area includes all rights it possesses with respect to the Common Areas and Facilities which are not inconsistent with exclusive use to a particular Unit or Units to which the Limited Common Area is assigned, and includes, but is not limited to, the right to regulate and control architectural and aesthetic appearances of the Limited Common Area.

(d) Business Office; On-Site Manager. The Condominium Plat, the Declarant, or the Management Committee may designate an office space within the Common Areas and Facilities as Limited Common Area for the exclusive use of an on-site property manager within which the manager can manage and conduct the affairs of the Association consistent with any contract between the property manager and the Association for such services.

2.4. **Description of Buildings.** Each Building will be two-storeys in height, and will include a basement (garage) level for underground parking. Each Building will contain a total of thirteen (13) Units each, with six (6) Units located on each storey (first and second floors) and one (1) Unit located on the basement (garage) level. Each Building will be of wood frame construction, of primarily stucco exterior, and a concrete or bar tile roof. Each Building will have stairwells and stairways for Unit Owners to access their Units. Additional descriptions of the Building are contained on the Condominium Plat.

ARTICLE 3

MEMBERSHIP, VOTING, AND DEVELOPMENT RIGHTS

3.1. **Membership.** Each Unit Owner shall automatically become a member of the Association upon becoming the owner of a Unit and shall remain a member of the Association until such time as the ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership is appurtenant to and may not be separated from Unit ownership. The Management Committee or its delegate may require that a member provide proof of ownership as a condition to recognition. All Unit Owners are subject to all the rights and duties established in the Project Documents. Unless otherwise provided in the Project Documents, the Declarant, for all unsold Units in the Property, enjoys the same rights and is subject to the same duties as other Unit Owners.

3.2. **Voting Rights.** Each Unit Owner shall be entitled to one vote for each Unit owned. A Unit which has been acquired by the Management Committee in its own name or in the name of its agents, designee or nominee on behalf of all of the Unit Owners shall not be entitled to vote so long as it continues to be so held. The limitation in the preceding sentence shall have no application to Units owned by Declarant. If a Unit is owned by more

than one person or entity, as joint tenants, tenants by the entirety, or as tenants in common, or in partnership, the persons or entities owning such Unit shall reach agreement as to the matter voted upon and cast their vote for their Unit. A vote cast at any Association meeting by any of such co-owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Unit concerned unless written objection is made prior to said meeting or verbal objection is made at said meeting by another co-owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.3. **Declarant's Development Rights.** The rights reserved to Declarant in the Project Documents are for the purpose of maximizing flexibility available to the Declarant, as the developer of the Property, to ensure the success of the development and meet the demands of the market. The Declarant shall have the right to exercise all rights incident to development of the Property and any property annexed into the Property in accordance with Declarant's expansion rights, including without limitation the right or combination of rights hereby reserved by Declarant, as follows:

(a) The right to create Units and Common Areas and Facilities and Limited Common Areas on the Property, subject to the limitations of the Act and the Project Documents;

(b) The right to subdivide Units and convert Units into Common Areas and Facilities on any part of the Property and the right to convert Common Areas and Facilities into Limited Common Areas and the right to convert Limited Common Areas into Common Areas and Facilities, subject to the limitations of the Act. This right will specifically include, without limitation, the right to convert parking spaces that are designated as Common Areas and Facilities to Limited Common Areas and the right to convert parking spaces that are designated as Limited Common Areas to Common Areas and Facilities;

(c) The right, without the consent of the Unit Owners, to amend or supplement the Condominium Plat, apply for any zone change or for other zoning, building, or subdivision permits or approvals which Declarant deems necessary in the course of developing the Property.

ARTICLE 4
MANAGEMENT COMMITTEE

4.1. **Management Committee.** The affairs of the Association shall be governed by a Management Committee, the composition of which is set forth in the Bylaws. The Management Committee shall have the power to manage the Condominium Project in accordance with the Act and the Project Documents.

4.2. **Declarant's Right to Appoint.** Notwithstanding any contrary provision in the Bylaws, the Declarant shall have the right to appoint and remove all the members of the Management Committee, all officers of the Association, and exercise all powers and responsibilities delegated by this Declaration, the Act, and the Project Documents to the Association, its officers and the Management Committee for a period ending: (a) six years after the recording of this Declaration; or (b)(i) after Units to which three-fourths of the undivided interest in the Common Areas and Facilities appertain have been conveyed, or (ii) after all additional land has been added to the Property, whichever occurs last between (b)(i) and (ii), and whichever first occurs between (a) and (b).

4.3. **Indemnification.** The Management Committee, and each member thereof, shall be indemnified by the Association against any loss, damage, claims or liability, including reasonable attorney fees, suffered or incurred by reason of such position, except to the extent such damage, claim, loss or liability is covered by any type of insurance; provided, however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with, any claim or liability arising out of that persons own willful misconduct or gross negligence.

4.4. **Rulemaking Power.** The Management Committee may, from time to time, subject to the provisions of the Act and the Project Documents, adopt, amend and repeal rules and regulations governing, among other things, use of any Common Areas and Facilities, parking restrictions and limitations, limitations upon vehicular travel within the Condominium Project, and restrictions on other activities or improvements on the Condominium Project which, in the opinion of the Management Committee, create a hazard, nuisance, unsightly appearance, excessive noise, or offensive smell.

4.5. **Notice; Promulgation of Rules.** A copy of the rules and regulations, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Unit Owner and may, but need not be, recorded. Upon such mailing or other delivery, said rules and regulations shall have the same force and effect as if they were set forth in and were a part of this Declaration and the Bylaws. In addition to or in lieu of providing notice by mail, the Management Committee may provide notice by electronic means such as electronic mail (e-mail) to Unit Owners and may require that Unit Owners, in

addition to keeping the Management Committee informed as to their current mailing address, maintain a current e-mail address with the Management Committee for such purpose.

4.6. **Change of Corporate Status.** The Association has been set up and established as a non-profit corporation under Utah law. However, the continuing existence and viability of the Association is not vested in its corporate status. During any period in which the Association is not incorporated or otherwise has a change of corporate status (*e.g.*, involuntary dissolution under the Utah Nonprofit Corporation Act for failure to file for corporate renewal), the Project Documents shall nevertheless continue to be effective as the Project Documents of the Association, and the Association, the Management Committee, and all officers and committees operating under the authority of the Project Documents and the Act shall have all rights, power, and authority granted therein, and no Unit Owner may escape or avoid any assessment, charge, lien, rule or other matter contained in the Project Documents or the Act by virtue of such change of corporate of status. In the case of non-incorporation, the Management Committee is authorized, to the extent it deems necessary, and without approval of the Unit Owners, to re-incorporate under a same or similar name and such corporation shall be deemed the successor to the Association. In the event the Management Committee does not reincorporate, the Association shall continue to operate and function under the Project Documents and the Act as an unincorporated association.

4.7. **Management Agreement; Property Manager.** The Management Committee may engage for the Association the services of a property manager to perform such duties and services as the Management Committee shall authorize. The Management Committee may delegate to and otherwise authorize the property manager to perform those services to which the Management Committee itself may perform under the Project Documents or the Act, and those services to which the Act otherwise authorizes a manager to perform. Any contract or agreement for services entered into by the Management Committee for and on behalf of the Association and the property manager shall not exceed a term of two (2) years. The property manager may also provide services to individual Unit Owners, such as leasing individual Units as may be determined between the property manager and the Unit Owner; *provided however*, that services performed for individual Unit Owners which are not performed for the Association shall not be Common Expenses but shall be charged to such Unit Owners as the Unit Owners and the property manager may determine.

ARTICLE 5

ASSESSMENTS AND LIENS

5.1. **Authority to Levy Assessments and Charges.** The Management Committee has authority, and is required, to set and levy assessments and other charges consistent with and as set forth in the Act and the Project Documents.

5.2. Personal Obligation of Assessments; Creation of Lien.

(a) Every Unit Owner, by acceptance of a deed to a Unit, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association all assessments levied or charged by the Association or Management Committee pursuant to this Declaration as well any additional charges, interest, costs of collection and reasonable attorney fees, as hereinafter provided. All such amounts shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment or amount is charged. Such assessments and other amounts shall be the personal obligation of the person who was the Unit Owner at the time the assessment fell due. Successors-in-title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

(b) If any Unit Owner shall fail or refuse to make any payment to the Association when due, the entire amount thereof shall constitute a lien on the interest of the Unit Owner in the Unit, and upon the recording of notice thereof by the manager or Management Committee shall be a lien upon the Unit Owner's interest in the Unit prior to all other liens and encumbrances, recorded or unrecorded, except as otherwise provided in the Act.

(c) The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to foreclosure of a first Mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a Unit Owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

5.3. Purposes. The purposes for which assessments and other charges may be set and levied include, but are not limited to:

- (a) payment of taxes, insurance and common utility charges;
- (b) payment of cost of repairing, replacing, maintaining, and constructing or acquiring additions to the Common Areas and Facilities;
- (c) establishment and maintenance of an adequate reserve fund for the repair or replacement of the Common Areas and Facilities;
- (d) payment of administrative expenses of the Association;

- (e) payment of prior years' deficits;
- (f) payment for any common trash collection, sewer and water costs, and cable television charges; and
- (g) generally other charges required by the Project Documents, the Act, or that the Management Committee shall determine to be necessary to meet the primary purposes of the Association.

5.4. **Annual Assessments.** The Management Committee shall prepare a budget before the close of each fiscal year of the Association for the purpose of calculating and establishing the annual assessments for the subsequent fiscal year. Annual assessments for Common Expenses shall be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of maintenance and operation of the Common Areas and Facilities; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds, common lighting within the Common Areas and Facilities; renovations within the Common Areas and Facilities; wages; common water and utility charges for the Common Areas and Facilities; legal and accounting fees; management fees; expenses and liabilities from a previous assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs, and replacement of the Common Areas and Facilities.

5.5. **Special Assessments.** In addition to the annual assessments, the Management Committee may levy, in any assessment year, a special assessment, applicable to that year only, for the purpose of (a) defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of Common Areas and Facilities or Limited Common Areas and any structures, fixtures and personal property related thereto; (b) making up any shortfall in the current year's budget; or (c) as necessary to fund any litigation the Management Committee deems necessary for the benefit of the Association. If any of the special assessments levied pursuant to this section are to be used for the construction of new facilities (as opposed to repair and reconstruction of existing facilities in the Condominium Project) and if the total amount of the special assessments levied for such construction exceeds ten percent (10%) of the gross annual budget for the Association for that year, then such special assessment must have the assent of at least sixty-seven percent (67%) of the votes in the Association at a meeting duly called for this purpose.

5.6. **Additional Assessments.** In addition to the annual assessments and special assessments authorized herein, the Management Committee may levy such assessments as may be necessary from time to time for the purpose of repairing and restoring damage or disruption to streets or other Common Areas and Facilities or Limited Common Areas

resulting from the activities of the City of Hurricane in maintaining, repairing or replacing utility lines and facilities thereon.

5.7. **Emergency Assessments.** Notwithstanding anything contained in this Declaration, the Management Committee, without Unit Owner approval, may levy emergency assessments in response to an emergency situation. Prior to the imposition or collection of any assessment due to an emergency situation, the Management Committee shall pass a resolution containing the written findings as to the necessity of such expenditure and why the expenditure was not or could not have been reasonably foreseen or accurately predicted in the budgeting process and the resolution shall be distributed to the Unit Owners with the notice of the emergency assessment. If such expenditure was created by an unbudgeted utility maintenance or similar expense or increase, the assessment created thereby shall be discontinued by the Management Committee by a similar resolution, if such expense is subsequently reduced, or to the extent the next succeeding annual budget incorporates said increase into the annual assessment. An emergency situation is one in which the Management Committee finds, in its discretion:

(a) An expenditure required by an order of a court, to defend the Association in litigation, or to settle litigation;

(b) An expenditure necessary to repair or maintain the Condominium Project or any part of it for which the Association is responsible where a threat to personal safety on the Condominium Project is discovered;

(c) An expenditure necessary to repair, maintain, or cover actual Association expenses for the Condominium Project or any part of it that could not have been reasonably foreseen by the Management Committee in preparing and distributing the pro forma operating budget (for example: increases in utility rates, landscape or maintenance contract services, attorney fees incurred in the defense of litigation, etc.); or

(d) Such other situations in which the Management Committee finds that immediate action is necessary and in the best interests of the Association.

5.8. **Apportionment of Assessments.** Unless otherwise provided in the Project Documents or the Act, all assessments levied by the Management Committee under the authority of this Article, whether assessed as annual, special, additional or emergency assessments, must be fixed at a uniform rate for each Unit; *provided, however*, that for sixty (60) days following the conveyance of the first Unit, unsold and unoccupied Units owned by the Declarant shall be assessed at twenty-five percent (25%) of their full assessment. Sixty (60) days after the first Unit is conveyed, all Units shall be fully assessed. Any Common

Expense associated with the maintenance, repair, or replacement of any Limited Common Areas shall be assessed against the Unit or Units to which that Limited Common Area is assigned, equally, or in any other proportion the Management Committee reasonably determines. Any Common Expense or portion thereof benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited. If any Common Expense is caused by the misconduct of any Unit Owner, or the occupant of that Unit Owner's Unit, the Association may assess that expense exclusively against such Unit Owner and his Unit. The total annual assessments of the Association shall be apportioned among all Units as provided in this section and shall not be apportioned between Common Areas and Facilities and Limited Common Areas.

5.9. Date of Commencement of Annual Assessments; Due Dates.

(a) Commencement. The annual assessment provided for herein shall commence to accrue on the date fixed by the Management Committee. The first annual assessment may be set at any time and shall be adjusted according to the number of months remaining in the Association's fiscal year.

(b) Assessment Notices. At least thirty (30) days prior to the commencement of each new fiscal year, the Management Committee shall send or cause to be sent a written notice of the annual assessment to each Unit Owner subject thereto. This notice will include the amount of the past year's budget, plus a status of reserve funds and anticipated reserve needs. This notice shall not be a prerequisite to validity of the assessment.

(c) Default Rate. In the absence of a determination by the Management Committee as to the amount of an annual assessment, the annual assessment shall increase by five percent (5%) above the annual assessment for the previous year.

(d) Due Dates. The assessment due dates shall be established by the Management Committee. The Management Committee may provide for the payment of annual and special assessments in equal installments (monthly or quarterly) throughout the assessment year. Due dates for other assessments shall be set by the Management Committee, provided that the due dates of such assessments shall give Unit Owners at least thirty (30) days notice prior to coming due.

5.10. Effect of Non-Payment of Assessment; Remedies of the Association.

(a) Delinquency; Interest and Late Fees. Any assessment or installment thereof not paid within fifteen (15) days after the due date shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum

until paid. In addition, the Management Committee may assess a late fee for each delinquent installment which shall not exceed ten percent (10%) of the installment.

(b) Remedies. If any Unit Owner fails or refuses to pay any assessment when due, the Management Committee may, in the name of the Association:

(i) bring an action at law against the Unit Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment;

(ii) foreclose the lien against the property in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law;

(iii) terminate, in accordance with section 57-8-20(5)(a) of the Act, the Unit Owner's right to receive utility services paid as a Common Expense and/or terminate the Unit Owner's right of access and use of those Common Areas and Facilities designed and designated for recreational use;

(iv) if the Unit Owner is leasing or renting his Unit, the Management Committee may, in accordance with section 57-8-20(6)(a) of the Act, demand that the Unit Owner's tenant pay to the Association all future lease payments due to the Unit Owner from the tenant, beginning with the next monthly or other periodic payment, until the amount due to the Association from the Unit Owner is paid;

(v) accelerate all assessment installments that will become due within the subsequent twelve (12) months so that all such assessments for that period become due and payable at once; provided however, that acceleration may only be invoked against a Unit Owner who has been delinquent in paying any assessment or installment two (2) or more times within a twelve (12) month period; and/or

(vi) take such other action as provided for and authorized in the Act.

(c) Costs, Expenses, and Attorney Fees. There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and reasonable attorney fees and costs incurred in attempting to collect the assessment, whether or not legal action is actually filed, together with an account

for the reasonable rental for the Unit from time to time from commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

(d) Power of Sale. A power of sale is hereby conferred upon the Association that it may exercise. Under the power of sale the Unit of a Unit Owner may be sold in the manner provided by Utah law pertaining to deeds of trust or mortgages as if said Association were beneficiary under a deed of trust or mortgage. The Association may designate any person or entity qualified by law to serve as trustee for purposes of power of sale foreclosure.

(e) No Waiver for Non-Use or Abandonment. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas and Facilities or by abandonment of his Unit.

(f) Remedies in Act. The remedies provided for herein shall be in addition to and shall include those set forth in the Act, whether or not specifically set forth in this Declaration.

5.11. **Statement of Amount.** The Management Committee shall, upon the written request of any Unit Owner or any encumbrancer or prospective encumbrancer of a Unit, upon payment of a reasonable fee not to exceed ten dollars, issue a written statement setting forth the unpaid assessments with respect to the Unit covered by the request. Such a statement shall be conclusive upon the remaining Unit Owners and upon the Management Committee in favor of all persons who rely thereon in good faith. Unless the requested statement of indebtedness is provided within twenty (20) days after the request, all unpaid assessments that became due prior to the date of the making of such request shall be subordinate to the lien or position of ownership held by the person requesting the statement. Any encumbrancer holding a lien on a Unit may pay any unpaid assessments payable with respect to such Unit. Upon payment, the encumbrancer shall have a lien on the Unit for the amounts paid of the same rank as the lien of the respective encumbrance.

5.12. **Working Capital Fund.** The Declarant shall establish an initial working capital fund in an amount equal to at least two months of the estimated Common Expenses for each Unit in the initial phase of development. The fund shall be used to meet unforeseen expenditures or to purchase additional equipment or services for the Association not covered by regular assessments. Each Unit's share of the working capital fund shall be paid either on closing of the sale of a Unit, or when control of the Property is transferred to the Unit Owners, whichever is earlier. Any amounts paid into this fund shall not be considered advance payments of regular assessments. The fund shall be transferred to the Association

for deposit to a segregated account when control of the Association is transferred to the Unit Owners. The Declarant shall not use the fund to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficits while it is in control of the Association. However, the Declarant may reimburse itself for funds it paid the Association for an unsold Unit's share of the working capital fund by using funds collected at closing when such Unit is sold.

ARTICLE 6
INSURANCE

6.1. **Property Damage and Liability Insurance.** The Management Committee shall procure the following types of property damage and public liability insurance:

(a) A "master" or "blanket" policy of property insurance equal to full replacement value (exclusive of land, foundation, excavation and other like items) of all Common Areas and Facilities and all Buildings, including any improvement which is a permanent part of any Building, affording protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage and such other risks as are customarily covered in similar projects. The policy must cover all of the general and limited common elements normally included in coverage including fixtures, building service equipment, and the Association's personal property and supplies.

(b) A comprehensive policy of commercial general liability insurance covering all Common Areas and Facilities, all Buildings, including any improvement which is a permanent part of any Building, and Limited Common Areas, if any, with a Severability of Interest Endorsement or equivalent coverage which would preclude the company from denying the claim of a Unit Owner because of the negligent acts of the Association or another Unit Owner, with limits not less than One Million Dollars (\$1,000,000) covering all claims for personal injury and/or property damage arising out of a single occurrence, including protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others and such other risks as are customarily covered in similar projects. The policy should provide that coverage not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to any and all insureds and Eligible Mortgagees.

6.2. **Other Provisions for Insurance Policies.** Any insurance obtained by the Management Committee shall provide that:

- (a) Any insurance trust agreement will be recognized;
- (b) The named insured under any such policies shall be the Association, as trustee for the Unit Owners and holder of each Unit's Mortgage, and shall have standard mortgagee clauses;
- (c) Insurance coverage obtained and maintained pursuant to the requirements of Section 6.1 may not be brought into contribution with insurance purchased by the Unit Owners or their Mortgagees, and the coverage shall in all events be primary even if other insurance covers the same loss;
- (d) Coverage must not be prejudiced by (i) any act or neglect of the Unit Owners when such act or neglect is not within the control of the Association or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Condominium Project over which the Association has no control;
- (e) Coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten days' prior written notice to any and all insureds, including Eligible Mortgagees who have filed written request for such notice including its name and address and the Unit number on which it has the Mortgage;
- (f) The insurer shall waive subrogation as to any and all claims against the Association, the Unit Owners, and/or their respective agents, employees or tenants, and of any defenses based on co-insurance or on invalidity arising from the acts of the insured; and
- (g) Any provisions that the carrier may elect to restore damage in lieu of a cash settlement shall not be exercisable without the prior written approval of the Association or when in conflict with any requirement of law.

6.3. **Use of Proceeds.** Except as provided by statute in case of substantial loss to the Units and/or Common Areas and Facilities, unless at least two-thirds (2/3) of the first Mortgagees and Unit Owners have given their prior written approval, the Association shall not be entitled to use hazard insurance proceeds for the losses to any condominium property for other than the repair, replacement, or reconstruction of such condominium property.

6.4. **Fidelity Insurance.** The Association may maintain adequate fidelity coverage to protect against dishonest acts by the Management Committee, their agents and employees and all others who are responsible for handling funds of the Association meeting the following requirements:

- (a) naming the Association as the insured;
- (b) written in an amount equal to at least three months' assessments plus all reserve funds; and
- (c) containing waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The policy must include a provision that calls for ten days' written notice to the Association and first mortgagees before the policy can be canceled or substantially modified for any reason. A management agent that handles funds for the Association should be covered by its own fidelity policy, which must provide the same coverage required herein.

6.5. **Premiums.** Any insurance premiums of the Association shall be Common Expenses.

6.6. **Deductibles.**

(a) Payment by Association. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as premiums for the applicable insurance coverage and paid by the Association accordingly.

(b) Payment by Individual Unit Owners. In the event the Management Committee determines that the loss is the result of the negligence or willful misconduct of one or more Unit Owners, their guests, invitees, or lessees, then the Management Committee may assess the full amount of such deductible against such Unit Owners and their Units as an assessment pursuant to Article 5. In the event the Management Committee determines that a loss is limited to one or more Units, then the Management Committee may assess the full amount of such deductible against such Unit Owners and their Units as an assessment pursuant to Article 5. An assessment against more than one Unit Owner for the payment of any deductible shall be made equally among the Unit Owners or in proportion to the Unit Owners' fault, as determined by the Management Committee, for the loss to which the claim is being made.

(c) Appeal of Individual Deductible Assessment. Any Unit Owner who is assessed by the Management Committee for the payment of a deductible in accordance with Section 6.6(b) may appeal such assessment to the Management Committee by providing written notice of such appeal to the Management Committee within ten (10) days of the date of the assessment. The Management Committee shall, within a reasonable time thereafter, convene a special meeting of the Management Committee to allow the Unit Owner an opportunity to be heard as to why the Unit Owner should not be assessed the amount of the deductible. Any decision by the Management Committee shall be final and non-appealable. Management Committee members may file an appeal under this Section, only in their capacity as individual Unit Owners. If a Management Committee member (or an occupant of his/her household) files an appeal, the Management Committee member must recuse himself/herself from all of the proceedings of the Management Committee which relate to that appeal.

6.7. **Flood Insurance.** If any part of the Condominium Project's improvements are in a Special Flood Hazard Area, the Association must maintain a "master" or "blanket" policy of flood insurance covering the Common Areas and Facilities.

6.8. **Individual Unit Owner's Insurance.** Insurance obtained by the Association shall not prejudice the rights of the individual Unit Owners to obtain insurance. Unit Owners are encouraged to insure their personal property and installed fixtures.

6.9. **Annual Review of Policies.** The Management Committee should review all insurance policies at least annually in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed. The Management Committee may, to the extent it deems necessary to more fully protect and insure the Association and the Common Areas and Facilities, or to otherwise comply with evolving laws, regulations, and insurance standards, modify the coverage standards set forth in this Article without the necessity of amending this Declaration.

ARTICLE 7 MORTGAGEE PROTECTIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units within the Condominium Project. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

7.1. **Notices.** An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association, stating the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an Eligible Mortgagee will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss that affects a material portion of the Condominium Project or which affects any Unit securing its Mortgage;

(b) Any 60-day delinquency in the payment of assessments or charges owed by the Unit Owner of any Unit on which it holds a Mortgage;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

(d) Any proposed action that required the consent of a specified percentage of Mortgagees.

7.2. **Amendments to Documents.** No amendment to the Project Documents which is of a material adverse nature to Mortgagees may be effective unless approved by Mortgagees that represent at least fifty-one percent (51%) of the votes of Unit Owners that are subject to Mortgages.

7.3. **Actions.** Any action to terminate the legal status of the Condominium Project after substantial destruction or condemnation occurs or for other reasons must be agreed upon by Mortgagees representing at least fifty-one percent (51%) of the votes of Unit Owners that are subject to Mortgages.

7.4. **Notice of Mortgagee Objections; Implied Approval.** Unless a Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action outlined in this Article within thirty (30) days following the receipt of notice delivered by certified or registered mail, return receipt requested, of such proposed amendment or action, the Mortgagee shall be deemed conclusively to have approved the proposed amendment or action.

7.5. **First Mortgagee's Rights Confirmed.** Notwithstanding any provision in the Project Documents, nothing contained in the Project Documents shall give a Unit Owner or any other party priority over any rights of the first Mortgagee of a Unit pursuant to its Mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Areas and Facilities.

7.6. **Unpaid Assessments.** Any first Mortgagee who obtains title to a Unit pursuant to the remedies in the Mortgage or through foreclosure will not be liable for more than six (6) months of the Unit's unpaid regularly budgeted assessments or charges accrued before acquisition of the title to the Unit by the Mortgagee; provided however that the Mortgagee will be responsible for the attorney fees and costs incurred by the Association in collecting the unpaid dues.

7.7. **Right to Cure Unpaid Assessments.** Eligible Mortgagees shall be entitled to cure any delinquency of the Unit Owner of the Unit encumbered by the Eligible Mortgagee's Mortgage in the payment of assessments of which the Eligible Mortgagee has received notice under Section 7.1 above. In that event, the Eligible Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

ARTICLE 8
DAMAGE OR DESTRUCTION

8.1. **Role of the Management Committee.** Except as provided for below, in the event of damage to or destruction of all or part of any Unit, Common Areas and Facilities, or other property covered by insurance written in the name of the Association, the Management Committee shall arrange for and supervise the prompt repair and restoration of the damaged areas of the Condominium Project, including, without limitation, the floor coverings, fixtures, and appliances initially installed therein by Declarant, and replacement thereof installed by the Unit Owners up to the value of those initially installed by Declarant, but not including any furniture, furnishings, fixtures, equipment, or other personal property supplied or installed by the Unit Owners in the Units unless covered by insurance obtained by the Association. Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the reconstruction and redecorating of the interior of his Unit.

8.2. **Association to Represent Unit Owners.** Each Unit Owner hereby appoints the Management Committee as an attorney-in-fact to represent the Unit Owner in negotiations, settlements, agreements, and related proceedings resulting from damage or destruction to the Condominium Project.

8.3. **Estimate of Damage or Destruction.** As soon as practicable after an event causing damage to or destruction of any part of the Condominium Project, unless such damage or destruction shall be minor, the Management Committee shall obtain an estimate or estimates that it deems reliable and complete the costs of repair and reconstruction of that part of the Condominium Project damaged or destroyed. "*Repair and reconstruction*" as used in this Article shall mean restoring the damaged or destroyed part of the

Condominium Project to substantially the same condition in which it existed immediately 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.

8.4. Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of that part of the Condominium Project damaged or destroyed. As attorney-in-fact for the Unit Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Unit Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

8.5. Funds for Repair and Reconstruction. Subject to the provisions of Section 8.6 below, the proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair and reconstruction. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 5.5 above, levy, assess, and collect in advance from the Unit Owners a special assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. The cost of repair and reconstruction in excess of insurance proceeds and reserves is a Common Expense.

8.6. Disbursement of Funds. The insurance proceeds held by the Association and the amounts received from the special assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. Such fund shall be applied by the Association as attorney-in-fact for such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact to cause the repair and restoration of the improvements. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the special assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Unit Owners in proportion to the contributions each Unit Owner made as special assessments, or if no special assessments were made, then in proportionate shares among Unit Owners based on the relative value of each Unit and in accordance with the par value of each Unit, as more fully set forth in the Act, first to the Mortgagees and then to the Unit Owners, as their interests appear.

8.7. Decision Not to Rebuild. Any portion of the Condominium Project for which insurance is required pursuant to the provisions of this Declaration or the Act which is damaged or destroyed must be repaired or replaced promptly by the Association unless: (a) repair or replacement would be illegal under any applicable state or local statute or ordinance governing health or safety or (b) Unit Owners representing at least eighty percent

(80%) of votes in the Association, and any other votes required by the Act, vote not to repair and reconstruct the Condominium Project in which case the Condominium Project will be terminated in accordance with the Act.

If the entire Condominium Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Areas and Facilities must be used to restore the damaged area to a condition compatible with the remainder of the Condominium Project, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units and Common Areas and Facilities that are not rebuilt must be distributed to the Unit Owners of those Units and the Unit Owners of the Units to which those Common Areas and Facilities were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, based on the relative value of each Unit and in accordance with the par value of each Unit, as more fully set forth in the Act.

8.8. **Repairs.** All repairs and reconstruction contemplated by this Article shall be performed substantially in accordance with this Declaration, the Condominium Plat, and the original plans and specifications for the Condominium Project, unless other action is approved by the Association in accordance with the requirements of this Declaration or the Act.

8.9. **Notice of Damage or Destruction.** In the event that any portion of the Condominium Project encompassing more than one Unit is substantially damaged or destroyed by fire or other casualty, then written notice of the damage or destruction shall be given by the Association to each Eligible Mortgagee of the affected Units within a reasonable time following the event of casualty damage.

ARTICLE 9 CONDEMNATION

9.1. **Consequences of Condemnation.** If, at any time or times during the continuance of the Condominium Project pursuant to this Declaration, all or any part of the same shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu or in avoidance of condemnation, then all compensation, damages, or other proceeds of condemnation shall be payable to the Association and shall be allocated among Unit Owners in accordance with the Act. Nothing in this Article shall be construed to give the Association or Unit Owners priority over a first Mortgagee to proceeds of insurance, damage or condemnation claims.

9.2. **Association to Represent Unit Owners.** Each Unit Owner hereby appoints the Management Committee as an attorney-in-fact to represent the Unit Owner in negotiations, settlements, agreements, and related proceedings resulting from condemnation or liquidation of all or a part of the Property, or from termination of the Condominium Project.

9.3. **Notice of Condemnation.** In the event that any portion of the Condominium Project shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then timely written notice of such condemnation shall be given by the Association to each Unit Owner and Eligible Mortgagee.

ARTICLE 10
MAINTENANCE AND ALTERATIONS

10.1. **Maintenance by Association.** It shall be the responsibility of the Association to maintain, repair, or replace:

(a) all Common Areas and Facilities and Limited Common Areas, and any other common elements;

(b) all portions of the Unit which contribute to the support of the Building, including main bearing walls, but excluding painting, wall papering, carpeting or other floor covering, decorating or other work on the interior surfaces of walls, ceilings and floors within the Unit;

(c) all portions of the Unit which constitute a part of the exterior of the Building, or which front the Common Areas and Facilities; and

(d) all incidental damage caused by the work done by or at the direction of the Association.

10.2. **Maintenance by Unit Owner.** It shall be the responsibility of the Unit Owner:

(a) to maintain, repair, or replace at the Unit Owner's expense all portions of the Unit which may cause injury or damage to the other Units or to the Common Areas and Facilities and Limited Common Areas, if any, and any other common elements;

(b) to paint, wallpaper, decorate and maintain the interior surfaces of all walls, ceilings and floors within the Unit;

(c) to perform preventative and routine maintenance on and to otherwise keep all mechanical equipment, appliances, pipes and similar items located within the Unit in good and working condition;

(d) to perform all responsibilities in such a manner and at such reasonable hours so as not to unreasonably disturb other Unit Owners; and

(e) to refrain from repairing, altering, replacing, painting, decorating or changing the exterior of the Unit.

10.3. **Alteration or Improvement of Units.** No structural alterations shall be made to any Unit. Unit Owners shall not repair, alter, replace, paint, decorate or change the exterior of the Unit, including any patio area, or any exterior appendages whether exclusively used by the Unit Owner or otherwise without obtaining the written consent of the Management Committee. Unit Owners may make improvements to the interior of their Units provided that such improvements do not create excessive noise or disturbance to other Unit Owners.

10.4. **Responsibility for Damage.** Any individual who causes damage to any Common Areas and Facilities or Limited Common Area shall be personally responsible for said damage and repair or restoration of the same and the Association may undertake to repair the damage, the cost of which repair shall be assessed and charged against the individual responsible therefor.

ARTICLE 11 USE AND OTHER RESTRICTIONS

The following use and other restrictions shall apply to the Condominium Project. These restrictions are in addition to those established by federal, state, or local law and ordinance and those which may be set forth elsewhere in the Project Documents.

11.1. **Use of Units.** All Units are restricted to residential use by the Unit Owner, the Unit Owner's family, tenants or guests as a private permanent or temporary residence and for no other purpose. No Unit shall be used, occupied, or altered in violation of law, so as to create a nuisance or interfere with the rights of any Unit Owner or in a way that would result in an increase in the cost of any insurance covering the Condominium Project.

11.2. **Use of Common Areas and Facilities; Delegation of Use.** Except for the rights of ingress and egress, Unit Owners are hereby prohibited and restricted from using any of the Common Areas and Facilities other than as permitted in this Declaration or as may be allowed by the Management Committee. Any Unit Owner may delegate his right of

enjoyment of the Common Areas and Facilities to the members of his family, his tenants, guests, licensees and invitees, but only in accordance with the applicable rules and regulations of the Association and other Project Documents. The Management Committee may, by rule, require Unit Owners to forfeit their right of use in the Common Areas and Facilities for so long as the Unit Owner has delegated his right of use in the Common Areas and Facilities to his or her tenant.

11.3. **Commercial Activity.** No commercial activities of any kind whatever shall be conducted on any portion of the Condominium Project, including an in-home business as defined by local ordinances. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth in the Project Documents, as the same may be amended from time to time or to any on-site property manager under contract to perform services for the Association.

11.4. **Compliance with Laws.** No Unit Owner shall permit anything to be done or kept in his Unit or any part of the Condominium Project that is in violation of any applicable federal, state, or local law, ordinance, or regulation.

11.5. **Declarant's Construction, Business and Sales.** Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction, marketing, and sale of Units including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices. There are no limitations on the number, size, location and relocation of any sales office and model units that may be utilized by Declarant.

11.6. **Signs.** The Management Committee shall have the right to regulate the display, use, size, and location of signs within the Condominium Project. The right to regulate includes the right of prohibition. Notwithstanding the Management Committee's right of regulation, no signs, advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on the exterior of any Unit or Building, on the Common Areas and Facilities, or any portion of the Condominium Project. Nor shall such signs, billboards, objects of unsightly appearance, or nuisances be placed or permitted to remain within any Unit where the same are visible from the streets, or roadways. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth in the Project Documents, as the same may be amended from time to time.

11.7. **Quiet Enjoyment.** No noxious or offensive activity shall be carried on upon any part of the Condominium Project nor shall anything be done thereon which may be or may become an annoyance or nuisance to individuals residing in the Condominium Project, or which shall in any way interfere with the quiet enjoyment of each of the Unit Owners or which shall in any way increase the rate of insurance.

11.8. **Planting and Gardening.** No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Property except such as are installed in accordance with the initial construction of the Condominium Project, or as approved by the Management Committee.

11.9. **Garbage Removal.** All rubbish, refuse, trash, and garbage shall be placed in proper containers and regularly removed from within and around the Units so it does not accumulate.

11.10. **Decks and Patios.** No bicycles or trash containers may be stored nor trash or similar items accumulated on the decks or patios of Units. Lawn furniture and barbecue grills may be stored on patios of Units if such items cannot be visibly viewed from other Units or other portions of the Property.

11.11. **External Apparatus.** No Unit Owner shall cause or permit anything (including, without limitation, external material, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior of any Building, Common Areas and Facilities, or any Limited Common Area. Nor shall such items be displayed or otherwise affixed to Units where the same are visible from outside the Unit.

11.12. **Electronic Antennas.** To the extent not prohibited by law, no television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on the exterior of any Building, on any Common Areas and Facilities, or the exterior of any building or structure within the Condominium Project, or within any Unit where the same is visible from outside the Unit. The Management Committee is hereby authorized to establish and promulgate rules and regulations to govern the placement and installation of antennas covered by the Federal Communications Commission's rules on "Over-the-Air Reception Devices"; *provided however* that no such rule or regulation established by the Management Committee shall allow the drilling of holes in the exterior portion of any structure within the Condominium Project, nor allow greater use of any Unit, any Common Areas and Facilities, or any Limited Common Area than is authorized and allowed by the Project Documents.

11.13. **Timeshares Prohibited.** No Unit Owner shall offer or sell any interest in his Unit under a "timesharing" or "interval ownership" plan, or any similar plan.

11.14. **Leases.** Leasing of Units is permitted subject to the following requirements. Any Unit Owner entering into a lease or rental agreement for his Unit must provide a copy of said lease or rental agreement to the Management Committee, or its designee, of the same within ten (10) days thereafter. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Project Documents and that any failure by lessee to comply with the terms of such documents shall be a default under the lease.

11.15. **Parking.**

(a) Underground Parking. Each Unit Owner shall have use of the parking stalls in the underground parking garage located beneath the Building in which the Unit is located. The Management Committee may assign certain underground stalls to particular Units. Underground parking is Limited Common Area reserved to the Unit Owners of the Building in which the underground parking is located. In the case of assignment of particular stalls, such stalls are Limited Common Area reserved for the exclusive use of the Unit to which they are assigned.

(b) Parking Generally. Parking on the streets is prohibited. Parking spaces within the Property shall be used for parking of motor vehicles actually used by the Unit Owner or his immediate family for personal use and not for commercial use. Parking spaces are limited to not more than two vehicles per Unit. No motor vehicle which is inoperable shall be placed in parking areas, and any motor vehicle which remains parked over 72 hours shall be subject to removal by the Association, at the owner's expense. Such expense of removal shall be secured by the lien for assessment obligations previously provided. No vehicle repairs of any kind shall be performed in the parking areas. Parking areas may not be used for storage purposes of any kind. If parking spaces are designated with numbers corresponding to Unit numbers, each such space is for the exclusive use of the Unit Owner. Recreational vehicles, boats, travel trailers and similar property may not be parked in the Condominium Project.

11.16. **Pets and Animals.**

(a) Restrictions. The Management Committee has the right to regulate and restrict, by rule, the keeping and harboring of pets and animals within the Condominium Project, including the keeping and harboring of pets and animals within the Units. This right includes the right to restrict the type, breed, or species of

animal, the number of animals which may be kept, the areas in which the animals may be kept or taken, and to completely eliminate the keeping and harboring of pets; *provided however*, that unless the Management Committee expressly authorizes the keeping of pets and animals by rule, the same shall be prohibited within the Condominium Project. The Management Committee may also establish procedural rules and regulations to implement its rules which should include provisions for notice and hearing. Commercial breeding of pets and animals is prohibited within the Condominium Project.

(b) Owner Responsibility. In the event the Management Committee authorizes the keeping of pets and animals, Unit Owners must take due care to ensure that their pets and animals do not make excessive noises, cause any offensive smell, or create any physical threat to the safety of any other Unit Owner or person within the Condominium Project, or the safety of any guests, lessees, or invitees, particularly among children. Unit Owners are responsible for any property damage, injury, or disturbance that their pet may cause or inflict anywhere within the Condominium Project. To the extent the Association is subjected or otherwise exposed to any liability, claims, damages, costs, losses, or expense as a result of the actions of an animal, the Association has the right to make a claim against the Unit Owner. Unit Owners shall indemnify the Association from any claims, damages, or causes of action that arise from or otherwise relate to the conduct of their pets. This indemnification shall include any attorney fees, costs, and expenses incurred by the Association.

11.17. **Smoking.** The Management Committee is authorized to, by rule, prohibit tobacco smoking within or around the Common Areas and Facilities and any other portion of the Condominium Project, including within Units or on patios, when it is determined that the smoke or the smell from the smoking might filter or drift into other Units or interfere with the use and enjoyment of the Condominium Project by other Unit Owners. In addition, the Management Committee is authorized to enforce and otherwise bring an action for nuisance under the provisions of Title 78, Chapter 38 of the Utah Code for and on behalf of any Unit Owner against any other Unit Owner or occupant whose smoking creates or constitutes a nuisance under said provision of the Utah Code.

11.18. **Pest Control.** No Unit Owner or Unit occupant shall permit any thing or condition to exist within or upon the Unit which would induce, breed, or harbor insects, rodents, or other pests. In addition to such pest control services as may be provided by the Association, each Unit Owner shall perform such pest control activities within and upon the Unit as may be necessary to prevent insects, rodents, and other pests from being present in his Unit.

11.19. **Skateboards and Rollerblades.** Skateboarding and rollerblading are prohibited within the Condominium Project.

ARTICLE 12
EASEMENTS

The following easements are in addition to those created elsewhere in this Declaration or other Project Documents, in the Act, or otherwise by law.

12.1. **Encroachments.** If any portion of the Common Areas and Facilities now encroaches upon any one Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Areas and Facilities as a result of the construction of the Building (including the Units and all other improvements to the Property), or if any such encroachment shall occur hereinafter as a result of settling or shifting of the Buildings, a valid easement for the encroachment and for the maintenance of the same so long as the buildings stand shall exist. In the event the Building, the Unit, any adjoining Unit or any adjoining Common Areas and Facilities shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings and then rebuilt, encroachments of parts of the Common Areas and Facilities upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Areas and Facilities due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand.

12.2. **Utility Easements.** There is hereby created a blanket easement upon, across, over and under all of the Property for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Property to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the Property, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property in such a way as to unreasonably encroach upon or limit the use of the Common Areas and Facilities, Limited Common Areas, or any structures thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement in this Section request a specific easement by separate recordable document, the Declarant or the Association shall have the right to grant such easement without conflicting with the terms hereof.

12.3. **Easement for Police, Fire, and Ambulance Service.** An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon any part of the Condominium Project in the performance of their duties.

12.4. **Easement for Maintenance by Association.** An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association for the purpose of maintaining the Common Areas and Facilities and to otherwise enter in any Unit in case of emergency or to perform the duties of maintenance and repair, in the event the same are neglected by the Unit Owner.

12.5. **Easement for Unit Owners.** Each Unit Owner has an unrestricted right of ingress and egress to his Unit which is appurtenant to ownership of the Unit. A Unit Owner has no easement of use of the air space outside of the boundaries of his Unit or, in the case of a patio or deck, outside the confines of the patio or deck as depicted on the Condominium Plat. Thus, subject to the Management Committee's right of regulation, each Unit Owner's easement of use with respect to an appurtenant patio or deck shall not extend (i) horizontally beyond or outside of the center line of any wall or other exterior surface constituting the perimeter boundary of the patio or deck or (ii) vertically beyond the interior surface of any covered area or ceiling over the patio/deck. In the event that a patio or deck is uncovered, the Unit Owner's easement of use of the airspace for such patio or deck shall not extend beyond the height of the interior surface of the ceiling within the Unit Owner's Unit.

12.6. **Easement for Declarant.** The Declarant hereby reserves to itself the right to reserve easements over, beneath, and through the Property, including over the Common Area and Facilities and Limited Common Area and related facilities, for the purpose of making improvements to and developing the Property or on any additional land submitted under the Declaration, including but not limited to construction, marketing, installation and upkeep of landscaping features, entrance features, project signage, street lights, paths, trails or sidewalks or other facilities or things benefiting the Property. The Declarant reserves to itself the right to make any dedications and to reserve, grant, vacate, or terminate any easements, rights-of-ways and licenses as may be reasonably required by any governmental authority or to carry out the intent and design of the Declarant's plan for development of the Property, without compensation therefor.

12.7. **Reservation for Construction.** Declarant hereby reserves for itself and its successors and assigns and for the Association a perpetual easement and right-of-way over, upon, and across the Property for construction, utilities, drainage, and ingress and egress. The location of these easements and rights-of-way may be made certain by Declarant or the Association by instruments recorded in the office of the Washington County Recorder. Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, reservations, exceptions and exclusions necessary or

convenient for the development, use and operation of any other property of Declarant, as long as such action does not interfere with the occupancy, use, enjoyment, or access to the Condominium Project by the Unit Owners.

12.8. Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under, and across the Common Areas and Facilities, together with the right to store materials on the Common Areas and Facilities and to make such other use of the Common Areas and Facilities as may be reasonably necessary or incident to the construction of Units on the Property. However, no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment, or access to the Condominium Project by the Unit Owners.

12.9. Reservation of Easements, Exceptions, and Exclusions. Declarant reserves for itself, its successors and assigns, and hereby grants to the Association, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Areas and Facilities, for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions, and exclusions for the best interests of all the Association.

12.10. Drainage and Irrigation Easements. Declarant reserves for itself and its successors and assigns, and for the Association, and its officers, agents, employees, and successors and assigns, an easement to enter on, across, over, in and under any portion of the Property for the purpose of modifying the grade of any drainage channels on the Property to improve the drainage of water. Declarant also reserves the right to use or delegate the use of any irrigation ditches existing on the Property on the date this Declaration is recorded, and Declarant reserves for itself and its successors and assigns the right to construct, access and maintain additional irrigation ditches and lines on the Property for the maintenance of the Common Areas and Facilities and for such other purposes as Declarant may from time to time deem appropriate.

12.11. Remodeling Easement. Declarant, for itself and its successors and assigns, including the Unit Owners, retains a right and easement in and about any Building for the construction and installation of any duct work, additional plumbing, or other additional services or utilities in the Common Areas and Facilities in connection with the improvement or alteration of any Unit, including the right of access to such areas of the Common Areas and Facilities as is reasonably necessary to accomplish such improvements. In the event of a dispute among Unit Owners with respect to the scope of the easement reserved in this Section, the decision of the Management Committee shall be final.

12.12. **General Reservations.** Declarant reserves (a) the right to dedicate any access roads and streets serving the Property for and to public use, to grant road easements with respect thereto and to allow such street or road to be used by owners of adjacent land; and (b) the right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulation of parking and/or recreational facilities, which may or may not be a part of the Property for the benefit of the Unit Owners, and/or the Association.

12.13. **Right to Grant Easements.** The Management Committee shall have the right to grant such easements over and on the Common Areas and Facilities for use by any property manager, management company, security or courtesy patrol, or other individuals or companies with whom the Management Committee contracts to perform services for the Association.

12.14. **Other Easements.** The easements provided for in this Article shall in no way affect any other recorded easement.

ARTICLE 13
EXPANSION

13.1. **Right to Expand.** Declarant reserves the right at its sole election to expand the Property to include additional property more particularly described below by unilateral action of Declarant without the consent of Unit Owners for a period of seven (7) years from the date of recording of this Declaration in the office of the Washington County Recorder, Washington County, State of Utah.

13.2. **Expansion Property.** The property all or part of which may be included in one or more expansions, is located in Washington County, Utah, and is more particularly described on Exhibit C, which is attached hereto and incorporated herein by this reference. There are no limitations on the maximum or minimum amount of the above property which may be added. There may be more than one expansion and the expansion may be made as to any amount or in any order.

13.3. **Expansion Procedure.** Expansion shall occur by the Declarant filing:

(a) An additional condominium plat or plats creating additional condominiums on the expansion property described above, stating on each plat the intention to have the property described on said plat bound by the terms, covenants and conditions of this Declaration upon the filing of a Declaration of Annexation; and

(b) A Declaration of Annexation (after satisfying conditions hereafter stated), in which the Declarant shall subject the property described to this Declaration. Upon the recording of such a Declaration of Annexation the property described therein shall be subject to this Declaration.

The improvements in the expansion area shall be substantially completed prior to recordation of the Declaration of Annexation.

13.4. **Use of Expansion Property.** Any additional property annexed hereto by the Declarant shall be exclusively for residential purposes, architecturally compatible to the existing Units, substantially identical to the units depicted in the Condominium Plat, constructed out of similar materials, with substantially similar unit size. The Units shall all be restricted to residential use. No other assurances are made as to the improvements which will be made on the expansion property. The Declarant shall have the sole discretion as to development of the common area in any expansion area and may include any facilities or amenities thereon that Declarant deems necessary and such common areas shall be managed by the Association. Additional common and limited common area shall be added in any expansion area to maintain a ratio of common and limited common area to total unit area similar to the ratio which now exists.

13.5. **Maximum Number of Units in Expansion Property.** The total maximum number of Units that may be added to the Condominium Project is seventy eight (78).

13.6. **Common Areas and Facilities; Assessments.** Each Unit Owner in the original and expansion areas shall have the same undivided interest in the Common Areas and Facilities and the same rights to the use and enjoyment of the property and facilities of the Association. The liability for assessments shall be of each Unit and Unit Owner in any expansion area shall be equal to the liability of each Unit and Unit Owner in the original Property.

ARTICLE 14
AMENDMENT

14.1. **By Unit Owners.** Except as otherwise specifically provided herein, this Declaration may be amended, modified, extended, or revoked, in whole or in part, by the affirmative vote or written consent, obtained by written ballot or otherwise, whether in a meeting or on an individual basis, or any combination of the foregoing, of Unit Owners representing at least sixty-seven percent (67%) of the total votes in the Association. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

14.2. **By Declarant.** Declarant has the right to unilaterally amend, modify, extend, or revoke this Declaration for any purpose during the Declarant Control Period. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on any Lot; (d) to satisfy the requirements of any local, state, or federal governmental agency; (e) to comply with the Master Declaration; or (f) to correct any scrivener's error. However, any such amendment occurring after the Declarant Control Period shall not adversely affect the title to any Unit unless the Unit Owner shall consent in writing. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

14.3. **By Management Committee.** The Management Committee has the right, after the Declarant Control Period, to unilaterally amend this Declaration if such amendment is necessary to bring any provision into compliance with any applicable governmental statute, ordinance, regulation, or judicial determination.

14.4. **Validity.** No amendment made by the Unit Owners or Management Committee during the Declarant Control Period shall be effective unless the Declarant provides its prior express written consent to such amendment, which consent is within Declarant's sole and absolute discretion. Any procedural challenge to any amendment must be made within six months from the date the amendment is recorded or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

14.5. **Effective Date.** Unless a later effective date is specified in the amendment, any amendment shall be immediately effective upon recording in the office of the Washington County Recorder a copy of such amendment accompanied by a verified certificate of the President or Secretary of the Association stating that the required number of votes or consents was obtained and that a record of such votes or originals of the consents will be placed on file in the Association's office. In the case of unilateral amendment by Declarant as provided for herein, such amendment shall be immediately effective upon recording in the office of the Washington County Recorder a copy of such amendment signed and verified by the Declarant.

ARTICLE 15
ENFORCEMENT

15.1. **Violations Deemed a Nuisance.** Every violation of this Declaration or any rule or regulation established pursuant to the authority of this Declaration is deemed a nuisance and is subject to all the remedies provided for the abatement or correction of the violation provided for in this Declaration, in the Act, or otherwise at law or in equity.

15.2. **Legal Action Authorized.** The Association, through the Management Committee, the Declarant, any Unit Owner, or the property manager, if delegated such authority by the Management Committee, shall have the right to enforce, by any proceeding at law or in equity all provisions of this Declaration or any rule or regulation established pursuant to the authority of this Declaration or the Act, including all charges and liens now or hereafter imposed pursuant to the authority of this Declaration or the Act, against any person, persons, or entities violating or attempting to violate any provision of this Declaration or the Act or any rule or regulation established pursuant to the authority of this Declaration or the Act, to restrain or abate or otherwise recover damages for the violation, and against any interest in real property to enforce any charge or lien created by this Declaration. In addition to taking legal action, the Declarant and the Management Committee shall have the right to grant variances and stay enforcement proceedings against any Unit Owner on a case-by-case basis when they determine such action is in the best interests of the Association.

15.3. **Fines and Penalties.** The Management Committee may establish a schedule of fines which may be imposed for a violation of any provision of this Declaration or any rule or regulation duly adopted by the Management Committee. Any such fine shall be levied in accordance with the provisions and procedures set forth in the Act.

15.4. **Attorney Fees and Costs.** Any fine or penalty levied against a Unit Owner for any violation shall include any attorney fees and costs incurred by the Association with respect to such violation. The prevailing party in any action to enforce this Declaration or any rule or regulation established pursuant to the authority of this Declaration shall be entitled to an award of reasonable attorney fees and costs incurred in such action.

15.5. **Nonexclusive Remedies.** All the remedies set forth in this Declaration are cumulative and not exclusive to any others provided in the Project Documents, the Act, or by other applicable law.

15.6. **Non-Liability.** The Management Committee, officers or members of the Association shall not be liable to any Unit Owner, lessee, tenant, member or other individual for a mistake in judgment, or for any negligence or non-feasance arising in connection with the performance or non-performance of duties under the Project Documents or the Act.

15.7. **Arbitration; Mediation.** The Management Committee may, by rule or resolution, establish procedures for mandatory mediation or arbitration to settle disputes between and among the Association and Unit Owners. Any such rule or resolution shall operate prospectively only.

ARTICLE 16
GENERAL PROVISIONS

16.1. **Implied Rights; Management Committee Authority.** The Management Committee may exercise any right or privilege expressly given to it by the Project Documents and the Act, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Management Committee or the Association may be exercised by the Management Committee without a vote of the Unit Owners except where applicable law or the Project Documents specifically require a vote of the Unit Owners, or, where applicable, consent of the Eligible Mortgagees.

16.2. **Severability.** All of the terms and provision contained in this Declaration shall be construed together, but if any one of said terms or provisions, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other term or provision, or any part thereof, shall be thereby affected or impaired; and the Association and Unit Owners, including their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity of unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

16.3. **Duration.** Pursuant to section 57-8-28 of the Act, this Declaration shall be perpetual in duration unless terminated in accordance with the Project Documents and the Act. In the event section 57-8-28 is repealed or otherwise declared unenforceable by a court of competent jurisdiction, then the covenants, conditions, and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, Management Committee, or any Unit Owner or their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

16.4. **Notices.** Any notice required to be sent under the provisions of this Declaration shall be conclusively deemed to have been given when deposited in the U.S. Mail, postage paid, to the last known address of the person who is entitled to receive it. Unit Owners have the obligation and duty to provide the Management Committee with their current mailing address, which, in the absence of specific instruction from the Unit Owner, will be deemed to be the mailing address for the Unit owned by the Unit Owner. Notice may also be provided in the manner provided for service of a summons under the Utah Rules of Civil Procedure. The Management Committee may, by rule or resolution, allow for any notice required to be sent to a Unit Owner to be sent via electronic mail ("e-mail") in lieu of U.S. Mail and, upon such adoption, Unit Owners shall have the obligation and duty to provide the Management Committee with their current e-mail address.

16.5. **Dates and Times.** In computing any period of time prescribed or allowed by the Project Documents, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday (either federal or Utah state), in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. The deadline of the last day of the period so computed shall be 5:00 P.M., Mountain Time.

16.6. **Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

16.7. **Waivers.** No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations that may occur.

16.8. **Interpretive Conflicts.** In the event of any conflict between the provisions of any of the Project Documents, the documents shall control in the following order of authority: (1) the Declaration; (2) the Articles; (3) the Bylaws; and (4) any rule, regulation, or resolution passed pursuant to the authority of the foregoing documents. In the event of any conflict between the provisions of the Project Documents and the Act, the Project Documents shall control unless the provision of the Act is mandatory, in which case the mandatory provision of the Act shall control.

16.9. **Topical Headings.** The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

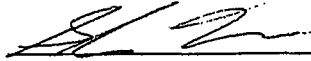
ARTICLE 17
ASSIGNMENT OF DECLARANT'S RIGHTS

Declarant may, by written instrument, delegate, transfer, or assign any or all of its rights and powers possessed under this Declaration.

ARTICLE 18
AGENT FOR SERVICE

Shane Wintch of St. George, Utah, whose address is 2126 S. 2350 E., St. George, Utah 84790, is hereby appointed agent for service of process in those cases provided under Section 57-8-10(2)(d)(iii)(A) of the Act. The Management Committee may change this resident agent by a filing with the Utah Department of Commerce, Division of Corporations and Commercial Code, in the manner provided by law.

I hereby accept appointment as registered agent of the Association.



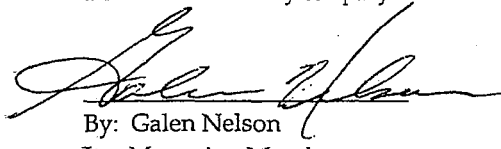
Shane Wintch

[Declarant Signature and Notary on following page]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 11th day of October 2006.

DECLARANT:


CORAL SPRINGS, LLC
a Utah limited liability company

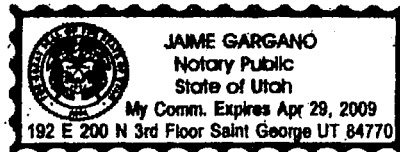


By: Galen Nelson
Its: Managing Member

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

On this 11th day of October, 2006, before me personally appeared Galen Nelson whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the managing member of Coral Springs, LLC, a Utah limited liability company and that the foregoing document was signed by him on behalf of that Company by proper authority and he acknowledged before me that the Company executed the document and the document was the act of the Company for its stated purpose.


NOTARY PUBLIC
Address: _____
My Commission Expires: _____



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EXHIBIT A

[Legal Description]

Parcel ID No. H-4-2-5-123

Beginning at a point which is North 00°22'33" East 257.49 feet along the East Section line and North 90°00'00" West 278.09 feet from the East Quarter Corner of Section 5, Township 42 South, Range 14 West, Salt Lake Base and Meridian; said point also being on the Northeasterly Right-of-Way of State Route 9; running thence along said State Route 9 North 49°10'23" West 330.83 feet to the point on the Coral Canyon Hurricane Sewer Lift Station boundary line, thence along said Sewer Lift Station boundary line North 33°17'56" East 60.52 feet to the point on Coral Canyon Hurricane Parcel 2 boundary line, thence along said boundary line for the following three (3) courses: North 33°17'56" East 100.39 feet; thence North 23°58'07" East 57.31 feet; thence North 10°03'51" East 89.54 feet to the point on Shell Station Parcel; thence along said Shell Station Parcel for the following five (5) courses: North 09°12'37" East 97.17 feet; thence North 19°12'56" East 52.35 feet; thence North 47°00'06" East 32.78 feet; thence North 30°10'14" East 32.96 feet; thence North 02°20'18" East 46.46 feet; thence North 31°44'46" East 182.09 feet; thence North 42°06'16" East 55.00 feet; thence North 29°45'41" East 22.28 feet; thence North 48°09'05" East 21.35 feet to the point of curvature of a 220.00 foot radius curve concave to the right; thence Northeasterly 81.32 feet along the arc of said curve through a central angle of 21°10'43" to the point of reverse curvature of a 30.00 foot radius curve concave to the left, the radius point of which bears North 20°40'12" West; thence Northeasterly 22.34 feet along the arc of said curve through a central angle of 42°39'59" to the point of non-tangency; thence South 63°20'10" East 60.60 feet; thence South 47°54'24" East 160.22 feet; thence South 01°06'52" East 141.14 feet; thence South 35°26'49" West 421.96 feet; thence South 01°57'27" East 134.36 feet; thence South 09°54'17" West 142.85 feet; thence South 40°49'37" West 165.57 feet to the point of beginning.

Containing: 6.90 Acres

EXHIBIT B

[Bylaws]