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WASATCH COUNTY CORPORATION
For: SWISS ALPENHOF POA

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS AND
RESERVATIONS OF EASEMENTS
FOR
THE SWISS ALPENHOF PLANNED UNIT DEVELOPMENT
(Including Bylaws)**

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATIONS OF EASEMENTS (hereafter "Declaration") affecting the property known as Swiss Alpenhof Planned Unit Development Plat "B" and Plat "C" is made on the date evidenced below by the Swiss Alpenhof Property Owners Association (hereafter "Association").

RECITALS

A. Certain real property in Wasatch County, State of Utah, known as Swiss Alpenhof Planned Unit Development Plat "B" and Plat "C", was subjected to certain covenants, conditions and restrictions pursuant to a Declaration of Covenants, Conditions and Restrictions and Reservations of Easements ("**Original Declaration**") recorded on November 5, 2003, as Entry No. 264937 in the Recorder's Office for Wasatch County, State of Utah;

B. Pursuant to the Original Declaration and other governing documents for the Association, the Association is the authorized representative of the Owners of the real property known as Swiss Alpenhof Planned Unit Development Plat "B" and Plat "C";

C. Members of the Association have deemed it desirable, for the efficient preservation of the value in said real property described above, to create a non-profit corporation under the Utah Non-Profit Corporation Act, to which should be delegated and assigned the powers of owning common area, administering, and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created;

D. This Declaration, including Bylaws, supersedes and replaces the Original Declaration for the Swiss Alpenhof Planned Unit Development Plat "B" and Plat "C", in its entirety and including all subsequent amendments or supplements thereto, and including the Bylaws that may have been adopted.

E. This Declaration, including Bylaws, shall be binding upon all real property described in Exhibit A attached hereto and it is agreed by acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment, respecting the property or any unit in the property regime created by this Declaration, that this Declaration, together with the Plat Maps referred to herein, states covenants, conditions, restrictions, and reservations effecting a common plan for the Project which is mutually beneficial for all of the described units, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire property and upon each such unit as a parcel of realty, and upon its owners or possessors, and their heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the property or any security interests therein without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of units under security instruments.

F. The Swiss Alpenhof Planned Unit Development Plat "B" and Plat "C" has been and continues to be submitted to the Utah Community Association Act, Utah Code Ann. §57-8a-1 et seq., as it may be amended from time to time (the "Act"), with the rights, privileges and

obligations as set forth herein and in the Act.

NOW, THEREFORE, the Association does hereby amend and restate its Original Declaration as follows:

ARTICLE I – DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

1.1 “Articles” means and refers to the Articles of Incorporation of The Swiss Alpenhof Property Owners Association.

1.2 “Assessment” means any charge imposed or levied by the Association on or against an Owner or Property pursuant to the terms of this Declaration, the Bylaws or applicable law, including (1) annual assessments; (2) special assessments; (3) emergency assessments; and/or (4) individual assessments, as set forth more fully below.

1.3 “Association” means and refers to the Swiss Alpenhof Property Owners Association.

1.4 “Board of Directors” or “Board” shall mean and refer to the governing body of the Association vested with the authority to manage the Community and to enforce this Declaration, Bylaws and any Rules and Regulations.

1.5 “Building Pad Easement” shall mean and refer to all areas within each individual Lot and Unit, exclusive of the Dwelling Area, which Building Pad Easement commences from the inside of the interior wall outward for each Unit. Such easement is for the purpose of maintenance, care, and control of each Unit, exclusive of the Dwelling Areas. All Building Pad Easements are under the same covenants, conditions and restrictions as Common Areas.

1.6 “Bylaws” means the Bylaws of the Association recorded simultaneously with this Declaration, as they may be amended from time to time and attached hereto as **Exhibit “C”**.

1.7 “Common Area” means, refers to, and includes: (a) the real property, excluding all Lots and Units as defined herein, and interests in the real property which this Declaration submits to the terms of the Act; (b) the real property, excluding all Lots and Units as defined herein, and interests which comprise the Project; (c) all common areas and facilities designated as such on the plat maps for the Project; (d) all Limited Common Areas and facilities; and, (e) all portions of the Project not specifically included within the individual Lots and/or Units.

1.8 “Common Expenses” means and refers to the actual and estimated costs of maintenance and repair of the Units, excluding Dwelling Areas; maintenance, management, operation, repair, and replacement of the utility improvements and common area improvements installed as part of the original development (including unpaid Special Assessments and Reconstruction Assessments), including any costs not paid by the Owner responsible for the payments; costs of property and liability insurance; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants,

attorneys, and other employees or contractors; the costs of all utilities, gardening, landscaping, lawn care, snow removal and other services; the cost of bonding the members of the management body; any taxes paid by the Association; and the costs of any item or items designed by, or in accordance with other expenses incurred by the Association for any reason whatsoever in connection with the Lots, for the benefit of all the Owners.

1.9 “Community Wide Standard” means the standard of conduct, maintenance, or other activity generally prevailing in the community, as set forth in this Declaration, the Bylaws and as defined by the Board of Directors from time to time.

1.10 “Declaration” means and refers to this Amended and Restated Declaration of Covenants, Conditions and Restrictions and Reservation of Easements which governs the common affairs of the community; provides for the common expenses and helps protect property values and livability by imposing reasonable use restrictions upon the Property and all members.

1.11 “Dwelling Area” shall mean and refer to the actual living area and garage within each Unit and shall include anything located within or without the Unit designated and designed to serve only that Unit, such as a garage, appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, but specifically excluding the exterior walls, exterior surfaces and structural components of any Unit, party walls, and roofs. Fixtures and the like shall also be considered part of the Dwelling Area, as shall all decorated interiors, all surfaces of interior walls, floors and ceilings, windows and window frames, doors and door frames, and trim consisting of, among other things and as appropriate, wallpaper, paint, flooring, carpeting and tile.

1.12 “Eligible Holder” shall mean any holder, insurer, or guarantor of a first Mortgage who makes a written request to the Association to receive any of the notices provided to Eligible Holders under this Declaration. The written request shall state the name and address of the Eligible Holder and the Unit number or address to which the Eligible Holder’s mortgage interest applies.

1.13 “Fines” shall mean and refer to fines levied against a Property Owner for violations of this Declaration, the Bylaws, or Rules and Regulations of the Association. Fines shall be enforced and collected consistent with Utah’s Condominium Ownership Act, or any amendments thereto, and may be collected as an unpaid assessment.

1.14 “Improvements” means every structure or improvement of any kind, including but not limited to landscaping, sprinkler systems, Living Units, decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish, authorized in accordance with the Declaration).

1.15 “Limited Common Areas” means all of the real property identified as limited common area on the Plat Maps for the Project and maintained pursuant to the terms of this Declaration. Limited Common Areas are Common Areas limited to the use of certain Property Owners to the exclusion of other Owners and consist of driveways, walkways, and decks.

1.16 “Lot” shall mean and refer to any residential lot, parcel of land, Unit or Building Pad shown upon the recorded subdivision Plat Maps of this planned unit development, including any Improvements thereon, with the exception of the Common Area and Limited Common Areas. Lots refer to the areas identified as “Private Space” on the Plat Maps for the Project.

1.17 “Manager” or “Managing Agent” shall mean and refer to the person or entity retained by the Association to manage the Property according to the direction of the Board of Directors. It is not required by this Declaration that the Property be managed by a professional Manager.

1.18 “Mortgage” means any mortgage or deed of trust encumbering any Lot and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust or other form of security instrument, and an instrument evidencing any such other form of security arrangement, has been recorded with the County Recorder’s Office.

1.19 “Mortgagee” means the person or entity secured by a Mortgage.

1.20 “Owner” means the person, persons or other entity owning any Lot (including the holder of a vendee’s interest under a land sale contract, unless otherwise stated in the contract), but does not include a tenant or holder of a leasehold interest or person holding only a security interest in a Lot (including the holder of a vendor’s interest under a land sale contract, unless otherwise stated in the contract).

1.21 “Party Walls” means and refers to a shared wall separating two or more Units.

1.22 “Plats” or “Plat Maps” or “Record of Survey Maps” (these terms may be used interchangeably herein) means the Record of Survey Maps entitled: (1) “Second Amended Plat “B” Swiss Alpenhof aka Matterhorn Village Phase I,” recorded in the Recorder’s Office of Wasatch County, State of Utah, as Entry No. 330648; (2) “Amended Plat “C” Swiss Alpenhof aka Matterhorn Village Phase II,” recorded in the Recorder’s Office of Wasatch County, State of Utah, as Entry No. 330650; and, (3) any plats recorded among the Recorder’s Office in substitution for or amendment of the above mentioned plats. The Plat Maps are attached hereto as **Exhibit B**.

1.23 “Property” or “Project” means the Swiss Alpenhof Planned Unit Development Plat “B” and Plat “C”, including all of the real property described in attached **Exhibit A** and all Lots, Units, and Common Area.

1.24 “Rules and Regulations” means and refers to those rules and regulations adopted by the Board of Directors from time to time that are deemed necessary for the enjoyment of the Property and Community.

1.25 “Single Family” shall mean and refer to the definition of “family” as contained in the applicable local municipal ordinances, as may be amended from time to time.

1.26 “Unit” or “Building Pad” shall mean the actual single-family residential structure built within the Property and constructed upon a numbered Lot or space reflected on the recorded Plat Maps. Each Unit shall be defined as the outside of the exterior wall inward, exclusive of driveways and walkways.

ARTICLE II - PROPERTY DESCRIPTION

2.1 Property Subject to the Declaration and Bylaws. Swiss Alpenhof Planned Unit Development Plat "B" and Plat "C", a Utah Planned Unit Development, is hereby submitted to Utah Code Ann. §57-8a-1 et seq.(the Act), and any amendments thereto, with the rights, privileges and obligations of community association ownership as set forth herein and in the Act.

The real property which is, and shall be, transferred, held, sold, conveyed and occupied subject to this Declaration and attached Bylaws is located in Wasatch County, Utah, and is described on **Exhibit A** attached hereto, all of which real property is referred to herein as the "Property."

2.2 Description and Legal Status of Lots. The Plat Maps show the Lots, their locations, dimensions from which its areas may be determined, those Limited Common Areas which are reserved for such use, and the Common Areas to which each Lot has immediate access. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

2.3 Covenants Run with the Land. All of the Property constituting the Project shall be owned, conveyed hypothecated, encumbered, used, occupied and improved subject to this Declaration. The easements, covenants, conditions, restrictions and charges, described in this Declaration shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in such property or any part thereof and shall inure to the benefit of the Association, and each Owner thereof.

2.4 No Right of First Refusal. The right of a Lot Owner to sell, transfer, or otherwise convey his or her Lot shall not be subject to any right of first refusal or similar restriction.

ARTICLE III - PROPERTY RIGHTS / EASEMENTS

3.1 Use and Occupancy. Except as otherwise expressly provided in this Declaration or the Bylaws, the Owner(s) of a Lot shall be entitled to the exclusive use and benefits of ownership of such Lot. Each Lot, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of this Declaration and the Bylaws for the mutual benefit of the Owners.

3.2 Restriction on Lot Division. All Owners are prohibited from dividing any Lot subject to this Declaration unless expressly permitted, in writing, by the Board of Directors.

3.3 Easements Reserved. In addition to the easements shown on the Plat Maps or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot or Dwelling Area for the purpose of performing maintenance referred to herein and determining whether or not the Lot is in compliance with this Declaration and Bylaws or whether the use of the Lot is causing damage or harm to the Common Areas, Limited Common Areas or adjoining Lots. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(b) Utility Easements. The Association or any public utility provider shall have an easement through all Lots and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary. The easement area within each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot in accordance with the terms herein, except for those improvements for which a public authority or utility provider is responsible. Each Lot Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Lots and serving his or her Lot.

(c) Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas.

(d) Easements for City and County Public Service Use. There shall be reserved in favor of the Association and all future Owners within The Swiss Alpenhof Planned Unit Development, easements for city, county and federal public services including, but not limited to, the right for police to enter upon any part of the Project, including Lots, for the purpose of enforcing the law. Any county or governmental easements over the Project as shown on the Plat Maps are hereby recognized.

3.4 No Encroachment. No Lot shall encroach upon an adjoining Lot without the express written consent of the Board of Directors. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Board of Directors or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non disturbance of the Structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

ARTICLE IV - ASSESSMENTS AND BUDGETS

4.1 Covenant for Assessments.

(a) Each Owner, by acceptance of a deed hereafter conveying any such Lot to it, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments:

- (1) Annual assessments (the "Annual Assessment") as provided in Section 4.2 below.
- (2) Special assessments ("Special Assessments") as provided in Section 4.7 below.
- (3) Emergency assessments ("Emergency Assessments") as provided in 4.10 below.
- (4) Individual assessments ("Individual Assessments") as provided in Section 4.11 below.

(b) No member may exempt itself from liability for Assessments by abandonment of any Lot owned by such member.

(c) A Reinvestment Fee Covenant is also permitted hereunder, as consistent with Utah law, in an amount to be determined by the Board upon the sale or transfer of a Unit to help establish the long-term funding and operational needs of the Association.

4.2 Annual Budget and Assessment.

(a) Adoption of Budget.

(1) The Board of Directors shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and those portions of the Limited Common Areas and Lots falling under the maintenance responsibility of the Association, as defined later, and for the administration, management and operation of the Association. If the Board of Directors fails to adopt an annual budget, the last adopted budget shall continue in effect.

(b) Determination of Annual Assessment.

(1) An Annual Assessment is the annual amount established by the Board required to meet the annual Common Expenses of the Association and to set aside any reserve funds necessary for future repair and replacement of facilities. The Board of Directors of the Association shall fix the amount of the Annual Assessment against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period, or thirty (30) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

(2) The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

4.3 Apportionment of Assessments.

(a) Annual, Special and Emergency Assessments. All Lots shall pay a pro rata share of the Annual Assessment, Special Assessments and Emergency Assessments commencing upon the date the Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such assessment divided by the total number of Lots.

(b) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Lots benefitted or to which the expenses are attributable as provided for below.

(c) Payment of Assessments. Installments of Annual Assessments shall be levied and collected on an annual basis. However, upon resolution of the Board of Directors, installments of Annual Assessments may be levied and collected on a monthly, quarterly, or semi-annual basis. Any member may prepay one or more installments of any Assessment levied by the Association, without premium or penalty. Should a new Lot be added to the project during a given year, the assessments of the previously existing Lots shall not be reduced, although the new Lot shall be required to pay an assessment identical to the previously existing Lots, but prorated to pay only so much of the assessment as is attributable to the remainder of the year in which the assessment is made.

4.4 Lien. The Annual Assessment and all other Assessments imposed shall be a charge and continuing lien upon each of the Lots against which the assessment is made in accordance with the terms and provisions of this Article IV and shall be construed as a real covenant running with the land.

4.5 Personal Obligation and Costs of Collection. Assessments imposed under this Declaration, together with interest at a rate defined hereafter in Section 4.12.1, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Lot at the time when the assessment became due.

4.6 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Community, and including, but not limited to: (a) The improvement and maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) The cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements in accordance with Section 4.16 below; and (f) Any other items properly chargeable as a Common Expense of the Association.

4.7 Special Assessments. A Special Assessment is an amount levied equally against each Lot for the purpose of repair, replacement, construction, or reconstruction of Common Areas or for those portions of Limited Common Areas and Lots falling under the maintenance responsibility of the Association, as defined herein. In addition to the Annual Assessments authorized in this Article, the Association may levy in any assessment year, a special assessment ("Special Assessment"), applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common Areas and those portions of Lots falling under the maintenance responsibility of the Association. The Board of Directors may authorize a special assessment for any lawful purpose in any given calendar year provided, however, that such assessment which exceeds five thousand dollars (\$5,000) per Unit, shall first be approved by two-thirds (2/3) of those members of the Association, who actually cast votes through the voting procedure authorized by the Bylaws for that particular action (e.g., at a meeting or through mail-in ballot, etc).

4.8 Notice and Quorum for any Action Authorized Under Section 4.7 and 4.10.

(a) Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Sections 4.7 and 4.10 of this Article shall be sent to all members not less than twenty (20) days, or more than seventy-five (75) days, in advance of the meeting. At such meeting or voting procedure, the presence at the meeting of members or of proxies, or the response of members in a voting procedure entitled to cast forty percent (40%) of all of the votes of members entitled to be cast shall be necessary and sufficient to constitute a quorum.

4.9 Due Date and Payment of Assessments. The Annual Assessments shall be due and payable on an annual basis by January 31st of each year, unless otherwise provided by resolution of the Board of Directors, and shall be delinquent if not paid within fifteen (15) days after the due date. If the Board determines for any reason to allow Owners to pay the Annual Assessment on a monthly, quarterly, or semi-annual basis, the Association may charge an additional 10% fee per payment for handling. The due date of any Special Assessment, Emergency Assessment or other Assessment shall be fixed in a Board resolution authorizing the Assessment provided, however that each Owner subject to the assessment shall be given at least thirty (30) days notice prior to the due date.

4.10 Emergency Assessments. An Emergency Assessment is an increase in the Annual Assessment for reasons described in (a) below:

(a) If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors shall, as soon as practicable, determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget and levies the additional assessment ("Emergency Assessment"). The resolution shall specify the reason for the Emergency Assessment.

(b) Any Emergency Assessment in the aggregate in any fiscal year that would exceed an amount equal to twenty-five (25%) of the budgeted expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the members voting as provided in the Bylaws.

4.11 Individual Assessments. Individual Assessments are assessments against a specific Lot or Lots as defined in this section. Any expenses benefiting or attributable to fewer than all of the Lots may be assessed exclusively against the Lots affected or benefitted. Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with the provisions of this Declaration or rules and regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any rules and regulations of the Association; (2) Expenses relating to the cost of maintenance, repair, replacement and reserves of the Lots.

4.12 Nonpayment of Assessments. Any assessment or portion thereof not paid within fifteen (15) days after the due date shall be deemed delinquent. In such cases the Association shall have the following remedies:

4.12.1 Interest. Delinquent payments shall bear interest from the date of delinquency at the initial rate of eighteen percent (18%) compounded monthly or as may be otherwise established by resolution of the Board of Directors, not to exceed the maximum rate permitted by law, and;

4.12.2 Late Charge. Payments not received within 30 days after the due date shall also be subject to a late charge of Thirty Dollars (\$30.00) per month until paid, or ten percent (10%) of the assessment, whichever is greater, such late charge may be decreased or increased by resolution of the Board of Directors.

4.12.3 Acceleration. If the Board determines to allow payments other than on an annual basis and an owner becomes delinquent in the payment of installments of Annual Assessments and any charges thereon are not paid in full, the Board, or its authorized agent, may declare all of the unpaid balance of the Annual Assessment to be immediately due and payable upon not less than ten (10) days' written notice to the Owner, and may enforce the collection of the full Annual Assessment and all charges thereon in any manner authorized by law and this Declaration. If, however, the Annual Assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

4.12.4 Future Lease Payments. If the Owner of a Unit who is leasing the Unit fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board of Directors, upon compliance with this section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

(a) Notice to the Owner. The manager or Board of Directors shall give the Owner written notice of its intent to demand full payment from the tenant under this section. The notice shall: (1) provide notice to the Owner that full payment of the remaining lease payments, beginning with the next monthly or other periodic payment unless the assessment is received within fifteen (15) days, must be paid directly to the Association or be sent to the attorney if the account has been turned over for collections; (2) state the amount of the assessment due, including any interest or late payment fee; and (3) state that any costs of collection, and other assessments that become due, may be added to the total amount due.

(b) Notice to the Tenant. If the Owner fails to pay the assessment due by the date specified in the notice described in Subsection (a), the manager or Board of Directors may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association pursuant to Subsection (c).

(A) The manager or Board of Directors shall mail a copy of the notice described in this Subsection (b) to the Owner.

(B) Content of Notice. The notice provided to the tenant under this Subsection (b) shall state: (i) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the intent of the Board of Directors to collect all lease payments due to the Owner from the tenant; (ii) that until notification by the Association that the assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner; and (iii) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the lease agreement.

(C) If a tenant makes payments in compliance with this Section, the Owner may not initiate an action against the tenant.

(c) All funds paid to the Association pursuant to this section shall be deposited in a separate account and disbursed to the Association until the assessment due is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association.

(d) Within five (5) business days after payment in full of the assessment, including any interest, late payment fee, and costs of collection, the manager or Board of Directors shall notify the tenant in writing that future lease payments are no longer due to the Association. The Association shall mail a copy of the notification to the Owner.

4.13 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this Article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or

transfer. Such sale or transfer shall not relieve the Lot from liability for any Assessments thereafter becoming due, or from the lien of any future assessment.

4.14 Enforcement of Lien. The Association may establish and enforce the lien for any Assessment, including Annual, Special, Individual or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Lot against which the Assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for breach of any provisions of this Declaration, the Bylaws or any rules and regulations of the Association. The lien may be foreclosed judicially or non-judicially consistent with the laws of the State of Utah for the non-judicial foreclosure of Deeds of Trusts. In such an event, the Owner hereby irrevocably appoints the Association, or its authorized agent, to act as Trustee for purposes of foreclosing any lien hereunder. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

4.15 Cumulative Remedies. The assessment liens and the rights to foreclosure and sale there under shall be in addition to and not substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a financial judgment for unpaid assessments, as above provided, from the Owners individually.

4.16 Reserve Funds.

(a) Reserve Funds may be established and maintained by the Association for the purpose of funding repair and replacement of Common Areas, facilities, and portions of Lots falling under the Association's responsibility. Pursuant to Utah Code §57-8a-211, the Association shall cause a reserve analysis to be conducted no less frequently than every six (6) years and if no reserve analysis has been conducted since March 1, 2008, the Association shall cause a reserve analysis to be conducted immediately. Furthermore, the Board shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) years.

(b) The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined in the sole discretion of the Board to conduct such reserve analysis.

(c) The Association shall:

(1) At least annually, whether at the annual meeting or at a special meeting held for such purpose, present the current reserve study and provide an opportunity for Owners to discuss

reserves and to vote on whether to fund a reserve and, if so, determine the amount and how to fund such reserves.

(2) The Board shall cause minutes of each meeting held pursuant to this section to be prepared and kept and shall indicate therein any decision made relating to the funding of reserves.

(d) The Board may not use reserve funds: (i) for general maintenance expenses, unless approved for such use by at least a majority of Owners; or, (ii) for any purpose other than the purpose for which the reserve funds were established. The Board shall maintain a reserve fund separate from other funds of the Association.

(e) Any reserves shall be conclusively deemed a Common Expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

(f) The Association may establish other reserves for such other purposes as the Owners may from time to time consider necessary or appropriate.

(g) The proportional interest of any member of the Association in any reserve fund established under this section shall be considered an appurtenance of such Owner's Lot and shall not be separated from the Lot to which it appertains and shall be deemed to be transferred with the Lot.

4.17 Certificate of Assessment. The Association shall, upon demand at any time, furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments have been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge, not to exceed \$25.00 may be levied in advance by the Association for each certificate so delivered. The Board may also charge a fee of up to \$25.00 for information requests from outside individuals or companies concerning the status of Assessments on any Lot in which they may have an interest or on the financial status of the Association.

ARTICLE V - RESTRICTIONS ON USE

5.1 Restrictions and Requirements. The following restrictions and requirements are in addition to all other restrictions and requirements contained in this Declaration and the Bylaws:

5.1.1 Residential Use. Lots shall be used for residential purposes in accordance with, and subject to, the other provisions of this Declaration and the Bylaws and rules and regulations adopted pursuant thereto. Except as provided in this subsection or upon prior written approval from the Board, no trade, craft, business, profession, commercial or similar activities that causes additional pedestrian or vehicular traffic, or creates a sight or noise nuisance, shall be conducted on any Lot or in any other portion of the Project. In the event such activities are permitted by the

Board, the Board may adopt guidelines and render decisions regarding permissible and impermissible activities.

5.1.2 Buildings. The only structures allowed to be erected within the Project are single family dwellings as described in the Plat Maps.

5.1.3 Offensive Activities. No noxious, offensive or unsightly conditions or activities, including, but not limited to, the placement or storage of inoperable vehicles, car parts and appliances, shall be permitted on any Lot, Limited Common Area, or other portion of the Common Areas, nor shall anything be done in or placed upon any portion of the Property which interferes with or jeopardizes the enjoyment of other Lots, is a source of annoyance to residents, or causes the Association's insurance rates to increase or the cancellation of insurance.

5.1.4 Unlawful Activities. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

5.1.5 Animals.

(1) The Board of Directors shall have the express authority and right to promulgate rules, beyond those stated herein, restricting the keeping of pets.

(2) No animals, livestock, or poultry of any kind may be raised, bred, kept or permitted within any Lot, except dogs, cats, or other household pets provided that they are not kept, bred, or maintained for any commercial purpose. No Owner shall keep more than two such pets. The Owner of any dog must keep such dog on a leash when outside of the Lot or keep it confined within the Lot.

(3) Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Community. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof. No pets shall be allowed in the Common Areas except as may be permitted by the rules of the Board. Dogs shall not be allowed in the Common Areas except while on a leash held by a person capable of controlling the dog. Owners shall be responsible for removal of wastes of their animals from the Common Areas and Limited Common Areas. The Board may impose a fee as established in Section 5.2 of this Declaration for each violation of this provision regarding defecation of animals. No fee may be imposed, however, if the animal's Owner removes the wastes promptly upon receipt of notice.

(4) An Owner may be required to remove a pet upon receipt of a written notice from the Board of Directors given pursuant to a resolution relating to rules and regulations governing pets within the Community and enforcement of such rules and regulations and provisions of this subsection. The Board of Directors may apply for appropriate judicial relief in the event that Owners violate this Article.

(5) Owners are strictly liable for any damage or injury their pets may cause to the Owners, their tenants and guests and to the Common Area, Limited Common Area and Property. Owners shall hold the Association harmless from any such liability, shall be required to repair any damaged property caused by their pets and defend the Association in the event their pet causes harm or injury to others.

5.1.6 Rubbish and Trash. No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container as specified by the Association or within a trash enclosure screened from public view. All such waste and garbage must be promptly and periodically removed.

5.1.7 Vehicles in Disrepair.

(1) No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any part of the Property unless such vehicle is within a garage. A vehicle shall be deemed in an "extreme state of disrepair" when the Board of Directors reasonably determines that its presence offends the occupants of the other Lots. Unlicensed vehicles left on the Property in excess of forty-eight (48) hours, except within a garage, may be removed or caused to be removed by the Board at the Owner's expense.

(2) If an Owner fails to remove a vehicle deemed to be in an extreme state of disrepair within seventy-two (72) hours after the date and time on which written notice is securely placed on such vehicle or delivered to the responsible Owner by the Board of Directors, the Board of Directors may have such vehicle removed from the Property (i.e. towed) and assess the Owner the expense of such removal and any storage necessitated thereby.

5.1.8 Parking of Automobiles and Other Vehicles; Garages.

(1) Except as otherwise provided in this subsection, parking of boats, trailers, commercial vehicles, commercial trucks, truck campers, motor homes and like vehicles and equipment shall only be allowed for periods of less than 10 consecutive days and for no more than 15 total days in any given month, unless placed or maintained within an enclosed garage. No noisy or smoky vehicles shall be operated within the Project.

(2) Parking for Owners, guests and their visitors shall be permitted as allowed by local ordinance.

(3) The Board of Directors may adopt and amend rules to govern the enforcement of this subsection which rules may include assessing an Owner the expense of removing any automobile, vehicle or equipment parked in violation of this subsection and the cost of any storage thereof.

(4) Garages are to be used for the parking of vehicles which is their primary purpose. Garages are not to be used as storage areas to the exclusion of the ability to park vehicles as intended.

5.1.9 Clothes Lines and Materials. No clothes lines, clothing racks, or other apparatus on which clothes, rags, or similar items are exposed for the purpose of drying or airing shall be located on the Property except within a Unit. No garments, rugs, rags, laundry, or other clothing or materials shall be allowed to hang from the windows or from any of the facades or any other part of a Unit.

5.1.10 Signs. Unless written approval is first obtained from the Board of Directors, no advertisement or poster of any kind may be posted in or upon any Lots or the Common Area.

5.1.11 Antenna and Dish Policy. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite ("DBS") antennas/dishes one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the FCC regulated dish is placed in a location screened from view of the streets. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonably increase the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner.

The Owner is responsible for all damage caused by or connected with the dish, for as long as the dish remains, including damage resulting from water entering a building due to the installation or existence of such antenna/dish. By installing a dish, the Owner agrees to hold the Association harmless and indemnify the Association in the event that someone is injured by the dish or in the installation or maintenance of the dish. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. An Owner must submit written notification to the Association within five (5) business days before installing any antenna or dish that is allowed pursuant to this section. If requested by the Association, the Owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the antenna/dish.

In the event of a violation of this Section, the Association may bring an action for declaratory and/or injunctive relief and the Owner is subject to a \$50.00 fine to the Association for each violation. If the violation is not corrected within a reasonable length of time as determined by the Board, additional fines of \$10.00 per day will be imposed for each day that the violation continues. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Section. If any provision of this Section is ruled invalid, the remainder of these rules shall remain in full force and effect. If the FCC modifies its rules, the modified rules shall be incorporated into this Section as if fully set forth herein. The terms "dish" and "antenna" are to be used interchangeably in the interpretation of the above policy.

5.1.12 Radio and Televisions Antennae. No alteration to or modification of a central radio and/ or television antenna or cable television system, whichever is applicable, as originally developed or a cable television franchisee and as maintained by the Association or such

franchisee, shall be permitted, and no Owner may be permitted to construct and/or use and operate his or her own external radio and/or television antenna without consent of the Board. All fees for the use of any cable television system shall be borne by the respective Lot Owner, and not by the Association.

5.1.13 Noise Disturbance. Residents shall exercise extreme care to minimize noise and to use musical instruments, radios, televisions, amplifiers, or any other device so as to not disturb other residents. Noise disturbances shall subject the Owner of the Lot from which the noise originates to a fine, as levied by the Board of Directors in its sole discretion.

5.1.14 Increase in Insurance Cost. Nothing shall be done or kept within any Lot or on the Common Areas, including Limited Common Areas, which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Lot or Common Areas which will result in cancellation of insurance on any Lot.

5.1.15 Single Family Use. Lots shall only be occupied and used as a residence by a single family as that term is defined in the local County code.

5.1.16 Lease Restrictions. All leases shall be in writing and be subject to this Declaration and Bylaws. Lot Owners shall not be permitted to lease their Lots for a term of less than thirty (30) days. Any and all lease agreements shall require that all tenants are subject in all respects to the provisions of this Declaration and the Bylaws and all rules and regulations adopted by the Board of Directors, and that any failure of the lessee to comply with the terms of those documents shall be a default under the lease. All Owners leasing or renting their Lot shall promptly notify the President of the Association in writing of the names of all tenants and members of the tenant's family occupying the Lot and of the address, telephone number, and e-mail address where the Owner can be reached. All lease contracts shall comply with applicable federal, state, and local laws, ordinances, and regulations.

5.1.17 Architectural Control. No building, fence, wall, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, hot tub, improvement, or structure of any kind shall be commenced, installed, erected, painted, repainted or maintained upon the Lots, nor shall any exterior addition to, or change or alteration thereto, of any sort, whether structural, landscaping, cosmetic or otherwise, be made by an Owner until the plans and specifications showing the nature, color, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors. In addition, no alterations to the interior of a Unit which may affect adjoining Units, structural integrity, or safety shall be commenced without prior written approval of the Board. Such approval shall be solely in the discretion of the Board of Directors as it deems appropriate from time to time. Any such request shall be deemed to have been denied if the relevant Owner, including any subsequent Owner, cannot produce the written approval granted by the Board upon request, and any changes or alterations made by an Owner, or prior Owner, shall be removed and the property restored to its original condition at the request of the Board. In the event the Board

of Directors fails to approve or disapprove a request by an Owner, the request will be deemed to have been denied.

(a) Alterations approved by the Board of Directors shall be consistent with and shall comply with the procedures and criteria set forth in this Declaration and such other building and design criteria which the Board of Directors is hereby empowered to adopt (referred to as “**Design Guidelines**”) to expand, clarify, and otherwise provide for the harmony and compatibility of the Improvements constructed within the Project. Design Guidelines shall also be deemed to include the requirement that the quality of all materials to be used in any construction or Improvements within the Project be equal or superior to that utilized for original construction. All original construction pursuant to the Design Guidelines, as they may be amended from time to time, shall be and is hereby approved. All builders and Owners, including individual builders of one or more lots, shall comply with and are bound by the design restrictions herein and the Design Guidelines, if and when such are adopted.

(b) In all cases in which approval of the Board is required by this Declaration or the Bylaws, the provisions of this Article shall apply.

(c) The Board may, at its sole discretion, withhold approval of any proposal if it finds the proposal would be inappropriate for the particular Lot or incompatible with the harmony of existing improvements. Considerations such as site, shape, size, color, design, height, solar access or other effects on the enjoyment of other Lots or Common Area, and any other factors which the Board reasonably believes to be relevant, may be taken into consideration by the Board in determining whether or not to approve any proposal.

(d) The Board’s approval of any proposal shall automatically be revoked three (3) months after issuance unless construction or other work relating to the proposal has been commenced or the Owner has applied for and received an extension of time from the Board.

5.1.18 Property Illumination. Yard or porch lights shall be limited to those lights included in the original construction of the Units, or as otherwise allowed by the Board, and may not be modified so as to increase their brightness in a way that illumination in the Common Areas or adjacent Lots are increased.

5.1.19 Power Equipment and Car Maintenance. No power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the Property except with the prior written approval of the Board of Directors. In reviewing a request, the Board shall consider the effects of noise, air and/or water pollution, dirt or grease, fire hazard, safety, interference with the quiet enjoyment of neighboring owners, and similar objections.

5.2 Association Rules and Regulations; Appointment of Committees. In addition to the restrictions and requirements above, the Board of Directors from time to time may, by resolution, adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Lots and Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. The Board of Directors may from time to time appoint committees, including an Architectural Control

Committee, for the purpose of studying and recommending changes and additions to the rules and regulations of the Association. Reasonable fines may be levied and collected as an assessment for violations of said rules and regulations and for violations of any restrictions contained in this Declaration as set forth in a schedule of fines. A schedule of fines shall be adopted by the Board of Directors specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines

ARTICLE VI – THE ASSOCIATION

6.1 Organization.

(a) The Association has been or will be organized as a nonprofit corporation under the nonprofit corporation laws of the State of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time). The name of the association is “The Swiss Alpenhof Property Owners Association.”

(b) The Articles of Incorporation of the Association provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. Such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. However, the Board of Directors, upon its own motion, may re-incorporate the Association without a vote of the Owners. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws (as the same may be amended from time to time) as if they had been drafted to constitute the governing documents of the unincorporated association.

(c) The affairs of the Association shall be governed by a Board of Directors as provided in the Bylaws. Membership of the Board and election of Board members shall be as defined in the Bylaws.

6.2 Membership. Every Owner of a Lot shall be a member of the Association, and no Lot shall have more than one membership in the Association. The membership shall commence, exist and continue by simple virtue of the ownership, shall expire automatically upon termination of ownership and need not be confirmed or evidenced by any certificate or acceptance of membership. Memberships in the Association shall not be assignable, except to the successor in interest of the Owner and to the Owner’s Lot, and every membership in the Association shall be appurtenant to and may not be separated from the fee Ownership of such Lot. Ownership of a Lot shall be the sole qualification for the membership in the Association.

6.3 Transfer of Membership. The Association membership held by any Owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon the sale for encumbrance of the Lot giving rise to such membership and then only to the purchaser or Mortgagee of such

Lot. Any attempt to make a prohibited transfer is void, and shall not be reflected upon the books and records of the Association. A new Owner of a Lot shall immediately upon purchase of the Lot notify the Board of Directors that he has purchased the Lot and provide the following information: (i) Name(s) of the Owner, (ii) Address of the Lot, and (iii) Mailing Address of Owner(s), if different from Lot Address, and e-mail address, if available. The Board may assess a "Reinvestment Fee" in an amount determined by Resolution to effectuate the transfer. In the event a new Owner of a Lot shall fail or refuse to provide the information required above, the Board shall have the right to charge a reasonable Individual Assessment and/or levy fines against the Owner, and his Lot, until such time as the information is provided to the Association.

6.4 Voting Rights. The method of voting shall be as provided in the Bylaws. Voting rights within the Association shall be as follows: Each Owner shall have one (1) vote in matters of the Association for each Lot owned as set forth in the Bylaws.

6.5 Executory Contracts. It is understood that from time to time a Lot may be sold on contract with the purchaser under such contract having the right to the possession of such Lot but not the right to title to the Lot or its appurtenant membership in the Association until all of the sums under the contract are fully paid by the purchaser. In such event, transfer of membership in the Association to the prospective Owner of the Lot shall not be transferred upon the books of the Association until such time as legal title to the Lot is transferred to the purchaser upon the completion of the contract. However, a notation shall be made on the books of the Association that the Lot is being purchased under contract and that the prospective purchaser shall have the right to exercise the voting and other rights of such membership to the exclusion of the contract seller so long as the purchaser is not in default under the contract.

6.6 Powers, Duties and Obligations. The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation, the Bylaws and any applicable statute, as such statute may be amended to expand the scope of association powers, including without limitation:

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

(1) The Association shall maintain the Common Areas, including, but not limited to, landscape maintenance and snow removal from all walkways within the Common Areas (maintenance and snow removal from Limited Common Area driveways, walkways, and decks shall be the responsibility of the Lot Owner to which the Limited Common Area is appurtenant).

(2) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Property, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(3) The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(4) The Association may, but shall not be obligated to, employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the Community, subject at all times to direction by the Board of Directors, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board of Directors. A contract for such management shall not exceed a term of three (3) years, and must be terminable by either party, without cause or payment of a termination fee, upon ninety (90) days or less written notice.

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

(1) The Association shall have the power and authority at any time and from time to time, after fifteen (15) days written notice, and without liability to any Owner for trespass, damage or otherwise, to enter into any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration.

(2) The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Officers, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(3) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Community or in exercising any of its rights to construct, maintain and repair the Common Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon no less than ninety (90) days written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Lot on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:

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

B. The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable.

(4) The Board may delegate by resolution or contract to the Managing Agent any of its powers under this Declaration; provided, however, that the Officers cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of One Thousand Dollars (\$1,000.00).

(5) The Board may levy and collect all assessments as provided herein sufficient in quantity to enable the Association to adequately perform its duties hereunder.

(6) The Board may invoke such additional powers as shall be reasonable and necessary for the Association to accomplish the purposes of its creation as set forth in its Articles of Incorporation and this Declaration.

6.7 Rights of Midway City. Midway City shall have the right, but not the duty, to require, and if necessary, perform, at the expense of the Association, landscaping, maintenance, and snow removal within the Common Areas if the Association fails to adequately perform such duties. In the event Midway City exercises this right, the City shall be entitled to recover any associated costs and attorney fees. This section shall not be amended or deleted without approval of Midway City

6.8 Adoption of Bylaws. The Association has adopted Bylaws for the Association which are being recorded simultaneously with this Declaration as **Exhibit "C"**

6.9 Registration with the Department of Commerce. The Association, if not already done, must register with the Utah Department of Commerce ("Department") in the manner established by the Department.

- (a) The Association shall provide the following information with each registration:
- (1) the name and address of the association;
 - (2) the name, address, telephone number, and, if applicable, email address of the President of the Association;
 - (3) contact information for the manager, if applicable;

(4) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has Association payoff information that a closing agent needs in connection with the closing of a Lot Owner's financing, refinancing, or sale of the Owner's Lot; and,

(5) any other information that may be required by the Department.

(b) Once the Association has registered as required above, the Association shall submit to the Department an updated registration, in the manner established by the Department, within ninety (90) days after a change in any of the information provided under Subsection (a) above.

ARTICLE VII - PARTY WALLS

7.1 General Rules of Law Apply. Each wall that has been built as a part of the original construction of any Unit and placed substantially on a dividing line between any two (2) Units shall constitute a party wall. In the event the Owner, or its tenant, guest or invitee, causes damage to the party wall, then the general rules of law regarding party walls and liability for damage due to negligence or willful acts or omissions shall apply thereto. The Owner of each Lot adjoining a Party Wall shall be an "Owner" of the wall for purposes of this Article.

7.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners in proportion to their ownership thereto.

7.3 Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner thereof may restore it, and the other Owners thereof shall contribute to the cost of restoration thereof in proportion to such ownership without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

7.4 Arbitration. In the event any dispute arises concerning a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators.

7.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE VIII - MAINTENANCE OBLIGATIONS

8.1 Owner's Responsibility.

(a) Lots. Subject to the duties and responsibilities of the Association set forth in this Declaration, maintenance of the Dwelling Area, as defined herein above, shall be the

responsibility of the Owner(s) thereof, who shall maintain such Dwelling in good repair so as to not interfere with other Owner's or the Common Areas. Each Owner at their sole expense shall maintain, repair, replace and restore the Dwelling Area, including floors and each and every structural element beneath the Dwelling Area, exterior windows, window frames and exterior doors/door frames, etc., and any other exterior features that do not run continuously from Unit to Unit such as, but not limited to, light fixtures, rain gutters, down spouts, and heat cable. In addition to decorating and keeping the Dwelling Area in good repair and in a clean and sanitary condition, Owners shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, air conditioners, lighting fixtures, refrigerators, dishwasher, disposal equipment, ranges, toilets, or other appliances or fixtures that may be in, or connected with, their Lot. Any fixture, pipe, conduit, or other utility device or apparatus that services only one Lot shall be the responsibility of that Lot's Owner to maintain, repair, and replace. Each Lot and Dwelling Area shall be maintained so as to not detract from the appearance of the Project and so as to not adversely affect the value or use of any other Lot.

(b) Limited Common Area. Each Lot Owner shall, at its own cost, maintain, repair, and replace the Limited Common Areas appurtenant to its Lot and keep the same in a clean, sanitary and attractive condition at all times.

(c) Public Utilities. Owners shall be responsible for public utility charges for service and connection fees applicable to their own Unit.

8.2 Maintenance Provided by the Association.

(a) Common Areas and Units. The Association shall maintain the Common Areas of the Property and those portions of the Unit exteriors that run continuously from Unit to Unit, including roofs and exterior wall surfaces, in a manner that maintains such Units in a good and attractive condition and state of repair. However, if the Common Areas are damaged by the willful misconduct of an Owner, their guests, tenants, or invitees, the Owner shall be responsible for all such damage.

(b) Snow Removal. The Association shall provide for reasonable snow removal from the Common Areas, including the roads and sidewalks, but not from the Limited Common Area benefitting or servicing only one Lot. When snow and ice accumulates and becomes piled up on the sidewalks due to snow plowing of third parties, the Association shall only be required to remove snow from the sidewalks when it is reasonable to do so and not until the pile of ice and snow abates. In other words, when non-naturally occurring piles of snow and ice accumulates on the sidewalks, the Association is not obligated to remove said snow until it is reasonable to do so. Owners use icy and snow covered sidewalks and common areas at their own risk.

(c) Amenities. The Association shall also maintain all Common Area amenities which may be installed from time to time.

(d) Failure of Owners to Maintain. Additionally, the Association, by and through the Board of Directors, may assume the Owner's general maintenance responsibility over a Lot and Limited Common Area if, in the opinion of the Board of Directors, the Owner is unwilling or unable to adequately provide such maintenance. Before assuming such maintenance responsibility, the Board of Directors shall provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action with fifteen (15) days after mailing of such written notice, then the Association may proceed to maintain the Lot. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall be levied and collected in the same manner as assessments pursuant to this Declaration.

ARTICLE IX - COMPLIANCE AND ENFORCEMENT

9.1 Compliance. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

9.2 Remedies. Violation of any provisions of this Declaration, the Bylaws, or any rules or regulations adopted pursuant thereto, or of any decision of the Association made pursuant to such documents, shall give the Board of Directors acting on behalf of the Association, the right, but not the obligation, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do any or all of the following after giving notice:

9.2.1 Subject to the provisions of this Declaration, to enter the Lot as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board of Directors shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

9.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

9.2.3 To levy reasonable fines against the Owner of a Lot for a violation of any of the terms or provisions in this Declaration by a Lot's Owner, occupants, guests, invitees, tenants, or visitors. A schedule of fines may be adopted by resolution of the Board of Directors, a copy of which shall be delivered to each Owner, mailed to the mailing address of a Lot or mailed to the mailing address designated by the Owner in writing to the Association;

9.2.4 To terminate the right to receive utility services paid for by assessments, if any, or to terminate the right of access to and use of recreational and service facilities of the Association, if any, until the correction of the violation has occurred;

9.2.5 To suspend the voting rights of an Owner, after providing notice and an opportunity to request a hearing, for any infraction of any of the published rules and regulations of the Association or of this Declaration, including failure to timely pay an assessment, until such time as the infraction has been corrected and/or the assessment has been paid;

9.2.6 Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto.

9.2.7 The remedies herein provided for breach of the covenants contained in the Declaration, the Bylaws, or the Articles shall be deemed cumulative; none of such remedies shall be deemed exclusive.

9.2.8 The failure of the Association to enforce any of the covenants contained in the Declaration, the Bylaws, or the Articles shall not constitute a waiver of the rights to enforce the same thereafter.

9.3 Action by Owners. Subject to any limitation imposed under this Declaration, the Bylaws, or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

9.4 Injunctive Relief. Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

9.5 Notification of First Mortgagee. The Board of Directors shall notify in writing any First Mortgagee of any individual Lot of any default in performance of the terms of this Declaration by the Lot Owner which is not cured within sixty (60) days, provided such Mortgagee has requested in writing to be so notified.

9.6 Liability of Owners for Damage to Common Areas. The Owner(s) of each Lot shall be liable to the Association for any and all damage to the Common Areas caused by them or any occupant, guest, agent, tenant, or pet thereof, except for that portion of such damage fully covered by the Association's Master Insurance Policy. Liability shall be established only after notice to the Owner and opportunity for hearing before the Board has been provided.

ARTICLE X - INSURANCE

10.1 Insurance Maintained by the Association. Upon approval of this Declaration by Association members, and within ninety (90) days of filing same with the Wasatch County Recorder's Office, the Board shall obtain the following insurance in behalf of the Association and its Owners:

(a) **Liability Insurance.** Comprehensive Public Liability Insurance, including medical payments, malicious mischief, and/or property damage arising from the activities of the Association or its members with respect to property under its jurisdiction, including Lots, Units (exclusive of Dwelling Areas), Common Areas, Limited Common Areas, and facilities. The limits of liability coverage for each policy purchased by the Board shall be a minimum of \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, death, and property damage. The amount may be increased by resolution of the Board. Said insurance shall include, if obtainable and if required by law, a cross liability endorsement insuring each insured against liability to each other insured. Said insurance shall also include a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or other Owners;

(b) **Blanket Insurance.** A "blanket" or "master" policy for property and casualty insurance, as set forth more fully in Section 10.2 below, for the full replacement value of the entire project, Units, service equipment and supplies, and other common personal property belonging to the Association. The policy shall include coverage for all other perils which are customarily covered with respect to Units similar in construction, location and use, including all perils normally covered by a standard "special peril policy", where such is available;

(c) **Directors and Officers.** Directors and Officers Insurance in an amount not less than \$1,000,000; and,

(d) **Fidelity Bond.** Fidelity Bond or Dishonesty Insurance in an amount of not less than \$300,000 for reserves and in an amount of at least one year's operating fund.

The Board shall obtain the above insurance from a responsible insurance company duly qualified and licensed in the State of Utah. Premiums for the said insurance, including but not limited to general liability, property coverage, directors and officers, and fidelity bond, shall be a Common Expense of the Association and the cost included in the Annual Assessment.

10.2 Association's Property Insurance Requirements.

10.2.1 The property insurance shall include coverage for all Units, any fixture, improvement, or betterment installed by an Owner to a Lot or to Limited Common Areas, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a unit or to a limited common element. Each Owner, to the extent the Association is required to provide coverage, is an insured person under a property insurance policy. Coverage shall be for damage resulting from a casualty and not for "wear and tear".

10.2.2 If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

- (1) the Association's policy provides primary insurance coverage; and,
- (2) notwithstanding Section 10.2.2(1) above, the Owner's policy applies to that portion of the loss attributable to the policy deductible of the Association.

(3)(a) As used in this Subsection (3), the terms described below shall have the following definitions:

(A) "Covered Loss" means a loss, resulting from a single event or occurrence that is covered by a property insurance policy of an association of Lot owners.

(B) "Lot Damage" means damage to a Lot or to Limited Common Area or facility applicable to that Lot, or both.

(C) "Lot Damage Percentage" means the percentage of total damage resulting in a covered loss that is attributable to Lot damage.

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

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

(5) The Association shall provide notice in accordance with Utah Code Ann. §57-8-42 to each Owner of that Owner's obligation under Subsection (3) for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice, it shall be responsible for the amount of the deductible increase that the Association could have assessed to an Owner. The failure of the Association to provide notice may not be construed to invalidate any other provision of this Section.

(6) If, in the exercise of its best business judgment, the Board determines that a claim is likely not to exceed the property insurance policy deductible of the Association:

(A) the Owner's policy is considered the policy for primary coverage to the amount of the policy deductible of the Association;

(B) an Owner who does not have a policy to cover the property insurance policy deductible of the Association is responsible for the loss to the amount of the policy deductible of the Association, as provided in Subsection (3); and,

(C) the Association need not tender the claim to the Association's insurer.

(7) An insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy. Notwithstanding the foregoing, the insurance proceeds for a loss under a property insurance policy of the Association:

(A) are payable to an insurance trustee that the Association designates or, if no trustee is designated, to the Association; and,

(B) may not be payable to a holder of a security interest.

The insurance trustee, if designated, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. The insurance proceeds shall be disbursed first for the repair or restoration of the damaged property and, once the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the Association, Owners, and lien holders.

(8) An insurer that issues a property insurance policy under this Section, or the insurer's authorized agent, shall issue a certificate or memorandum of insurance to:

(A) the Association;

(B) an Owner, upon the Owner's written request; and,

(C) a holder of a security interest, upon the holder's written request.

(9) A cancellation or nonrenewal of a property insurance policy under this Section is subject to the procedures stated in Utah Code Ann. §31A-21-303.

(10) If the Board acquires from an insurer the property insurance required in this Section 1, it is not liable to Owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

10.3 Insurance Obligations of Owners. Each Owner shall obtain and maintain the following types of insurance coverage:

(a) **Personal Property (Tenant's) Coverage** – In an amount agreed upon between the Owner and his/her insurance provider.

(b) **Liability Coverage** – Liability Insurance for Lot Owners (Owners shall provide the Board with a Certificate of Insurance upon request);

(c) **Building Coverage (Unit)** – In a minimum amount not less than the Association's Master Policy deductible, but in no case less than \$10,000; and

(d) **Loss Assessment** – Loss Assessment Coverage added to Owner's policy in a minimum amount of \$20,000;

The insurance premium for the Owner's policy shall be paid by the Owner. The Owner shall obtain and keep in full force and effect at all times the required insurance coverage provided by companies duly qualified and licensed in the State of Utah. The provisions of this Section shall not be construed to limit the power or authority of the Owner to obtain and maintain insurance coverage in addition to any insurance required hereunder, in such amounts and in such

forms as they may deem appropriate. Upon request by the Board of Directors, an Owner shall provide written evidence from his/her insurance provider within three (3) days indicating that the above required coverage is in force. If an Owner fails to maintain the required insurance, or fails to provide a Certificate of Insurance within three (3) calendar days of a request by the Board, and fails to remedy a default within ten (10) calendar days after written notice is sent, the Board may, but is not obligated to, without further notice purchase the required insurance and treat the cost as an Individual Assessment against the Owner.

10.4 Waiver of Subrogation. As to each policy of insurance maintained by the Association, which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, the Manager, if any, and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

10.5 Other Insurance and General. The Association may also obtain, through the Board, Workmen's Compensation Insurance and other liability insurance as it may deem desirable, insuring each Lot Owner and the Association, Board of Directors, and Manager, from liability; the premiums for which are included in the Annual Assessment levied against the Owners. Such insurance policies shall have severability of interest clauses or endorsements which shall preclude the insurer from denying the claim of a Lot Owner of the negligent acts of the Association or other Lot Owners.

10.6 Policy Review. All policies shall be reviewed at least annually by the Board of Directors and the limits increased at its discretion.

ARTICLE XI - AMENDMENT AND DURATION

11.1 Amendments.

(a) How Proposed. Amendments to the Declaration shall be proposed by either a majority of the Board of Directors or by Owners holding thirty percent (30%) or more of the voting rights of the Association. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment.

(b) Approval Required. This Declaration may be amended if such amendment is approved by Owners holding sixty-seven percent (67%) of the voting rights of the Association, provided that any material amendments shall require the approval of Eligible Holders as required in Article XII below.

(c) Execution and Recordation. An amendment shall not be effective until the amendment is certified by at least two Board members of the Association as being adopted in accordance with this Declaration, is acknowledged, and is recorded in the appropriate County Recorder's Office.

11.2 Duration. The covenants and restrictions contained in this Declaration shall run with and bind the Lots and shall inure to the benefit of and be enforceable by the Association or any Owner of a Lot subject to the provisions of this Declaration, their respective legal representatives, heirs, successors and assigns, thereafter. The Declaration shall continue and remain in full force and effect until there is recorded an instrument directing the termination of this Declaration after the vote and approval of Owners possessing at least seventy-five percent (75%) of the voting rights in the Association. Any such termination shall become effective only if a certificate of at least two Board members of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the County Recorder's Office not less than six (6) months prior to the intended termination date.

ARTICLE XII – MORTGAGEE RIGHTS

12.1 Enumerated Mortgagee Rights. Notwithstanding any and all provisions of this Declaration to the contrary, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

(a) Each First Mortgagee of a Mortgage encumbering any Lot, at his written request, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligation under this Declaration, the Articles of Incorporation, or the Bylaws, which default is not cured within thirty (30) days after the Association learns of such default.

(b) Each First Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage, shall take title to such Lot free and clear of any claims of unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the Mortgagee.

(c) Unless at least seventy-five percent (75%) of the First Mortgagees (based upon one vote for each Mortgage owned), or Members holding seventy-five percent (75%) of the voting rights in the Association have given their prior written approval, neither the Association nor the Owners shall:

(1) By act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer, directly or indirectly, the improvements, utility or otherwise, which are owned by the Association and/or public or private utility companies.

(2) Change the method of determining the obligation, assessments, dues or other charges which may be levied against a Lot Owner.

(3) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Lot improvements (including Units), or the exterior maintenance of said improvements.

(d) First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

(e) All First Mortgagees who have requested the same, shall be given thirty (30) days written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association and prior to the effective date of any termination of an agreement for professional management of the Association following a decision of the Owners to assume self-management of the Community.

(f) Neither this Declaration, the Articles of Incorporation, nor the Bylaws of the Association will be amended in such a manner that the rights of any First Mortgagee will be adversely affected.

12.2 Request for Approval of Mortgagees. Any mortgagee that has requested, and subsequently receives, a written request to approve amendments to the Declaration or Bylaws, or any other action to be taken by the Board of Directors, the Association or Owners, shall be considered to have given such approval unless such mortgagee delivers or posts a negative response within thirty (30) days after delivery by the Association of such request.

ARTICLE XIII - MISCELLANEOUS PROVISIONS

13.1 Invalidity; Number; Captions. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

13.2 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board of Directors, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

13.3 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance

and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

13.4 Non-waiver. Failure by the Association, the Board of Directors or any Owner to enforce any covenant or restriction contained in this Declaration, including architectural controls, shall in no event be deemed a waiver of the right to do so thereafter.

13.5 Waiver, Precedent and Estoppel. No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association, the Board of Directors or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Declarant, Association, Board of Directors or Owner as to any similar matter.

13.6 Notice of Sale, Mortgage, Rental, or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

13.7 City Approval and Compliance with State and Local Laws. It is understood that nothing in this Declaration shall be construed to exempt any person or entity from fully complying with all state and local laws and ordinances or engaging in any activity whatsoever. In addition, all Owners shall fully comply with all the state and local laws and ordinances in the use and management of their Lots, including construction.

13.8 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Project does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest within the Project, or any portion thereof.

13.9 No Public Use or Dedication. Nothing contained in this Declaration shall be deemed to be a gift of dedication of all or any part of the Project to the public or for any public use.

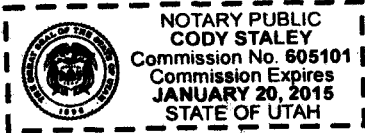
13.10 Notices and Voting. Any and all notices to Owners required herein shall be in writing and may be delivered either in person, by regular United States mail, by posting the information on the Association's website (if any) or by electronic mail. Electronic mail may be used unless an Owner requests that all notices be sent by regular mail. It shall be the Owner's responsibility to provide his current e-mail address to the Board. Notices by mail shall be to the Owner's address as provided to the Board by the Owner, or if not provided, to the Owner's address of record in the Office of the Wasatch County Recorder. All other informational items and correspondence may be delivered by electronic mail.

In addition to other methods providing for voting within the Association, any ballots or proxies received for any item of Association business under this Declaration or the Bylaws may

be received by electronic means (electronic mail, facsimile transmission, etc.) and counted for all purposes, including the establishment of a quorum.

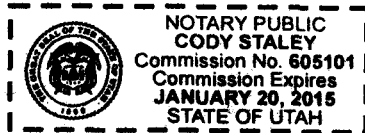
IN WITNESS WHEREOF, The Swiss Alpenhof Property Owners Association, has executed this Declaration this 14 day of September, 2012.

The Swiss Alpenhof Property Owners Association



[Signature]
By: David Miles
Its: President

The Swiss Alpenhof Property Owners Association



[Signature]
By: Ashlee Jensen
Its: Secretary

STATE OF UTAH)
)ss:
County of Summit)

The foregoing instrument was acknowledged before me on this 14 day of September, 2012 by David Miles of Swiss Alpenhof Property Owners Association.

[Signature]
Notary Public for Utah

STATE OF UTAH)
)ss:
County of Summit)

The foregoing instrument was acknowledged before me on this 14 day of September, 2012 by Ashlee Jensen of Swiss Alpenhof Property Owners Association.

[Signature]
Notary Public for Utah

EXHIBIT A
(LEGAL DESCRIPTION)

PLAT B

BEGINNING AT A POINT WHICH IS LOCATED NORTH 1214.75 FEET AND WEST 2347.10 FEET FROM THE EAST QUARTER CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE WEST 49.05 FEET; THENCE ALONG THE ARC OF A 175.00 FOOT RADIUS CURVE TO THE LEFT 62.91 FEET (CURVE HAS A CENTRAL ANGLE OF 20°35'45" AND A CHORD BEARING S 79°42'08" W 62.57 FEET); THENCE S 69°24'15" W 106.07 FEET; THENCE ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE RIGHT 44.93 FEET (CURVE HAS A CENTRAL ANGLE OF 20°35'45" AND A CHORD BEARING S 79°42'08" W 44.69 FEET); THENCE WEST 26.49 FEET; THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT 25.73 FEET (CURVE HAS A CENTRAL ANGLE OF 98°17'50" AND A CHORD BEARING N 40°51'03" W 22.69 FEET); THENCE N 08°17'51" E 4.50 FEET; THENCE ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE LEFT 42.96 FEET (CURVE HAS A CENTRAL ANGLE OF 19°41'28" AND A CHORD BEARING N 01°32'53" W 42.75 FEET); THENCE N 11°23'37" W 75.25 FEET; THENCE N 81°57'35" E 125.56 FEET; THENCE N 84°58'15" E 47.36 FEET; THENCE NORTH 146.22 FEET; THENCE EAST 152.47 FEET; THENCE S 03°04'18" W 249.92 FEET TO THE POINT OF BEGINNING.

A PARCEL CONTAINING 1.366 ACRES.

BASIS OF BEARING = UTAH STATE PLANE, CENTRAL ZONE

PLAT C

BEGINNING AT A POINT WHICH IS LOCATED NORTH 1158.26 FEET AND WEST 2627.47 FEET FROM THE EAST QUARTER CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN: THENCE WEST 67.88 FEET; THENCE S 08°17'51" W 14.36 FEET; THENCE WEST 139.79; THENCE N 04°01'11" W 314.71 FEET; THENCE N 13°07'32" W 119.04 FEET; THENCE N 76°36'31" E 433.16 FEET; THENCE S 00°33'14" E 10.00 FEET; THENCE S 77°15'18" E 74.71 FEET; THENCE S 34°00'00" W 221.27 FEET; THENCE EAST 29.50 FEET; THENCE SOUTH 146.22 FEET; THENCE S 84°58'15" W 47.36 FEET; THENCE S 81°57'35" W 125.56 FEET; THENCE S 11°23'37" E 75.25 FEET; THENCE ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE RIGHT 42.96 FEET (CURVE HAS A CENTRAL ANGLE OF 19°41'28" AND A CHORD BEARING S 01°32'53" E 42.75 FEET); THENCE S 08°17'51" W 4.50 FEET; THENCE ALONG THE ARC OF 15.00 FOOT RADIUS CURVE TO THE LEFT 25.73 FEET (CURVE HAS A CENTRAL ANGLE OF 98°17'51" AND A CHORD BEARING S 40°51'03" E 22.69 FEET) TO THE POINT OF BEGINNING.

A PARCEL CONTAINING 3.620 ACRES

BASIS OF BEARING = UTAH STATE PLANE, CENTRAL ZONE

OSW - 2001 thru OSW - 2008
OSW - 3009 thru OSW - 3026

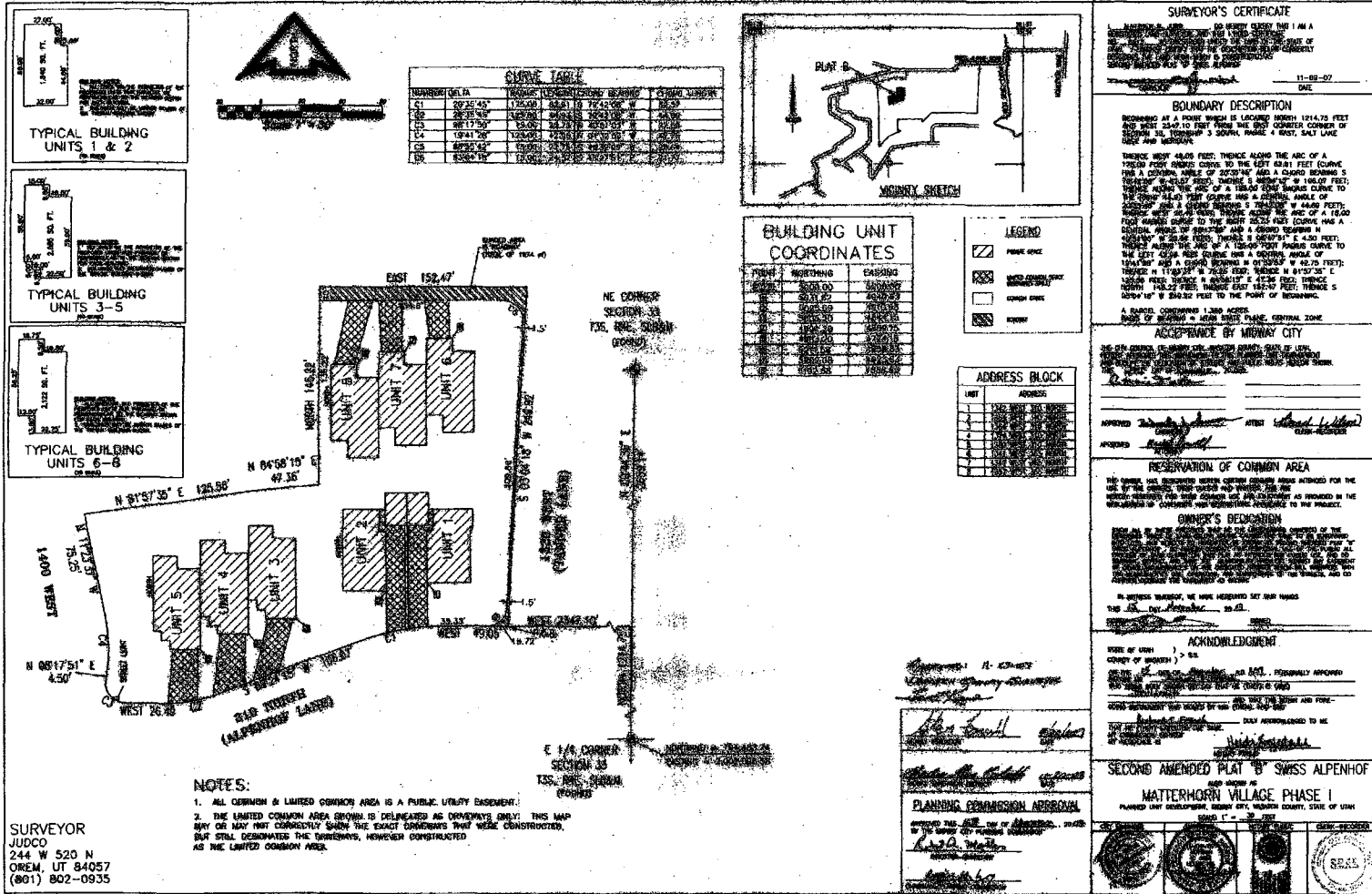
EXHIBIT B

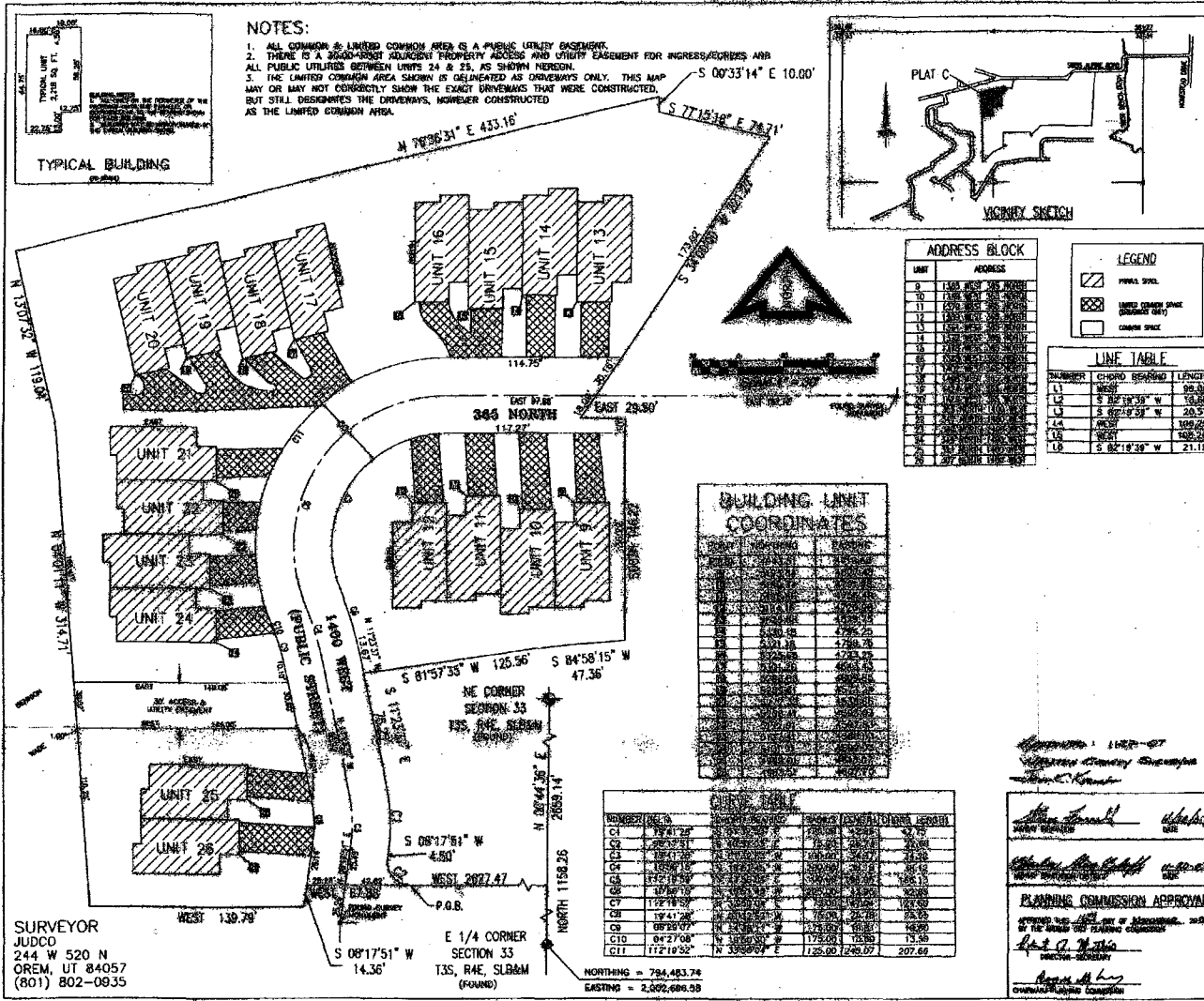
Plat Maps

SECOND AMENDED PLAT "B" SWISS ALPENHOF

&

AMENDED PLAT "C" SWISS ALPENHOF





SURVEYOR'S CERTIFICATE

I, MATTHEW S. JUDCO, DO HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR AND THAT I HAVE CONDUCTED THE SURVEY OF THE LAND SHOWN ON THIS PLAT IN ACCORDANCE WITH THE REQUIREMENTS OF THE UTAH SURVEYING ACT AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING ENGINEERS AND LAND SURVEYORS OF THE STATE OF UTAH. I HAVE BEEN A LICENSED SURVEYOR SINCE 1998 AND AM CURRENTLY LICENSED AS A PROFESSIONAL SURVEYOR. THE LAND SHOWN HEREON IS CONVEYED AS SHOWN ON THIS PLAT.

DATE: 11-09-07

BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS LOCATED NORTH 1158.26 FEET AND WEST 2027.47 FEET FROM THE EAST QUARTER CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SHELBY COUNTY, IOWA, BEARING:

THENCE WEST 67.00 FEET; THENCE S 08°17'51" W 14.36 FEET; THENCE WEST 139.79 FEET; THENCE N 04°17'51" W 118.04 FEET; THENCE N 70°20'31" S 400.00 FEET; THENCE S 08°23'14" E 10.00 FEET; THENCE S 77°18'00" E 74.21 FEET; THENCE S 34°00'00" W 221.37 FEET; THENCE EAST 29.00 FEET; THENCE SOUTH 148.00 FEET; THENCE S 89°05'15" W 47.26 FEET; THENCE S 89°05'00" W 125.36 FEET; THENCE S 11°23'37" E 70.25 FEET; THENCE ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE RIGHT 42.06 FEET (CURVE HAS A CENTRAL ANGLE OF 19°41'28" AND A CHORD BEARING S 01°32'33" E 42.76 FEET); THENCE S 08°17'51" W 4.00 FEET; THENCE ALONG THE ARC OF 13.00 FOOT RADIUS CURVE TO THE LEFT 25.73 FEET (CURVE HAS A CENTRAL ANGLE OF 88°17'51" AND A CHORD BEARING S 40°51'00" E 22.09 FEET) TO THE POINT OF BEGINNING.

A PARCEL CONTAINING 3.020 ACRES
BASIS OF BEARING = UTM STATE PLANE, CENTRAL ZONE

ACCEPTANCE BY MIDWAY CITY

THE CITY COUNCIL OF MIDWAY CITY, IOWA, HAS REVIEWED THIS PLAT AND ACCEPTS THE BEARING AND DISTANCE SHOWN THEREON.

PROVISION OF COMMON AREA

THE COMMON AREA SHOWN ON THIS PLAT IS HEREBY PROVIDED FOR THE USE OF THE BUILDINGS SHOWN AND ANY OTHER BUILDINGS THAT MAY BE CONSTRUCTED ON THE LAND SHOWN ON THIS PLAT. THE COMMON AREA IS TO BE MAINTAINED AND KEPT IN GOOD REPAIR AT ALL TIMES AND THE COSTS OF MAINTENANCE AND REPAIRS SHALL BE BORNE BY THE OWNERS OF THE BUILDINGS SHOWN ON THIS PLAT.

OWNER'S DECLARATION

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT I AM THE OWNER OF THE LAND SHOWN ON THIS PLAT AND THAT I HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS OF THIS PLAT AND AGREE TO BE BOUND BY THE SAME.

ACKNOWLEDGMENT

THIS IS TO CERTIFY THAT THE ABOVE DESCRIBED PARCEL HAS BEEN OFFICIALLY RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF IOWA, SHAW COUNTY, IOWA, ON 11-09-07.

PLANNING COMMISSION APPROVAL

APPROVED: 11-09-07
Matterhorn Village Association
Matthew S. Judco

AMENDED PLAT "C" SWISS ALPENHOF MATTERHORN VILLAGE PHASE II

PLANNED UNIT DEVELOPMENT, IOWA CITY, IOWA COUNTY, STATE OF IOWA

DATE: 11-09-07

BY: [Signatures]

FOR: [Signatures]

Ent 382725 Bk 1064 Pg 1193

EXHIBIT C

BYLAWS OF SWISS ALPENHOF PROPERTY OWNERS ASSOCIATION

ARTICLE 1 PLAN OF LOT OWNERSHIP

1.1 Name and Location. These are the Bylaws of the Swiss Alpenhof Property Owners Association (the "Association"). The Association is a Utah planned unit development project that has been subjected to the foregoing Declaration of Covenants, Conditions and Restrictions.

1.2 Principal Office. The principal office of the Association shall be located at such office as may be designated by the Board of Directors from time to time.

1.3 Purposes. This Association is formed to serve as a means through which the Lot Owners may take action with regard to the administration, management and operation of the Common Area, facilities, Lots, and any other property located therein.

1.4 Applicability of Bylaws. The Association, all Lot Owners and all persons using the Property shall be subject to these Bylaws and to all rules and regulations which may be adopted pursuant to the Declaration and these Bylaws.

1.5 Composition of Association. The Association shall be composed of all Lot Owners and the Association itself, to the extent any of these own any Lots.

1.6 Incorporation of Association.

(a) The Association shall be incorporated under the Utah Revised Nonprofit Corporation Act. The Articles of Incorporation of the Association shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the Bylaws of the incorporated association.

(b) In the event the incorporated Association shall at any time be dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers and obligations of the incorporated association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, which vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any such successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the incorporated association as if

they had been made to constitute the governing documents of the unincorporated association.

1.7 Definitions. The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE 2 MEETING OF ASSOCIATION

2.1 Place of Meeting. The Association shall hold meetings at such suitable place convenient to the Owners as may be designated by the Board of Directors from time to time.

2.2 Annual Meetings. Each regular annual meeting of the members shall be held between January 20 and February 28 of each year at a time and place within the State of Utah selected by the Board of Directors of the Association.

2.3 Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of at least thirty percent (30%) of the members stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.4 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the President or person authorized to call the meeting, by mailing a copy of such notice, in a manner prescribed in Section 13.10 of the Declaration, at least fifteen (15) days but not more than sixty (60) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

2.5 Voting. Each Lot shall be allocated one vote in the affairs of the Association as provided in the Declaration. The Board of Directors shall be entitled to vote on behalf of any Lot which has been acquired by or on behalf of the Association, except the Board of Directors shall not be entitled to vote such Lots in any election of Board members. Permissible methods of voting are set forth the in Declaration and in these Bylaws.

2.6 Proxies, Absentee Ballots and Rights of Mortgagees.

2.6.1 Proxies.

(a) A vote may be cast in person or by proxy. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board of Directors.

(b) No proxy shall be valid after the meeting for which it was solicited,

unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution.

(c) No proxy shall be valid if it purports to be revocable without notice.

(d) An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Directors if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 2.12 below.

(e) Every proxy shall automatically cease upon sale of the Lot.

2.6.2 Absentee Ballots. At the discretion (which shall be announced in the formal notice of the meeting) of the Board of Directors, a vote may be cast by absentee ballot.

2.6.3 Mortgage Rights. An Owner may pledge or assign the owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the owner is entitled hereunder and to exercise the owner's voting rights from and after the time that the Mortgagee shall have given written notice of the pledge or assignment to the Board of Directors. Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

2.7 Fiduciaries and Joint Owners.

2.7.1 Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity.

2.7.2 Joint Owners. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the Lot may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.8 Quorum of Owners.

2.8.1 Except as otherwise provided in the Declaration or these Bylaws, at any meeting of the Association, Owners holding twenty percent (20%) of the voting rights, present in person or by proxy, or absentee ballot if permitted under Section 2.6.2 above, shall constitute a quorum.

2.8.2 The subsequent ratification of an Owner in the action taken at a meeting

shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an Owner or Owners.

2.8.3 If any meeting of Members cannot be organized because of a lack of quorum, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. For each such adjourned meeting, the members that are represented for any purpose at the meeting constitute a quorum. The adjournment provisions of this subsection 2.8.3 do not apply to action by written ballot in lieu of a meeting.

2.9 Binding Vote. Action on a matter, other than the election of Directors (see Section 4.2), shall be binding upon all Owners for all purposes if the votes cast favoring the action exceed the votes cast opposing the action and if a quorum exists, except where a higher percentage vote is required by law, the Declaration, or these Bylaws.

2.10 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the President, and by way of example, may include the following: (a) Calling of the roll and certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading of minutes of preceding meeting; (d) Reports of officers; (e) Reports of committees, if any; (f) Election of Board members; (g) Unfinished business; (h) New business; and (i) Adjournment.

2.11 Meeting Procedure. Rules of order may be adopted by resolution of the Board of Directors, otherwise, the President shall conduct meetings according to the procedure he or she deems fit.

2.12 Action by Written Ballot in Lieu of a Meeting.

2.12.1 Action by Written Ballot. At the discretion of the Board of Directors, any action, except election or removal of Board members, that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner that is entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. Votes may be received by facsimile transmission and electronic mail, among other means provided for herein and in the Declaration.

2.12.2 Form and Effect of Ballot. The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action. A written ballot may not be revoked.

2.12.3 Information Required in Ballot Solicitations. All solicitations for votes by written ballot must:

(a) State the number of responses needed to meet any applicable quorum requirements and the total percentage of votes needed for approval.

(b) Specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of the following unless the vote is pursuant to the secrecy procedure described in Subsection (d) of this section: (A) The date on which the Association has received a sufficient number of approving ballots to pass the proposal; (B) The date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage; or (C) A date certain on which all ballots must be returned to be counted.

2.12.4 Secrecy Procedure. The Board of Directors may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) A secrecy envelope; (2) A return identification envelope to be signed by the owner; and (3) Instructions for marking and returning the ballot.

2.12.5 Determination of Vote. The outcome of a vote by written ballot in lieu of a meeting shall be determined by the Board of Directors within seventy-two (72) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

(a) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a quorum of owners has voted and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected.

(b) If approval of a proposed action otherwise would require a meeting at which a specified percentage of owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met.

(c) Except as provided in Subsection 2.12.5(d) of this section, votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

(d) Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

2.12.6 Owner Notification of Ballot Results. The Board shall notify each Owner within fifteen (15) days after the ballots have been counted, by mail, e-mail or other method reasonably calculated to provide notice, of the results of the ballot or that a quorum of ballots was not returned.

2.13 Action Without a Meeting. Any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting and without solicitation of written ballots pursuant to this Section 2.13, if the action is taken by the number of owners required to pass the action. The action must be evidenced by one or more written consents describing the action taken, signed by the number of owners required to pass the action, and delivered to the Association for inclusion in the minutes or filing with the Association records. Action taken under this section is effective when the last owner signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

2.14 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting form of proxies, and in the method of ascertaining members present, shall be deemed waived if no objection thereto is made (within sixty days).

ARTICLE 3 BOARD OF DIRECTORS – SELECTION, TERM OF OFFICE

3.1 Number and Qualification

3.1.1 The affairs of the Association shall be governed by a Board of Directors composed of three (3) Directors. The term of each Director shall be three years, with one Director position being up for election each year at the Annual Meeting resulting in two positions continuing at any election for continuity purposes.

3.1.2 A Director must be an Owner or the co-owner of a Lot. However, multiple owners of the same Lot may not serve as Board members simultaneously. An officer or employee of a corporation, a partner of a partnership, a trustee of a trust, a personal representative of an estate or an employee of a trust or estate, may serve on the Board if the corporation, partnership, trust or estate owns a Lot.

3.2 Vacancies. Vacancies on the Board of Directors, caused by any reason other than the removal of a Board member by a vote of the Association, shall be filled for the balance of the term of each Board membership by vote of a majority of the remaining Board members even though they may constitute less than a quorum. Each person so elected shall be a Board member until a successor is elected upon expiration of the term for which the person was elected by the other Board members to serve.

3.3 Removal of Board members.

3.3.1 At any annual or special meeting, other than a meeting by written ballot conducted pursuant to Section 2.12 above, any one or more of the Board members, other than interim Board members, may be removed, with or without cause, by a majority of the Owners present in person or by proxy, at a duly constituted meeting. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is

to be considered and any Director whose removal has been proposed by the owners may be given an opportunity to be heard at the meeting.

3.3.2 The Board of Directors, pursuant to Section 6.2.3 below, may declare the office of a member of the Board of Directors to be vacant in the event such member is absent from three (3) consecutive regular meetings of the Board of Directors. The vacancy shall be filled as provided in Section 3.2 above.

3.4 Compensation. No Board member shall receive compensation for any service he or she may render to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his or her duties.

3.5 Action Taken Without A Meeting. The Board members shall have the right to take any action in the absence of a meeting which they could take at a regular or special meeting by obtaining the written approval of all the Board members in accordance with U.C.A. §16-6a-813, as amended from time to time. Any action so approved shall have the same effect as though taken at a meeting of the Board members.

ARTICLE 4 NOMINATION AND ELECTION OF DIRECTORS

4.1 Nomination.

4.1.1 Method of Nomination. Nomination for election to the Board of Directors, including action under Section 3.4 above, may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting or any special meeting. If a Nominating Committee is formed, the Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies.

4.1.2 Nominating Committee. If formed, the Nominating Committee shall consist of those persons appointed by the Board. By way of illustration, the Nominating Committee may consist of a chairman, who is a member of the Board, and two (2) or more members of the Association.

4.2 Election. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE 5
MEETINGS OF BOARD OF DIRECTORS

5.1 Organizational Meeting.

5.1.1 Location, Date and Time. The first meeting of a newly-elected Board of Directors shall be held within thirty (30) days of election at such place, date and time as shall be fixed by the Board members at the meeting at which the Board members were elected and no notice shall be necessary to owners or to the newly elected Board members in order to legally hold the meeting providing a majority of the elected Board members are present.

5.1.2 Procedure and Business. Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary, regardless of whether the outgoing president or secretary is a member of the newly constituted board. At the organizational meeting, the Board of Directors shall elect officers in accordance with Section 7.2 below and may conduct any other Association business.

5.2 Regular Meetings. Regular meetings of the Board of Directors shall be held, at such place and hour as may be fixed from time to time by resolution of the Board. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at a another date and time agreed upon by the Board of Directors, but not more than one week after the legal holiday.

5.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) Board members, after not less than three (3) days notice to each Board member by mail, including electronic mail if approved by the Board, telephone, or facsimile. The notice must state the time, place, and purpose of the meeting.

5.4 Meeting Procedure. Unless other rules of order are adopted by resolution of the Board of Directors:

5.4.1 Meetings of the Board of Directors shall be conducted by the President.

5.4.2 A decision of the Board of Directors may not be challenged because the appropriate rules of order were not used.

5.4.3 A decision of the Board of Directors is deemed valid without regard to any procedural errors related to the rules of order unless the error appears on the face of a written instrument memorializing the decision.

5.5 Open Meetings; Executive Sessions.

5.5.1 Open Meetings. Except as provided in Subsection 5.5.2 of this section, all meetings of the Board of Directors shall be open to Lot Owners. However, no Owner shall have

a right to participate in the Board of Directors meeting unless the Owner is also a member of the Board. The president shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

5.5.2 Executive Sessions. In the discretion of the Board, the following matters may be considered in executive session:

- (1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (2) Personnel matters, including salary negotiations and employee discipline;
- (3) The negotiation of contracts with third parties;
- (4) Collection of unpaid assessments; and
- (5) Other matters of a sensitive, private, or privileged nature.

5.5.3 Executive Session Procedure. Except in the case of an emergency, the Board of Directors shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

5.6 Meetings by Telephonic or Electronic Communication. In the event of an emergency, or by decision of the Board, meetings of the Board of Directors may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Board of Directors participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

5.7 Waiver of Notice. Any Board member may, at anytime, waive notice of any meeting of the Board of Directors in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice by the Board member, except where the Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Board members are present at any meeting of the board, no notice to Board members shall be required and any business may be transacted at the meeting.

5.8 Quorum, Acts and Decisions of the Board. At all meetings of the Board of Directors a majority of the existing Board members shall constitute a quorum for the transaction of business, and the acts of the majority of the Board members present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such

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

5.9 Informal Actions by the Directors. Any action that is permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the Directors.

ARTICLE 6 POWERS, RIGHTS, AND DUTIES OF THE BOARD OF DIRECTORS

6.1 General Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

6.2 Specific Powers. In addition to powers imposed by the Declaration, these Bylaws or by resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, the Board of Directors shall have the power to:

6.2.1 Adopt and publish rules and regulations governing the use of the Common Area, including any improvements and amenities located thereon, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

6.2.2 Suspend the voting rights and right to use of any recreational facilities located on any Common Area of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended for a period not to exceed sixty (60) days for infraction of published rules and regulations or any provisions of the Declaration.

6.2.3 Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

6.2.4 Employ a manager, independent contractor, or such other individuals, entities or employees as they deem necessary and to prescribe their duties.

6.2.5 Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

6.2.6 As more fully provided in the Declaration, to:

6.2.7 Foreclose the lien against any Lot for which Assessments are not paid within thirty (30) days after the due date thereof or to bring an action at law against the Owner personally obligated to pay the same;

6.2.8 Procure and maintain adequate liability and hazard insurance on property Owned by the Association or maintained by the Association if required by the Declaration or any supplemental declaration annexing Additional Property to the Community.

6.2.9 Cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate.

6.2.10 Cause to be maintained the Common Area and any other areas shown on the Plat that may be owned by governmental entities who are not maintaining such areas and any other property required to be maintained by the Declaration or any supplemental declaration annexing Additional Property to the Community.

6.2.11 Establish and maintain the financial accounts of the Association.

6.2.12 Establish a budget for payment of all Common Expenses of the Association, and institute and maintain a voucher system for payment, which may require a sufficient number of signatories thereon as may be reasonably necessary to prevent any misuse of the Association's funds.

6.2.12 In the Board of Directors' discretion, appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint such other committees as deemed appropriate in carrying out its purpose.

6.2.13 The Board of Directors may appoint other committees as deemed necessary from time to time. All such committee members serve at the discretion of the Board.

ARTICLE 7 OFFICERS AND THEIR DUTIES

7.1 Designation and Qualification.

7.1.1 Designation. The principal officers of the Association shall be a president, a vice-president, a secretary and a treasurer. The Board members may designate the office of assistant treasurer and assistant secretary.

7.1.2 Qualifications. The president and vice-president shall be a member of the Board of Directors, but the other officers need not be Board members. Any Board member may be an officer of the Association.

7.1.3 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices specified in subsection (a) of this section.

7.1.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.2 Election and Vacancies. The officers of the Association may be elected by the Board of Directors at the organizational meeting of each new Board held in accordance with Section 5.1 above or any Board of Directors meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board of Directors shall elect a successor to fill the unexpired term at any meeting of the Board of Directors.

7.3 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 Removal of Officers. Officers shall hold office at the pleasure of the Board of Directors. Upon an affirmative vote of a majority of the members of the Board of Directors any officer may be removed, either with or without cause.

7.5 Compensation of Officers. No officer who is a member of the Board of Directors may receive any compensation from the Association for acting as an officer, unless the compensation is authorized by a binding vote of the Owners. The Board of Directors may fix any compensation to be paid to any officers who are not also Board members.

7.6 Duties of Officers. The duties of the officers are as follows:

7.6.1 President. The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors. The president shall have all of the general powers and duties which are usually vested in the office of president of an association. The president shall have the authority to sign all leases, mortgages, deeds and other written instruments and promissory notes.

7.6.2 Vice-President. The vice-president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice-President shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

7.6.3 Secretary. The secretary shall prepare and maintain the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association, have charge of the books, papers, and other records and information required to be kept by the Association, authenticate records of the Association, and in general, perform all of the duties incident to the office of secretary.

7.6.4 Treasurer. The treasurer shall have responsibility for the Association's funds and securities not otherwise held by a managing agent, and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the Association. The treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board of Directors and disbursing funds as directed by resolution of the Board of Directors. The treasurer shall be the primary officer responsible for signing checks and the Board may appoint other agents to sign and/or co-sign on any such checks.

ARTICLE 8 INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS

8.1 Indemnification of Third Party Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Director or officer of the Association, or is or was serving at the request of the Association as a Director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

8.2 Indemnification of Association Actions. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Director or officer of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite that adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

8.3 Determinations. To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 8.1 or 8.2 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 8.1 or 8.2 hereof shall be made by the Association only upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 8.1 or 8.2 hereof. Such determination shall be made either (i) by the Board of Directors by a majority vote of disinterested Directors or (ii) by independent legal counsel in a written opinion, or (iii) by the Members by the affirmative vote of at least fifty percent (50%) of the Total Votes of the Association at any meeting duly called for such purpose.

8.4 Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article 8 may be paid by the Association in advance of the final disposition for such action, suit, or proceeding upon a majority vote of a quorum of the Board of Directors and upon receipt of an undertaking by or on behalf of the person to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article 8 or otherwise.

8.5 Scope of Indemnification. The indemnification provided for by this Article 8 shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article 8 shall apply to all present and future Directors, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Directors, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and personal representatives of all such persons and shall be in addition, to all, other rights to which such persons may be entitled as a matter of law.

8.6 Insurance. The Association shall purchase and maintain insurance on behalf of any person who was or is a Director, officer, employee, or agent of the Association, or who was or is serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit), as may be required by the Declaration or these Bylaws.

8.7 Payments and Premiums. All indemnification payments made, and all insurance premiums for insurance maintained pursuant to this Article 8 shall constitute expenses of the Association and shall be paid with the funds from the Common Expense Fund referred to in the Declaration.

**ARTICLE 9
RECORDS AND AUDITS**

The Association shall maintain within the State of Utah, all documents, information and other records of the Association in accordance with the Declaration, these Bylaws and the Utah Revised Nonprofit Corporation Act in the manner prescribed by a resolution adopted by the Board of Directors.

9.1 General Records.

9.1.1 The Board of Directors and managing agent or manager, shall keep records of the actions of the Board and managing agent or manager; minutes of the meetings of the Board; and minutes of the meetings of the Association.

9.1.2 The Board of Directors shall maintain a Book of Resolutions containing the rules, regulations, and policies adopted by the Association and Board of Directors.

9.1.3 The Board of Directors shall maintain a list of Owners. The list of Owners may specify whether the Owner is an Owner in Good Standing or a Suspended Owner.

9.1.4 The Association shall retain within this State, all records of the Association for not less than the period specified in applicable law.

9.2 Records of Receipts and Expenditures. The Board of Directors or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Community, itemizing the maintenance and repair expenses of the Common Area or Association property and any other expenses incurred.

9.3 Assessment Roll. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. The account shall designate the Lot number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.4 Financial Reports and Audits.

9.4.1 An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Owners and to all mortgagees of Lots who have requested the same in writing within ninety (90) days after the end of each fiscal year.

9.4.2 From time to time, the Board of Directors, in its sole discretion and at the expense of the Association, may obtain an audit by a certified public accountant or other

financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Mortgagees of Lots.

9.5 Inspection of Records by Owners.

9.5.1 Except as otherwise provided in Section 9.6 below, all records of the Association shall be reasonably available for examination by an Owner and any Mortgagee of a Lot pursuant to rules adopted by resolution of the Board of Directors or if no such resolution has been adopted, pursuant to the Utah Revised Nonprofit Corporation Act.

9.5.2 The Board of Directors shall maintain a copy, suitable for the purposes of duplication, of the following: (1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association; (2) The most recent financial statement prepared pursuant to Section 9.4 above; and (3) The current operating budget of the Association.

9.5.3 The Association, within five (5) business days after receipt of a written request by an owner, shall furnish the requested information required to be maintained under Subsection 9.5.2, subject to a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.5.4 The Board of Directors, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.6 Records Not Subject to Inspection. Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

9.6.1 Personnel matters relating to a specific identified person or a person's medical records.

9.6.2 Contracts, leases and other business transactions that are currently under negotiation to purchase or provide goods or services.

9.6.3 Communications with legal counsel that relate to matters specified in this section, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege.

9.6.4 Disclosure of information in violation of law.

9.6.5 Documents, correspondence or management or Board reports compiled for or on behalf of the Association or the Board of Directors by its agents or committees for

consideration by the Board of Directors in executive session held in accordance with these Bylaws.

9.6.6 Documents, correspondence or other matters considered by the Board of Directors in executive session held in accordance with these Bylaws.

9.6.7 Files of individual Owners, other than those of a requesting Owner or requesting mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

9.7 Notice of Sale or Mortgage. Immediately upon the sale or Mortgage of any Lot, the Owner shall promptly inform the President (or designated contact person) of the name and address of the purchaser, vendee or Mortgagee.

ARTICLE 10 AMENDMENTS

10.1 Adoption. Amendments may be approved by the Association at a duly constituted meeting or meeting by written ballot in lieu of a meeting conducted pursuant to these Bylaws. The approval of at least a majority votes of all Owners is required to pass any amendment to these Bylaws.

10.2 Execution and Recording. An amendment shall not be effective until certified by at least two Board members of the Association as being adopted in accordance with these Bylaws, acknowledged and recorded with the County Recorder's Office.

10.3 Challenge to Validity. No action to challenge the validity of an adopted amendment may be brought more than one (1) year after the amendment is recorded.

ARTICLE 11 MISCELLANEOUS

11.1 Notices.

11.1.1 Association. All notices to the Association or the Board of Directors shall be sent care of the managing agent.

11.1.2 Owners.

(a) As further provided in Article XIII, Section 13.10 of the Declaration regarding notice, these Bylaws or law, all notices to any Owner shall be sent to such address (including e-mail address) as may have been designated by him or her, from time to time, in writing to the Board of Directors, or if no address has been designated, then to the Owner's address of record in the Office of the Wasatch County Recorder.

(b) If a Lot is jointly owned or the Lot has been sold under a land sale contract, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Lot shall be sufficient.

11.2 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

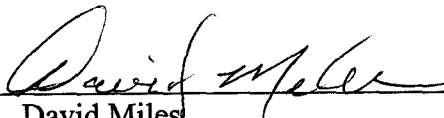
11.3 Invalidity, Number, Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

11.4 Fiscal Year. The fiscal year of the Association shall be determined by the Board in its discretion.

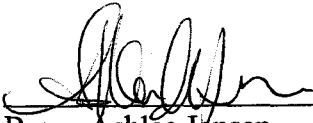
11.5 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized Board members on this ____ day of _____, 20____.

The Swiss Alpenhof Property Owners Association


By: David Miles
Its: President

The Swiss Alpenhof Property Owners Association


By: Ashlee Jensen
Its: Secretary