



**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
FOR
AMEYALLI RESIDENCES**

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS	2
ARTICLE 2 DECLARANT'S RIGHTS AND OWNERS' OBLIGATIONS	6
2.1. Property Subject to this Declaration	6
2.2. Submission of Residences to Association	7
2.3. No Condominium	7
2.4. Lots	7
2.5. The Association	8
2.6. Additional Land and Right to Expand	8
2.7. Incidents of Ownership	8
2.8. Owner's Obligation to Maintain the Lot and Residence	9
2.9. Responsibility for Common Areas Damage	9
2.10. Reservation of Right to Construct Residences and Improvements	9
2.11. Declarant's Disclaimer of Representations	9
2.12. Security	9
2.13. Readjustment of Lot Line Boundaries	10
2.14. Development Plan	10
2.15. Common Area Improvements	11
2.16. Right to Develop	11
2.17. Declarant's Control	11
2.18. Sharing of Club Facilities and Amenities and Common Areas	12
ARTICLE 3 LAND USES, PERMITTED USES AND RESTRICTIONS	12
3.1. Land Uses	12
3.2. Model Homes	12
3.3. Use Restrictions	13
3.4. Ameyalli Residences Design Review Committee	14
3.5. Architectural Control	15
3.6. Architectural Review Fee	15
3.7. Municipal Authority Approval	15
3.8. Required Approvals for Further Property Restrictions	16
3.9. Lots and Improvements	16
3.10. Description of Limited Common Areas	16
3.11. Declarant's Exemption	17
ARTICLE 4 EASEMENTS	17
4.1. Owners' Easements of Enjoyment	17
4.2. Utility Easement	18
4.3. Easements for Ingress and Egress	19
4.4. Declarant's Use and Easements	19
4.5. Easement in Favor of Association	20
4.6. Easement for Party Wall	20
4.7. Easement for Shared Roof	21

ARTICLE 5 THE ASSOCIATION; ORGANIZATION; ASSOCIATION MEMBERSHIP AND VOTING RIGHTS	21
5.1. Formation of Association	21
5.2. Registration with the Department of Commerce	21
5.3. Governing Board and Officers	21
5.4. Association Rules	21
5.5. Hearing	22
5.6. Personal Liability	23
5.7. Borrowing Power	23
5.8. Express and Implied Rights	23
5.9. Acceptance and Control of Association Property	24
5.10. Membership in the Association	25
5.11. Votes in the Association	25
5.12. Voting Procedures	25
5.13. Transfer of Association Membership	25
ARTICLE 6 COVENANT FOR ASSESSMENTS	26
6.1. Creation of Lien and Personal Obligation of Assessments	26
6.2. Annual Assessment	26
6.3. Special Assessments	28
6.4. Specific Assessments	28
6.5. Reserves	28
6.6. Working Capital Fund	30
6.7. Providing Payoff Information	30
6.8. Declarant and Declarant Affiliate Subsidy	30
6.9. Encumbrances	31
6.10. Effect of Conveyance	31
6.11. Statement of Account	31
6.12. Purposes for Which Association's Funds May be Used	32
6.13. Surplus Funds	32
6.14. Transfer Fee	32
6.15. Notice for Meetings to Consider Special Assessments	33
6.16. Special Service Districts	33
ARTICLE 7 ENFORCEMENT OF PAYMENT OF ASSESSMENTS	33
7.1. Association as Enforcing Body	33
7.2. Effect of Nonpayment of Assessments; Assessment Lien	33
7.3. Association's Remedies to Enforce Payment of Assessments	34
7.4. Foreclosure	35
7.5. Subordination of Assessment Lien to First Mortgage; Priority of Lien	36
7.6. Termination of Delinquent Owner's Rights	37
7.7. Leased Residences	37
7.8. One-Action Rule Not Applicable; Abandonment of Enforcement Proceeding	38
7.9. Costs and Attorney Fees in Enforcement Action	39

7.10. Action to Recover Unpaid Assessment	39
ARTICLE 8 MAINTENANCE	39
8.1. Common Areas and Public Right of Way	39
8.2. Limited Common Areas	40
8.3. Lots and Residences	40
8.4. Installation of Landscaping	40
8.5. Assessment of Certain Costs of Maintenance and Repair	40
8.6. Improper Maintenance and Use of Lots	41
8.7. Maintenance of Party Walls and Shared Roofs	41
8.8. Failure to Maintain Party Wall or Shared Roof	41
ARTICLE 9 INSURANCE	42
9.1. Scope of Coverage	42
9.2. Certificates of Insurance	44
9.3. Payment of Premiums and Deductibles	44
9.4. Payment of Insurance Proceeds	45
9.5. Repair and Replacement of Damaged or Destroyed Property	45
9.6. Owner Acknowledgement and Waiver	45
9.7. Annual Review	46
9.8. Owner to Insure	46
ARTICLE 10 MORTGAGEE REQUIREMENTS	46
10.1. Notice of Action	46
10.2. Availability of Project Documents and Financial Statements	47
10.3. Subordination of Lien	47
10.4. Notice to Eligible Mortgagees	47
10.5. Payment of Taxes	47
10.6. Priority	48
ARTICLE 11 CONDEMNATION	48
11.1. Notice	48
11.2. Partial Condemnation; Distribution of Award; Reconstruction	48
11.3. Limited Common Areas	48
11.4. Complete Condemnation	48
ARTICLE 12 CO-OWNERSHIP PROGRAM	49
12.1. Submission of Residences to the Club	49
12.2. Definitions	49
12.3. Conveyance by Purchaser; No Subdivision of Club Interests; Removal of Club Interests	51
12.4. Legal Description of a Club Interest	52
12.5. Use of Club Residence	52
12.6. Reservations	52
12.7. Administration and Management; Voting Rights and Membership in Association	53
12.8. Special Committee	53

12.9. Powers and Duties of the Association with Respect to Club Interests	53
12.10. Club Manager	55
12.11. Creation of Different Interests	55
12.12. Rental of Co-Ownership InterestUse Periods	55
12.13. Exchange Program	55
12.14. Exclusive Club Rights	55
12.15. Club Assessment	56
12.16. Club Special Assessments	56
12.17. Study	57
12.18. Failure to Vacate Club Residence	57
12.19. Transfers Not Permitted while in Default	57
12.20. Partition	58
12.21. Attorney-in-Fact; Destruction, Damage, or Taking	58
12.22. Acceptance; Enforcement; Indemnification	58
12.23. Declarant Subsidy	58
ARTICLE 13 TERM, TERMINATION AND AMENDMENT	58
13.1. Term; Method of Termination	58
13.2. Amendments	59
13.3. Unilateral Amendments	59
13.4. Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions	59
13.5. Prior Approval Required to Terminate this Declaration or Amend Article 8	60
ARTICLE 14 BINDING ARBITRATION FOR ENFORCEMENT OF GOVERNING DOCUMENTS	60
14.1. Opt-Out Right	60
14.2. Arbitration Terms Defined	61
14.3. Arbitration of Claims	62
14.4. Fees	62
14.5. Governing Law	62
14.6. Appeal of Arbitrator's Decision	63
14.7. Jury Trial Waiver	63
14.8. Class Action Ban	63
14.9. Severability	63
14.10. Notice of Claim; Right to Address	63
ARTICLE 15 GENERAL PROVISIONS	64
15.1. Enforcement	64
15.2. Interpretation	64
15.3. Severability	64
15.4. Perpetuities	64
15.5. Change of Circumstances	64
15.6. Rules and Regulations	64
15.7. Laws, Ordinances and Regulations	64

15.8. References to this Declaration in Deeds	65
15.9. Gender and Number	65
15.10. Captions and Title; Section References; Exhibits	65
15.11. Notices	65
15.12. Indemnification	66
15.13. No Partition	66
15.14. Number of Days	66
15.15. Notice of Violation	67
15.16. Disclaimer of Representations	67
15.17. Amendments Affecting Declarant Rights	67
15.18. Conflicts	67
15.19. Use of Technology	67
15.20. Bulk Service Agreements	68

When Recorded, Please Return To:
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**DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS
FOR
AMEYALLI RESIDENCES**

This DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS for AMEYALLI RESIDENCES is made as of this 1st day of July, 2023, by Ameyalli Development Company, LLC, a Utah limited liability company (“Declarant”).

RECITALS

A. Declarant, holds both legal and equitable title to certain real property located in the County of Wasatch, State of Utah, hereinafter more particularly described in Exhibit A, which is attached hereto and incorporated herein by this reference (the “Property”).

B. Declarant desires to develop a residential planned unit development known as Ameyalli Residences on the Property, as shown on the Plat (the “Project”). Declarant intends to develop the Project to consist of up to twenty-four (24) Townhomes and two (2) Family Lodges (the “Residences”). Declarant further desires to create a co-ownership program known as the Ameyalli Residences Club (the “Club”) in certain Residences (“Club Residences”) which are submitted to the Club as further described in Article 12 below. Declarant proposes to convey 1/8th fee simple ownership interests in the Club Residences (“Club Interests”).

C. The Project possesses great natural beauty that Declarant intends to preserve through the use of a coordinated plan of development and the terms of this Declaration. It is anticipated that the plan will provide for comprehensive land planning, and harmonious and appealing landscaping and improvements. It is assumed that each purchaser of a Residence or Co-Ownership Interest in the Project will be motivated to preserve these qualities through community cooperation and by complying with not only the letter but also the spirit of this Declaration. This Declaration is designed to complement local governmental regulations, and where conflicts occur, the more restrictive requirements shall prevail.

D. The Project will be part of a larger master planned community known as Ameyalli Resort.

E. It is desirable for the efficient management and preservation of the value and appearance of the Project to create a nonprofit corporation to which shall be assigned the powers and delegated the duties of managing certain aspects of the Project; maintaining and administering the Common Areas; administering, collecting and disbursing funds pursuant to the provisions regarding assessments and charges hereinafter created and referred to; and to perform

such other acts as shall generally benefit the Project and the Owners. In addition, the nonprofit corporation shall be responsible for the administration and management of the Club as set forth in Article 12 below. Ameyalli Residences Owners Association, Inc., a Utah non-profit corporation (“Association”), which has been incorporated under the laws of the State of Utah for the purpose of exercising the powers and functions aforesaid.

F. Each Owner shall receive fee title to his or her Residence or Club Interest, an appurtenant undivided interest in the Common Areas and Membership in the Association as provided herein.

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

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

Article 1 **DEFINITIONS**

Each of the Recitals A through G are incorporated into and made a part of this Declaration for all purposes. Unless the context clearly indicates otherwise, the following capitalized words, phrases or terms used in this Declaration shall have the meanings set forth in this Article 1. (Certain terms not defined herein are defined elsewhere in this Declaration.)

1.1. “Additional Land” shall mean, refer to, and consist of any real property Declarant, may own in fee simple now or in the future, including but not limited to, the parcels of real property situated in Wasatch County, Utah described on Exhibit B hereto, as amended from time to time. This Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon the Additional Land unless and until it is added to the existing Project in accordance with the provisions of this Declaration.

1.2. “Adjoining Owner” means the immediately adjoining Owner that owns a Residence with or without a common Party Wall touching the contiguous, neighboring Residence of a different Owner.

1.3. “Ameyalli Residences Design Guidelines” means the written review standards promulgated by the Ameyalli Residences Design Review Committee if created by Declarant pursuant to Section 3.4 below.

1.4. “Ameyalli Residences Design Review Committee” means the Ameyalli Residences Design Review Committee for Ameyalli Residences if created by Declarant pursuant to Section 3.4 below.

1.5. “Annual Assessments” means the Assessments levied pursuant to Section 6.2.

1.6. “Articles” means the articles of incorporation of the Association, as amended from time to time.

1.7. “Assessment” means an Annual Assessment, Special Assessment, or Specific Assessment.

1.8. “Assessment Lien” means the lien created and imposed by Section 7.2

1.9. “Association” means the Ameyalli Residences Owners Association, Inc., a Utah nonprofit corporation, and its successors and assigns.

1.10. “Association Member” means any Person who is a member of the Association as provided in Article 5.

1.11. “Association Membership” means a membership in the Association and the rights granted to the Association Members, including Declarant, pursuant to Article 5 to participate in the Association.

1.12. “Association Rules” means the rules and regulations adopted by the Board pursuant to Section 5.4, as amended from time to time.

1.13. “Board” means the board of directors of the Association.

1.14. “Bylaws” means the bylaws of the Association, as amended from time to time.

1.15. “Common Area(s)” means all land, and the Improvements situated thereon, within the Project that Declarant designates as common areas on the Plat or other Recorded instrument and other real property which the Association now or hereafter owns in fee for the benefit of the Owners for as long as the Association is the owner of the fee, which may include without limitation all certain Project parks, Clubhouse, swimming pools and open space, landscaped areas, Project and street signage, lighting, sidewalks, and other similar Improvements; provided, however, all exterior elements of a Residence, such as exterior doorways, windows, façade, rain gutters, shingles, roof, address signs and all other similar exterior improvements of the Residences are expressly excluded from Common Areas. Certain Common Areas may be open and accessible to members of the general public as required by the Project Documents.

1.16. “Common Expenses” means expenditures made by or financial liabilities of the Association excluding the Club Expenses described in Article 12 below, together with any allocations to reserves as further described in Section 6.2. Common Expenses shall not include those certain charges levied by a Special Service District.

1.17. “Community Act” or “CAA” means the Utah Community Associations Act, Utah Code Ann. Section 57-8a-101 *et. seq.*, as amended from time to time.

1.18. “Declarant” means Ameyalli Development Company, LLC, a Utah limited liability company, its successors, and any Person to whom it may expressly assign any or all of its rights under this Declaration.

1.19. “Declarant Affiliate” means any Person directly or indirectly controlling, controlled by or under common control with Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or

corporation in which Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.20. “Declaration” means this Declaration of Covenants, Conditions, Easements and Restrictions for Ameyalli Residences, as amended from time to time.

1.21. “Eligible Mortgagee” means and refers to a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 10.1 of this Declaration.

1.22. “Final Approval” shall mean the Final Approval for the Project adopted by the Board of County Commissioners, Wasatch County, Utah, on January 17, 2023, as amended from time to time.

1.23. “Improvement(s)” means any improvement now or hereafter constructed at the Project and includes anything which is a structure and appurtenances thereto of every type and kind, including but not limited to any (a) Residence, building, guest house, screening wall, other accessory building, fence or wall; (b) any walkway, garage, road, driveway or parking area; (c) any mailbox, sign, shed, covered patio, stairs, deck, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot); (d) any swimming pool, basketball court, radio or television antenna or receiving dish; (e) any paving, exterior lights, curbing, trees, shrubs, hedges, grass, windbreak or other landscaping improvements of every type and kind; (f) any excavation, fill, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel, and related fixtures and equipment and (g) any other structure of any kind or nature.

1.24. “Lessee” means the lessee or tenant under a lease, oral or written, of any Residence (or part thereof), including an assignee of the lessee’s or tenant’s interest under a lease.

1.25. “Limited Common Area(s)” shall mean a portion of the Common Areas designated by this Declaration or a Supplemental Declaration, and as may be shown on the Plat, for the exclusive use of one or more, but fewer than all of the Owners.

1.26. “Lot(s)” means a portion of the Project intended for independent ownership and residential use and designated as a Lot on the Plat and, where the context indicates or requires, shall include any Residence, building, structure or other Improvements situated on the Lot. For purposes of the Plat only, a Lot will be labeled as “Private Area(s).”

1.27. “Mortgage” means a deed of trust or a mortgage Recorded against a Lot, or any part thereof or interest therein. A “First Mortgage” means a Mortgage having priority as to all other Mortgages encumbering a Lot, or any part thereof or interest therein.

1.28. “Mortgagee” means a beneficiary under a deed of trust, or a mortgagee under a mortgage, Recorded against a Lot. A “First Mortgagee” means any Person or entity holding a First Mortgage including any insurer or guarantor of a First Mortgage. Any and all Mortgagee

protections contained in this Declaration shall also protect the Declarant as the holder of a First Mortgage of a Lot or any part thereof or interest therein.

1.29. “Municipal Authority” means any applicable governmental entity or municipality which has jurisdiction over all or some part of the Project including without limitation Wasatch County, Utah.

1.30. “Occupant” means any Person other than an Owner who has actual use, possession or control of a Residence, or any portion thereof, or any other Improvement located in a Residence, and shall include, without limitation, residents who reside in any Residence.

1.31. “Owner” means any Person(s), including the Declarant and/or Declarant Affiliates, who is/are record holder(s) of legal, beneficial or equitable title to the fee simple interest of any Lot, Residence, Co-Ownership Interest or any portion thereof or interest therein including, without limitation, one who is buying a Residence, Co-Ownership Interest or any portion thereof or interest therein, under a recorded contract or recorded notice of such contract, but excluding others who hold an interest therein merely as security; and any Person(s) entitled to occupy all of a Residence or portion thereof or interest therein, under a lease or sublease for an initial term of at least five (5) years in which case the lessee or sublessee, rather than the fee owner of the Residence, Co-Ownership Interest portion thereof, shall be deemed the Owner thereof for purposes of this Declaration during the term of said lease or sublease.

1.32. “Party Wall” means a wall that forms part of a Residence and is located on or adjacent to a boundary line between two adjoining Residence owned by more than one Owner and is used or is intended to be used by the Owners of both properties, which wall may be separated by a sound board between two Residences.

1.33. “Person” means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.34. “Plat” means that certain planned community plat entitled “Ameyalli Resort -Phase 1” duly Recorded, as the same may be amended from time to time, and which is incorporated herein by this reference.

1.35. “Project” means such term as described and set forth in Recital B.

1.36. “Project Documents” means this Declaration, the Articles, the Bylaws, the Association Rules and Regulations, the Ameyalli Residences Design Guidelines, as each document may be amended from time to time.

1.37. “Property” means such term as described and set forth in Recital A. The term “Property” shall also include any of the Additional Land that is made subject to this Declaration by the Recordation of a Supplemental Declaration, which inclusion shall be effective from and after the date of recordation of such Supplemental Declaration and amended Plat.

1.38. “Record,” “Recording,” “Recorded” and “Recordation” means placing or having placed an instrument of public record in the official records of Wasatch County, Utah.

1.39. “Residence(s)” means any Townhome situated upon a Lot and attached to one or more other dwelling units in which each unit has its own principal access to the outside, no unit is located over another unit, and each dwelling unit is separated from any other unit by one or more common Party Walls, designed and intended for separate, independent residential use and occupancy and, in addition, the two (2) Family Lodges depicted on the plat and referred to as Lots 7 & 8.

1.40. “Shared Roof” means a roof shared by Adjoining Owners of a Townhome.

1.41. “Special Assessment” means any Assessment levied pursuant to Section 6.3.

1.42. “Special Service Districts” means one or more special service districts, including without limitation the Midway Sanitation District and Midway City Corporation and Water District, which may be or have been established to provide the Project with, among other things, waste water treatment and disposal services, fire protection service, road maintenance, emergency services, special lighting facilities for nonstandard street lights, culinary water and facilities including pump stations, snow plowing and school bus stop shelters.

1.43. “Specific Assessment” means the charge against a particular Member or Owner directly attributable to the Member or Owner, equal to the charge to such Member or Owner for particular items, services, administrative fees or benefits provided by the Association at such Member’s or Owner’s request; or the costs incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon and fees (including attorney’s fees) and costs.

1.44. “Supplemental Declaration” shall mean any recorded declaration, except for this Declaration, covering Lots on the Property recorded by Declarant to subject all or a portion of the Additional Land to this Declaration as further described in Section 2.6 below, as such Supplemental Declaration may be amended from time to time.

1.45. “Townhome(s)” means any dwelling unit, including, but not limited to, all exterior elements of a Townhome, such as exterior doorways, windows, façade, rain gutters, shingles, balconies, patios, decks, Shared Roof, address signs and all other similar exterior improvements on the Townhome situated upon a Lot attached to one or more other dwelling units in a row of at least two such units in which each unit has its own front access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common Party Walls, designed and intended for separate, independent use and occupancy as a townhouse secondary residence, or for overnight or longer residential accommodations.

1.46. “Visible From Neighboring Property” means, with respect to an object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of neighboring property, except where the object is visible solely through a fence and would not be visible if the fence were a solid fence.

Article 2

DECLARANT'S RIGHTS AND OWNERS' OBLIGATIONS

Property Subject to this Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in accordance with the Community Act in order to protect and enhance the value and desirability of the Project. All of the property within the Project shall be held, sold and conveyed subject to this Declaration and the Project Documents, including any of the Additional Land hereafter made subject to this Declaration by the Recordation of a Supplemental Declaration, and related documents, including, but not limited to, any supplemental plat. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its agreement that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

Submission of Residences to Association. So long as Declarant or its assignee owns one (1) or more Residences or Club Interests, Declarant grants and reserves unto Declarant or its assignee, as a developmental right, the exclusive right to create and/or to submit the Residences to a master community plan, subjecting the Residences to the terms and conditions of any master community governing documents including without limitation, the obligation of Owners to pay assessments and costs promulgated and levied pursuant to any such master community documents. At Declarant's request, the Association and each owner of a Residence or Co-Ownership Interest shall execute such documents as may be requested to submit the Project to a master community plan and all constituent documents related thereto, and to subordinate the Association's and Owner's rights to the terms and provisions of such master community plan. The Project is not a cooperative under the Community Act.

No Condominium. Declarant and each Owner hereby agree and understand that the Property is not, by execution and recording of this Declaration, being submitted to the provisions of the Utah Condominium Ownership Act, Sections 57-8-1, *et seq.*, Utah Code Ann. (the "Condominium Act"). This Declaration does not constitute a declaration as provided for in the Condominium Act and the provisions of the Condominium Act shall not be applicable to Property or any portion thereof, including without limitation all or a portion of the Additional Land made subject to this Declaration by the recordation of one or more Supplemental Declarations.

Lots. The Project shall consist of up to twenty-six (26) Lots or such greater number of Lots which may be approved or permitted by the controlling Municipal Authority, each of which is to be improved with a Residence. Declarant intends, without obligation, to develop the Project in phases. The first phase of the Project shall consist of up to twenty-four (24) Townhomes and

2 Family Lodges as depicted on the Plat, subject to Declarant's right to expand the Project pursuant to the provisions of Section 2.6. Declarant reserves the right to adjust the location of each Residence in order to facilitate proper planning in the sole and exclusive discretion of the Declarant, subject to the terms and provisions of Section 2.13. Moreover, for thirty (30) years following the recording of this Declaration, Declarant, to the extent permitted by law, reserves the unilateral right to reconfigure, eliminate and/or change the design and arrangement of the Common Areas, any Residence and to alter the boundaries between Residences as it shall determine in its sole and exclusive discretion, so long as the Declarant or a Declarant Affiliate owns the Residences so altered or obtains and duly records the written authorization of the Owner(s) of any altered Residence not owned by Declarant. Such reconfiguration right shall include the right to change or alter the exterior elements or design of the Residences, including, but not limited to, altering or changing the placement, size, number, and configuration of doors, entry-ways, windows, and similar items, and to modify the principal type of construction and building materials of such Residences. Any change of the boundaries between Residences, or Common Areas shall not require an amendment to this Declaration or to the Plat, but shall be done in accordance with the requirements of the Wasatch County Code and Utah law. Unless otherwise determined by Declarant in its sole and exclusive discretion, Declarant intends to and shall have the exclusive right to construct all Residences at the Project. A purchaser, transferee or an Owner of a Lot or Co-Ownership Interest shall not have the right to independently construct a Residence thereon, or approve or supervise the construction of any Residence. Notwithstanding the foregoing intention to construct all of the Residences, Declarant reserves the right to sell, convey, transfer, assign or otherwise dispose of any Lot or Club Interest, without first constructing a Residence on the Lot.

The Association. The Association shall maintain the Common Areas and all Improvements thereon, in a safe, sanitary and attractive condition in accordance with the terms of this Declaration. The Association shall assess and collect Assessments from the Association Members, in accordance with the provisions hereof and the Bylaws.

Additional Land and Right to Expand. Declarant reserves the right to subject all or a portion of the Additional Land to this Declaration by the recordation of one or more Supplemental Declarations without the prior consent of any other party or Owner except for the Owner of all or any portion of the Additional Land. Declarant shall identify in each Supplemental Declaration the Additional Land, specify the number of additional Lots, if any or if known, to be added to the Project, and the number of votes and Assessments to be allocated to the Additional Land based upon the formulas described in this Declaration. The owner of such Additional Land, if different from the Declarant, shall also execute the Supplemental Declaration. Upon recordation of the Supplemental Declaration, the subject Additional Land shall be deemed added to the Property and the number of Lots, Assessment units and votes shall be automatically increased to include the Additional Land's Lots and other items for purposes of this Declaration. The Supplemental Declaration may modify any of the covenants, conditions and restrictions otherwise applicable to the Additional Land in the Supplemental Declaration where such changes are deemed necessary in the discretion of the Declarant to address a unique condition affecting or relating to the Additional Land that is the subject of the Supplemental Declaration or to more fairly allocate the benefits and obligations of membership within the Association. In the event that Declarant and the owner of any of the Additional Land fail to reach an agreement on the terms of inclusion within the Project, the Additional Land will still

have such rights of access and be subject to such limitations as are contained in any other agreements with the owners of the Additional Land. This Declaration is not intended as and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon the Additional Land unless and until it is added to the existing Project in accordance with the provisions of this Section 2.6.

Incidents of Ownership. Every Co-Ownership Interest shall have appurtenant to it a nonexclusive easement for each Owner for use, enjoyment, ingress and egress over the Common Areas subject to such restrictions and limitations as are contained in the Project Documents and subject to other reasonable regulation by the Association. Each Owner of a Co-Ownership Interest shall be a member of the Association. Each Association Membership shall be appurtenant to and inseparable from ownership of the Club Interest. Any sale, conveyance, hypothecation, encumbrance or other transfer of a Co-Ownership Interest shall automatically transfer the Association Membership to the same extent, notwithstanding any term or provision to the contrary in the documents effecting such transfer.

Owner's Obligation to Maintain the Lot and Residence. Except as otherwise provided with respect to Common Areas and except for the Club Residences, the Association shall maintain the Residences in a safe, sanitary and attractive condition. In connection with any maintenance or repair work to the exterior of a Residence, the Association making such repair shall maintain, replace or repair any finish, surface or other materials with similar materials of at least the same quality, such that there is no reasonably observable difference between those portions of the Residence exterior being repaired or modified and the remaining portions of the Residence exterior of the other Residences in the Project.

Responsibility for Common Areas Damage. The cost of repair or replacement of any portion of the Common Areas resulting from the willful or negligent act of an Owner, Occupant, Lessees, tenants, family, guests or invitees shall be, in addition to the party at fault, the joint responsibility of such Owner to the extent that it is not covered by insurance maintained by the Association. The Association shall cause such repairs and replacements to be made and the cost thereof may be levied as an individual charge against such Owner.

Reservation of Right to Construct Residences and Improvements. In addition to the reservations of rights set forth in this Declaration, Declarant reserves the sole and exclusive right, without obligation, to construct and/or directly supervise the construction of all Residences and Improvements to be erected on the Lots which are a part of the Project in order to protect its integrity and control the grading and site elements relative to each particular Lot.

Declarant's Disclaimer of Representations. Nothing which may be represented to a purchaser by real estate brokers or salespersons representing the Declarant or any Declarant Affiliate shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration. Owners hereby acknowledge that neither Declarant nor the Association will be responsible for injury or damage to persons or property caused by radon.

Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be.

NEITHER THE ASSOCIATION AND ITS BOARD, THE DECLARANT, THE AMEYALLI RESIDENCES DESIGN REVIEW COMMITTEE (COLLECTIVELY, THE “PROJECT GOVERNING BODIES”) SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROJECT, HOWEVER, AND THE PROJECT GOVERNING BODIES SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, OCCUPANTS, TENANTS, GUESTS AND INVITEES OF ANY OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGE THAT THE PROJECT GOVERNING BODIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR BURGLAR ALARM SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO THE AMEYALLI RESIDENCES DESIGN GUIDELINES MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE NOR THAT FIRE PROTECTION OR BURGLARY ALARM SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, OCCUPANT, TENANT, GUEST OR INVITEE OF AN OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE PROJECT GOVERNING BODIES ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO LOTS, TO PERSONS, TO RESIDENCES, TO TOWNHOUSES, TO IMPROVEMENTS AND TO THE CONTENTS OF TOWNHOUSES AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE PROJECT GOVERNING BODIES HAVE NOT MADE REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROJECT.

Readjustment of Lot Line Boundaries. Declarant hereby reserves for itself, Declarant Affiliate and Declarant’s successors and assigns, the right to effectuate minor realignment and adjustment of boundary lines for purposes of proper configuration and final engineering of the Project; provided that any such realignment and adjustment does not affect any existing Residence or Improvement (other than landscaping) on the affected Lot. The authority to realign and adjust such Lot boundary lines shall be exclusively reserved to the Declarant, Declarant Affiliate and Declarant’s successors or assigns, in their sole and reasonable discretion, subject to the other provisions of this Section 2.13. All Owners specifically acknowledge and agree that they shall cooperate with Declarant to effectuate such minor realignment and adjustment of their respective Lot boundary lines by deed in form and content as requested by the Declarant for the purposes of proper configuration and final engineering of the Residences in relationship to the development of the Project. Further, all Owners acknowledge and agree that no amendment to this Declaration or the Plat shall be required to effectuate any Lot boundary line adjustments so long as such adjustments are made pursuant to Utah Code Ann. Section 17-27a-608(5), as amended.

Development Plan. Notwithstanding any other provision of this Declaration to the contrary, and subject to the approval of the appropriate Municipal Authority, Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its plan of development with respect to any Property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing all or any portion of the Property owned by the Declarant or changing the nature or extent of the uses to which such Property may be devoted.

Common Area Improvements. Declarant, so long as Declarant or a Declarant Affiliate owns a Lot or Co-Ownership Interest within the Project, reserves the unilateral right to construct Improvements on any area of the Common Areas and modify the location, type and nature of Common Areas as it shall determine in its sole and exclusive discretion, including, without limitation, the right to construct or create garden plots, pavilions, recreational facilities, storage facilities, walking trails, picnic areas, covered porches, courtyards, or other Improvements thereon. Such construction and relocation rights shall not be subject to the consent of the Owners, Board, Mortgagees or any other person or entity. After the termination of Declarant's rights under Section 2.17 below, the Board shall have the right to exercise such construction and relocation powers in connection with the Common Areas upon the vote or written assent of two-thirds (2/3) of the members of the Board present at any annual or special meeting of the Board pursuant to the approval procedures described in the Bylaws. In furtherance of this right, Declarant reserves for itself, and others it may designate, the right to inspect, monitor, test, redesign, and correct any Improvement or condition that may exist on any portion of the Project, including Lots and Common Areas, and a nonexclusive easement of access throughout the Project to the extent reasonable necessary to exercise such right.

Right to Develop. Notwithstanding anything contained herein to the contrary, no provision of this Declaration is intended or shall be construed to prevent or limit Declarant's rights to develop the Project and to exercise the rights reserved by Declarant as hereinafter provided. Nothing in this Declaration shall be construed to require Declarant, or Declarant's successor or assigns, to develop any Lot or other Improvements in any manner whatsoever. Any right or any interest reserved or contained in this Declaration for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more other such rights or interests, to any person, corporation, partnership, Association, or other entity, only by written instrument executed by both Declarant and the transferee or assignee and Recorded in the Office of the Wasatch County Recorder, State of Utah. Upon such Recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such instrument.

Declarant's Control. Notwithstanding anything herein to the contrary, Declarant, or a managing agent or some other person or persons selected by Declarant, may appoint and remove some or all of the members of the Board or some or all of the officers of the Association or may exercise the powers and responsibilities otherwise assigned by this Declaration or under Utah law to the Association, its officers, or the Board. The "Declarant Control Period" as used in this Declaration and the other Project Documents shall have the same meaning as the "period of administrative control" defined under the CAA. The right of the Declarant contained in this Section 2.17 shall terminate upon the first of the following to occur:

2.17.1. Sixty (60) days after conveyance of one hundred percent (100%) of the Lots owned by Declarant;

2.17.2. The expiration of ten (10) years from the date that this Declaration is Recorded; or

2.17.3. The date on which Declarant, in its sole and exclusive discretion, voluntarily relinquishes its control rights as evidenced by a Recorded notice.

Sharing of Club Facilities and Amenities and Common Areas. Declarant reserves the right to unilaterally amend this Declaration to provide for the sharing of the Club Facilities and Amenities and the Common Areas with the owners of future phases in the master community, including the granting of any ingress and egress easements necessary to effectuate same; provided, however, that if this Declaration is so amended, the owners of interests in future phases at the master community shall be required to share with the Owners any recreational facilities and common areas existing as a part of their phase at the master community. In addition, the owners in each phase of the master community shall bear their pro rata share of the costs of maintaining all such shared facilities and common areas.

Article 3 LAND USES, PERMITTED USES AND RESTRICTIONS

Land Uses. The purposes for which property within the Project may be used shall be single family residential use, fractional residential use or other residential uses consistent with this Declaration, as well as ancillary, complementary or subsidiary uses such as (without limitation), open space, Common Areas, Limited Common Areas and the like. No Lot or Residence within the Project shall ever be occupied or used for any commercial or business purposes; provided, however, all Owners and occupants hereby agree and acknowledge that Declarant or any other Owner may provide overnight occupancy accommodations at such Owner's Lot or Residence. Furthermore, Declarant or any Owner may engage a third party to provide rental management services for such Owner's Lot(s) or Residence(s), including but not limited to entering into a long term contract with a service provider for such rental management services; provided further that nothing in this Section shall be deemed to prevent Declarant or its duly authorized agent from using any Lot or Residence owned by Declarant or Declarant Affiliate as a sales model, or any Owner or the Owner's duly authorized agent from renting or leasing said Owner's Lot or Residence for residential uses, including for long term or transient rental. During the Declarant Control Period, any amendment to this Section (except for a unilateral amendment by Declarant or an amendment as necessary or proper to effectuate Declarant's rights) or the right to rent a Lot or Residence, shall require the affirmative vote of at least eighty-five (85%) of the total votes in the Association. Following termination of the Declarant Control Period, any meeting of the Association to discuss or vote on any amendment to this Section or the right to rent a Lot or Residence, shall require attendance of at least 85% of the Association Members and shall require the affirmative vote of at least 67% of the total votes in the Association.

Model Homes. Any provisions of this Declaration which prohibit non-residential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of

model Residences of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Persons engaged in the construction of Residences in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Ameyalli Residences Design Review Committee may also permit Lots and other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residences in the Project, and no home or other structure shall be used as a Model for the sale of homes or other structures not located within the Project. Neither the provisions of this Section nor the provisions of this Declaration shall restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models within the Project.

Use Restrictions. Except as otherwise provided herein, each Lot may be used in any manner consistent with the requirements of applicable zoning and other land use ordinances and regulations, including the construction of a Residence in accordance with the Project Documents. The Lots, Residences, Common Areas and Improvements, except as otherwise permitted in writing by the Association and/or Declarant as applicable, shall be used in accordance with the restrictions outlined in the Project Documents. Each Owner agrees, understands and acknowledges that his, her or its Lot is subject to certain use restrictions that may limit such Owner's use of the Lot and ability to construct various Improvements thereon as specifically described in the Project Documents. Such use restrictions shall include, without limitation, the following restrictions:

3.3.1. **Vehicles.** Except as otherwise approved by the Ameyalli Residences Design Review Committee, no automobile, boat, commercial vehicle, truck, recreational vehicle or trailer (either with or without wheels), camper, camper trailer or any other transportation device of any kind, shall be stored outside or parked on a Lot except within a garage or driveway. No Owner or Occupant shall repair or restore any vehicle of any kind upon any portion of the Project, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

3.3.2. **Tree Removal.** Subsequent to final approval by the Ameyalli Residences Design Review Committee, no trees shall be removed, except for (i) diseased or dead trees; and (ii) trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in writing by the Ameyalli Residences Design Review Committee.

3.3.3. **Antennas and Satellite Dishes.** Except for an Owner's rights under the Federal Communications Commission's Over-the-Air Reception Devices Rule (OTARD rule, 47 C.F.R. § 1.4000), or other applicable laws, concerning the right to install and use an antenna or dedicated satellite dish to receive video services from direct broadcast satellite, broadband radio services, and television broadcast stations, the installation and use of any other antenna or satellite dish must be approved by Declarant or the Ameyalli Residences Design Review Committee.

3.3.4. No Unsightliness. No unsightliness shall be permitted on or about the Project. Without limiting the generality of the foregoing any unsightly structures, facilities, equipment, tools, vehicles other than automobiles, objects, and conditions shall be enclosed within an approved building or appropriately screened from view, except equipment and tools when in actual use for construction, maintenance or repairs, excepting boats (and their trailers) which may be parked in private driveways subject to any rules or regulations promulgated by the Board regarding the same; no trailers (other than boat trailers), mobile homes, tractors, truck campers or trucks other than pickup trucks shall be kept or permitted to remain upon the Property; no vehicle, boat or equipment shall be constructed, reconstructed, repaired or abandoned upon the Property; no lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials, or scrap shall be kept, stored or allowed to accumulate on the Property; refuse, garbage and trash shall be placed and kept at all times in a covered container and such container shall be kept within an enclosed structure or appropriately screened from view; hanging, drying or airing of clothing or household fabrics shall not be permitted on a Lot or Residence if visible from buildings, Lots, Residences, or areas surrounding the Property; and hanging, mounting, or displaying signs, including but not limited to, for sale, for rent, or other signs shall not be permitted on Common Areas, Lots if visible from buildings, Lots, or areas surrounding the Property.

3.3.5. No Fences. No fences, walls, or other barriers shall be permitted for the purpose of enclosing or demarcating any property line boundaries without the prior written approval of the Declarant during the Declarant Control Period, or thereafter the Ameyalli Residences Design Review Committee, which approval may be withheld in the Ameyalli Residences Design Review Committee's sole and exclusive discretion.

3.3.6. Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, and cable information highways, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on Improvements as approved by the Declarant during the Declarant Control Period, or thereafter the Ameyalli Residences Design Review Committee, except for boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices.

Ameyalli Residences Design Review Committee. Declarant reserves the right, without obligation, to organize and create the Ameyalli Residences Design Review Committee to first review, study and either approve, reject or request resubmittal of proposed developments and improvements to a Lot, Residence all in compliance with this Declaration and as further set forth in the rules and regulations of the Ameyalli Residences Design Review Committee and the Ameyalli Residences Design Guidelines, prior to any review or approval by the Municipal Authority. If created, the Ameyalli Residences Design Review Committee shall have the right, but not the obligation, to promulgate, enforce and interpret the Ameyalli Residences Design Guidelines provided that the Ameyalli Residences Design Review Committee's determinations or functions do not contradict or supersede the Municipal Authority's and/or Ameyalli Residences Design Review Committee's duties and responsibilities as set forth in this

Declaration. The Ameyalli Residences Design Review Committee shall be composed of the number and name of individuals or entities as the Declarant may determine in its sole and exclusive discretion, who need not be Owners.

Architectural Control. In addition to those certain approvals set forth in this Declaration, all Lots and Residences and Improvements constructed within the Project shall comply with the Ameyalli Residences Design Guidelines. The Board and all purchasers, transferees and Owners shall not construct, install, remove, add, alter, repair, change, devegetate, excavate, grade, plant, revegetate, or do any work, or cause any work to be done, which in any way alters the appearance (including but without limitation, the exterior color scheme) of any property or Lot within the Project, or any Residences or Improvements located thereon, without the prior written approval of the Ameyalli Residences Design Review Committee, which approval may be withheld for any reason in the Committee's sole and exclusive discretion. The Association and any Owner or other Person desiring approval of the Ameyalli Residences Design Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any Lot, or any Residence or Improvement located thereon, which would alter the exterior appearance of a Lot, Residence or other portion of the Project, or any Improvements located thereon, shall submit to the Ameyalli Residences Design Review Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which the Board or such Owner or other Person desires to perform. The Ameyalli Residences Design Review Committee shall review the Board's, Owner's or other Person's written request according to the procedures outlined in the Declaration and the Board, Owner or other Person shall pay design review fees promulgated thereunder. Notwithstanding the foregoing, the Ameyalli Residences Design Review Committee shall have the right, but not the obligation, to waive any and all design review fees related to any request made by the Board.

Architectural Review Fee. The Ameyalli Residences Design Review Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Declaration, which fee shall be payable at the time the application for approval is submitted to the Ameyalli Residences Design Review Committee. Such fee, if established and charged by the Ameyalli Residences Design Review Committee, shall be set at such reasonable level as the Ameyalli Residences Design Review Committee may estimate will be necessary to defray the reasonable costs and expenses of the Ameyalli Residences Design Review Committee in reviewing and evaluating any such request or application, and may include, if the Ameyalli Residences Design Review Committee deems it reasonably necessary under the circumstances, an amount to cover the reasonable costs of professional consultation to the Ameyalli Residences Design Review Committee by an architect, engineer or attorney.

Municipal Authority Approval. The approval required of the Ameyalli Residences Design Review Committee pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, the Declaration or under any other governing Recorded instrument. The Ameyalli Residences Design Review Committee may condition its approval of any application, plans or other items submitted to it on delivery to the Ameyalli Residences Design Review Committee of evidence satisfactory to the Ameyalli Residences Design Review

Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Ameyalli Residences Design Review Committee shall cooperate reasonably with any other approving authorities or entities; provided, however, that the Ameyalli Residences Design Review Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity, unless otherwise required by law.

Required Approvals for Further Property Restrictions. The Property is subject to the following additional approvals:

3.8.1. Except as otherwise provided in Article 12 with respect to Club Interests, no Lot, or portion thereof, shall be further subdivided, and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Declarant, so long as Declarant's Class B Membership exists, and thereafter, the Board. This provision shall not, in any way, limit Declarant from subdividing or separating into Lots any property at any time owned by Declarant, and is not intended to prohibit any Owner from renting his or her Residence as temporary short-term or overnight accommodations, subject to any Association Rules governing such rental activities. No Owner of any Residence shall offer or sell any interest in a Residence under a timesharing, interval ownership, fractional, club or similar program.

3.8.2. No site plan, subdivision plat, declaration or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits shall be Recorded, submitted to any Municipal Authority unless the same has first been approved in writing by the Ameyalli Residences Design Review Committee; further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the Ameyalli Residences Design Review Committee hereunder unless such changes or modifications have first been approved by the Ameyalli Residences Design Review Committee in writing.

Lots and Improvements. Declarant shall not be restricted in the location or in the number of Residences, Common Areas or other Improvements that may be created on the Property, except as may be required by the Project Documents, applicable zoning requirements, ordinances or regulations, and provided that when completed. The Lots and Residences to be located on the Property shall be subject to the use restrictions contained in the Project Documents. No structures other than Residences and Improvements approved by the Ameyalli Residences Design Review Committee will be erected on the Property; provided, however, that Declarant reserves the right to create additional Common Areas and Improvements on the Property without limitation. Declarant makes no assurances as to location, size, type or number of Common Areas or other Improvements to be created on the Property.

Description of Limited Common Areas. Limited Common Areas means a portion of the Common Areas reserved for the exclusive use and occupancy of one or more but fewer than all of the Owners to the exclusion of other Owners. Limited Common Areas shall include, without limitation, any areas identified by this Declaration, a Supplemental Declaration or on the Plat or other recorded instrument as Limited Common Areas within the Project to be for the

exclusive use of one or more but fewer than all of the Owners, such as certain driveways and similar Improvements. The use and occupancy of designated Limited Common Areas shall be reserved to the Owner of the Lots as shown on the Plat or as specified in this Declaration or in a Supplemental Declaration. In addition to the Association Rules and other parking restrictions that Declarant or the Board may promulgate from time to time, each driveway designated for ingress and egress to a particular Lot shall constitute a Limited Common Area and the Owner of such Lot shall have control and exclusive right of access to and use of the driveway constructed for the benefit of his, her or its Lot. Owners are hereby granted an easement to use and occupy the Limited Common Areas allocated exclusively to the Lot(s) such Owners own as described in this Section, subject to the Assessments levied by the Association associated with such Limited Common Areas, as further described in this Declaration. Declarant reserves the right for itself, and its successors and assigns, to fix the Limited Common Areas via a recorded instrument as it shall determine in its sole and exclusive discretion, and Owners shall not designate, modify or reallocate Limited Common Areas between or among Lots in which they have an interest. No amendment to the Plat shall be required in order to fix Limited Common Areas. Notwithstanding anything to the contrary provided herein, Owners may, subject to approval of the Board or the Ameyalli Design Review Committee, elect to install, at their own expense, a hot tub on any rear porch or rear patio of such Owner's Townhome. Any Owner who elects to install a hot tub on a rear porch or rear patio will be solely responsible for all maintenance, replacement, repair, and upkeep, including but not limited to, winterization of the hot tub, hose bib and related items or equipment. Any Owner who elects to install or maintain a hot tub agrees to hold harmless and indemnify the Association from any and all damages, costs, expenses or other amounts, including attorneys' fees, resulting from such Owner's hot tub, including but not limited to such Owner's failure to use or maintain the hot tub or related items or equipment. To the extent the Association elects or is required to undertake any maintenance, repairs or replacements related to an Owner's hot tub, the costs and expenses for such maintenance, repair or replacement will be the sole responsibility of such Owner and will be billed as a Specific Assessment.

Declarant's Exemption. No Board or Ameyalli Residences Design Review Committee approval shall be required for any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant; initial Improvements constructed by, at the direction of, or with the express written approval of Declarant; normal maintenance of Property or Improvements; rebuilding on Property or Improvements in accordance with its original design and dimensions; work reasonably required to be performed in an emergency for the purpose of protecting any person or property from damage.

Article 4 EASEMENTS

Owners' Easements of Enjoyment.

4.1.1. Subject to the rights and easements granted to the Declarant in Section 4.4, each Owner and Occupant shall have a non-exclusive right and easement of enjoyment in, to and over the Common Areas, which right and easement shall be appurtenant to and shall pass with the title to each Lot or Club Interest, subject to the provisions of the Project Documents including, without limitation, the following:

4.1.1.1.Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Areas shall be effective unless approved by Owners representing two-thirds (2/3) of the votes in each class of Association Members. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners or any other Person (except Declarant, whose consent shall be required so long as Declarant owns any part of the Property), to dedicate portions of the Common Areas to the public, or grant easements over, under or through portions of the Common Areas to the public, to any Municipal Authority, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by any Municipal Authority or other entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property.

4.1.1.2.The Association shall have the right, to regulate the use of the Common Areas through the Association Rules and to prohibit access to such portions of the Common Areas, such as landscaped right-of-ways, not intended for use by the Owners, Lessees or other Occupants.

4.1.1.3.The Declarant and the Association shall each have the right, which may be delegated or assigned to the Association, to grant easements or licenses to Persons for the construction of Improvements on the Common Areas, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the Common Areas in the Project to Persons who are not Association Members.

4.1.2. Occupants Use of the Common Areas. If a Residence is leased or rented by its Owner, the Occupants of such Residence shall have the right to use the Common Areas during the term of the lease, and the Owner of such Residence shall have no right to use the Common Areas until the termination or expiration of such lease.

Utility Easement. There is hereby created an easement upon, across, over and under the Common Areas, certain portions of the Lots and other property as depicted on the Plat for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, internet, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment on the Common Areas, certain portions of the Lots and other property as depicted on the Plat. However, except within the public utility easements depicted on the Plat, no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Areas, Lots, and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board (and, in the case of a Lot, by the Owner of such Lot). Declarant reserves the right to record an instrument which narrows and limits any grant of a blanket easement to the actual easement width and location of such blanket easement within those certain areas of Project which actually contain a blanket easement as described in such instrument and for the purposes described therein. Such reserved right is subject to the utility companies' rights then located under the real

property within the Project. If any utility company requests that a more specific easement be granted in its favor in substitution for the easement hereby established with respect to the Common Areas, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such private or public street and parking areas as from time to time may be paved and intended for such purposes. Moreover, there is an easement created for Owners' use and enjoyment of, and ingress and egress to and over, to specific Owners for any Limited Common Areas appurtenant to one or more Lots. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and Residences and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over the Common Areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of any Municipal Authority having jurisdiction thereover including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

Declarant's Use and Easements. So long as Declarant or a Declarant Affiliate owns a Lot or Co-Ownership Interest within the Project, Declarant shall have and hereby reserves the following rights and easements for the benefit of itself and all Declarant Affiliates and their agents, contractors, members, officers, employees, and assigns:

4.4.1. Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Property, including without limitation on the Common Areas, with respect to the sales of Lots, Residences, Club Interests or other property in the Project or within any of the Additional Property. Declarant reserves the right to place Models, management offices and sales and leasing offices on any Lots or other property owned by Declarant or a Declarant Affiliate and on any portion of the Project, including without limitation on the Common Areas, in such number, of such size and in such locations as Declarant deems appropriate.

4.4.2. So long as Declarant is marketing Lots, Residences, Club Interests or other portions of the Property, Declarant shall have the right to restrict the use of the parking spaces on the Common Areas. Such right shall include reserving such spaces for use by prospective purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

4.4.3. Declarant shall have the right and an easement on and over the Common Areas to construct all Improvements Declarant may deem necessary and to use the Common Areas and any Lots and other property owned by the Declarant for construction

or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project.

4.4.4. Declarant shall have the right and an easement upon, over and through the Common Areas as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

Easement in Favor of Association. The Lots are hereby made subject to the following easements in favor of the Association and their respective directors, officers, agents, employees and independent contractors:

4.5.1. For inspection during reasonable hours of the Lots in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.5.2. For inspection, maintenance, repair and replacement of portions of the Common Areas accessible only from such Lots or Residences;

4.5.3. For correction of emergency conditions on one or more Lots or on portions of the Common Areas accessible only from such Lots or Residences;

4.5.4. For the purpose of enabling the Association, the Board, the Ameyalli Residences Design Review Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents;

4.5.5. For inspection during reasonable hours of the Lots, Residences or Improvements in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

4.5.6. For inspection, maintenance, repair and replacement of the landscaped areas, concrete improvements, fences, covered porches and courtyards (both during and after any applicable warranty periods) and driveways located on the Lots which the Association, as applicable, is obligated to repair, replace and maintain pursuant to the provisions of this Declaration and the other Project Documents; and

4.5.7. For inspection, maintenance, repair and replacement of the exterior elements of the Residences and any Party Walls located on the Lots (whether or not enclosed within a courtyard or covered porch) which the Association is obligated or authorized to repair, replace and maintain pursuant to the provisions of this Declaration and the other Project Documents.

Easement for Party Wall. Each Owner, for each Lot or Co-Ownership Interesttherein that he, she or it owns, hereby acknowledges and agrees that a Party Wall may presently encroach upon or overlap the Owner's Lot. To the extent the Party Wall does encroach upon or overlap a Lot, the Owner of said Lot or Co-Ownership Interesttherein hereby grants to the Adjoining Owner of the other Lot or Co-Ownership Interesttherein that shares a Party Wall an

easement over and upon its Lot for the purpose of maintaining the Party Wall and carrying out the other obligations set forth in this Declaration. By accepting a deed to a Lot or Club Interest, each Owner hereby covenants and agrees to maintain any Party Wall in good condition and repair and not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Party Wall and the performance of the Association's obligations and each Owner's respective obligations under this Declaration.

Easement for Shared Roof. Each Owner, for each Lot or Co-Ownership Interesttherein that he, she or it owns, hereby acknowledges and agrees that the Residence situated on the Lot will include a Shared Roof. Each Owner hereby grants to the Adjoining Owner of the other Lot or Co-Ownership Interesttherein with a Shared Roof a reciprocal easement over and upon its Lot for the purpose of maintaining the Shared Roof and carrying out the other obligations set forth in this Declaration. By accepting a deed to a Lot or Co-Ownership Interesttherein, each Owner hereby covenants and agrees to cooperate to maintain any Shared Roof in good condition and repair and not to do anything that will hinder, delay or limit the maintenance of the Shared Roof and the performance of the Association's obligations and each Owner's respective obligations under this Declaration.

Article 5 **THE ASSOCIATION; ORGANIZATION;** **ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

Formation of Association. The Association shall be a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Project Documents.

Registration with the Department of Commerce. The Association shall register with the Department of Commerce within ninety (90) days of the Recordation of this Declaration. Within ninety (90) days after a change of any information provided in the Association's registration with the Department of Commerce, the Board shall submit an updated registration in the manner established by the Department of Commerce and the CAA.

Governing Board and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless the Project Documents specifically require the vote or written consent of the Association Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. The Board may also appoint or engage a manager to be responsible for the day-to-day operation of the Association, the Common Areas and the Club. The Board shall determine the compensation to be paid to any such manager. The initial number of directors on the Board shall be at least three (3) and, until the rights of Declarant under Section 2.17 are terminated, all directors, unless Declarant otherwise agrees in writing, will be appointed by Declarant. If the Declarant relinquishes its right to appoint the directors of the Board or its right to do so is otherwise terminated in accordance with the provisions of Section 2.17, the Board at the time of such relinquishment or termination shall continue in office until the next special or annual meeting of Owners who shall then have authority to elect a new Board in accordance with

the Bylaws. Moreover, the terms of the directors of the Board, the filling of Board vacancies and similar operational matters of the Board shall be conducted in accordance with the Bylaws.

Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal the Association Rules which generally pertain to: the management, operation and use of the Common Areas; traffic and parking restrictions including speed limits on the private street within the Project; minimum standards for any maintenance of Common Areas, Lots, Residences and Improvements within the Project; or any other subject within the jurisdiction of the Association. Association Rules must comply with the limitations set forth in the CAA. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

5.4.1. Enforcement of Project Documents. All Owners, Occupants, guests, and persons under Owner's control, shall strictly comply with the provisions of this Declaration, the Bylaws, the Association Rules and all other Project Documents and decisions issued pursuant thereto. The Association and any aggrieved Owner shall have a right of action against Owners, Occupants and guests who fail to comply with provisions of the Project Documents or the decisions of the Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Board, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; (ii) suspension of the Owner's voting rights; and/or (iii) the Board to impose monetary penalties, temporary suspensions of an Owner's right to the use of the Common Areas, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Board shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Board. The Board may delegate to the property manager, the power and authority to carry out disciplinary actions duly imposed.

5.4.2. Imposition of Fines. Pursuant to the CAA, as amended, the Board may assess a fine against an Owner or Occupant for a violation of the Governing Documents by such Owner, Occupant and/or his, her or its guests. Before assessing a fine under this Section 5.4.2, the Board shall (a) notify the Owner or Occupant of the violation; and (b) inform the Owner or Occupant that a fine will be imposed if the violation is not remedied within the time provided in the Association Rules, which shall be at least 48 hours. Unpaid fines may be collected as an unpaid Assessment as set forth in this Declaration or under Utah law. A fine assessed under this Section 5.4.2 shall:

5.4.2.1.be made only for a violation of a rule, covenant, condition, or restriction that is specifically listed in the Project Documents;

5.4.2.2.be in the amount specifically provided for in the Project Documents for that specific type of violation or in an amount commensurate with the nature of the violation; and

5.4.2.3. accrue interest and late fees as provided in this Declaration for the payment of delinquent Assessments.

Hearing. An Owner or Occupant who is assessed a fine under Section 5.4.2 may request an informal hearing to protest or dispute the fine within 14 days from the date the fine is assessed. A hearing requested under this Section 5.5 shall be conducted in accordance with standards provided in the Bylaws. No interest or late fees may accrue until after the hearing has been conducted and a final decision by the Board has been rendered.

Personal Liability. No member of the Board, the Ameyalli Residences Design Review Committee, or any other committee of the Association, no officer of the Association and no manager or other employee of the Association shall be personally liable to any Association Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any member thereof, the manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association; provided, however, the limitations set forth in this Section shall not apply to any person who has engaged in intentional misconduct.

Borrowing Power. The Association may borrow money in accordance with the Bylaws in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate as determined by the Board without a vote of the Association Members. The Association may secure such loans by pledging any of its properties including future Assessments and by granting interests in the Common Areas to secure such loans.

Express and Implied Rights. The Association may exercise any expressed or implied right or privilege given to the Association expressly by the Project Documents or any other right or privilege reasonably necessary to effectuate any such right or privilege. In particular, subject to the rights of Declarant described in this Declaration, the business, property and affairs of the Association shall be managed, operated, and maintained by the Board and by any manager it may designate and the Board, acting for and on behalf of the Association, shall have, and is hereby granted, the following specific authority and powers:

5.8.1. Without the vote or consent of the Owners or any other persons, the Board may grant or create, to the extent permitted by law and on such conditions as it deems advisable, utility and similar easements and rights of way, over, under, across and through the Common Areas;

5.8.2. The Board may execute and record, on behalf of all Owners, any amendment to the Declaration or Plat which has been approved by any vote or consent necessary to authorize such amendment;

5.8.3. The Board shall have the authority to enforce this Declaration on behalf of the Association and its Association Members;

5.8.4. The Board shall have the authority to prepare and administer an operational budget, collect Assessments, pay the Common Expenses and the Club Expenses (defined below), and open bank accounts for the funds held by the Association;

5.8.5. The Board shall have authority to enter into contracts, deeds, leases, and other written instruments which in any way concern the Project on behalf of the Association, so long as any vote or consent of the Owners which may be necessitated by the subject matter of the agreement has been obtained;

5.8.6. The Board may add any interest in real property obtained pursuant to Section 5.9 to the Project, so long as such action has been authorized by any necessary vote or consent of the Owners and Declarant;

5.8.7. The Board may adopt Bylaws of the Association;

5.8.8. The Board may promulgate, from time to time, such reasonable rules, regulations, and procedures as may be necessary or desirable to aid in carrying out the Association's functions and/or to govern the reasonable use, maintenance, and operation of the Project;

5.8.9. The Board, to the extent the following are not an obligation of an Owner, shall have the obligation and authority to maintain, repair, replace, restore, operate, and manage the Common Area, private roads, landscaped areas, concrete improvements, fences, covered porches and courtyards, and driveways located on a Lot, and any property that may be acquired by the Association, to appoint a manager in regard to such activities, and to establish an adequate reserve fund for repair, replacement, and restoration thereof;

5.8.10. The Board may enter into a property management agreement with any Person, including Declarant or any Declarant Affiliate, and may engage the services of accountants, attorneys or other employees or agents and pay said persons a reasonable compensation therefor;

5.8.11. The Board may bring, prosecute, and settle litigation for itself, the Association, and its members;

5.8.12. The Board shall have authority to secure fidelity bond coverage and such other policy or policies of insurance as the Board deems necessary or desirable in protecting the interests of the Association and the Owners; and

5.8.13. The Board may perform any other acts and may enter into any other transactions which are permitted by the Bylaws, which may be deemed reasonably necessary by the Board for the Board to perform its function, and which Utah law shall permit.

Acceptance and Control of Association Property. The Board shall have authority to purchase, otherwise acquire, and accept title to, in the name of the Association, any personal property and/or interest in real property, and to convey or transfer any interest in real property, so long as such action has been authorized by any vote or consent of the Owners which may be necessary under the circumstances. Declarant or its designees may transfer to the Association, and the Association shall accept, personal property and/or fee title or other property interests in any improved or unimproved real property included with the Project. Prior to or immediately

after the expiration of Declarant's control of the Association, the Association shall execute and deliver to Declarant a transition agreement or such similar instrument which shall contain such terms and conditions that Declarant deems is reasonable to effectuate transition of control of the Association, as Declarant may determine in its sole and exclusive discretion.

Membership in the Association. Every Owner of a Lot or Co-Ownership Interesttherein, including Declarant, shall be a member of the Association, and the Declarant shall be a member of the Association so long as it owns any Lot, Club Interest, or part of the Project (unless and until the Declarant expressly relinquishes in writing its status as an Association Member).

5.11.1. Votes in the Association. The Association shall have two classes of Association Memberships which shall be entitled to the following voting rights:

5.11.1.1. **Class A.** Each Owner of a Lot or Co-Ownership Interestshall be a Class A Member of the Association and each Owner is allotted one (1) vote per Lot owned and 1/8th vote per Co-Ownership Interestowned. Class voting by Club Owners shall be allowed as specified in Article 12.

5.11.1.2. **Class B.** Declarant shall be a Class B Member of the Association and shall be entitled to three (3) votes for each Lot held by Declarant as an Owner of a Lot and 3/8th votes per Co-Ownership Interestowned.

Voting Procedures. A change in the ownership of a Lot or Co-Ownership Interestshall be effective for voting purposes from the time the deed or other instrument effecting such change is Recorded, or, in connection with Owners who are vendees, upon the execution of the installment purchase contract. Thereafter, the new Owner shall give the Board written notice of such change of ownership and provided satisfactory evidence thereof. The vote for each Lot or Co-Ownership Interestmust be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot or Co-Ownership Interestis owned by more than one Person and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Association Member casts a vote representing a certain Lot or Club Interest, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot or Co-Ownership Interestunless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote for a particular Lot or Club Interest, the vote for that Lot or Co-Ownership Interestshall be deemed void and shall not be counted.

Transfer of Association Membership. The voting rights and assessment obligations of any Association Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot or Club Interest, and then only to the transferee of ownership of the Lot or Club Interest. A transfer of ownership of a Lot or Co-Ownership Interestmay be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot or Co-Ownership Interestshall operate to transfer the Association Membership appurtenant to said Lot or Co-Ownership Interestto the

new Owner thereof. No Owner may transfer a Lot's or Club Interest's undivided interest in the Common Areas separate from a transfer of title to the Lot or Club Interest. In the event the Owner of any Lot or Co-Ownership Interest should fail or refuse to transfer the membership registered in his, her or its name to the purchaser of such Lot or Co-Ownership Interest upon transfer of fee title thereto, the Board shall have the right, but not the obligation, to record the transfer upon the books of the Association. All transfers shall be subject to the transfer fee described in Section 6.14.

Article 6 **COVENANT FOR ASSESSMENTS**

Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot or Club Interest, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot or Club Interest, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot or Co-Ownership Interest and shall be a continuing lien upon the Lot or Co-Ownership Interest against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Lot or Co-Ownership Interest at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title), but the lien created by this Declaration against the applicable Lot or Co-Ownership Interest shall continue to secure payment of such delinquent Assessment (including, but not limited to, any and all interests and late charges) until the same are fully paid.

Annual Assessment. In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each fiscal year shall assess an Annual Assessment against each Lot. Annual Assessments shall be computed and assessed against all Lots in the Project as follows:

6.2.1. **Common Expense.** Annual Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas, and furnishing common utility services and other common items to the Residences. Such estimated expenses may include, without limitation, the following: landscaping costs, management expenses; real property taxes on the Common Areas; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; Association Assessments, wages of Association

employees, including fees for a manager; utility charges, including charges for utility services to the Common Areas; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. Such shall constitute the Common Expenses, and all funds received from assessments under this Section shall be part of the common expense fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the common expense fund.

6.2.2. Apportionment. Common Expenses shall be equally apportioned among and assessed to all Association Members. Each Owner, for each Lot that he, she or it owns, shall be liable for a 1/26th equal share of the Common Expenses, or such other fraction corresponding to an equal share for the then current number of Lots following the Recordation of a Supplemental Declaration annexing Additional Land into the Project.

6.2.3. Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of this Declaration, and, on or before January 1 of each year thereafter fiscal year. The Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating fiscal year. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such fiscal year.

6.2.4. Budget Approval. The Board shall present the adopted budget to the Association Members for their approval at a meeting of the Association (“Budget Meeting”), which may be the same as the annual meeting of the Association Members. A budget is disapproved if within 45 days of the Budget Meeting there is a vote of disapproval by at least 51% of the total votes of all the Association Members at a special meeting subsequent to the Budget Meeting called for that purpose by the Association Members pursuant to this Declaration. If the budget is disapproved, the budget the Board last adopted that was not disapproved by the Association Members continues as the budget for the Association unless and until the Board presents another budget to the Association Members and that budget is not disapproved; provided, the Association Members may not disapprove a budget during the period of Declarant control described in Section 2.17 above.

6.2.5. Notice and Payment. Beginning with the [2023] fiscal year, the Board shall give notice of the Annual Assessment to each Owner at least ten (10) days prior to the beginning of each fiscal year, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from

its obligation to pay the Annual Assessment. If the Board determines during any Assessment period that the funds budgeted for that fiscal year are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Association Members, it may increase the Annual Assessment for that fiscal year and the revised Annual Assessment shall commence on the date designated by the Board.

6.2.6. Effective Date of Assessments. Any Assessment created pursuant hereto shall be effective, provided it is created as provided herein, if Notice (as defined below) of the amount thereof is sent by the Board to the Owner subject thereto at least ten (10) days prior to the due date thereof as described in Section 6.2.5 above, or, if it is to be paid in installments, the due date of the first installment thereof. Written notice mailed, emailed or delivered to an Owner's Residence shall constitute notice to that Owner, unless the Owner has delivered written notice to the Board of a different address for such notices, in which event the transmission of the same to that last designated address shall constitute notice to that Owner.

Special Assessments. The Board may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments shall be levied against each Lot or Co-Ownership Interest and to each Association Member associated therewith, and shall be payable in such manner and at such times, including installments over time, as the Board may determine. The Board may levy Special Assessments for any reason permitted by the Project Documents or applicable law, as it shall determine in its sole and exclusive discretion, including without limitation Special Assessments for any purpose including defraying, in whole or in part, the cost of any design, permitting, construction, reconstruction, repair, and replacement of a capital improvement of or upon the Common Areas, including fixtures and personal property related thereto, except with respect to repairs or replacement resulting from a casualty as further provided in Section 9.5 below.

Specific Assessments. Specific Assessments levied by the Association shall be levied against a particular Lot, Residence or Co-Ownership Interest and to each Association Member associated therewith, to cover costs, including overhead and, administrative costs, for:

6.4.1. Providing particular services, items, or benefits to a Lot, Residence or Improvement at the request of the Owner thereof or Association Member associated therewith pursuant to a list of special services which the Board may authorize from time to time including, without limitation, landscape maintenance, and handyman services, and which Assessments may be levied in advance of providing such special services.

6.4.2. Enforcing any provision of the Governing Documents, including the Declaration against any Association Member or Owner, or of bringing any Lot, Residence or Improvement into compliance with such requirements.

6.4.3. Maintenance, repairs, or replacements of or within the Common Areas arising out of or caused by the willful or negligent act or omission of an Association Member or an Owner or the Owner's guests.

Reserves.

6.5.1. Use of Reserve Funds. The Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Furthermore, the Board shall not use money in a reserve fund for daily maintenance expenses, unless a majority of the Association Members vote to approve the use of the reserve fund money for that purpose. Upon the approval of a majority of the Association Members, the Board may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Assessment shall not be subject to the limitations set forth in Section 6.5.4.

6.5.2. Reserve Analysis. At least once every six (6) years the Board shall cause a reserve analysis to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall, thereafter, review the reserve account study at least every three (3) years and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve analysis shall include, at a minimum:

6.5.2.1. Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of no fewer than three (3) years but less than thirty (30) years that will reasonably require reserve funds.

6.5.2.2. Identification of the probable remaining useful life of the components identified in subparagraph 6.5.2.1 above, as of the date of the study.

6.5.2.3. An estimate of the cost of repair, replacement, and restoration of each major component identified.

6.5.2.4. An estimate of the total annual contribution to reserve funds necessary to meet the cost to repair, replace, or restore each major component during and at the end of its useful life.

6.5.2.5. A reserve funding plan that recommends how the Association may fund the annual contribution described in Section 6.5.2.4.

6.5.3. **Providing Reserve Analysis to Owners.** Each year the Association shall provide a summary of the most recent reserve analysis, including any updates, to each Owner. Owners may receive a complete copy of the reserve analysis upon a request submitted to the Board. During the period of Declarant control described in Section 2.17 above, Declarant shall provide to each purchaser of a Lot or Co-Ownership Interest a copy of the Association's most recent financial statement that includes any reserve funds held by the Association.

6.5.4. **Reserve Fund Line Item.** The Association's budget shall include a reserve fund line item as determined by the Board, based on the reserve analysis and the amount the Board determines is prudent under the circumstances. Within forty five (45) days after the day on which the Association adopts its budget, the Owners may veto the reserve fund line item by a fifty one percent (51%) vote at a special meeting called by the Owners for the purpose of voting whether to veto the reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved budget of the Association that was not vetoed, the Association shall fund the reserve account in accordance with that prior reserve fund line item.

Working Capital Fund. Annual Assessments shall be collected on a monthly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to an Association Member shall not relieve any Association Member of his, her or its liability for any Assessment or charge under this Declaration. However, no Assessment Lien shall be foreclosed or otherwise enforced until the Association Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot or Co-Ownership Interest changes during a fiscal year; successor Owners of Lots or Club Interests shall be given credit for prepayments, on a prorated basis, made by prior Owners.

Providing Payoff Information. The Association may charge a reasonable fee (to be paid after closing) for providing payoff information needed in connection with the closing of an Owner's financing, refinancing, or sale of a Lot or Club Interest. The Board shall provide payoff information within five (5) business days after the closing agent for a transaction request such information.

Declarant and Declarant Affiliate Subsidy. Notwithstanding any other provision of this Declaration to the contrary, prior to its transfer of control of the Association pursuant to Section 2.17 above, Declarant reserves for itself and all Declarant Affiliates (collectively referenced as the "Subsidizing Party"), in its sole and exclusive discretion, the right to subsidize the Association (rather than paying a full assessment share for each Lot or Co-Ownership Interest it owns) for the amount by which the actual cost and expense of operating and administering the Association and maintaining reasonable reserves for maintenance, replacement

and repairs and for contingencies, all as provided in this Declaration, exceeds the total amount of Assessments levied against and collected from Owners other than the Subsidizing Party. The subsidy required of the Subsidizing Party under this Section may be in the form of cash or in the form of “in-kind” contributions of goods or services, or in any combination of the foregoing, provided that “in-kind” contributions of goods or services must directly reduce the Association’s costs and expenses for which an Assessment is being levied. The Subsidizing Party shall make payments or contributions in respect to its subsidy obligations under this Section at such time as the Board may reasonably request from time to time as necessary to ensure that there are sufficient funds available for payment of Association costs and expenses and accumulation of adequate reserves (but in any event not more often than monthly). At the end of each fiscal year, either the Subsidizing Party shall pay or contribute to the Association such additional funds, goods or services (or any combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by the Subsidizing Party during such fiscal year, to satisfy in full the Subsidizing Party’s subsidy obligations under this Section for such fiscal year; or the Association shall pay to the Subsidizing Party or credit against the Subsidizing Party’s subsidy obligation for the immediately following fiscal year, as the Subsidizing Party may elect, the amount, if any, by which the total of all payments or contributions paid or made by the Subsidizing Party during such fiscal year exceeded the total subsidy obligation of the Subsidizing Party for such fiscal year under this Section. Within thirty (30) days of the end of each fiscal year, the Board shall make an accounting of the Subsidizing Party’s subsidy obligations for that period, what amounts have been paid by the Subsidizing Party (in cash, goods or services) with respect to such obligations, and what amounts are due. A copy of the accounting shall be made available for review by Association Members upon request. Subsequent to Declarant’s transfer of control of the Association pursuant to Section 2.17 above, the Subsidizing Party shall pay twenty five percent (25%) of the Annual Assessment attributable to each Lot which it owns until completion and sale of the Residence or Co-Ownership Intereston such Lot to an unrelated third-party Owner. Subsequent to the Subsidizing Party’s sale, conveyance and/or transfer of a Lot or Co-Ownership Interestto a third-party Owner, such Owner shall pay the full Assessment attributable to such Lot or Co-Ownership Interesttherein for that remaining portion of the year during which he, she or it owes.

Encumbrances. Any encumbrancer holding a lien on a Lot or Co-Ownership Interestmay pay any amounts secured by the Assessment Lien created by this Article 6, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

Effect of Conveyance. In any voluntary conveyance, except to a First Mortgagee in lieu of foreclosure of the First Mortgage, the grantee of a Lot or Co-Ownership Interestshall be jointly and severally liable with the grantor for all unpaid Assessments against the Lot or Co-Ownership Interestfor his, her or its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee’s rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Board setting forth the amounts of the unpaid Assessments against the grantor, and such grantee shall not be liable for, nor shall the Lot or Co-Ownership Interestconveyed be subject to a lien for, any unpaid Assessments against the grantor in excess of the amount set forth.

Statement of Account. Upon payment of a reasonable fee and upon written request of any Owner or any lien holder, prospective lien holder, or prospective purchaser of a Lot or Club Interest, the Board shall issue, within twenty (20) days following such request, a written statement setting forth: the amount of the unpaid Assessments, if any, with respect to such Lot or Club Interest; the amount of the current yearly Annual Assessment and the date that such Assessment becomes or became due, and any credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid Assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid Assessments and the personal obligation of the purchaser shall be released automatically if: the statement is not furnished within such twenty (20) day period and within ten (10) days after an additional written request is made by such purchaser, and the purchaser subsequently acquires the Lot or Club Interest.

Purposes for Which Association's Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all roads, land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Association Members and Occupants, maintenance of landscaping on Common Areas and public right-of-way and drainage areas within the Project, construction, operation and maintenance of recreational and other facilities on Common Areas, recreation, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional managers, hiring professional consultants such as architects, engineers, attorneys and accountants, and pledging future Assessments as collateral to secure Association financing.

Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Transfer Fee. Each purchaser of a Lot, Residence or Co-Ownership Interest within the Project, other than a purchaser initially purchasing a Lot or Residence directly from Declarant,

shall pay to the Association at closing a reinvestment fee (“Reinvestment Fee”) immediately upon becoming the Owner of the Lot or Residence in such amount as is established from time to time by Declarant or the Board, subject to applicable law. The purpose of the Reinvestment Fee is to reimburse the Association for costs incurred by the Association in connection with transfer of title to such new Owner, for the payment of Common Expenses and reserves, and any other authorized use of such funds. Currently, the Reinvestment Fee is \$500 (unless otherwise determined by the Board). In no event shall the Reinvestment Fee exceed the maximum amount permitted by applicable law. Nothing in this Section shall be interpreted as a restriction, limitation, or cap on the amount of Assessments that may be levied by the Association. Should the Reinvestment Fee ever exceed the amount permitted by applicable law, the Reinvestment Fee will automatically be reduced to the maximum amount permitted by applicable law. Declarant or the Board shall have the right to collect and enforce the payment of the Reinvestment Fee in the same manner as enforcement and collection of delinquent Assessments as further described in this Declaration. In the event that the Reinvestment Fee is not paid at closing to the Association, then Declarant or the Board shall have the right to impose a charge against the new Owner of the Lot, Residence or Co-Ownership Interest in an amount as determined by the Board from time to time in its sole and subjective discretion.

Notice for Meetings to Consider Special Assessments. All written notices of any meeting called for the purpose of approving the establishment of any Special Assessment shall be sent to all Association Members in accordance with the time periods and provisions set forth in the Bylaws.

Special Service Districts. In connection with the development of the Project and other developments within Wasatch County, Special Service Districts have been or will be formed in order to provide the Project with various services and facilities including but not limited to waste water treatment and disposal services, fire protection service, road maintenance, emergency services, special lighting facilities for non-standard street lights, culinary water and facilities including pumping stations, snowplowing and school bus stop shelters. The Special Service Districts have or will have the power, among other things, to contract, to acquire and construct facilities and to finance the cost thereof by the issuance of bonds and to establish rates and charges that enable the Special Service Districts to operate such facilities as are necessary to fulfill its purposes. Each Owner hereby agrees and acknowledges that the Project is a part of certain Special Service Districts, and may become a part of future Special Service Districts, and that Special Service Districts have or shall have the right and authority to levy taxes, charges and/or assessments upon owners of taxable property within such Special Service Districts. Each Owner will be subject to all charges levied by such Special Service Districts and will pay such charges directly to the same. All charges levied by such Special Service Districts against owners of taxable property are and shall be the personal and individual obligation of each Owner, and such charges do not constitute a Common Expense. Each Owner hereby agrees and acknowledges that it shall pay his, her or its proportionate share of the Special Service District assessments currently allocated to the Project, as determined by the Declarant (during the Declarant Control Period) or the Board following termination of the Declarant Control Period in its sole and absolute discretion.

Article 7

ENFORCEMENT OF PAYMENT OF ASSESSMENTS

Association as Enforcing Body. The Association, as the agent and representative of the Association Members, shall have the exclusive right to enforce the provisions of this Declaration. However, if the Association shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Association Member may enforce them at his, her or its own expense by any appropriate action, whether in law or in equity.

Effect of Nonpayment of Assessments; Assessment Lien.

7.2.1. Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

7.2.2. If any installment of an Assessment assessed by the Board is not paid within thirty (30) days after the same is due, the entire unpaid balance of the Assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installments.

7.2.3. The Association shall have a lien on each Lot or Co-Ownership Interest for all Assessments levied against the Lot or Co-Ownership Interest and for all other fees and charges payable to the Association by the Owner of the Lot or Co-Ownership Interest pursuant to this Declaration. Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Board may, at its option, Record a notice of lien setting forth the name of the delinquent Owner as shown in the records of the Association, the legal description of the Lot or Co-Ownership Interest against which the notice of lien is Recorded and the amount claimed to be past due as of the date of the Recording of the notice, including interest, lien recording fees and reasonable attorneys' fees.

7.2.4. The Assessment Lien shall have priority over all liens or claims except for tax liens for real property taxes; assessments in favor of any Municipal Authority or assessment district; and the lien of any First Mortgage as provided in this Section 7.2.4. The lien of the Assessments and charges provided for herein shall be subject and subordinate to the lien of any duly executed First Mortgage on a Lot or Co-Ownership Interest prior to the date on which such lien of the Association is recorded and any holder of such First Mortgage which comes into possession of a Lot or Co-Ownership Interest pursuant to the remedies provided in the First Mortgage, foreclosure of the First Mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the Lot or Co-Ownership Interest free of any claims for unpaid installments of assessments and charges against the Lot or Co-Ownership Interest which are so subordinate to such First Mortgage and became due and payable prior, in the case

of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor Owner by virtue of such process. The foregoing will not relieve any successor Owner from the obligation for Assessments accruing thereafter.

7.2.5. The Board shall not be obligated to release any Recorded notice of lien until all delinquent Assessments, interest, lien fees, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Owner of the Lot or Co-Ownership Interest have been paid in full.

Association's Remedies to Enforce Payment of Assessments. If any Association Member fails to pay the Annual, Specific Assessment or Special Assessments or installments of such when due, the Association may enforce the payment of the Annual, Specific Assessments, Special Assessments, and/or Assessment Lien by taking one or more of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise the other remedy):

7.3.1. Bring an action at law and recover judgment against the Association Member personally obligated to pay the Annual or Special Assessments;

7.3.2. Foreclose the Assessment Lien against each Lot or Co-Ownership Interest in accordance with then prevailing Utah law relating to the foreclosure of mortgages or deeds of trust (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with Title 38, Chapter 1a, Utah Code Ann., or any other means permitted by law, and the Lot or Co-Ownership Interest may be redeemed after foreclosure sale if provided by law.

7.3.3. Notwithstanding subordination of an Assessment Lien as described in Section 10.3, the delinquent Owner shall remain personally liable for the Assessments and related costs after his, her or its membership is terminated by foreclosure or deed in lieu of foreclosure or otherwise.

Foreclosure. Any foreclosure pursuant to Section 7.3.2 above shall be conducted in accordance with the following procedures:

7.4.1. **Scope of Lien.** In any foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot or Co-Ownership Interest which shall become due during the period of foreclosure, and all such amounts shall be secured by the lien being foreclosed.

7.4.2. **Trustee.** The Declarant, Association, and each Owner hereby convey and warrant pursuant to Utah Code Ann. Sections 57-1-20 and 57-8a-302 to []¹, with power of sale, the Lots, Club Interests, Residences, and all Improvements for the purpose

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of securing payment of Assessments under the terms of this Declaration. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code Ann. The Association may, through its duly authorized agents, bid on the Lot or Co-Ownership Interest at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The trustee appointed hereunder, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any liens against Lots or Club Interests arising pursuant hereto.

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

**NOTICE OF NONJUDICIAL FORECLOSURE
AND RIGHT TO DEMAND JUDICIAL FORECLOSURE**

The Ameyalli Residences Owners Association, Inc., a Utah nonprofit corporation (“Association”), the Association for the project in which your Lot or Co-Ownership Interest is located, intends to foreclose upon your Lot or Co-Ownership Interest for delinquent assessments using a procedure that will not require it to file a lawsuit or involve a court. This procedure is governed by Utah Code, Sections 57-8a-303 and 57-8a-304, and is being followed in order to enforce the Association’s lien against your Lot or Co-Ownership Interest and to collect the amount of an unpaid assessment against your Lot or Club Interest, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. This procedure cannot and will not be used to foreclose upon your Lot or Co-Ownership Interest for delinquent fines for a violation of the Association’s governing documents. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand, the Association may also include a claim for delinquent fines for a violation of the Association’s governing documents. Additionally, if you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that “I demand a judicial foreclosure proceeding upon my Lot/Club Interest,” or

words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 30 days after the day on which this notice was mailed to you. The address to which you must mail your demand is, attention to: 2348 West Red Pine Road, P.O. Box 980127, Park City, Utah 84098.

7.4.4. Demand for Judicial Foreclosure. The Association may not use a nonjudicial foreclosure to enforce a lien if an Owner mails the Association a written demand for judicial foreclosure: (i) by U.S. mail, certified with a return receipt requested; (ii) to the address stated in the Foreclosure Notice; and (iii) within 30 days after the date of the postmark on the envelope of the Foreclosure Notice.

Subordination of Assessment Lien to First Mortgage; Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any First Mortgage and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as otherwise provided herein, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot or Co-Ownership Interest shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a First Mortgage to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust of sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however, that such First Mortgage foreclosure sale purchaser or grantee shall take subject to all Assessments and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Termination of Delinquent Owner's Rights. The Board may terminate a Delinquent Owner's (defined below) right to vote in the Association and access to and use of recreational facilities within the Project, except for ingress and egress (together the "Owner's Rights"). Before terminating the Owner's Rights, the Board shall give the Delinquent Owner notice ("Notice of Delinquency") of such termination. The Notice of Delinquency shall state: (a) that the Association will terminate any of the Owner's Rights, if the Association does not receive payment of the assessment owed to the Association within fourteen (14) days after the Delinquent Owner receives the Notice of Delinquency; (b) the amount of the Assessments due, including any interest or late payment fee; and (c) the Owner's right to request a hearing. A Delinquent Owner may submit a written request to the Board for an informal hearing to dispute the amounts due. Such request shall be submitted within fourteen (14) days after the date the Delinquent Owner receives the Notice of Delinquency. The Board shall conduct the informal hearing in accordance with the standards provided in the Bylaws. If a Delinquent Owner requests a hearing, the Association may not terminate the Owner's Rights until after the Board conducts the hearing and enters a final decision. If the Association terminates the Owner's Rights, the Association shall take immediate action to reinstate the service or right following the Owner's payment of the Assessments, including any interest, late payment fee or other charges. The Association may assess an Owner for the cost associated with reinstating a utility service

that the Association terminates and demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in the Notice of Delinquency. As used in this Section, “Delinquent Owner” means an Owner who fails to pay an Assessment or other amounts owed to the Association when due.

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

7.7.1. **Notice to Owner.** Before requiring a Tenant to pay Lease payments to the Association, the Board shall give the Owner notice (“Notice to Landlord”), which notice shall state: the amounts due, including any interest, late fee, collection cost, and attorney fees; that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of Lease payments; and that the Association intends to demand payment of future Lease payments from the Owner’s Tenant if the Owner does not pay the Amount Owing within fifteen (15) days.

7.7.2. **Notice to Tenant.** If an Owner fails to pay the Amount Owing within fifteen (15) days after the Board gives the Notice to Landlord, the Association may collect Lease payments by the Board delivering written notice to the Tenant of Owner (“Notice to Tenant”), which notice shall state that: due to the Owner’s failure to pay an assessment within the required time, the Board has notified the Owner of the Association’s intent to collect all Lease payments until the Amount Owing is paid; the law requires the Tenant to make all future Lease payments, beginning with the next monthly or other periodic payment, to the Association, until the Amount Owing is paid; and the Tenant’s payment of Lease payments to the Association does not constitute a default under the terms of the Lease with the Owner. The Board shall mail a copy of the Notice to Tenant to the Owner.

7.7.3. **Payments to Association and Credit under Lease.** A Tenant to whom the Notice to Tenant has been given shall pay to the Association all future Lease payments as they become due and owing to the Owner: beginning with the next monthly or other periodic payment after the Notice to Tenant is delivered to the Tenant; and until the Association notifies the Tenant that the Amount Owing is paid. An Owner shall credit each payment that the Tenant makes to the Association under this Section against any obligation that the Tenant owes to the Owner as though the Tenant made the payment to the Owner. An Owner may not initiate a suit or other action against a Tenant for failure to make a Lease payment that the Tenant pays to the Association as required under this Section. Within five (5) business days after the Amount Owing is paid, the Board shall notify the Tenant in writing (and mail a copy thereof to the Owner) that the Tenant is no longer required to pay future Lease payments to the Association. The Board shall deposit money paid to the Association under this Section in a separate account and disburse that money to the Association until the Amount Owing is paid and any cost of administration,

not to exceed the maximum amount set forth in the CAA (if any) is paid. The Association shall, within five (5) business days after the Amount Owing is paid, pay to the Owner any remaining balance.

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

One-Action Rule Not Applicable; Abandonment of Enforcement Proceeding. Utah Code Ann. Section 78B-6-901, does not apply to the Association’s judicial or nonjudicial foreclosure of a Lot or Co-Ownership Interest under this Article 7. The Association may abandon a judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale and initiate a separate action or another judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale if the initial judicial foreclosure, nonjudicial foreclosure, or sheriff’s sale is not complete.

Costs and Attorney Fees in Enforcement Action. A court entering a judgment or decree in a judicial action brought under this part shall award the prevailing party its costs and reasonable attorney fees incurred before the judgment or decree and, if the Association is the prevailing party, any costs and reasonable attorney fees that the Association incurs collecting the judgment. In a nonjudicial foreclosure, the Association may include in the amount due, and may collect, all costs and reasonable attorney fees incurred in collecting the amount due, including the costs of preparing, recording, and foreclosing the Assessment Lien.

Action to Recover Unpaid Assessment. The Association need not pursue a judicial foreclosure or nonjudicial foreclosure to collect an unpaid assessment but may file an action to recover a money judgment for the unpaid assessment without waiving the Assessment Lien.

Article 8 **MAINTENANCE**

Common Areas and Public Right of Way.

8.1.1. The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Areas and all Improvements located thereon (subject to Section 8.1.3), except the Association may, but shall not be obligated to, maintain areas which any Municipal Authority or any utility company is maintaining or is obligated to maintain. Notwithstanding anything herein or on the Plat to the contrary, the Association has the responsibility, authority, and is hereby granted an easement for access to and maintenance of all Association Common Areas, including areas on a Lot outside the footprint of each individual Residence.

8.1.2. The Association shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. In the event of any disagreement or uncertainty, the Association shall have the sole and exclusive power

and authority to determine which real property and Improvements constitute Common Areas to be maintained by the Association, which determination shall be conclusive, final and not subject to appeal. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Association or by its duly delegated representative.

8.1.3. In the event any deed restriction, the Plat or this Declaration permits the Association or the Board to determine whether or not Owners of certain Lots will be responsible for maintenance of certain Common Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cause, cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Association may contract to provide maintenance service to Owners of Lots and Residences having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

Limited Common Areas. The Association, or its duly delegated representative, shall maintain, repair, replace and otherwise manage all Limited Common Areas which constitute an Association pursuant to the same maintenance standards applicable to all Common Areas; provided however, Owners shall maintain any Residence Limited Common Area related to arising from such Owner's obligation to maintain his or her Residence, including, but not limited to, any decks, balconies or porches. In the event that the need for maintenance or repair of Limited Common Areas maintained by the Association is caused through the willful or negligent act of any Owner, or any family, guests, invitees or tenants of such Persons, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Owner is subject and shall be secured by the Assessment Lien.

Lots and Residences. Except as provided in Article 12 which provides for the Association to maintain and repair the Club Lots and Club Residences, each Owner of a Lot shall be responsible for maintaining, repairing or replacing his, her or its Lot and Residence, and all other Improvements situated thereon, including, but not limited to, all exterior elements of a Residence, such as exterior doorways, windows, patios, balconies, decks, façade, rain gutters, shingles, roof, address signs and all other similar exterior improvements on the Residences situated upon a Lot, except for any portion of the Lot which is maintained by the Association in association with the Common Areas. All Residences and other Improvements shall at all times be kept in good condition and repair. Landscaping shall be maintained as required by Section 8.4. All Lots upon which no Residences or other Improvements have been constructed shall be maintained in a weed free and attractive manner.

Installation of Landscaping. In order to maintain uniformity of appearance, the Association shall install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements) as the Association deems appropriate, on all portions adjacent to the Lot for the benefit of the Owner. Such landscaping Improvements shall constitute Common Areas, and the cost of any such installation thereof shall be paid to the Association by the Owners as a part of the Annual Assessment upon demand and assessment

from the Board. All landscaping must be installed in accordance with plans approved in writing by the Ameyalli Residences Design Review Committee, and shall be subject to those certain approvals described in Section 3.4 above. Any amounts payable by an Owner to the Association pursuant to this Section shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments. Following installation, maintenance shall be performed by the Association in accordance with Section 3.3 of the Declaration.

Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Areas or any other area maintained by the Association is caused through the willful or negligent act of any Association Member, his, her or its family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Association Member and the Association Member's Lot is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner pursuant to this Section in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

Improper Maintenance and Use of Lots. In the event any portion of any Lot or Residence is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot or Residence is being used in a manner which violates the Project Documents, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such corrective action as it deems appropriate to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien.

Maintenance of Party Walls and Shared Roofs. By acceptance of a deed to a Lot, each Owner hereby acknowledges, agrees and understands that it is essential that the Party Wall and Shared Roof be maintained in good condition and repair to preserve the integrity of the Townhomes as they are used and occupied by the Owners. With respect to the surface components of the Party Wall, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed, all surface components which face into such Owners' respective Townhouse. With respect to pipes, conduits, ducts and other utility lines and connections which benefit only one of the Owners, the Owner benefited solely thereby shall be fully responsible for the cost of maintaining such items in good condition and repair, including the making of replacements as needed. With respect to structural components of the Party Wall or a Shared Roof, except as may be otherwise provided in the immediately preceding sentence, the Owners agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary. With respect to a

Shared Roof, the Owners agree that the maintenance and repair obligations herein include complete replacement thereof as necessary. In the event of a dispute between Adjoining Owners with respect to the maintenance, repair, or replacement of a Party Wall or a Shared Roof, the Adjoining Owners shall immediately provide the Board with written notice of the dispute, which shall describe the dispute in detail. The Board will review the notice of dispute and may request additional information. Following review, the Board will issue a decision regarding the dispute, which shall be final and not subject to appeal. If the Party Wall or Shared Roof is destroyed or damaged by fire or other casualty, either Owner may restore it, and the other Adjoining Owner shall contribute one-half of the cost of restoration thereof; provided, however, that any such single maintenance or repair activity, including a replacement as necessary, which is expected to exceed \$5,000.00 shall, except in an emergency, be undertaken only with the approval of the Board and both Owners, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Party Walls and Shared Roofs in the Club Residences shall be maintained by the Association as provided in Article 12.

Failure to Maintain Party Wall or Shared Roof. If any Owner shall fail to comply with the provisions of this Declaration as to maintenance, repair, or use of the Party Wall or a Shared Roof, or the obtaining of insurance as set forth in Article 9 below, or other obligations contained herein (“Defaulting Owner”), then in any such event the Adjoining Owner shall have the right, upon thirty (30) days written notice to the Defaulting Owner (unless within such 30-day period the Defaulting Owner shall cure such default, or in the case of a nonmonetary default which by its nature cannot be cured within such 30-day period, the Defaulting Owner shall take such action as is reasonably calculated to commence the curing thereof, and thereafter shall diligently prosecute the curing thereof to completion) to proceed to take such action as shall be necessary to cure such default, all in the name of and for the account of the Defaulting Owner. The Defaulting Owner shall on demand reimburse the other Adjoining Owner taking such action for the monies actually expended by such Adjoining Owner and the Adjoining Owner’s reasonable out-of-pocket expenses in so doing, together with interest thereon as set forth below from the date of demand to the date of payment. Notwithstanding the foregoing, if the non-defaulting Adjoining Owner shall in good faith deem that an emergency is occurring or has occurred, so that the default requires immediate curing, then no notice shall be required and the non-defaulting Adjoining Owner may act promptly without giving notice and take such action as is necessary to cure the alleged failure. Any Adjoining Owner performing any action pursuant to the preceding sentence shall interfere to the minimum extent possible with the Defaulting Owner’s use and occupancy of such Defaulting Owner’s Townhouse, and, with reasonable promptness, shall give verbal or written notice to the Defaulting owner of such action and the claimed failure.

1.1.1. All remedies hereby specifically set forth in this Section 8.8.1 are cumulative and shall be deemed to be in addition to any remedies available at law or in equity which shall include the right to restrain by injunction any violation or threat of violation by any Owner of any of the terms, covenants, or conditions of this Declaration governing Party Walls or a Shared Roof and by decree to compel specific performance of any such terms, covenants, or conditions governing Party Walls or a Shared Roof, it being agreed that the remedy at law for any breach of any such term, covenant, or condition governing Party Walls or a Shared Roof is not adequate. Notwithstanding the foregoing, no default by any Owner under this Agreement shall entitle any other Adjoining Owner

to terminate, cancel, or otherwise rescind this Declaration or any terms, covenants or conditions governing Party Walls or a Shared Roof.

8.8.1. The Board, without obligation and in its exclusive discretion, may also notify the Defaulting Owner of the work required to the Party Wall or a Shared Roof and demand that it be done within a reasonable and specified period. In the event that the Defaulting Owner fails to carry out such maintenance within said period, the Board shall have the right to enter upon the Lot, to cause such work to be done to the Party Wall or a Shared Roof and individually charge the cost thereof to such Defaulting Owner, and the costs shall be secured by the Assessment Lien. Notwithstanding the foregoing, in the event of an emergency arising out of the failure of a Defaulting Owner to maintain his, her or its Party Wall or a Shared Roof, the Board shall also have the right to immediately enter upon the Lot to abate the emergency and individually charge the cost thereof to such Defaulting Owner, and the costs shall be secured by the Assessment Lien.

Article 9 INSURANCE

Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot or Co-Ownership Interest to a purchaser, other than Declarant or a Declarant Affiliate, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

9.1.1. Property insurance on the Common Areas insuring against all risk of direct physical loss, including loss and damage by fire and other perils normally covered by the standard extended coverage endorsement, insured against in an amount equal to the maximum insurable replacement value of the insurable Improvements, Common Areas, Lots, and Residences as determined by the Board; to the extent available at a reasonable cost, as the Board shall determine is advisable in its sole and subjective discretion, such property insurance includes all structural elements of and fixtures in the Residences, including without limitation those installed by Owners; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

9.1.2. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$2,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas and other portions of the Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

9.1.3. Workers compensation insurance to the extent necessary to meet the requirements of applicable law;

9.1.4. Fidelity bonding of the Board and employees of the Association having control of, or access to, the funds of the Association with loss coverage ordinarily not less than the maximum amount of funds of the Association over which the principal(s) under the bond may reasonably be expected to have control or access at any time;

9.1.5. Errors and omissions insurance coverage for the Board;

9.1.6. To the extent available at commercially reasonable rates and terms as determined by the Board, business interruption insurance, which includes the cost of temporary quarters for Club Owners in the event a Club Owner is relocated due to a peril insured by the Association; and

9.1.7. Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners.

9.1.8. Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

9.1.8.1. The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

9.1.8.2. No act or omission by any Owner will void the policy or adversely affect recovery on the policy;

9.1.8.3. The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

9.1.8.4. A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Association or other Owners or Occupants;

9.1.8.5. Statement that the policy is primary in the event the Owner has other insurance covering the same loss; and

9.1.8.6. Statement naming the Association as the insured; and

9.1.8.7. For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

9.1.8.8. Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Utah which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or

better in Best's Insurance Reports-international edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBQ" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

Certificates of Insurance. An insurer which has issued an insurance policy under this Article 9 shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article 9 shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued.

Payment of Premiums and Deductibles. The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association as a Common Expense and shall be paid by the Association. The Association shall set aside an amount equal to the amount of the property insurance policy deductible or, if the policy deductible exceeds \$10,000, an amount not less than \$10,000. Owners affected by any loss covered by insurance maintained by the Association shall pay such Owner's share of any deductible; Owners may obtain insurance to cover such deductible. Any deductibles paid by the Association pursuant to insurance obtained by the Association shall also constitute Common Expenses. The Board shall provide notice to Owners of the amount of the deductibles and any change thereto.

Payment of Insurance Proceeds. With respect to any loss to the Common Areas covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 9.5, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Areas.

Repair and Replacement of Damaged or Destroyed Property. The Association will be responsible, as further provided in this Section in the event of destruction or casualty occurring within the Project. Any portion of the Common Areas which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners representing at least seventy-five (75%) percent of the total votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Areas, Lots, or Residences are not repaired or replaced, insurance proceeds attributable to the damaged Common Areas, Lots, or Residences shall be used to restore the damaged area to a condition which is in conformity with the Ameyalli Residences Design Guidelines, approved by the Ameyalli Residences Design Review Committee and is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: be retained by the Association as an additional capital reserve; be

used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Association Members representing seventy-five percent (75%) or more of the votes in the Association; or shall be distributed in equal shares per Association Membership to the Owners of each Lot as their interests appear.

Owner Acknowledgement and Waiver. By acceptance of a deed to a Lot, each Owner hereby acknowledges his, her or its independent insurance obligations as outlined in Utah Code Ann. Section 57-8a-405 and such insurance shall apply to deductibles under the Association's master policy. Each policy shall be carried with a company rated X or better in "Best's Insurance Guide", and each Owner shall provide a copy of the policy obtained by such Owner to the Board and the other Adjoining Owner and such policy shall require thirty (30) days' notice to the Board and the other Adjoining Owner before the policy can be cancelled. Each Owner hereby waives any rights it may have against the other Adjoining Owner on account of any loss or damage to its Townhouse which arises from any risk covered by fire and extended coverage insurance carried hereunder, whether or not such other Adjoining Owner may have been negligent or at fault in causing such loss or damage, except that such waiver shall not extend to any deductible paid by any Owner as a result of the negligence or fault of an Adjoining Owner. Each Owner shall obtain a clause or endorsement in the policies of such insurance which each Owner obtains to the effect that the insurer waives, or shall otherwise be denied, the right of subrogation against the Association for loss covered by the Association's master policy insurance. It is understood that such subrogation waivers may be operative only as long as such waivers are available in the State of Utah and do not invalidate any such policies. If such subrogation waivers are allegedly not operative in the State of Utah, notice of such fact shall be promptly given by the Owner obtaining insurance to the Board and the other Adjoining Owner. The Board may unilaterally adopt, amend, and modify, in its sole and subjective discretion, rules and regulations regarding insurance requirements for Owners without amendment to this Declaration.

Annual Review. Insurance policies may be reviewed annually by the Board to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed and to determine their compliance with the provisions of this Declaration. In the event any of the insurance coverage provided for in this Article 9 is not available at a reasonable cost or is not reasonably necessary to provide the Project with adequate insurance protection, as determined by the Board, the Board shall have the right to obtain different insurance coverage or insurance coverage which does not meet all of the requirements of this Article 9 so long as, at all times, the Board maintains insurance coverage on a basis which is consistent with the types and amounts of insurance coverage obtained for projects similar to the Project. Additionally, the Board shall give Owners notice within seven (7) days if any such insurance is not reasonably available.

Owner to Insure. Notwithstanding anything in this Article 9 to the contrary, it shall be the responsibility of each Owner, at such Owner's expense, to maintain physical damage insurance on such Owner's personal property and furnishings except for Club Owners with respect to insurance on Club Furnishings. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Residence as the Owner in the Owner's sole discretion shall conclude to be desirable. However, none of such insurance coverages obtained by such Owner shall affect any insurance coverage maintained by the

Association or cause the diminution or termination of that insurance coverage, nor shall such insurance coverage of an Owner result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association as a result of insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a default Assessment, with the understanding that the Board on behalf of the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association.

Article 10 **MORTGAGEE REQUIREMENTS**

Notice of Action. The Board shall maintain a roster containing the name and address of each Eligible Mortgagee as such term is defined herein and in Section 1.21 above. To be considered an Eligible Mortgagee, a First Mortgagee shall provide the Board with a certified copy of its Recorded First Mortgage and the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage together with a written request that it receive notice of the matters and actions described below ("Eligible Mortgagee"). The Board shall strike an Eligible Mortgagee from the roster upon request by such Eligible Mortgagee or upon the Board's receipt of a certified copy of a Recorded full release or satisfaction of the Eligible Mortgage. The Board shall give notice of such removal to the Eligible Mortgagee unless the removal is requested by the Eligible Mortgagee. Upon the Board's receipt of such written request, an Eligible Mortgagee shall be entitled to timely written notice of:

10.1.1. Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot or Co-Ownership Intereston which there is a Mortgage held, insured or guaranteed by such Eligible Mortgagee, insurer or governmental guarantor;

10.1.2. Any delinquency in the payment of Assessments or charges owed by an Owner whose Lot or Co-Ownership Interestis subject to a Mortgage held, insured or guaranteed by such Eligible Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days; and

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

Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Project Documents, membership register, books, records, and financial statements available for inspection by Association Members or by Eligible Mortgagee. Generally, these documents shall be available during the Association's normal business hours and may be maintained and kept at the office of the manager for the Association. The Association may, as a condition to permitting an Association Member to inspect the membership register or to its furnishing information from the register, require that the Association Member agree in writing not to use, or allow the use of, information from the

membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Association Member's interest in the Association.

Subordination of Lien. The Assessment or claim against a Lot or Co-Ownership Interest for unpaid Assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot or Club Interest, and the First Mortgagee thereunder which comes into possession of or which obtains title to such Lot or Co-Ownership Interest shall take the same free of such lien or claim for unpaid Assessment or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No Assessment, charge, Assessment Lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee which comes into possession or which obtains title to a Lot or Club Interest, shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Lot or Co-Ownership Interest affected or previously affected by the First Mortgage concerned. The provisions of this Section 10.3 shall be in addition to the rights of a First Mortgagee under Section 7.2.4.

Notice to Eligible Mortgagees. The Association shall give timely written notice of the events listed in Section 10.1 above to any Eligible Mortgagee who requests such notice in writing.

Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in Section 9.1 lapses, is not maintained, or the premiums therefore are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Prior to paying any taxes or premiums, such First Mortgagee or First Mortgagees shall provide thirty (30) days advance written notice to the Board, which notice shall specify the nature of the taxes or premiums and suggest a reasonable cure period for such payments.

Priority. No provision of this Declaration or the Articles gives or may give an Association Member or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Association Members of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots or the Common Areas. All proceeds or awards shall be paid directly to any Mortgagees of Record, as their interests may appear.

Article 11 **CONDEMNATION**

Notice. Whenever all or any part of the Common Areas shall be taken or conveyed in lieu of and under threat of condemnation, each Association Member shall be entitled to notice of the taking, but the Association shall act as attorney-in-fact for all Association Members in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for all Association Members to be disbursed as follows: If the taking involves a portion of the Common Areas on which Improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Association Members representing at least sixty-seven percent (67%) of the total votes of the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefore, in accordance with plans approved by the Board and the Ameyalli Residences Design Review Committee. If such Improvements are to be repaired or restored, the provisions in Article 9 shall apply. If the taking does not involve any Improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed to Association Members in proportion to their respective Association Membership Interests, first to the Mortgagees and then to the Association Members.

Limited Common Areas. All or any portion of an award attributable to the taking, condemnation, sale, acquisition or other disposition of in lieu of or in avoidance of condemnation of Limited Common Areas shall be equally divided among the Owner or Owners of the Lot or Lots or Club Interests to which such Limited Common Areas were appurtenant at the time of the taking, condemnation, sale, acquisition or other disposition in proportion to such Owner's or Owners' respective interest in such Limited Common Areas.

Complete Condemnation. If all of the Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas shall be distributed to Association Members based upon the relative value of the Lots or Club Interests prior to the condemnation.

Article 12

FRACTIONAL PROGRAM

Submission of Residences to the Club.

Declarant reserves the right to submit all or some of the Lots and Residences in the Project to the Club. Declarant or its permitted assignee with respect to a portion or all of the Declarant rights (“**Permitted Assignee**”) may submit a Lot or Residence to the Club, with the express written consent of the Owner of such Lot or Residence, either by recording a properly acknowledged notice executed by Declarant describing the Lot to be submitted to Club ownership and reciting Declarant’s intention to do so or by Declarant’s execution, delivery and recordation of a deed conveying a Co-Ownership Interest to a Club Owner in such Lot. Declarant reserves for itself and its Permitted Assignee, during the Declarant Control Period, the right to add Lots and Residences to the Club at any time with consent of all the Owners of such Lot or Residence. No Owner, other than Declarant or a Permitted Assignee, shall have the right to create or operate a rotating use program described herein in any Residences in the Project. Title to the Club Interests in the Lots or Residences submitted to the Club may be separately held, conveyed, devised, encumbered and otherwise utilized to effectuate and implement such Club. The provisions of this Declaration shall apply to all Club Residences and all Club Interests created

hereunder; provided, however, in the event of an inconsistency between this Article and the remaining provisions of the Declaration with respect to the ownership of a Club Residence and the rights, duties, and obligations of Club Owners, then the provisions of this Article shall control.

Definitions. Unless the context expressly requires otherwise, words in this Article 12 shall have the meanings designated below with respect to those Lots and Residences which are submitted to the Club.

12.2.1. **“Club”** means the Club Lots, Club Residences, Club Furnishings, Club Facilities and Amenities and all other rights of Club Owners pursuant to the fractional ownership program created by this Declaration.

12.2.2. **“Club Assessment”** means the assessments paid by the Club Owners pursuant to this Article levied by the Association against all Club Owners to pay the Club Expenses.

12.2.3. **“Club Documents”** means this Declaration, the Club Rules, the Reservation Procedures and any other governing instrument for the Club, as each document may be amended from time to time.

12.2.4. **“Club Expense Fund”** or **“Expense Fund”** means one or more deposit investment accounts of the Club into which are deposited the Club Assessments and certain other fees paid by the Club Owners. The Club Expense Fund shall consist of one operating account for daily operating expenses and one or more capital accounts for reserve and replacement expenses.

12.2.5. **“Club Expenses”** or **“Expenses”** means all expenses incurred exclusively for the Club, including without limitation, insurance premiums and deductibles, expenses of operating the Club Special Committee, expenses of administration and management of the Club, lease or other payments for Club Facilities and Amenities and Club Furnishings, expenses related to easement rights for the benefit of the Club, real estate and personal property taxes, and repair, refurbishment and replacement, as applicable, of the Club Facilities and Amenities, the Club Furnishings, including the particular Residences.

12.2.6. **“Club Facilities and Amenities”** means any real property, improvements and/or facilities and personal property located thereon within the Club that are owned, leased or operated by the Club Special Committee for the use and benefit of Club Owners and Guests pursuant to this Declaration to the exclusion of other Owners and Occupants within the Project, for recreational and related purposes, and all related and supporting facilities, amenities and improvements.

12.2.7. **“Club Furnishings”** or **“Furnishings”** means all interior decor, furniture, furnishings, fixtures, appliances, moveable equipment, linens, dishware, utensils, carpeting, accessories, and other personal property owned by the Club (a) located within or surrounding the Club Facilities and Amenities and the particular Club Residences, for the exclusive use and benefit of the Club Owner(s) utilizing the Club Facilities and

Amenities and a particular Club Residence; (b) for use by the Club Special Committee in the operation, management, maintenance and repair of the Club; and (c) all other personal property within the Club that is available to Club Owners on an exclusive or non-exclusive basis pursuant to the Club Rules.

12.2.8. “Club Interest” shall mean and shall include the following interests and rights, which are indivisible and inseparable, and which shall be exercised in accordance with the terms and provisions of this Declaration: (a) an undivided one-eighth (1/8th) fee simple interest in a specific Club Residence; (b) membership in the Association; (c) a recurring and exclusive right to the possession, use and occupancy of an assigned Club Residence of the Club Residence Category purchased during those certain Use Periods reserved for use in accordance with the Reservation Procedures, and (d) a non-exclusive right to use the Common Areas while occupying a Club Residences subject to the terms and provisions of this Declaration and the other Governing Documents.

12.2.9. “Club Lot” means a Lot submitted to the Club pursuant to this Article 12.

12.2.10. “Club Manager” means any person or company designated by the Board or Club Special Committee to manage, in whole or in part, certain affairs of the Club and the Club Special Committee as further defined in 12.10.

12.2.11. “Club Occupancy Schedule” means the calendar setting forth certain of the Owner Use Periods allocated to each Club Interest. Pursuant to the Club Occupancy Schedule, Use Periods are reserved for each Club Owner on a rotating calendar basis.

12.2.12. “Club Owner” means any person or entity, including Declarant, at any time owning fee title to a Co-Ownership Interest within the Project. The term “Club Owner” shall not refer to any Mortgagee (unless such Mortgagee has acquired title other than for security purposes).

1.1.2. “Club Residence(s)” means any Residence in the Project which is submitted to the Club.

12.2.13. “Club Residence Category” means the category of Club Residence in which the Club Owner has purchased a Club Interest. The Club has Townhome Club Residences or Family Lodge Club Residences.

12.2.14. “Club Rules” means those certain rules, regulations and procedures governing the Club adopted by the Board or the Club Special Committee in accordance with this Declaration, including without limitation rules governing use and access to Club Facilities and Amenities and Club Furnishings, as such Club Rules may be amended and repealed from time to time.

12.2.15. “Club Special Assessment” means assessments which the Association may levy from time to time against Club Owners, in addition to the Club Assessments, for the purposes as provided herein.

12.2.16. “Guest” means a Club Owner’s accompanied or unaccompanied family member, guest, invitee, licensee, employee, and any Person or Occupant who has the right to use and occupy a Club Residence during such Club Owner’s Use Period, including an exchange user who has occupancy rights through use of an exchange program.

12.2.17. “Reservation Procedures” means the Reservation Policies and Procedures established by the Association from time to time that govern the procedures for reserving use of Use Periods in Club Residences by Club Owners and Guests.

12.2.18. “Special Committee” shall mean a committee created by the Board by resolution, the members of which are unilaterally selected by the Board during the Declarant Control Period, and thereafter by the Club Owners, to exercise those powers and duties granted to it by the enabling resolution of the Board.

1.1.3. “Use Periods” means those periods of time during which Club Owners reserve the right to use of Club Residence. Use Periods for each Co-Ownership Interestare established each year for the dates set forth in the Club Occupancy Schedule. A Use Period will usually consist of up to seven consecutive days beginning on a Saturday or Sunday as established by the Board.

Conveyance by Purchaser; No Subdivision of Club Interests; Removal of Club Interests. Each Co-Ownership Interestshall constitute an estate in real property separate and distinct from all other Club Interests in the Club and in the Project, which estate may be separately conveyed and encumbered. A purchaser may acquire more than one Co-Ownership Interestand thereafter convey or encumber each Co-Ownership Interestso acquired separately. In no event, however, shall a Club Owner convey or encumber less than a Co-Ownership Interestas defined herein, or attempt to subdivide a Co-Ownership Interestinto lesser Club Interests than the Co-Ownership Interestoriginally conveyed to such Club Owner. Declarant may remove Lots or Residences submitted to the Club by recording a properly acknowledged notice executed by Declarant describing the Lots/Residence(s) to be removed from the Club, and reciting Declarant’s intention to do so. If all Club Interests for a particular Residence are acquired by a common owner or common owners or if all Club Owners of a particular Residence consent, such owner(s) may deliver a written request to the Declarant during the Declarant Control Period, or to the Association after the Declarant Control Period, to remove such Residence from the Club, and within a reasonable time after such written request has been received, the Declarant or Association (as applicable), together with such owner(s), shall properly acknowledge and record a notice describing the Residence(s) to be removed from the Club, and reciting the intention to do so.

Legal Description of a Club Interest. A contract for sale of a Co-Ownership Interestmay legally describe a Co-Ownership Interestby reference to the Club Residence, the purchaser’s fractional interest in the Club Residence and the purchaser’s right to use and occupy a Club Residence purchased during those certain Use Periods reserved for use in accordance with the Club Occupancy Schedule, or by completing the following legal description:

An undivided one-eighth (1/8th) fee simple ownership interest as tenant in common in Residence No. _____, AMELLAYI RESIDENCES, according to the official plat thereof as recorded in the office of the Wasatch County Recorder, State of Utah, and subject to the Declaration of Covenants, Conditions, Easements and Restrictions for Amellayi Residences as Document No. _____ and the plat recorded on _____ as Entry No. _____ in the Office of the County Clerk of Wasatch County, Utah, together with the exclusive right to use and occupy an assigned Club Residence of the same Club Residence Category purchased during certain Use Periods in accordance with the Declaration and the Reservation Procedures.

Any legal description substantially in the form provided above or which is otherwise sufficient to identify the Co-Ownership Interest shall be good and sufficient for all purposes to sell, convey, transfer and encumber or otherwise affect a Co-Ownership Interest and all easements appurtenant thereto.

Use of Club Residence. Use of a Club Residence shall be governed by the Governing Documents and Use Calendar. All Club Owners are entitled to the benefits of the Project and are required to participate in the Co-Ownership Interest use program as detailed in the Use Calendar. The Rules and Regulations govern the conduct of Club Owners and guests of the Project. A Club Owner is entitled to the exclusive use and occupancy of a Club Residence of the same Club Residence Category purchased, in accordance with the Club Occupancy Schedule. All Club Owners and guests while occupying a Club Residence are entitled to use the Common Areas of the Project and the Club Furnishings pursuant to the Rules and Regulations, which rules may, among other things, regulate use restrictions, access times, specific areas available for the use and enjoyment of Club Owners, frequency of access or use of such areas, and any associated services, fees and charges.

12.15. Club Occupancy Calendar. Use of Residence described in the Club Occupancy Calendar.

12.6.1. Each Club Owner shall be entitled to utilize a Club Residence each year during the six (6) Use Periods associated with such Club Owner's Co-Ownership Interest as identified on the Club Occupancy Schedule. The right to occupy a Residence during a Use Period, if unused in any year, is lost and does not accrue.

Administration and Management; Voting Rights and Membership in Association. The administration and management of the Club shall be performed by the Association, or the Club Manager on behalf of the Association. The Association shall have all powers necessary or desirable to effectuate any of the purposes provided for herein. A Club Owner, upon becoming the owner of a Club Interest, shall be a Member and shall remain a Member for the period of his or her ownership. Each Club Owner shall have a one-eighth (1/8th) vote in the Association, and pursuant to the terms and provisions of the Bylaws, except Declarant shall have a three-eighths (3/8th) vote for each Co-Ownership Interest as set forth previously in this Declaration. The Club Owners shall constitute a separate class of Members in the Association for purposes of voting on all issues affecting the administration and management of the Club.

Special Committee. If at any time during the Declarant Control Period fewer than all of the Residences in the Project are Club Residences, the Board may, upon resolution, appoint a Special Committee of not less than three (3) nor more than five (5) persons. If, at the expiration of the Declarant Control Period, less than all of the Residences in the Project are Club Residences, the Board shall, upon resolution, appoint a Special Committee of not less than three (3) nor more than five (5) persons. The Special Committee shall exercise those powers and duties granted to it by such resolution of the Board. If all Residences in the Project are conveyed as Club Residences, the Board shall assume the functions and duties of the Special Committee.

Powers and Duties of the Association with Respect to Club Interests. By way of enumeration and without limitation and in addition to the powers and duties of the Association provided for elsewhere in the Declaration, the Association and Board shall also have the following specific powers and duties with respect to Club Interests; provided, however, to the extent permitted by law, the Board may delegate all or part of its powers, duties and responsibilities related to the management and regulation of the Club, as such are now or may hereafter be provided by this Declaration, the Bylaws, the Articles, and the Timeshare Act to the Special Committee for implementation:

12.9.1. To cause each Club Lot and Club Residence to be repaired and maintained in a first-class manner and condition in accordance with the Project standards. No Club Owner may construct, install, add, alter, repair, change or replace any Club Residence or improvement located thereon. The Association shall have the exclusive right and authority to maintain, repair, replace, construct, install, add, alter, repair, change or replace any portion of a Club Residence or Club Furnishings, and assess such charges to the Club Owners of such Club Residence as a Club Expense. Each Club Owner waives their right to make any repairs to a Lot or Residence;

12.9.2. To manage the Club and in connection therewith to implement and operate housekeeping, check-in and arrival services, check-out and departure services and systems for the benefit of Club Owners;

12.9.3. To acquire and hold title to all Club Furnishings. The Association shall, on behalf of all Club Owners, hold title in its name to all Club Furnishings, and no Club Owner shall have any right, title, or claim thereto, and the Association shall have the right to deal with Club Furnishings for all purposes. Notwithstanding the foregoing, should a Club Owner purchase all Club Interests in a single Club Residence, the Association shall convey title of the Club Furnishings to such Club Owner;

12.9.4. To maintain property insurance for covered causes of loss to the Club Lots, Club Residences and Club Furnishings in an amount of insurance not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date and containing the required provisions set forth in Article 9;

12.9.5. To bill each Club Owner for the expenses incurred by a Club Owner during his or her occupancy which the Association determines to be the individual expenses of the particular Club Owner, including, but not limited to long-distance and

other extraordinary telephone charges, extraordinary repairs or charges for damage to the Club Lot or Club Residence, its furniture, furnishings, equipment, fixtures, appliances, and carpeting caused by a Club Owner or his or her guest and other charges rendered by the Club Manager on behalf of the particular Club Owner;

12.9.6. To collect the Club Assessment provided for in this Article. Costs and expenses solely related to the operation of the Club shall be charged to Club Owners only and not to other Owners. The Association, in conjunction with any designated or established Special Committee, shall use reasonable judgment in determining the Club Expenses attributed to the Club;

12.9.7. To establish, subject to modification at any time, publish, and administer such rules and regulations as the Association deems necessary or desirable, specifically including but not limited to fines and restrictions on use and occupancy if a Club Owner is not current on Club Assessments or is otherwise in violation of the provisions of this Article;

12.9.8. To enforce the remedies for non-payment of the Club Assessments set forth in this Article or elsewhere in this Declaration;

12.9.9. To prepare the Reservation Procedures;

12.9.10. To do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers; and

12.9.11. To delegate all or some of the powers and duties described in this Article 12, or as otherwise provided for in this Declaration, to a Club Manager for implementation thereof.

Club Manager. The Board may employ, on behalf of and with the approval of the Special Committee (if any), a Club Manager for the Club pursuant to a Club Management Agreement (“Club Management Agreement”) and is authorized to pay such Club Manager a fee for its services. The Club Management Agreement may contain such terms and provisions as the Board, Special Committee (if any) and the Club Manager deem necessary and advisable. The Club Manager shall have all powers necessary or desirable to effectuate any of the purposes provided for in the Club Management Agreement.

Creation of Different Interests. It is the intent of Declarant to convey undivided one-eighth (1/8th) fee ownership interests in the Club Residences. The statement of intent set forth herein shall not limit the rights of Declarant which are expressly reserved herein to create undivided ownership interests (i.e. Club Interests) of differing fractions in Club Lots, and should Declarant decide to do so, it shall file an Amendment to this Declaration setting forth the use rights of such differing ownership interests. Any Amendment for such purpose shall not require the consent of any Owner, Club Owner, Mortgagee or any other person or entity.

Rental of Co-Ownership Interest Use Periods. Rental of a Use Period(s) by Club Owners is allowed. Nothing in this Declaration shall limit the rights of Declarant to operate the

Club Interests owned by it for transient rental purposes, and Declarant reserves to itself and shall have the right to operate its Club Interests for, among other things, transient rental purposes.

Exchange Program. Declarant or the Board is authorized to establish an exchange relationship for the Club Owners with any bona fide exchange company or network, as permitted by local law.

Exclusive Club Rights. No Club Owner, other than Declarant or any affiliate of the Declarant, shall have the right to submit his, her or its Co-Ownership Interest to any timeshare plan, fractional plan, exchange or club, travel or vacation club, or other similar program, structure, scheme, device, or plan of any kind other than the Club created under this Article 12, or an exchange program which is affiliated with the Club by the Declarant or the Association pursuant to Section 12.3 above.

Club Assessment. In addition to the assessment for Common Expenses established by the Association to meet the expenses of the Project, the Association or Special Committee shall also establish a separate Club Assessment which will be assessed against Club Interests to cover the additional costs of operating the Club (“**Club Expenses**”). The Club Assessment for each Co-Ownership Interest may include but is not limited to, the following:

- 12.15.1. Maintenance and upkeep of the Club Residences;
- 12.15.2. Maintenance, repair and replacement of a Club Lot, Club Residence and Club Furnishings;
- 12.15.3. Any additional premium for property or liability insurance occasioned by the operation of the Club;
- 12.15.4. Real and personal property taxes assessed against the Club Interests;
- 12.15.5. Management fees assessed by the Club Manager, or the Association to cover the costs of operating the Club that are in addition to the management fees set by the Club Manager for management of the Project;
- 12.15.6. A reserve for refurbishment and/or replacement of the Club Residences and Club Furnishings; and
- 12.15.7. Any other expenses incurred in the normal operation of the Project attributable to operation of the Club and not otherwise within the definition of Common Expenses provided for in the Declaration.

The Club Assessment shall be assessed and prorated among the Club Owners on the basis of the Club Owner’s fractional interest and shall be fixed at a uniform and equal rate per Club Interest. The Club Assessment shall be paid by the Club Owner pursuant to a schedule established by the Association. These Club Assessments shall be the personal and individual debt of the Club Owner and all sums assessed but unpaid shall constitute a lien on the Club

Interest. The Association shall have all of the rights in connection with the collection thereof as it has in connection with the collection of unpaid Assessments for Common Expenses.

Club Special Assessments. In the event that the Club Assessments prove inadequate during any fiscal year for whatever reason, including nonpayment of any Club Assessment, the Association may, at any time and from time to time, levy in any calendar year Club Special Assessments applicable to that year only for any purpose as the Board shall determine in its sole and exclusive discretion. Club Special Assessments shall be assessed and prorated among the Club Owners on the same basis as regular Club Assessments, except when the Club Special Assessment against a Club Owner is a remedy utilized to reimburse the Association for costs incurred in bringing the Club Owner into compliance with the provisions of the Governing Documents.

Study.

12.17.1. The Board shall cause to be conducted at least once every six (6) years, a study of the reserves required to repair, replace and restore the Club Residences and the Club Furnishings. The Board shall thereafter review the results of that study at least every three (3) years to determine if those reserves are sufficient and shall make any adjustments it deems necessary to maintain the required reserves.

12.17.2. The study required by this Section 12.17, and covering the components described in Section 8.1 hereof, must be conducted by a person qualified by training and experience to conduct such a study, including a member of the Board, an Owner or the Club Manager of the Association who is so qualified. The study must include, without limitation:

12.17.2.1. Identification of the major components of the Club Residences and Club Furnishings which have a use life of no fewer than three (3) years but not less than thirty (30) years that will reasonably require reserve funds;

12.17.2.2. An estimate of the probable remaining useful life of each major component identified pursuant to Section 12.17.2.1;

12.17.2.3. An estimate of the necessary cost to repair, replace or restore each major component identified pursuant to Section 12.17.2.1;

12.17.2.4. An estimate of the total annual contribution that may be required to cover the cost of repairing, replacing or restoring the major components during and at the end of its useful life; and

12.17.2.5. A reserve funding plan that recommends how the Association may fund annual contribution described in Section 12.17.2.4.

Failure to Vacate Club Residence. In the event any Club Owner fails to vacate a Club Residence after the end of his, her or its Use Period or otherwise uses or occupies or prevents another Club Owner from using or occupying the Residence during another Club Owner's occupancy period, that Club Owner shall be in default hereunder and shall be subject to

immediate removal, eviction or ejection from the Club Residence wrongfully occupied; shall be deemed to have waived any notices required by law with respect to any legal proceedings regarding the removal, eviction or ejection; and shall pay to the Club Owner entitled to use the Club Residence during such wrongful occupancy, as liquidated damages for the wrongful use of the Club Residence, a sum equal to three hundred percent (300%) of the estimated expense of providing the arriving Club Owner with equivalent lodging and amenities, as determined by the Association in its sole discretion for each day, or portion thereof, including the day of surrender, during which the Club Owner wrongfully occupies a Club Residence, plus all costs of enforcement which amounts may be collected by the Association in the manner provided herein for the collection of assessments for Common Expenses.

Transfers Not Permitted while in Default. Except as to a transfer to a first mortgagee by foreclosure or deed in lieu of foreclosure, no transfer (including by means of sale, conveyance, lease, assignment or pledge) of a Co-Ownership Interest shall be permitted unless and until the proposed transferor is current as to all Club Expenses due to the Association and is otherwise not in default under any other provision of the Declaration.

Partition. By acceptance of a deed to a Club Interest, each Club Owner waives his or her right to bring a suit for partition except in accordance with the provisions of this Declaration.

Attorney-in-Fact; Destruction, Damage, or Taking. Each Club Owner hereby irrevocably constitutes and appoints each member of the Board as such Club Owner's true and lawful attorney-in-fact in such Club Owner's name, place, and stead for the purpose of dealing with the improvements on the Common Areas and Club Residences upon damage or destruction or a complete or partial taking as provided above in Section 9.5. Acceptance by a Club Owner of a deed or other instrument of conveyance from the Declarant shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Board members shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Club Owner which may be necessary or appropriate to exercise the powers granted to the Board as attorney-in-fact.

Acceptance; Enforcement; Indemnification. By acceptance of a deed to a Club Interest, a Club Owner, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, agrees to be bound by the terms and conditions of the Declaration. In addition to all remedies provided to the Association in this Declaration the Association shall also have the right, with respect to Club Owners who are in default under any documents governing the Club, to withhold use or possession of the Residence during a Club Owner's Use Period. All of the remedies granted by the Governing Documents, including the specific remedies provided for in this Article are cumulative, and the exercise of one right or remedy by the Association shall not impair the Association's right to exercise any other remedy. The Association shall not be limited to the remedies set forth herein and may invoke any other or additional remedies provided for or allowed at law or in equity. The Association may pursue any of the remedies provided for in whatever order is determined by the Association. The failure by the Association to insist in any one or more instances upon the strict compliance with any provision of the Governing Documents, to exercise any right or option contained therein, to serve any notice or to institute any action or proceeding, shall not be construed as a waiver or relinquishment of any such provision, option or right.

Declarant Subsidy. To the extent permitted by law, Declarant may pay the Association an amount less than its proportionate share of Club Expenses or other permitted Club Assessments for which it owes; provided, however, Declarant has executed a subsidy agreement requiring Declarant to pay monies which are sufficient, together with the Club Assessments paid by all other Club Owners, to enable the Association to timely pay all of the Club Assessments.

Article 13 **TERM, TERMINATION AND AMENDMENT**

Term; Method of Termination. This Declaration shall be effective upon the date of Recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of thirty (30) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of twenty (20) years each, unless there is an affirmative vote to terminate this Declaration by the then Association Members casting eighty percent (80%) of the total votes cast at an election held for such purpose or otherwise approved in writing within six (6) months prior to the expiration of the initial effective period hereof or any twenty-year extension. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a certificate of termination, duly signed by the president or vice president and attested by the secretary or assistant secretary of the Association, with their signatures acknowledged. Thereupon these covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Amendments. This Declaration may be amended by Recording a certificate of amendment, duly signed and acknowledged by and on behalf of the Association ("Certificate of Amendment"). The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided elsewhere in this Declaration, shall certify that at a meeting duly called and held pursuant to the provisions of the Articles and Bylaws or by separate written ballot without a meeting, the Association Members casting at least sixty-seven percent (67%) of the total votes of the Association at the election voted affirmatively for the adoption of the amendment. During the Declarant Control Period, this Declaration may be amended or terminated only with the written consent of the Declarant.

Unilateral Amendments. Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Lot or Club Interest. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant if such amendment is necessary to correct typographical errors or inadvertent omissions; necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Common Areas, Lots, Residences, Club Interests or Improvements subject to this Declaration; or necessary to evidence an increase in the total number or density allocated to the Project; provided, however, any such amendment shall not materially adversely affect the title to any Lot, Residence, Co-Ownership Interest or Improvement unless any such Owner shall consent thereto in writing. Each Owner hereby agrees and acknowledges that Declarant's increase or transfer of density pursuant to the terms and provisions of as described in this Declaration shall not constitute a

“material adverse effect” to the title to any Lot, Residence, Co-Ownership Interest or Improvement. Further, so long as the Declarant’s Class B Membership in the Association exists, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Anything in this Article or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency’s approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any portions thereof. Any such amendment shall be affected by the Recordation by Declarant of a Certificate of Amendment duly signed by or on behalf of the members, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate of Amendment shall be deemed conclusive proof of the agency’s or institution’s request for such an amendment, and such Certificate of Amendment, when Recorded, shall be binding upon all of the Project and all persons having an interest therein. It is the desire of Declarant to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control.

Prior Approval Required to Terminate this Declaration or Amend Article 8. Article 8 of this Declaration describes the duties and obligations of the Association and/or the Association to repair, replace and maintain the Common Areas, the Lots, and certain other physical portions of the Property and the Project. Notwithstanding any other provision described in this Declaration to the contrary, including without limitation the amendment powers described in this Article 13, Declarant, the Association and each Owner hereby agree and acknowledge that the Association’s maintenance, repair and replacement duties set forth in Article 8 shall not be amended or deleted and this Declaration shall not be terminated without the prior written approval of Declarant (prior to Declarant’s transfer of control of the Association pursuant to Section 2.17 above). Such approval shall be evidenced by a written consent attached to or incorporated in such Recorded amendment or certificate of termination executed by Declarant (if necessary).

Article 14

BINDING ARBITRATION FOR ENFORCEMENT OF GOVERNING DOCUMENTS

Opt-Out Right. IF AN OWNER DOES NOT WANT THE FOLLOWING ARBITRATION PROVISION TO APPLY, THE OWNER MUST SEND A LETTER TO DECLARANT, SIGNED BY THE OWNER (AND ANY CO-OWNER OF THE SAME LOT

OR CLUB INTEREST) AND ADDRESSED TO 2348 WEST RED PINE ROAD P.O. BOX 980127, PARK CITY, UTAH 84098 ATTN: ARBITRATION OPT-OUT. THE LETTER MUST BE SENT (I) WITHIN 30 DAYS AFTER THE DATE OF THE OWNER'S REAL ESTATE PURCHASE CONTRACT, OR (II) IN THE CASE OF A LOT OR CO-OWNERSHIP INTEREST UNDER CONTRACT ON THE DATE THIS DECLARATION IS RECORDED, WITHIN 30 DAYS OF THE DATE THE DEED OF CONVEYANCE TRANSFERRING THE LOT OR CO-OWNERSHIP INTEREST IS RECORDED IN THE OFFICIAL RECORDS OF WASATCH COUNTY, UTAH, AND MUST STATE THAT THE OWNER DOES NOT WANT ARBITRATION TO APPLY TO THE MATTERS DESCRIBED IN THIS Article 14. ANY OPT OUT WILL RENDER THIS ARBITRATION PROVISION NULL AND VOID BUT WILL HAVE NO OTHER EFFECT ON THE OWNER'S RIGHTS.

Arbitration Terms Defined. In the arbitration provision described in this Article 14 (“Arbitration Provision”), the following capitalized words, phrases or terms have the meanings set forth below:

1.1.4. “Administrator” means either of the following companies to be selected by the Bound Party initiating the arbitration: JAMS, 18881 Von Karman Ave. Suite 350 Irvine, CA 92612, www.jamsadr.com or the American Arbitration Association (“AAA”), 1633 Broadway, 10th Floor, New York, NY 10019, <http://www.adr.org>. However, neither JAMS nor AAA may serve as Administrator, without the consent of all Bound Parties asserting or defending a Claim, if it adopts or has in place any formal or informal policy that is inconsistent with and purports to override the terms of the Class Action Ban.

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

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

1.1.7. “Consumer Party” means the Owners; their heirs, successors and assigns; and the Association after the period of control pursuant to Section 2.17 above.

1.1.8. “Exempt Claim” means any of the following Claims, which will not be subject to this Arbitration Provision: any individual action brought by a Consumer Party in small claims court or a relevant state's equivalent court, unless such action is

transferred, removed, or appealed to a different court; any action to effect a judicial or non-judicial foreclosure; any eviction or other summary proceeding to secure possession of real property or an interest therein; any action in any bankruptcy proceeding to assert, collect, protect, realize upon or obtain possession of the collateral for any amount owed; any action to quiet title; any action insofar as it seeks provisional or ancillary remedies in connection with any of the foregoing; any self-help remedy, such as the refusal of an Institutional Party to allow a Consumer Party to use a Residence or Lot, or any individual action in court by one party that is limited to preventing the other party from using a self-help remedy and that does not involve a request for damages or monetary relief of any kind; and any dispute concerning the validity and effect of Section 14.8 below, the ban on class actions and certain other proceedings (the “Class Action Ban”). Notwithstanding the prior sentence, at the request of a Consumer Party, the Institutional Parties will agree to arbitrate under this Arbitration Provision any matter covered by items (ii)–(vi) above if arbitration will afford the parties substantially the same rights and remedies as a court action. Any dispute regarding the question of whether arbitration will afford the parties substantially the same rights and remedies as a court action is also an Exempt Claim and shall be determined exclusively by the court and not by an arbitrator. If one or more Institutional Parties are allowed to proceed outside arbitration with respect to any of the matters covered by items (ii)–(vi) above, the Consumer Party may assert in court on an individual basis any related defenses or Claims such Consumer Party may have.

14.2.1. **Institutional Party** means Declarant and Declarant Affiliates; the Association during the period of control pursuant to Section 2.17 above; any third party that provides any product or service to a Consumer Party in connection with this Declaration, if and only if such third party is named as a co-party with another Institutional Party in a Claim asserted by a Consumer Party; their successors and assigns; and the agents, representatives, members, employees, officers and/or directors of the foregoing entities.

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

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

the Administrator determines that such location would be unfair to a Consumer Party, at a location reasonably convenient to such Consumer Party and the Institutional Parties.

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

Appeal of Arbitrator’s Decision. Any court with jurisdiction may enter judgment upon the arbitrator’s award. The arbitrator’s decision will be final and binding, except for any appeal right under the FAA. However, for Claims involving more than \$50,000, any Bound Party may appeal the award to a three-arbitrator panel appointed by the Administrator, which will reconsider from the start any aspect of the initial award that is appealed. The panel’s decision will be final and binding, except for any appeal right under the FAA. Fees and costs associated with an appeal shall be governed by Section 14.4 above.

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

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

Severability. If a determination is made that any part of this Arbitration Provision is unenforceable (other than the Class Action Ban) or that this Arbitration Provision is unenforceable as to any party or parties, this provision shall nonetheless remain enforceable in all other respects and as to all other parties. If the Class Action Ban is held to be unenforceable

in connection with any Claim subject to the Class Action Ban, this Arbitration Provision (other than this sentence) shall be null and void in such proceeding, provided that the Institutional Party seeking to enforce the Class Action Ban shall have the right to appeal at the earliest possible time any holding that the Class Action Ban is unenforceable.

Notice of Claim; Right to Address. Prior to asserting a Claim, the Bound Party with the Claim (the “Claimant”) shall give the Bound Party that is the subject of the Claim written notice of the Claim and a reasonable opportunity, not less than 30 days, to resolve the Claim. The Claimant’s claim notice must include the Claimant’s name, address and telephone number. Any claim notice must explain the nature of the Claim and the relief that is demanded. A Consumer Party may only submit a claim notice on his, her or its own behalf and not on behalf of any other party. The Claimant must reasonably cooperate in providing any information about the Claim that the other Bound Party reasonably requests. If: a Consumer Party submits a claim notice in accordance with this Section on his, her or its own behalf (and not on behalf of any other party); the Institutional Party refuses to provide the requested relief; and an arbitrator subsequently determines that the Consumer Party was entitled to such relief (or greater relief), the arbitrator shall award the Consumer Party at least \$5,100 (not including any arbitration fees and attorneys’ fees and costs to which the Consumer Party may be entitled under this Arbitration Provision or applicable law).

Article 15 **GENERAL PROVISIONS**

Enforcement. The Association, or any Owner shall have the right to enforce the Project Documents.

Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association’s construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration. The term “include” and similar terms (e.g., includes, including, included, comprises, comprising, such as e.g., and for example), when used as part of a phrase including one or more specific items, are used by way of example and not of limitation.

Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the person holding the office of President of the United States on the date this Declaration is Recorded.

Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of the other Project Documents.

Laws, Ordinances and Regulations.

15.7.1. The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Ameyalli Residences Design Review Committee, or the Association, with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

15.7.2. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Project is hereby declared to be in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or Co-Ownership Interest or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders, words in the singular shall include the plural, and words in the plural shall include the singular.

Captions and Title; Section References; Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles, Sections or Subsections, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any Owner or Occupant then, unless otherwise specified in the Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is: sent by United States mail to the last known mailing address of the Owner or Occupant (as applicable), as shown in the

records of the Association; sent by electronic means, including text messaging or electronic mail if the Owner has provided the appropriate address or phone number to the Association; if no address is reflected on the records of the Association, then sent by United States mail to the mailing address of the Lot (as applicable) on file with the Wasatch County Assessor's Office; or if there is no such mailing address reflected in the records of the Association and there is no then current address on file with the Wasatch County Assessor's Office, then sent or given in whatever reasonable manner the Board may elect, which may include, without limitation, publishing the same in any newspaper in general circulation within Wasatch County, Utah ("Notice"). This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other reasonable and appropriate manner.

Indemnification. The Association shall indemnify each and every trustee and officer of the Association, each and every member of the Ameyalli Residences Design Review Committee, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the Ameyalli Residences Design Review Committee, and former members of committees appointed by the Board) (collectively, "Association Officials" and individually an "Association Official") against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, unless the liability for such expenses arises out of his or her own intentional misconduct. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be an Association Member and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate as exclusively determined by the Board from the date(s) advanced until paid.

No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Areas, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of

such Owner's Residence or Co-Ownership Interest (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Areas, which shall be subject to Article 4) which may or may not be subject to this Declaration.

After a period of 36 months after the occupancy of the first Residence, the Board is required to partition a Residence in the Club when eight (8) Owners elect to sell their Interests and request such a Partition. The Board may choose any of the Residences for partition under these circumstances. Upon Partition, the Board is required to allow the Partitioned Residence to be allowed to be sold on a full ownership basis to a single purchaser. Those Owners in the Partitioned Residence will have their ownership interests transferred to another Residence.

Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Occupant of any restriction or provision of the Project Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: the name of the Owner or Occupant; the legal description of the Lot or Co-Ownership Interest against which the notice is being Recorded; a brief description of the nature of the violation; a statement that the notice is being Recorded by the Association pursuant to this Declaration; and a statement of the specific steps which must be taken by the Owner or Occupant to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Occupant, and to any subsequent purchaser of the Lot or Club Interest, that there is such a violation. If, after the Recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot or Co-Ownership Interest against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

Disclaimer of Representations. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot or Co-Ownership Interest in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot or Co-Ownership Interest agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or a trustee for the benefit of the Declarant or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

Conflicts. In the event of any conflict or inconsistency between this Declaration and the other Project Documents, priority shall be given to the Project Documents in the following order: this Declaration, Articles, Bylaws, and Association Rules, as each respective document may be amended from time to time. The foregoing to the contrary notwithstanding, in the event of any inconsistency between this Declaration, on the one hand, and or any applicable law, including the CAA, on the other, then in all events the applicable law shall control.

Use of Technology. In recognition of the opportunities offered through computers and continuing advancements in the high technology fields, the Association may, as a Common Expense, provide for or offer services, which make use of computers and other technological opportunities. For example, to the extent Utah law permits, and unless otherwise specifically prohibited in the Project Documents, Declarant or the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect Assessment and other invoices electronically; sponsor a Project cable television channel; create and maintain a Project intranet or Internet home page offering interactive participation opportunities for users; maintain an “online” newsletter or bulletin board; and provide funding for any of the above purposes.

Bulk Service Agreements.

15.20.1. The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owners and Occupants of Lots both within the Property, or within one or more portions thereof, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services: which might not otherwise be generally available to such Owners and Occupants; at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or any combination of the foregoing.

15.20.2. If all Lots within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: include the Association’s costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year;

or separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement, as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly. Such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or other charges. If not all Lots within the Property will be served by a particular Bulk Service Agreement the Board shall have only the billing option described in clause (b) above.

15.20.3. Declarant, for each Lot, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Lot) by the Board pursuant to this Section and all such amounts: shall be deemed to be a part of the Assessments against the Lots (or against or to whose Owners they are levied or charged); with interest, late charges and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

15.20.4. No Owner of a Lot covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot under this Section, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to exempt from payment of such amounts any Lot upon which no Residence or other Improvement has been completed.

15.20.5. "Bulk Provider" means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Occupants, Residences within the Property, Lots or within one or more portions thereof, pursuant to a "Bulk Service Agreement" (as defined below).

15.20.6. "Bulk Service Agreement" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Occupants or Lots.

15.20.7. So long as Declarant's Class B Membership exists, the Board shall not, without the approval of Association Members holding at least fifty-one percent (51%) of all Class A votes represented in person or by proxy at an annual or special meeting of the Association, enter into a Bulk Service Agreement which imposes on the Association or the Association Members any obligation to pay the direct costs of construction of any cables, lines or other facilities or equipment for any cable television, community satellite television, high speed Internet, security monitoring or electronic entertainment, information, communication or security services, but nothing in this Section shall prevent the Board from entering into, or require approval by the Association Members of any Bulk Service Agreement which imposes on the Association or the Association Members installation, connection, service charge or similar charges or fees which do not exceed those generally prevailing at the time within the greater Wasatch County, Utah, area, or which includes as a component of the monthly fee charged by the Bulk Provider amortization of some or all of its capital costs and related costs in providing services under the Bulk Service Agreement.

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IN WITNESS WHEREOF, Declarant has executed this instrument as of the date first set forth above.

Ameyalli Development Company LLC, a Utah limited liability company

By: _____
Its: _____

Acknowledged by the _____

By: _____
Its: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, the _____ of Ameyalli Development Company, LLC, a Utah limited liability company, on behalf of such entity.

Notary Public

My Commission Expires:

**CONSENT, SUBORDINATION AND NONDISTURBANCE
COVENANT OF LIENHOLDER**

The undersigned _____ is the beneficiary under that certain Deed of Trust dated _____, 2023 and recorded as Entry No. _____, in Book _____ at Pages _____, (the "Deed of Trust"), consents to all of the provisions contained in the attached Declaration of Covenants, Conditions, Easements and Restrictions for Ameyalli Residences, and covenants and agrees that the lien of the Deed of Trust shall be junior, subordinate and subject to said Declaration, and that any foreclosure of the Deed of Trust, whether judicially or through the exercise of power of sale, or the exercise of any other rights and remedies thereunder shall not terminate or otherwise adversely affect the continuing validity and enforceability of any of the terms and provisions of the attached Declaration.

Dated this _____ day of _____, 2023.

Ameyalli Development Company, LLC, a
Utah limited liability company

By:
Its: Authorized Agent

STATE OF _____)
: ss.
COUNTY OF _____)

On the _____ day of _____, 2023, personally appeared before me
_____, who, being by me duly sworn, did say that she/he is the
of _____ and that said instrument was signed in
behalf of said corporation.

Notary Public

My Commission Expires:
