

When Recorded Return To:

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR STAGECOACH ESTATES SUBDIVISION

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR STAGECOACH ESTATES SUBDIVISION (“**Declaration**”) is made as of the date set forth on the signature page of this Declaration by the owners of parcels within the subdivision as set forth below.

RECITALS

A. The Stagecoach Estates Subdivision (“**Subdivision**”) is a platted subdivision located in Summit County, Utah, and Morgan County, Utah, more particularly described on **Exhibit A** attached hereto (“**Property**”). The Property has been subdivided into individual single- family lots (“**Lots**”) with Private Roads throughout the Subdivision.

B. The original developers of the Subdivision recorded a Declaration of Protective Covenants for Stagecoach Estates (“**Original Declaration**”). The Original Declaration was recorded in the real property records of Summit County, Utah, on August 2, 1970, as Entry No. 111622.

C. The Original Declaration provides for various restrictions, limitations, and conditions on the use of the Lots within the Subdivision and imposes certain rights and obligations on the owners of the individual Lots within the Subdivision (“**Owners**”).

D. The Stagecoach Estates Lot Owners Association (“**Association**”) is a Utah non-profit corporation that was established by the Owners for the purposes of: administering and enforcing the Original Declaration; collecting the assessments required to be paid under the Original Declaration; maintaining the Private Roads within the Subdivision; and performing such other functions as are provided for in the Original Declaration or the laws of the State of Utah.

E. The Association has adopted the Stagecoach Estates Lot Owners Association Bylaws (“**Bylaws**”) for the clarifying the Association’s composition and duties with respect to administration and enforcement of the Original Declaration. The current Bylaws were recorded in Summit County, Utah, on August 16, 2010, as Entry No. 00904857.

F. Article III, Section I of the Original Declaration provides that the declaration may be modified or changed by the written agreement of not less than seventy percent (70%) of the Owners. Utah Code Ann. § 57-8a-104(1)(a)(i)(A) states that a declaration may not require more than sixty-seven percent (67%) of the voting interests. The requisite number of Owners has determined that a modification to Original Declaration is necessary and appropriate. A Certification from the President of the Association confirming that the requisite number of Owners has approved this Declaration follows the signature block for this Declaration.

G. The Owners intend that this Declaration amended, modify, and supersede the terms of the Original Declaration but that the priority of this Declaration relate back to the date when the Original Declaration was recorded against the Property.

H. In this Declaration, the Owners have adopted covenants, conditions, restrictions, easements, servitudes, and limitations (collectively, the “**Covenants**”) for the purpose of:

- i. Helping to insure uniformity in the development of the Lots;
- ii. Creating certain covenants and use restrictions to help protect long-term property values and a desired quality of life in the Subdivision;
- iii. Facilitating the sale of Lots by the by the individual Owners of Lots in the Subdivision by assuring purchasers of uniformity and basic restrictions intended to preserve property values over time; and
- iv. Maintaining the Private Roads located within the Subdivision in accordance with these Covenants and with any applicable governmental standards.

NOW, THEREFORE, the Owners do hereby establish the Covenants set forth herein and does hereby declare that the Property, and all Lots within the Subdivision, shall be held, sold, conveyed, leased, and rented subject to, and shall be encumbered by, the Covenants set forth below, to the same degree and extent which the Property has been subject to the Original Declaration, and declare that the Covenants shall run with the land and be binding on all persons or entities now or hereafter having or claiming any right, title, or interest in the Property, or any of the Lots within the Subdivision.

ARTICLE 1 – DEFINITIONS

The plural of any word identified below shall have the same meaning as the singular and vice versa. The following words when used in this Declaration shall have the following meanings:

1.1 “Act” means the Utah Community Association Act, Utah Code Ann. § 57-8a-101 *et seq.*, as amended from time to time.

1.2 “Assessment” means any of the fees, assessments, or payments required to be made by Owners of Lots within the Subdivision, including the annual assessments, supplemental assessments, special assessments, and fines as more particularly described in Article 4.

1.3 “Association” means Stagecoach Estates Owners Association, a Utah non-profit corporation.

1.4 “ACC” means Stagecoach Estates Owners Association Architectural Control Committee.

1.5 “Bylaws” means the *Stagecoach Estates Lot Owners Bylaws* identified in Recital E.

1.6 “Board” means the Board of Directors of the Association.

1.7 “Common Areas” mean the Private Roads within the Subdivision, any other portions of the Subdivision owned or purchased by the Association, and any portions of the Subdivision shown on the Plat Map as intended for common use by the Owners and which are not otherwise dedicated or reserved for public use, as set forth on the Plat Map. The Common Areas are more particularly identified in Section 5.1.

1.8 “Common Expenses” means all sums lawfully assessed against the Lots or the Owners; all expenses of administration, maintenance, repair or replacement of the Common Areas; all expenses of management of the Association; all expenses allocated by the Association among the Owners; all expenses agreed upon as common expenses by the Association; and all expenses declared common expenses by this Declaration.

1.9 “Covenants” means every covenant, condition, restriction, easement, and limitation set forth in this Declaration.

1.10 “Declaration” means this *Amended and Restated Declaration of Covenants, Conditions and Restrictions for Stagecoach Estates Subdivision* as it may be amended from time.

1.11 “First Mortgage” means a recorded Mortgage or consensual lien granted by the Owner which is not subject to any senior lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.12 “First Mortgagee” means any person or entity named as a Mortgagee under a First Mortgage and any successor-in-interest to such Mortgagee.

1.13 “Improvement” means every structure, feature or improvement of any kind placed

or constructed in the Subdivision, including but not limited to any Residence, building, garage, lighting, deck, porch, patio, sidewalk, foundation, awning, fence, retaining wall, driveway, irrigation or drainage feature, storage structure or other product of construction and also includes landscaping.

1.14 “Lot” means a subdivided and individually numbered residential parcel as designated on the Plat Map recorded with the county recorder’s office of Summit County or Morgan County. The term Lot includes any Residence or other Improvement constructed thereon.

1.15 “Member” means a person or entity who is a member of the Association.

1.16 “Mortgage” means any mortgage, deed of trust, or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.17 “Mortgagee” means the mortgage or beneficiary identified in a Mortgage.

1.18 “Original Grantor” means the parties that established Stagecoach Estates Subdivision via the Original Declaration.

1.19 “Owner” means the person or entity vested with legal, record fee simple title to any Lot. If there is more than one record holder of legal title to a Lot, each shall be an Owner, provided there shall be only one (1) vote per Lot as set forth in Section 3.3. If a Lot is owned by a trust, the trustee of the trust will be deemed the Owner for purposes of this Declaration. If the Lot is owned by a business entity, then the manager or person designated executive authority to act on behalf of such entity will be deemed the Owner for purposes of this Declaration.

1.20 “Plat Map” means, collectively, the plat maps for the Subdivision filed with the county recorder’s office for Summit County and Morgan County. The following subdivision plats included within the definition of Plat Map have been recorded in real property records of Summit County, Utah: STAGECOACH ESTATES PLAT “A”; STAGECOACH ESTATES PLAT “B”; STAGECOACH ESTATES PLAT “C”; and STAGECOACH ESTATES PLAT “D.” The following subdivision plat map included within the definition of Plat Map has been recorded in the real property records of Morgan County, Utah: STAGECOACH ESTATES PLAT E SUBDIVISION.

1.21 “Private Road” means any of the private streets within the Subdivision which are intended for the general use of all Owners and which are maintained by the Association, as such streets are shown on the Plat Map or, to the extent the location of the streets varies from what the designation on the Plat Map, as such streets are actually constructed and maintained by the Association.

1.22 “Property” means the real property situated in Summit County and Morgan County, State of Utah, as more particularly described in **Exhibit A**, against which this Declaration is recorded.

1.23 “Residence” means the single-family dwelling structure on a Lot within the Subdivision.

1.24 “Rules and Regulations” means the rules, regulations, and restrictions, not inconsistent with this Declaration or the Bylaws, duly adopted and promulgated by the Board. Any Rules and Regulations adopted by the Board must be reasonable, treat all similarly situated Owners similarly, and be consistent with the requirements of the Act.

1.25 “Subdivision” means the Stagecoach Estates Subdivision.

ARTICLE 2 – PROPERTY SUBJECT TO THIS DECLARATION

2.1 Property. The Property, as identified in Exhibit A, is, and henceforth shall be, held, occupied, transferred, sold, and conveyed subject to the Covenants set forth in this Declaration. The Subdivision on the Property is not a cooperative.

2.2 Covenants Run with the Land. This Declaration, and the Covenants herein, shall run with the land and shall be binding on all persons or entities holding or taking title to any interest in the Property or any Lot therein, and all Owners shall hold or take title subject to this Declaration.

2.3 Applicability of the Act. The Owners hereby confirm and acknowledge that the Subdivision is subject to the provisions of the Act with respect to items not addressed in this Declaration but covered by the Act.

2.4 Local Laws and Ordinances Applicable. The Property is located in Summit County and Morgan County. In addition to the Covenants set forth in this Declaration, the Property and any Lot therein is subject to local laws and ordinances, including applicable building codes and zoning ordinances, now or hereafter in effect.

2.5 Expandability. Except as allowed or required by a court of competent jurisdiction, the Subdivision is not expandable.

2.6 Enforcement of Covenants.

2.6.1 By the Association. The Association, through its Board, shall have the right to enforce compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, and any other Rules and Regulations voted on by the Membership at the Annual meeting and promulgated by the Board. The Bylaws may provide for additional procedural requirements for the Association to comply with when fining Owners. Moreover, notwithstanding any other provision of this Agreement to the contrary, the Association and the Board will comply with the terms of the Act when enforcing covenants or assessing fines per an established fine schedule. The Board may pursue legal action to enforce the Covenants or collect fines. The Board may also suspend any services provided to an Owner who fails to comply, or whose Lot does not comply, with the Covenants set forth in this Declaration. The Board may also suspend voting rights or privileges related to Common Areas for non-compliance. Any costs associated with the Association's enforcement of this Declaration, including the Association's legal fees, may be assessed to the non-complying Owner as a special assessment.

2.6.2 By an Owner. Any Owner aggrieved by another Owner's non-compliance

with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations promulgated by the Board may commence an action seeking to enforce compliance with the same.

2.6.3 Fines. The Association Board may adopt a schedule of fines for violations of these Covenants, the Bylaws, or the Rules and Regulations. Any applicable fines will be assessed and collected by the Board in a manner consistent with the terms of this Declaration and the Act. The Association's lien, identified in Article 4 of this Declaration, shall include fines. Before assessing a fine, the Board will provide any notice required under the Act. ~~[STRIKING THE FOLLOWING RED-LINE TEXT AS WILL BE IN A FINE SCHEDULE TO BE VOTED ON]~~ However, once notice of a violation is provided to an Owner the Board may within one (1) year thereafter, without further warning or notice, assess an additional fine: (a) for each additional violation of the same provision of the Covenants, Bylaws, or Rules and Regulations which triggered the initial notice; and (b) for each ten (10) day period of time in which an Owner allows the initial violation to continue after the date on which fine was initially assessed. No fines may be assessed or collected for violations occurring more than one (1) year after the original notice provided under this Section unless an additional notice is provided as required under this Declaration and the Act. After receiving a notice from the Board under this Section, an Owner may submit to the Board a request asking whether the association is continuing to assess fines for additional ten (10) day periods as provided under this Section. Upon receipt of such a request, the Board may not assess any such additional fines unless, within twenty (20) days after receiving such request, the Board responds to the request in writing stating that the initial violation is uncured. Any fines which remain unpaid thirty (30) days after being assessed will accrue interest at a rate of twelve percent (12%) per annum. Any Owner who is assessed a fine may contest the fine in the manner provided in the Act.

2.6.4 Injunction; Legal Fees. Under appropriate circumstances, the Association or an aggrieved Owner may seek a temporary restraining order or preliminary injunction to stop or prevent non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations promulgated by the Board. In any such legal action, the prevailing party shall be entitled to an award of reasonable costs and Attorney fees. In addition, the Association shall have all enforcement rights and remedies set forth in the Act as the same may be amended from time to time.

ARTICLE 3 – ASSOCIATION AND MEMBERSHIP THEREIN

3.1 Membership. Each and every Owner, by accepting a deed for any Lot, whether or not it shall be so expressed in such deed, automatically becomes a Member of the Association, and agrees to be bound by the Covenants identified herein and by such reasonable Rules and Regulations as may, from time to time, be established by the Association. Membership is mandatory for all Owners. When more than one person or entity is an Owner of a Lot, all such persons or entities shall be Members. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Lot, whether by conveyance, intestate succession, testamentary disposition, foreclosure of a Mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Utah. The foregoing is not intended to include persons or entities holding an interest merely as security for the performance of an obligation.

3.2 Transfer. Upon the transfer or conveyance of any Lot, the transferee or grantee shall become a Member, and the transferor or grantor shall immediately cease being a Member. The Board shall maintain a list of all Members and shall note each transfer of ownership on such list. Upon the transfer or conveyance of any Lot, the selling or transferring Owner shall promptly inform the Association of the name of the transferee or grantee.

3.3 Voting Rights. The Owner or Owners of each Lot, or such Owner's designated proxy, shall be entitled to one (1) vote for each Lot owned. The one (1) vote for such Lot shall be exercised as they, among themselves, determine. Where a Lot is owned by more than one Owner, the vote of any one of them shall be conclusively presumed to have been exercised as a result of an agreement among such Owners and in the event multiple Owners attempt to exercise a vote for such Lot on any question or issue, the Owners of such Lot will forfeit the right to vote on that question or issue. In no event shall more than one (1) vote be cast with respect to any Lot. With respect to any question or issue requiring a vote of the Association, vote of the Owners, or vote of the Members of the Association, the total number of votes cast shall not exceed the number of Lots in the Subdivision. Unless otherwise required by this Declaration or the Bylaws, the number of affirmative votes required for approval of any matter submitted to vote of the Members shall be a majority of the votes cast with respect to such matter. All voting rights shall be subject to the restrictions and limitations provided herein and in the Bylaws. Unless otherwise provided in the Bylaws, no Owner may exercise such Owner's vote during any time during which such Owner is delinquent in the payment of any assessments or fees provided for in this Declaration.

3.4 Meetings. Unless otherwise provided by this Declaration or by the Bylaws, all matters requiring a vote of the Members of the Association shall be decided at a meeting of the Members held for that purpose. Except in the case of an emergency or other situation which

requires shorter notice, written notice designating the time and place of such meeting shall be provided to each Member no less than ten (10) or more than sixty (60) days in advance of a meeting. Other provisions for giving notice of such meetings, determining a quorum, and tallying votes shall be included in the Bylaws, or shall be established by the Board. In lieu of attending a meeting held for the purpose of exercising voting rights, Members may exercise such voting rights in writing or through a proxy, if designated in writing before the time for such vote. By attending a meeting where a vote is held, by exercising a vote in writing, or by designating a proxy, an Owner shall be conclusively deemed to have received adequate notice of such meeting or such vote.

3.5 Board of Directors and Officers. The Board shall be the governing body of the Association. In addition to those set forth herein, the powers, rights, privileges, and duties of the Board shall be set forth in the Bylaws. The number of directors shall be fixed by the Bylaws, but in no case shall the Board number less than three (3) directors. The Bylaws shall establish the number of Officers of the Association and shall prescribe the duties of the same. The Officers and members of the Board shall be chosen, removed, or replaced by the vote of the Members of the Association in accordance with the provisions of the Bylaws.

3.6 Officers and Directors to be Owners. All members of the Board and all Officers of the Association, as established by the Bylaws, shall be Owners, and no person who is not an Owner is eligible to serve as an Officer or member of the Board of the Association; PROVIDED that if a Lot is owned by a trust, the trustee of such trust may serve, and if a Lot is owned by a business entity, a member, manager, officer, or director of such entity may serve as an Officer or member of the Association's Board.

3.7 Professional Management. The Association may carry out the functions required of it pursuant to this Declaration, the Bylaws, or the Rules and Regulations; to the extent such functions are properly delegable, by and through a professional manager (“**Manager**”). If a Manager is engaged, the Manager shall be an independent contractor and not an employee of the Association, shall be responsible for managing the Subdivision for the benefit of the Association and the Owners, and shall, to the extent permitted by the Board, be authorized to perform any of the properly delegable functions or acts required or permitted or performed by the Association.

3.8 Bylaws. Nothing in the Bylaws shall substantially alter, amend, or impair the rights and obligations of the Owners set forth in this Declaration.

ARTICLE 4 – ASSOCIATION ASSESSMENTS

4.1 Covenant to Pay Assessments. The Owner of any Lot, by accepting a Deed for said Lot, whether or not it shall be expressed in the deed, agrees and is deemed to have agreed to pay to the Association all fees, annual assessments, supplemental assessments, and special assessments as set forth in this Declaration.

4.2 Purpose of Assessments. The operations and obligations of the Association, as identified in the Act, this Declaration, and the Bylaws, shall be funded through fees, annual assessments, supplemental assessments, and special assessments levied against the Lots.

4.3 Types of Fees and Assessments. The Association may impose the following fees and assessments:

4.3.1 Annual Assessment. Each Owner shall pay an annual assessment for each Lot owned by such Owner. The annual assessment shall be the Lot's share of the total annual amount necessary for the Association to perform all of its obligations, whether imposed by the Act, this Declaration, or the Bylaws. Without limitation, the annual assessment shall include each Lot's share of the Common Expenses including the cost to maintain and preserve the Common Areas, including insurance thereon, the amounts necessary to perform the Association's other maintenance obligations, the amounts necessary to fund the Association's reserve fund in a manner consistent with the Act, the Association's administrative expenses, and the amount any obligations imposed on the Association by any applicable law, ordinances, or regulations, all of which shall be identified in the Association's budget. The annual assessment shall be fixed, and from time to time adjusted, by the Board in accordance with the provisions of the Act **and voted on by the Association at the Annual Meeting.** At a minimum, the Board shall review the annual assessment on an annual basis and make such adjustments as are necessary. Unless otherwise provided in the Bylaws, the Board may set a date on which assessments are due. **The Board may require that the annual assessment attributable to each Lot be divided in twelve (12) equal shares and paid in the form of a "monthly membership assessment," to be due and payable each month on a date fixed by the Board.** The amount of the annual assessment shall be fixed at a uniform rate for each Lot assessed and shall be a portion of the Association's annual Common Expenses determined by dividing the total Common Expenses by the number of Lots to which assessments are imposed. The Board may not increase the amount of an annual assessment for any fiscal year by more than 20% over the previous fiscal year's annual assessment without first obtaining the affirmative vote of a majority of the Members at a meeting of the Association called for such purpose.

4.3.2 Supplemental Assessment. In the event the annual assessment is

insufficient to meet the Association's regular recurring obligations in any given fiscal year, the Board may assess a supplemental assessment against each Lot for a share of any supplemental amount necessary to meet the Association's annual obligations. Each Lot's share of a supplemental assessment shall be determined in the manner for annual assessments as set forth in Section 4.3.1.

4.3.3 Special Assessment. The Board may assess a special assessment to pay for special, non-recurring, or emergency expenses of the Association or the Subdivision which exceed the Association's annual budget for the fiscal year during which such expenses arise, including but not limited to expenses related to damage to the Subdivision, unanticipated repairs, and Common Area improvements.

4.3.4 Capital Improvements. Notwithstanding any other provision of this Declaration, the Association shall not make any Capital Improvement without the authorization of 67% of the Owners voting at a meeting called for the purpose of proposing such Capital Improvement. For purposes of this Section, a "Capital Improvement" shall mean the installation of new Improvement, or a major upgrade to an existing Improvement, located within a Common Area or other portion of the Subdivision managed by the Association, for which funds are not otherwise identified in the Association's budget. If approved as provided in this Section, the cost of a Capital Improvement may be assessed to the Lots as a special assessment.

4.4 Budget. The annual assessment shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following. Prior to the Association's annual meeting, the Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, the anticipated receipts (if any), and any deficit or surplus from the prior operation period. 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 Subdivision shall be operated during such annual period. Prior to the Association's annual meeting, the Board shall also notify each Owner of the **proposed** amount of the following fiscal year's annual assessment for each Lot owned by such Owner.

4.5 Reserve Account. The Association must comply with the terms and provisions of the Act relating to a reserve analysis and the funding of a reserve account for those Common Areas of the Subdivision, if any, for which the Association is required to maintain a reserve account. Any reserve account will be funded by assessments imposed in accordance with the terms of this Article 4.

4.6 Lien and Personal Obligation. All fees, fines, and assessments identified in this Declaration, together with any applicable late payment fees, interest, costs, and reasonable

attorney fees, shall be a charge and lien against the Lot against which such assessment is imposed. In addition, each Owner's obligation to satisfy such fees, fines, and assessments is an independent and personal covenant of such Owner, with all amounts being due and payable without setoff or deduction when assessed. In the event of a failure to pay such fees, fines, and assessments, or other default, the Association may pursue an action against the Owner to collect the assessment and enforce the lien against a Lot by foreclosure in the manner set forth below. The Association's lien shall be a continuing lien on each Lot and shall be subordinate to a First Mortgage, where the Mortgagee is a lender who loaned funds for the purchase of the Lot, and shall also be subordinate to a lien for property taxes or other public assessments, but the Association's lien shall be superior to all other liens, charges, or encumbrances of any sort which shall hereafter arise or be imposed on any Lot. The Association's lien shall not be affected by the sale or transfer of any Lot.

4.7 Statement and Evidence of Payment. Upon receipt of a written request by an Owner, or any other person or entity, the Board shall within a reasonable time issue to such Owner or other person or entity a written certificate stating, as applicable, (i) that all annual, special, and supplemental assessments (plus any applicable costs or fees) have been paid with respect to any specified Lot as of the date of the certificate, or (ii) if all assessments have not been paid, the amount of such outstanding annual, special, or supplemental assessments (plus any applicable costs or fees) due and payable as the date of the certificate. The Board may make a reasonable charge for issuing such certificates. Any such certificate, when issued as provided herein, shall be conclusive and binding with respect to any matter therein stated.

4.8 Effect of Non-Payment and Remedies.

4.8.1 Late Fees and Interest. Any fees, fines, or assessment not paid within thirty (30) days from the due date thereof shall be subject to a late payment fee in an amount to be determined by the Association Bylaws Board. In addition, all fees and assessments not paid when due shall bear interest at the rate of twelve percent (12%) per annum, or at such lesser rate as may be set from time to time by the Association Bylaws Board.

4.8.2 Legal Remedies. The Association may bring an action at law against the Owner personally obligated to pay the same, and may foreclose the lien against such Owner's Lot in the manner provided by the laws of the State of Utah, and in the event a judgment is obtained, such judgment shall include interest on the fees, fines, and assessments and reasonable attorney fees to be fixed by the court, together with the costs of the action. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose the Association's lien for any subsequent fees, fines, assessments, charges, costs or fees, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or

other legal sale, and to acquire and hold, lease, mortgage, vote the membership votes appurtenant to ownership of such Lot, and to convey or otherwise deal with such Lot. In addition to the other rights and remedies set forth herein, the Association shall have all of the rights and remedies pertaining to enforcement of assessment liens as set forth in, and to be exercised in accordance with, the provisions of the Act, including, without limitation, the provisions in Utah Code Ann. §§ 57-8a-302 and -303, as the same may be amended. To this end, the Owners hereby convey and warrant pursuant to Utah Code Ann. §§ 57-1-20 and 57-8a-302 to First American Title Insurance Agency, Company, as trustee, with power of sale, the Lots and all improvements to the Lots for the purpose of securing payment of assessments under the terms of this Declaration. The Association shall have the right to substitute said trustee and appoint a successor trustee as provided by statute. The lien of the Association shall be superior and prior to all other liens and encumbrances except liens and encumbrances recorded prior to the recordation of this Declaration, a First Mortgage on a Lot, and assessments, liens, and charges in favor of the State of Utah or a political subdivision thereof imposed for taxes or other governmental assessments or charges past due and unpaid. In any action brought by the Association (or counterclaim or cross-claim brought by the Association) to collect assessments or to foreclose a lien for unpaid assessments, the Association shall be entitled to have a receiver of the Owner appointed to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's assessments of any kind or nature permitted hereunder.

ARTICLE 5 – COMMON AREAS

5.1 Identification. The Subdivision shall have Common Areas consisting of portions of the Subdivision which are intended for the common use of the Owners, including: the Private Roads; any portion of the Subdivision shown on the Plat Map as intended for common use by the Owners; and any portion of the Subdivision owned or purchased by the Association. The Association may install amenities on Common Areas which are deemed appropriate or beneficial to the Subdivision and any such amenities shall constitute Common Areas within the meaning of this Declaration.

5.2 Use and Enjoyment. Each Owner shall have a non-exclusive right to use and enjoy the Common Areas. The right of use and enjoyment shall include an access easement to and over all Common Areas. The right to use and enjoy the Common Areas shall be appurtenant to such Owner's ownership of a Lot within the Subdivision and shall immediately transfer upon any conveyance of the Lot.

5.3 Use of Private Roads. As set forth in the Original Declaration, each and every Owner does hereby grant to the Association and to every other Owner, to the Original Grantors

and to the guests and invitees of the same, a perpetual easement and right of way across the portion of such Owner's Lot which is encumbered by the Private Roads. Further, the annual cost of maintaining and improving such Private Roads shall be a Common Expense of the Association, and each Owner agrees to pay a proportionate share thereof, all as provided in Article 4.

5.4 Association Rules. The Rules and Regulations established by the Association and promulgated by the Board may include reasonable restrictions on the time, manner, and character of use of the Common Areas by the Owners, their guests, or invitees, including the limitations on total number of persons permitted to use the Common Areas at any given time.

5.5 Maintenance. The Association directly, or through designated agents, shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace and maintain the Common Areas. The Association shall pay all utility charges attributable to the Common Areas. No Owner, directly or indirectly, shall perform any maintenance, including snow removal, or make any alterations to any Common Areas without prior written consent of the Board. The Board may refuse consent, or impose conditions on its consent, as the Board reasonably deems necessary to avoid any adverse impact to the Common Areas and the Owners' use of such Common Areas. Any Owner who violates this provision may be subject to Association fines, as set forth in Section 2.6.3, or other Association action. Any Owner performing maintenance or making alterations shall be liable to the Association for any damage caused in connection therewith. Notwithstanding the foregoing, the Association may, but is not obligated to, plow all the Private Roads in the Subdivision, provided that upon the vote sixty-seven percent (67%) of the owners of lots are in favor of the Association shall performing snow removal. The cost of all maintenance of the Common Areas, including plowing and or snow removal of the Private Roads to the extent the Association undertakes the same, shall be a Common Expense.

5.6 No Obstruction. No Owner or other person shall obstruct or permanently occupy any portion of a Common Area without prior written permission of the Board. Without limiting the foregoing, each Owner shall be responsible to ensure that any contractors, subcontractors, or tradesmen performing work on such Owner's Lot have adequate parking on such Owner's lot.

5.7 Limitations on Use. In addition to restrictions set forth in the Rules and Regulations, an Owner's right to use and enjoy the Common Areas, other than the Private Roads within the Subdivision, may be temporarily or permanently restricted as set forth in this Section 5.7. An Owner's right to use the Private Roads to access such Owner's Lot may not be temporarily or permanently restricted, but the Association may impose reasonable restrictions on the manner of use, including noise and nuisance regulations. With respect to any other Common Areas within the Subdivision, an Owner's rights to use the same may be restricted in the following circumstances consistent with, and to the extent allowed by, the Act:

5.7.1 Any period during which the fees or assessments imposed against such Owner's Lot remain unpaid.

5.7.2 Any period during which such Owner, such Owner's Lot, or any Improvement upon such Owner's Lot is or remains in a state of non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations promulgated by the Board, provided that such Owner shall have thirty (30) days after receiving written notice of such non-compliance to remedy the same before any restriction shall be imposed under this Section 5.7.2.

5.7.3 Any other reasonable grounds as determined by the Association Rules and Regulations.

ARTICLE 6 – PROPERTY RIGHTS, LIMITATIONS, AND USE RESTRICTIONS

6.1 Residential Use and Occupancy. Each Lot and all Improvements thereon, shall be used only for residential purposes. Each Lot may have one (1) Residence. No Lot shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Lot, so as to create a nuisance or interfere with the rights of any Owners, or in any way which would result in an increase in the cost of any insurance.

6.2 No Commercial Use. No Lot in the Subdivision may be used for commercial purposes of any sort unless each of the following conditions is satisfied: (a) such commercial use is approved under the applicable zoning ordinance; (b) the commercial use is not apparent or observable from any surrounding Lots or Common Areas; (c) the commercial use does not impose any burden on any other Owner, Lot, or Common Area; (d) the commercial use does not increase traffic on, or use of, any Private Roads in the Subdivision; (e) the commercial use does not involve any dangerous activity or nuisance or create any attractive nuisance; and (f) the commercial use does not conflict with any other provision or restriction set forth in this Declaration. Examples of uses which may be permissible under the foregoing standards may include home office use, telecommuting, or non-commercial agricultural use. Without purporting to provide an exhaustive list of prohibited commercial uses; under no circumstances shall any Lot or other portion of the Subdivision be used for any the following: development of oil, gas, or other surface or subsurface minerals or substance (groundwater excepted); any commercial recreational use; any manufacturing use; or sales of any animals or goods. No Owner may maintain any sign or display of any sort on such Owner's lot advertising such commercial use.

6.3 No Further Subdivision. No Lot or Common Area shall be further subdivided or separated into smaller or multiple parcels. No conveyance of less than all of any Lot shall be permitted.

6.4 Internal Streets, Roads, or Trails. In keeping with the mountain character of the Subdivision, and in order to preserve the habitat for wildlife residing within the Subdivision, no Owner shall construct any engineered, graded, or paved streets, trails, roads or paths on a Lot except for a driveway or other roadway providing access to the Residence on such Lot from the Private Roads. This Section 6.4 does not prohibit an Owner to create certain trails or paths for pedestrian, equestrian, or recreational use, subject to the restrictions identified herein. However, Owners shall not improve any internal trails with road base, pavement, or any impervious or semi- impervious substance. No internal trails may be used in a manner that creates or contributes to a nuisance, as identified in Section 6.6., and shall not otherwise become a safety danger to, or threaten, other Owners, their invitees, or wildlife.

6.5 Prompt Repair. Each Residence and other Improvement on an Owner's Lot shall be kept in good repair. As applicable, the Owner **or Association** shall promptly repair damage to any Residence or Improvement on such Owner's Lot. Repairs shall be made in accordance with the design guidelines promulgated by the Association's Architectural Control Committee ("ACC") identified in Article 8 below.

6.6 Nuisance and Noise. No Owner shall use, or permit a guest or invitee to use, a Lot or a Common Area in a manner that unreasonably interferes with the use and enjoyment of any other Lot by the Owner or Owners thereof or which constitutes a safety hazard for, or unreasonable annoyance to, other Owners or wildlife within the Subdivision, each of the foregoing uses being a nuisance. Each Owner shall be bound by, and shall comply with, the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations **promulgated by the Board** regarding nuisances. Without limiting the foregoing, nuisances include, but are not limited to, each of the following: any unclean, unhealthy, unsanitary, unsightly, or untidy condition; any condition that emits foul, unpleasant, or noxious odors; any activity which unreasonably intrudes on an owner's privacy; any condition or activity that causes or creates noise levels which are unreasonably loud or which are unreasonably long in duration, particularly when such noises are discernible from adjoining Lots; the failure to regularly remove trash, rubbish, waste, debris, from a Lot; any activity involving off-road vehicles or other motorized **vehicles** which is unsafe or causes an unreasonable annoyance or disturbance to other Owners.

6.7 Temporary and Other Structures. No temporary or prefabricated structures shall be permitted or used in the Subdivision nor shall any mobile home, trailer, RV or other vehicle or Improvement be used for residential purposes. Notwithstanding the foregoing, the ACC may authorize the use of a temporary structure or vehicle for residential use for a period not to exceed six (6) months provided that during that time construction of a Residence on the Lot is proceeding with reasonable diligence.

6.8 No Hunting. Hunting of any sort by any means is not permitted within the Subdivision.

6.9 Streambed Protection. Each Owner shall take appropriate steps to protect natural streambeds and watercourses within the Subdivision. No natural streambed or watercourse, including seasonal streams, may be blocked, diverted, or obstructed.

6.10 Offensive, Unsightly, and Unsafe Conditions. No Owner shall permit any noxious, offensive, unsightly, or unsafe activity, object, animal, or condition to exist on such Owner's Lot. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. Lumber, grass clippings, tree limbs or branches or other plant waste, metals, bulk materials or scrap or refuse or trash shall be promptly disposed of and shall not be kept, stored or allowed to accumulate on any Lot, except within an enclosed structure or when appropriately screened from view. No Owner shall dispose, or permit to be disposed, any oil, gas, toxic or hazardous material, or other unsafe substance within the Subdivision. The Association may adopt reasonable Rules and Regulations to further clarify the responsibilities of Owners under this Section 6.10.

6.11 Signs. The Association may impose design guidelines for the display of any signs in the Subdivision, including "for sale" signs, and may adopt Rules and Regulations restricting the time place and manner in which signs are displayed. A residential identification sign is permitted but should not exceed one (1) square foot in surface area and should be clearly visible from the closest Private Road. No other signs are permitted unless approved by the ACC. As the Board determines appropriate, the Association may install signs on Common Areas in various locations within the Subdivision identifying the names of the Private Roads, containing directions, stating "No Hunting" and other applicable use restrictions, and / or providing other general information for the benefit of Owners and their guests. The location and content of such Association signs will be determined by the Board, and the materials and design must be approved by the ACC.

6.12 Rooftop Antennas. The ACC's design and maintenance criteria shall include guidelines regulating the installation of television, ham radio, citizens band, or radio antennas, satellite dishes, and other similar devices ("Antennas"). The ACC's design and maintenance criteria regulating Antennas shall comport with all applicable federal, state, and local laws and regulations governing Antennas and no Antennas shall be installed within the Subdivision without the approval of the ACC.

6.13 Domestic Animals. The Association may adopt Rules and Regulations establishing reasonable restrictions on the type and number of pets permitted within the

Subdivision, including reasonable restrictions on the keeping of poultry, livestock, and other animals within the Subdivision provided that the Rules and Regulations shall not permit more the following to be kept on any Lot: domestic pets such as dogs, cats, etc., three (3) each, and four (4) total large livestock animals (cows, horses, sheep, goats, llamas, etc.). In addition, no pets or animals, including, without limitation, domestic pets, large livestock, and poultry, shall be permitted on any Lot if such animals are or become a danger or nuisance to residents of the Subdivision or their guests, or which constitute a danger or nuisance to local wildlife, birds, fish, and game animals within the Subdivision. No animals may be kept on any Lot for commercial purposes. No wild or game animals are permitted to be kept as pets.

6.14 Ingress and Egress. Each Owner shall have a right of ingress to and egress from such Owner's Lot, with such right of ingress and egress being perpetual and appurtenant to ownership of the Lot.

6.15 Vehicles and Parking. There shall be no parking on any of the Private Roads within the Subdivision. All vehicles must be parked on an Owner's Lot. **However, any camper, RV, or other vehicle that is parked long-term on a Lot or not regularly used must be screened from view of other Lots and Common Areas.** Notwithstanding the foregoing, vehicles may be parked at the parking lot at the bottom of the Subdivision for not more than ten (10) consecutive days. Vehicles parked, repaired, or stored in violation of this Declaration or the Rules and Regulations may be towed and impounded, at the Owner's expense, without further notice.

6.16 Encroachment. No Improvement on any Lot shall encroach on an adjoining Lot or Common Area and any such encroaching Improvements must immediately be removed at the expense of the Owner of the Lot from which the Improvement encroaches. If, however, encroachment occurs due to natural settling or shifting or for other reasons beyond the control of the Owner, the Owner shall be deemed to have an easement for the maintenance of such encroaching Improvement which shall exist, and shall run with the land, for so long as the encroaching Improvement exists.

6.17 Leases. Any permitted lease agreement relating to any Lot shall be subject to all the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations **promulgated by the Board.** All leases shall be in writing and shall specifically reference the existence and applicability of this Declaration, the terms of the Bylaws, and the Rules and Regulations. An Owner shall be responsible and liable for any damage to the Subdivision caused by such Owner's tenant.

6.18 Short Term Rentals and Timeshares.

6.18.1 Notwithstanding Section 6.17 any other provision of this Declaration, no Owner may lease any Residence or other Improvement, or any portion thereof, to any other person for a term of less than six (6) months. Overnight or other short-term rentals

are prohibited within the Subdivision.

6.18.2 As provided in Utah Code Ann. § 57-8a-209(2), the rental restriction set forth in Section 6.18.1 shall not apply to: an Owner who is actively deployed in the military; a Residence occupied by the Owner's parent, child, or sibling; an Owner whose employer has relocated the Owner for less than two (2) years; if the Lot is owned by an entity, occupancy of the Residence by an individual who has voting rights under the entity's organizing documents, or owns 25% or more of the entity; if the Lot is owned by a trust, the beneficiary of the trust or the parent, child, or sibling of the beneficiary of the trust.

6.18.3 The rental restriction set forth in Section 6.18.1 shall not apply to any rental agreements in place as of the date this Declaration is recorded.

6.18.4 The Association will adopt Rules and Regulations that track the number of Lots with Residences that are occupied pursuant to short-term leases under Section 6.18.2 and Section 6.18.3. The Rules and Regulations will also ensure consistent administration and enforcement of the restriction set forth in Section 6.18.1.

6.18.5 No timesharing arrangement or timeshare interest, as defined in Utah Code Ann. § 57-19-2, is permitted within the Subdivision.

6.19 Compliance by Guests, Tenants, Contractors. Each Owner is responsible for the conduct of such Owner's guests, tenants, or invitees, including any contractors, subcontractors, or tradesmen who perform work on such Owner's Lot. Any violation or breach of the Covenants, Bylaws, or Rules and Regulations by an Owner's guests, tenants, or invitees shall be considered as a violation or breach by such Owner and such Owner will be liable for the same as provided in this Declaration.

6.20 Enforcement. The Board is authorized to enforce the terms of this Article 6. In addition to other remedies available under this Declaration, the Board may adopt, and assess, reasonable fines for violations of the requirements and restrictions set forth in this Article 6. Such fines, if unpaid, may be enforced against the applicable Owner and such Owner's lot as provided in Section 4.6 and Section 4.8.

ARTICLE 7 – MAINTENANCE AND OTHER OBLIGATIONS

7.1 Owner's Compliance with Declaration. Each Owner shall fully comply with, and shall cause such Owner's guests and invitees to fully comply with, the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations.

7.2 Maintenance by Owner; Runoff Water. Each Owner shall maintain such Owner's Lot, and all improvements thereon, in good repair and in a clean and tidy manner, and in accordance with all the Covenants set forth in this Declaration and the ACC's design and maintenance criteria, so as to not detract from the overall appearance of the Subdivision. The Owner shall maintain the Residence and all other Improvements in a safe and functional condition. Each Owner shall maintain such Owner's Lot at the Owner's expense without any setoff right. **The Board may adopt reasonable Rules and Regulations governing the appearance and use of driveways, decks, patios, and balconies within the Subdivision.** Each Owner shall also take appropriate steps to control runoff water from such Owner's driveway. Among other things, each owner must redirect or divert runoff water from such Owner's driveway into a ditch or barrow at or before the location where such Owner's driveway intersects the Private Roads within the Subdivision.

7.3 Maintenance by Association.

7.3.1 The Association shall maintain Common Areas. The Association shall keep Common Areas and other areas for which it is responsible clean, appropriately landscaped, functional, attractive, and generally in good condition and repair consistent with any applicable requirements of any applicable municipal authority.

7.3.2 In the event that the need for maintenance or repair to Common Areas is caused by the willful or negligent acts of any Owner or group of Owners, or by their guests or invitees, the cost of maintenance may be assessed solely to the responsible Owner or Owners as a special assessment.

7.4 Utilities. The Owner of each Lot shall pay for all utility services provided to such Lot, except utility services which are not separately billed or metered. Any such common utilities shall be paid by the Association and an appropriate share shall be charged to each Lot as part of the annual assessment.

7.5 **Remedies.** **Among other available remedies, the Association shall have the right to enter each Owner's Lot and perform maintenance otherwise required to be performed by an Owner and to recover the cost of such maintenance from such Owner as an Assessment against such Owner's Lot if the Association determines that such Owner is unwilling or unable to timely perform such maintenance. Except in the case of an emergency, the Association may not exercise**

this remedy unless: (a) the Owner has been given written notice of the need to perform such maintenance and fifteen (15) days have elapsed since such notice was given without the required maintenance being performed by such Owner, and (b) the Owner is given the opportunity for a hearing before the Board.

In the case of an emergency impacting the Subdivision, the Association shall have the right to enter each Owner's Lot and perform repairs otherwise required to be performed by an Owner and to recover the cost of such repairs from such Owner as an Assessment against such Owner's Lot if the Association determines that such Owner is unwilling or unable to timely perform such repairs.

ARTICLE 8 – ARCHITECTURAL CONTROL

8.1 Residential Structures; No Temporary Structures. The primary Improvement on each Lot shall be a Residence. Any other Improvements on the Lot shall be consistent with and shall not detract from the residential nature of the Subdivision. Without written permission of the Board, there shall be no temporary or prefabricated structures (except in the case of contemporary modular homes which meet the ACC's design and maintenance criteria), mobile homes, trailer houses, or other non-permanent structures allowed in the Subdivision.

8.2 Building Footprint; Residence Size. The Residence and all related Improvements including garages, sheds, shops, barns, outbuildings, etc., shall be limited to a one (1) acre portion of the Lot ("**Development Footprint**") it being the intent of this provision that the portion of the Lot outside the Development Footprint remain in its natural condition or be used for grazing or other purposes which have minimal impact on the natural condition of the Lot. All residences in the Subdivision shall have a minimum of **one thousand (1000) square feet** and no residence larger than ten thousand (10,000) square feet may be constructed in the Subdivision. No Improvement shall be nearer than seventy (70) feet to the front property line or any Private Road within the Subdivision or sixty (60) feet to a side or rear property line.

8.3 Construction. Unless otherwise permitted by the Board, all Improvements must be completed within eighteen (18) months from the commencement of construction. For Residences, this includes all exterior painting and finish work and the installation of all required landscaping. During the construction of any Improvement, the affected Lot must be kept reasonably clean and tidy and all construction debris must be controlled and regularly removed. Notwithstanding any other provision of this Declaration, an Owner is allowed to maintain a construction dumpster on a Lot during the construction period identified in this Section, provided such dumpster is regularly emptied and does not become a nuisance. All construction activities must comply with the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations **promulgated by the Board** and all local zoning ordinances, building codes, and other applicable laws. Each Owner is responsible for paying all fees associated with any permits required by local zoning authorities and the ACC may require an Owner to demonstrate

that it has, or is able to obtain, a building permit from the local zoning authority before such Owner is allowed to submit plans for approval as provided below.

8.4 Architectural Control Committee.

8.4.1 There shall be an Architectural Control Committee (“ACC”) of the Association. The Board shall select not less than three (3) of the Owners to be the members of the ACC. The Members of the ACC will serve terms of five (5) years, which terms may be renewed, PROVIDED that the Board may, from time to time, remove or replace members of the ACC.

8.4.2 The ACC shall promulgate the design and maintenance criteria for residential structures and all other Improvements permitted within the Subdivision. The design and maintenance criteria shall be consistent with the building, land use, and other ordinances and regulations promulgated by any local government with regulatory authority. The ACC may regulate the placement of signs, banners and similar displays within the Subdivision. The ACC shall make such design and maintenance criteria available to all Owners or prospective Owners and, if possible, shall publish the design and maintenance criteria in electronic format.

8.4.3 All Residences, fences, and other Improvements shall be constructed and maintained in accordance with the ACC’s design and maintenance criteria. Prior to construction, alteration, modification, or replacement of any Improvements within the Subdivision, an Owner shall submit plans for the same to the ACC. The ACC shall evaluate all such plans for compliance with the ACC’s design and maintenance criteria.

8.4.4 The ACC may employ architects, engineers, and other professionals to review plans submitted by an Owner. The Owner shall pay all expenses reasonably associated with the ACC’s review of the plans.

8.4.5 The ACC shall approve or deny such plans in writing within thirty (30) business days following receipt of the same. Failure to approve or deny such plans within the time period provided shall constitute an approval.

8.4.6 The ACC shall have the right, but not the duty, to enforce compliance with the design criteria, including by means of fines levied by the Association or by legal action, in which case the ACC shall be entitled to recover the costs of enforcement, including reasonable attorney fees.

ARTICLE 9 – EASEMENTS

9.1 Easements Shown on Plat Map. The Property and Lots are subject to the easements, rights of way, encroachments, and other encumbrances as shown on the Plat Map. Within such easements, no Improvement of any type shall be placed or permitted to remain which may damage or interfere with the intended purpose of such easement.

9.2 Easements Reserved. In addition to easements shown on the Plat Map or otherwise provided for in this Declaration, the following easements are reserved for the benefit of the Owners and the Association:

9.2.1 Easement for Encroachment. If, because of an error in original construction, an error on the Plat Map, natural settling or shifting of the earth, or good faith mistakes during repair or reconstruction, any part of the Common Areas encroaches on an adjoining Lot, an easement for the encroachment and for maintenance of the Common Areas shall exist in favor of the Association.

9.2.2 Current Utility Easements. The Association and public utility or public service providers shall have an easement for the installation, maintenance, and repair of such utilities and services as shown on the Plat Map. Except for equipment or improvements for which the public utility or public service provider is responsible, each Owner shall maintain the portion of such Owner's Lot burdened by a utility easement.

9.2.3 Future Utility Easements. The Owners reserve for the Association the right to grant easements to any person, individual, utility company, corporate body, or municipality, across, over, under, upon, and through any Lot, Common Area, Limited Common Area, road, street, open space, or other portion of the Subdivision, for the installation, construction, maintenance, reconstruction and repair of public, quasi-public, or private utilities to serve the Subdivision and the Lots therein, including but not limited to the mains, conduits, pipelines, underground or above-ground lines and cables, transmission facilities, meters and other facilities and appurtenances necessary or useful for the provision of water, storm sewer, sanitary sewer, gas, electricity, telephone, cable television, fire hydrants, fire suppression lines, internet and data and other public, quasi-public or private services or utilities deemed by Association necessary or advisable to provide any service to the Subdivision or any Lot, Common Area, or other portion thereof.

9.2.4 Right of Entry onto Lots. The Association shall have the right, through authorized agents, to enter onto any Lot after reasonable notice to the Owner thereof for the purpose of performing maintenance or determining whether the Lot, or any Improvements thereon, complies with this Declaration, the Bylaws, and the Rules and Regulations. Except in the event of an emergency, entry made pursuant to this Section

shall be during normal business hours, with Owner permission, at a time convenient for the Owner after reasonable notice.

9.2.5 Right of Entry onto Common Areas. The Association shall have the right, through authorized agents, to enter upon the Common Areas for maintenance, repair, replacement, and such other purposes as Association deems necessary, including the right to make openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and the right to make such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

ARTICLE 10 – RESERVED

ARTICLE 11 – INSURANCE

11.1 Insurance Held by Owner. Each Owner shall maintain a policy of homeowner’s insurance on the Residence on such Owner’s Lot, protecting such Residence against casualty and loss, in an amount not less than 100% of the current replacement value of such Residence.

11.2 Insurance Held by Association. The Association shall obtain and maintain all insurance policies required by Part 4 of the Act consistent with the terms and conditions of the Act. All premiums for insurance policies held by the Association shall be funded by Assessments. Without limiting the foregoing, the Association shall obtain and maintain:

11.2.1 Property and liability insurance for all Common Areas, as applicable.

11.2.2 Such other insurance policies for casualty or liability as the Board deems necessary or desirable.

11.3 Deductible. The deductible on any claim made under a policy maintained by the Association shall be allocated among all Owners.

ARTICLE 12 – DURATION AND AMENDMENT

12.1 Duration. This Declaration shall be effective, and the Covenants set forth herein shall encumber the Property, from the date the Declaration is recorded in the county recorder’s office and, as amended from time to time, this Declaration shall continue in full force and effect against the Property and the Covenants shall run with the land in perpetuity, for as long as the law allows unless amended or terminated as provided herein.

12.2 Amendment. This Declaration may be amended by the affirmative vote of not less than sixty-seven percent (67%) of the Members of the Association and such amendment must contain a statement signed by the President of the Association certifying that the required vote has taken place. No amendment to this Declaration shall be effective until it is recorded in the

county recorder's office for Summit County and Morgan County.

12.3 Termination. An agreement to terminate this Declaration and the Covenants set forth herein shall require same approval required for an amendment as set forth in Section 12.2, above. In addition, any agreement to terminate must be approved, or deemed approved, by at least sixty-seven percent (67%) of the Eligible Mortgagees as provided in Section 14.3, below.

ARTICLE 13 – RESERVED

ARTICLE 14 – MISCELLANEOUS PROVISIONS

14.1 Damage or Destruction.

14.1.1 Procedure. In the event all or any part of the Common Areas of the Subdivision, including the Private Roads, are substantially damaged or destroyed, the Association shall proceed as follows. The Association shall give timely written notice to the Members and to any First Mortgagee on a Lot or who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas. As soon as practicable after an event causing substantial damage to or destruction of any part of the Subdivision, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Subdivision so damaged or destroyed. In no event shall an Owner of a Lot or any other party have priority over the First Mortgagee on such Lot with respect to the distribution to such Lot of any insurance proceeds.

14.1.2 Repair or Reconstruction. If the Association's Board determines to repair such damage or destruction, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Subdivision damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. Notwithstanding the foregoing, if the Board determines that repair or reconstruction of any such damage or destruction is not in the best interest of the Association or the Owners, neither the Board nor the Association shall have any liability for failure to pursue such repair or reconstruction.

14.1.3 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association, and any amounts received from assessments made shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction,

such balance shall be distributed to the Owners equally.

14.2 Condemnation. If any Lot or portion thereof, or any portion of the Common Areas, are made the subject matter of any condemnation or eminent domain proceeding, or are otherwise sought to be acquired by a condemning authority, the Board shall give prompt written notice of any such proceeding or proposed acquisition to each affected Owner in the Subdivision and to any First Mortgagee who has requested in writing notice thereof. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owner's attorney-in-fact for the purposes of such representation.

14.3 Mortgagee Protection. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage (any one of which is an "**Eligible Mortgagee**"), which written request shall identify the name and mailing address of such First Mortgagee, insurer, or governmental guarantor and the Lot number or physical address of the Residence, any such First Mortgage, insurer or governmental guarantor shall be entitled to timely written notice of: (a) Any condemnation, loss or any casualty loss which affects a material portion of the Subdivision, or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor; (b) Any delinquency in the payment of assessments or charges owed by an Owner, whose Lot is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days; (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified herein. The prior written consent at least sixty-seven percent (67%) of the Eligible Mortgagees shall be required to: (a) Abandon or terminate the legal status of the Subdivision after substantial destruction or condemnation occurs; (b) Add or amend any material provision of the Declaration, Articles of Incorporation, Bylaws or Plat Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only): the conversion of Lots into Common Areas or vice versa, a material change to hazard or fidelity insurance requirements, the imposition of any restrictions on Owner's right to sell or transfer his Lot, the establishment of self-management by the Association if professional management had been required previously by the Declaration or by an Eligible Mortgagee, or a change to or deletion of any provision that expressly benefits Mortgagees, insurers, or guarantors.

14.4 Notices. The Association shall keep a list of contact information for Owners of all Lots within the Subdivision and all Eligible Mortgagees. Each Owner, upon becoming an Owner, shall provide the Association with appropriate contact information including mailing address,

telephone number, facsimile number, mobile telephone number, email address, or other method of electronic or digital communication. Each Owner or Eligible Mortgagee shall update the Association with any changes to contact information. Where written notice to an Owner is required under this Declaration, the Bylaws, or the Rules and Regulations, such notice will be deemed sufficient if it is sent to the mailing address or the facsimile number, mobile telephone number, email address, or other method of electronic or digital communication which the Owner has provided to the Association for the purpose of receiving notices. In all cases, the Association shall retain evidence that such notice has been sent.

14.5 Interpretation. The captions and section headings set forth in this Declaration are for convenience and the meaning of the provisions set forth in the sections hereof shall be governed by the body of the text. The use of any plural shall, where the context requires, include the singular thereof, and vice-versa.

14.6 Governing Law. This Declaration shall be govern by, and interpreted in accordance with, the laws of the State of Utah.

14.7 Severability. If any section, term, or provision of this Declaration is determined to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining sections, terms, and provisions of this Declaration, each of which shall all remain in full force and effect.

14.8 Waiver. The failure by the Association or any Owner to enforce any term or provision of this Declaration shall not be deemed as a waiver of the right to thereafter enforce such term or provision.

[End of Declaration. Execution Page Follows.]

IN WITNESS WHEREOF, the President of the Association, as authorized by the vote of the Owners, has executed this Declaration on this ____ day of _____, 20__ .

President of the Association
(On behalf of the Owners)

Brian Bitner, president

STATE OF UTAH)

ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by Brian Bitner as the President of Stagecoach Estates Lot Owners Association.

Notary Public

CERTIFICATION OF ASSOCIATION PRESIDENT

I, Brian Bitner, being duly sworn, do certify that the following is true and correct:

- a. I am the president of the Stagecoach Estates Lot Owners Association (“**Association**”).

- b. My term began on____and expires on_____.

- c. The foregoing *Amended and Restated Declaration of Covenants, Conditions and Restrictions for Stagecoach Estates Subdivision* (“**Declaration**”) has been approved in writing by at least sixty-seven percent (67%) of the Owners of Lots within the Subdivision (as those terms are identified in the Declaration).

- d. Copies of the written approvals signed by the Owners are maintained in the Association’s records and are available for inspection upon request.

STATE OF UTAH)

ss.

COUNTY OF _____)

SUBSCRIBED and SWORN to before me this____day of_____, 20__by Brian Bitner as the President of Stagecoach Estates Lot Owners Association.

Notary Public

EXHIBIT A

(Property Description)

Summit County, Utah

All lots, streets, and parcels of land included within the boundaries of STAGECOACH ESTATES PLAT "A" according to the official plat thereof on file and of record in the Summit County Recorder's Office.

All lots, streets, and parcels of land included within the boundaries of STAGECOACH ESTATES PLAT "B" according to the official plat thereof on file and of record in the Summit County Recorder's Office.

All lots, streets, and parcels of land included within the boundaries of STAGECOACH ESTATES PLAT "C" according to the official plat thereof on file and of record in the Summit County Recorder's Office.

All lots, streets, and parcels of land included within the boundaries of STAGECOACH ESTATES PLAT "D" according to the official plat thereof on file and of record in the Summit County Recorder's Office.

Morgan County, Utah

All lots, streets, and parcels of land included within the boundaries of STAGECOACH ESTATES PLAT E SUBDIVISION according to the official plat thereof on file and of record in the Morgan County Recorder's Office.