

ORIGINAL

AGREEMENT TO MAKE SUBDIVISION IMPROVEMENTS
FOR CLASS 1 SUBDIVISION
BETWEEN COUNTY AND OWNER
AGMT #13-53765

THIS AGREEMENT, made and entered into by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California, (hereinafter referred to as "County"), and **STANDARD PACIFIC CORP.**, a Delaware corporation, duly qualified to conduct business in the State of California, whose corporate address is 160 Greentree Drive, Suite 101, City of Dover, Delaware 19904, and whose local office address is 3650 Industrial Boulevard #140, West Sacramento, California 95691 (hereinafter referred to as "Owner"); concerning **PROMONTORY VILLAGE CENTER LOT H, TM 06-1423** (hereinafter referred to as "Subdivision"); the Final Map of which was filed with the El Dorado County Board of Supervisors on the _____ day of _____, 2013.

RECITALS

Owner is vested with fee title to Subdivision; a tract of land located in the County of El Dorado, State of California, and described as **Promontory Village Center Lot H, TM 06-1423**. Owner desires to construct on said property certain public improvements as hereinafter described, in connection with the Subdivision.

In consideration for the complete construction and dedication of all the public improvements specified in this Agreement, the approval and acceptance by County's Board of Supervisors of the Conditions of Approval, and the Final Map to be filed and recorded, the parties agree as follows:

AGREEMENT

OWNER WILL:

1. Make or cause to be made all those public improvements in Subdivision required by Section 16.16.010 of the El Dorado County Ordinance Code (hereinafter referred to as "Code") and shown or described in the improvement plans, specifications and cost estimates entitled Improvement Plans for Promontory Village Center Lot H Unit 1, TM 06-1423 which were approved by the County Engineer, Community Development Agency, Transportation Division, (Transportation Division) on August 9, 2013. Attached hereto are Exhibit A, marked "Schedule of Street Improvements;" Exhibit B, marked "Schedule of Drainage Improvements;" Exhibit C, marked "Schedule of Sewer Improvements;" Exhibit D, marked "Schedule of Water Improvements;" Exhibit E, marked "Certification of Partial Completion of Improvements," all of which Exhibits are incorporated herein and made by reference a part hereof. The Exhibits describe quantities, units and costs associated with the improvements to be made.

2. Prior to commencing construction, obtain all necessary environmental clearances, acquire any necessary right-of-way and obtain any necessary permits from any outside agencies.

3. Complete the Subdivision improvements contemplated under this Agreement within two (2) years from the date that the Subdivision Final Map is filed with the El Dorado County Board of Supervisors.

4. Install or cause to be installed, modify or cause to be modified, any and all erosion and sediment control features, whether temporary or permanent, deemed necessary by the County Engineer to ensure compliance with the Clean Water Act, the Statewide General Permit, and County's, Grading, Erosion and Sediment Control Ordinances. Failure to comply with this provision shall constitute a material breach of this Agreement.

5. Post security acceptable to County as provided in Section 16.16.050 of the Code. In the event that the Sureties issuing the posted securities are subsequently downgraded to a rating unacceptable to County in its sole discretion, Owner shall, upon twenty (20) days written notice by County, post replacement securities that are acceptable to County.

6. Provide for and pay the costs of related civil engineering services, including the costs of inspection and utility relocation when required, and attorneys' fees, costs, and expenses of legal services.

7. Provide deposit for and pay to County all costs of construction oversight, inspection, administration and acceptance of the work by County in accordance with the County Engineer Fee Schedule adopted by Resolution of the Board of Supervisors of El Dorado County.

8. Have as-built plans prepared by a civil engineer acceptable to County Engineer and filed with the Transportation Director as provided in Section 16.16.060 of the Code.

9. Repair at Owner's sole cost and expense, any defects, in workmanship or materials, which appear in the work within one (1) year following acceptance of the work by County.

10. To the fullest extent allowed by law, Owner shall defend, indemnify and hold County and its officers, agents, employees, and representatives harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any other economic or consequential losses, which are claimed to or in any way arise out of or are connected with Owner's work, design, operation, construction of the improvements, or performance of this Agreement, regardless of the existence or degree of fault or negligence on the part of County, Owner, any Contractor(s), Subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of County, its officers, agents, employees, and representatives or as expressly provided by statute. This duty of Owner to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778.

This duty to indemnify is separate and apart from any insurance requirements and shall not be limited thereto.

11. Owner shall enter into another agreement with County for all road improvements to be performed on County property. Such agreement shall also include a requirement that Owner furnish insurance and bonds that comply with the standard County insurance and bonding requirements in the amounts stated, to be approved by the County's Risk Management Division.

12. Provide continuous, sufficient access to Owner's successors and assigns, including but not limited to its Surety and Surety's agents, to the Subdivision to enable the public improvements to be constructed and completed. Access shall be continuous until completion of said public improvements, and release by County of the security underlying this Agreement.

13. Agree that said agreement to provide continuous, sufficient access is irrevocable and shall run with the land and shall be binding upon and inure to the benefit of the heirs, successors, assigns and personal representatives of Owner.

COUNTY WILL:

14. Upon execution of this Agreement and receipt of good and sufficient security as required by Section 16.16.050 of the Code, and upon compliance with all requirements of law, including all County ordinances, approve the Final Map of the Subdivision.

15. Upon receipt of a Certificate from County Engineer stating that a portion of the public improvements agreed to be performed herein has been completed, describing generally the work so completed and the estimated total cost of completing the remainder of the public improvements agreed upon to be performed herein, accept new security as provided in Section 16.16.040 of the Code.

16. Release the security posted in accordance with Sections 16.16.040 and 16.16.052 of the Code.

17. Require Owner to make such alterations, deviations, additions to, or deletions from, the improvements shown and described on the plans, specifications, and cost estimates as may be deemed by County Engineer to be necessary or advisable for the proper completion or construction of the whole work contemplated.

18. Require Owner to maintain, and to make such alterations, deviations, additions to, or deletions from, the project erosion control features shown and described on the plans, specifications and cost estimates and the Storm Water Pollution Prevention Plan (SWPPP) as may be deemed by County Engineer to be necessary or advisable for compliance with the Clean Water Act, Statewide General Permit requirements and County's Grading, Erosion and Sediment Control Ordinances.

19. Upon completion of the public improvements agreed to be performed herein, adopt a resolution accepting or rejecting the streets of said Subdivision into County's road system for maintenance.

20. Retain a portion of the security posted in the amount of ten percent (10%) of the estimated cost of all of the improvements for one (1) year following acceptance of the work by County to secure the repair of any hidden defects in workmanship or materials which may appear.

21. Require Owner to pay County for costs, expenses and reasonable attorneys' fees to be paid by Owner should County be required to commence an action to enforce the provisions of this Agreement, to enforce the security obligations provided herein, and all attorneys' fees, costs, and expenses of litigation incurred by County even if Owner subsequently proceeds to complete the work.

ADDITIONAL PROVISIONS:

22. The estimated cost of installing all of the improvements is **ONE MILLION SEVEN HUNDRED FORTY-FOUR THOUSAND SEVEN HUNDRED TWENTY-TWO DOLLARS AND NINETY-EIGHT CENTS (\$1,744,722.98).**

23. Owner shall conform to and abide by all Federal, State and local building, labor and safety laws, ordinances, rules and regulations. All Work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshal, safety orders of the Division of Industrial Safety, California Electrical Code, California Building Code, California Plumbing Code, and any and all other applicable laws and regulations. Nothing in this Agreement, including but not limited to the improvement plans and specifications and cost estimates, is to be construed to permit work not conforming to these codes.

24. Inspection of the work and/or materials or statements by any officer, agent, or employee of County indicating that the work or any part thereof complies with the requirements of this Agreement, or acceptance of the whole or any part of said work and/or materials, or payments therefore, or any combination or all of these acts, shall not relieve Owner of its obligation to fulfill this Agreement as prescribed; nor shall County be stopped from bringing any action for damages arising from the failure to comply with any terms and conditions hereof.

25. This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

26. Neither this Agreement, nor any part thereof may be assigned by Owner without the express written approval of County.

27. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be in duplicate and addressed as follows:

County of El Dorado
Community Development Agency
Transportation Division
2850 Fairlane Court
Placerville, California 95667
Attn.: Bard R. Lower
Transportation Division Director

County of El Dorado
Community Development Agency
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667
Attn.: Gregory Hicks
Senior Civil Engineer

or to such other location as County directs.

Notices to Owner shall be addressed as follows:

Standard Pacific Homes
3650 Industrial Boulevard, #140
West Sacramento, California 95691
Attn.: Linda Heffelfinger
Consultant

or to such other location as Owner directs.

28. The County officer or employee with responsibility for administering this Agreement is Bard R. Lower, Transportation Division Director, Community Development Agency or successor.

29. Any action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

30. The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

Requesting Contract Administrator and Division Concurrence:

By: Bard R. Lower
Bard R. Lower
Transportation Division Director
Community Development Agency

Dated: 10/7/13

Requesting Department Concurrence:

By: Kimberly A. Kerr
Kimberly A. Kerr, Acting Director
Community Development Agency

Dated: 10/8/13

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

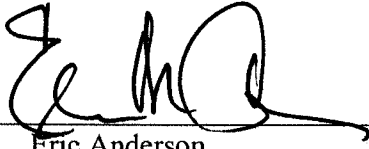
By: _____

Dated: _____

Deputy Clerk

**--STANDARD PACIFIC, CORP.
a Delaware Corporation--**

By: Standard Pacific Homes,
a California Corporation,
its Managing Member

By:  _____

Dated: 9-19-13

Eric Anderson
Director of Land Development
"Owner"

Notary Acknowledgment Attached

OWNER

ACKNOWLEDGMENT

State of California

County of Yolo

On 9/19/13 before me, Trina Johnson
(here insert name and title of the officer)

personally appeared Eric Anderson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]



(Seal)

PROMONTORY VILLAGE CENTER LOT H, TM06-1423

Exhibit A
SCHEDULE OF STREET IMPROVEMENTS

Item Description	Qty.	Unit	Unit Cost	Total Cost
Clear and Grub	10	ac	\$2,500.00	\$25,000.00
Excavation	49,633	cy	6.00	297,798.00
Finished Pads	64	ea	350.00	22,400.00
MSE (Keystone)	2287	sf	80.00	182,960.00
Retaining Walls – Block (Avg. Height: 4')	7691	sf	26.00	199,966.00
3" AC	27,212	sf	2.05	55,784.60
8" AB	27,212	sf	2.75	74,833.00
Type 1 Rolled Curb and Gutter	1,963	lf	30.50	59,871.50
Type 3 Barrier Curb	28	lf	15.25	427.00
Sidewalk, 4" PCC	4,606	sf	6.10	28,096.60
Extra for Handicapped Ramp	2	ea	2,000.00	4,000.00
Barricade	20	lf	50.80	1,016.00
Gate	2	ea	1,000.00	2,000.00
Stop Sign w/Pavement Marking	1	ea	762.00	762.00
Street Sign	3	ea	406.40	1,219.20
Erosion Control Measures & SWPPP Compliance	64	lots	2,000.00	128,000.00
Dust Control	64	lots	625.00	40,000.00
Subtotal Street Improvements				1,124,133.90
Bond Enforcement Costs		2%		\$22,482.68
Construction Staking		4%		\$44,965.36
Construction Management		10%		\$112,413.39
Contingency		10%		\$112,413.39
Inspection		4%		\$44,965.36
Total Street Improvements				\$1,461,374.07

PROMONTORY VILLAGE CENTER LOT H, TM06-1423

Exhibit B
SCHEDULE OF DRAINAGE IMPROVEMENTS

Item Description	Qty.	Unit	Unit Cost	Total Cost
12" Storm Drain HDPE	81	lf	\$50.80	\$4,114.80
12" Storm Drain HDPE	23	ea	53.35	1,227.05
12" Storm Drain HDPE	472	ea	55.90	26,384.80
Standard Type "B" Drop Inlet	6	ea	1,016.00	6,096.00
Standard Grated Inlet	1	ea	3,600.00	3,600.00
48" Manhole	2	ea	3,048.00	6,096.00
Rock Outlet Protection	3	ea	121.95	365.85
TV Inspection	576	lf	2.05	1,180.80
Subtotal Drainage Improvements				49,065.30
Bond Enforcement Costs		2%		\$981.31
Construction Staking		4%		\$1,962.61
Construction Management		10%		\$4,906.53
Contingency		10%		\$4,906.53
Inspection		4%		\$1,962.61
Total Drainage Improvements				\$63,784.89

PROMONTORY VILLAGE CENTER LOT H, TM06-1423

Exhibit C
SCHEDULE OF SEWER IMPROVEMENTS

Item Description	Qty.	Unit	Unit Cost	Total Cost
6" Line PVC SDR-35	954	ac	\$40.65	\$38,780.10
Standard 48" Manhole	7	cy	2,540.00	17,780.00
4" Service	28	ea	508.00	14,224.00
Backwater Valve	16	sf	500.00	8,000.00
Cleanout	2	sf	508.00	1,016.00
Connect to Existing	1	sf	3,600.00	3,600.00
TV Inspection	954	lf	2.05	1,955.70
Subtotal Sewer Improvements				85,355.80
Bond Enforcement Costs		2%		\$1,707.12
Construction Staking		4%		\$3,414.23
Construction Management		10%		\$8,535.58
Contingency		10%		\$8,535.58
Inspection		4%		\$3,414.23
Total Sewer Improvements				\$110,962.54

PROMONTORY VILLAGE CENTER LOT H, TM06-1423

Exhibit D
SCHEDULE OF WATER IMPROVEMENTS

Item Description	Qty.	Unit	Unit Cost	Total Cost
6" Line inclding Fittings	1277	lf	\$35.60	\$45,461.20
6" Gate Valve	10	ea	905.50	9,055.00
Fire Hydrant Assembly	1	ea	2,540.00	2,540.00
2" BOV	6	ea	711.20	4,267.20
1" ARV	6	ea	965.20	5,791.20
1" Water Service	27	ea	475.00	12,825.00
Connect to Existing	2	ea	1,800.00	3,600.00
Subtotal Water Improvements				83,539.60
Bond Enforcement Costs		2%		\$1,670.79
Construction Staking		4%		\$3,341.58
Construction Management		10%		\$8,353.96
Contingency		10%		\$8,353.96
Inspection		4%		\$3,341.58
Total Water Improvements				\$108,601.48

Exhibit E

CERTIFICATION OF PARTIAL COMPLETION OF IMPROVEMENTS

I hereby certify that the following improvements in the **Promontory Village Center Lot H - Unit 1, TM 06-1423** Subdivision have been completed, to wit:


	Total Amount	Percent Complete	Remaining Amount
Street Improvements	\$1,461,374.07	0%	\$1,461,374.07
Drainage Improvements	\$63,784.89	0%	\$63,784.89
Sewer Improvements	110,962.54	0%	\$110,962.54
Water Improvements	108,601.48	0%	\$108,601.48
Totals	\$1,744,722.98		\$1,744,722.98

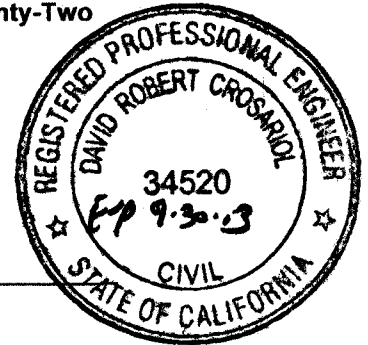
I estimate the total cost of completing the remainder of the improvements, agreed to be performed by the Owner to be **One Million Seven Hundred Forty-four Thousand Seven Hundred Twenty-Two dollars and 98 cents (\$1,744,722.98)**.

The Performance Bond is for the amount of **One Million Seven Hundred Forty-four Thousand Seven Hundred Twenty-Two dollars and 98 cents (\$1,744,722.98)**.

The Laborers and Materialmens Bond is for the amount of **Eight Hundred Seventy-Two Thousand Three Hundred Sixty-One dollars and 49 cents (\$872,361.49)**.


DATED: 8-21-13


Subdivision Engineer
David R. Crosariol, RCE 34520
CTA Engineering & Surveying
3233 Monier Circle
Rancho Cordova, Ca 95742



ACCEPTED BY THE COUNTY
OF EL DORADO

DATED: 10/07/13


John H. Kahling, P.E.
Deputy Director, Construction
Community Development Agency
Transportation Division

Bond No. 929575177

Premium: \$13,085.00

PERFORMANCE BOND AGREEMENT FORM

Whereas, the Board of Supervisors of the County of El Dorado, a political subdivision of the State of California, and **Standard Pacific Corp.**, (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2013, and identified as project **Promontory Village Center Lot H Unit 1, TM 06-1423** is hereby referred to and made part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the Principal and The Continental Insurance Company, (hereinafter designated as "Surety"), are held and firmly bound unto the County of El Dorado, as Oblige, in the penal sum of **One Million Seven Hundred Forty-Four Thousand Seven Hundred Twenty-Two Dollars and Ninety-Eight Cents (\$1,744,722.98)** lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bound Principal his or its heirs, executors and administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the County of El Dorado, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

This guarantee shall insure the County of El Dorado during the work required by any Contract and for a period of one (1) year from the date of acceptance of the work against faulty or improper materials or workmanship that may be discovered during that time.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable

attorney fees incurred by the County of El Dorado in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named on September 19, 2013.

“Surety”

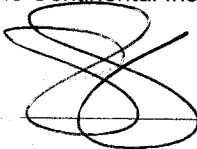
“Principal”

Standard Pacific Corp.,
a Delaware Corporation

By Standard Pacific Homes
a California Corporation
its Managing Member

The Continental Insurance Company

By



Lisa K. Crail, Attorney-in-Fact

Print Name

By



Eric Anderson
Director of Land Development
3650 Industrial Boulevard #140
West Sacramento, California 95691

NOTARY ACKNOWLEDGMENTS ATTACHED

PRINCIPAL

ACKNOWLEDGMENT

State of California
County of Yolo

On 9/19/13 before me, Trina Johnson
(here insert name and title of the officer)

personally appeared Eric Anderson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]



(Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

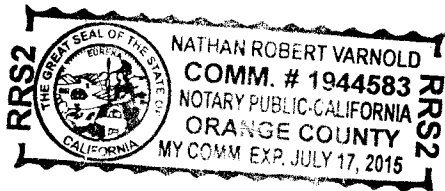

On SEP 19 2013 before me, Nathan Robert Varnold, Notary Public, personally appeared Lisa K. Crail who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature



POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Tracy Aston, Marina Tapia, Tom Branigan, Edward C Spector, Kristine Mendez, Daravy Mady, Lisa K Crail, Simone Gerhard, B Aleman, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 26th day of August, 2013.

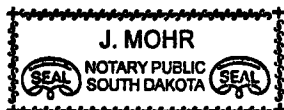


The Continental Insurance Company

Paul T. Bruflat
Paul T. Bruflat Vice President

State of South Dakota, County of Minnehaha, ss:

On this 26th day of August, 2013, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.



My Commission Expires June 23, 2015

J Mohr
J. Mohr Notary Public

CERTIFICATE

I, D. Bult, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this _____ day of _____

SEP 19 2013



The Continental Insurance Company

D Bult
D. Bult Assistant Secretary

Bond No. 929575177

Premium charged is included in charge
for performance bond

LABORERS AND MATERIALMENS BOND FORM

Whereas, the Board of Supervisors of the County of El Dorado, a political subdivision of the State of California, and **Standard Pacific Corp.**, (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, _____, and identified as the Subdivision Improvement Agreement for Promontory Village Center Lot H Unit 1, TM 06-1423 and the Developer, AGMT # 13-53765, and the **Improvement Plans for Promontory Village Center Lot H Unit 1, TM 06-1423** are hereby referred to and made part hereof; and

Whereas, under the terms of said Agreement, Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the County of El Dorado to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, we, the Principal and The Continental Insurance Company (hereinafter designated "Surety"), are held firmly bound unto the County of El Dorado and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code in the sum of **Eight Hundred Seventy-Two Thousand Three Hundred Sixty-One Dollars and Forty-Nine Cents (\$872,361.49)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the County of El Dorado in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing

with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on September 19, 20 13.

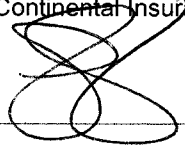
“Surety”

“Principal”

**Standard Pacific Corp.
a Delaware Corporation**

The Continental Insurance Company

By

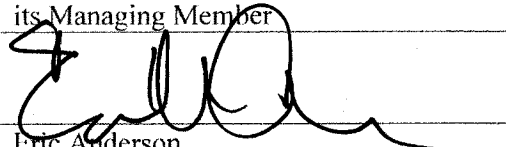


Lisa K. Crail, Attorney-in-Fact

Print Name

By Standard Pacific Homes
A California Corporation,
its Managing Member

By



Eric Anderson
Director of Land Development
3650 Industrial Boulevard #140
West Sacramento, California 95691

NOTARY ACKNOWLEDGMENTS ATTACHED

PRINCIPAL

ACKNOWLEDGMENT

State of California
County of Yolo

On 9/19/13 before me, Trina Johnson
(here insert name and title of the officer)

personally appeared Eric Anderson

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]



(Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

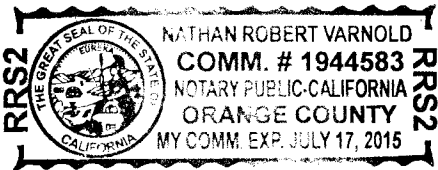

On SEP 19 2013 before me, Nathan Robert Varnold, Notary Public, personally appeared Lisa K. Crail who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature



POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a Pennsylvania insurance company, is a duly organized and existing insurance company having its principal office in the City of Chicago, and State of Illinois, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Tracy Aston, Marina Tapia, Tom Branigan, Edward C Spector, Kristine Mendez, Daravy Mady, Lisa K Crail, Simone Gerhard, B Aleman, Individually

of Los Angeles, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the insurance company and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Board of Directors of the insurance company.

In Witness Whereof, The Continental Insurance Company has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 26th day of August, 2013.

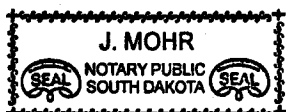


The Continental Insurance Company

Paul T. Bruflat
Paul T. Bruflat Vice President

State of South Dakota, County of Minnehaha, ss:

On this 26th day of August, 2013, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of The Continental Insurance Company, a Pennsylvania insurance company, described in and which executed the above instrument; that he knows the seal of said insurance company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said insurance company and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance company.



My Commission Expires June 23, 2015

J Mohr
J. Mohr Notary Public

CERTIFICATE

I, D. Bult, Assistant Secretary of The Continental Insurance Company, a Pennsylvania insurance company, do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance company printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance company this _____ day of _____

SEP 19 2013



The Continental Insurance Company

D Bult
D. Bult Assistant Secretary

**SECRETARY'S CERTIFICATE
OF
STANDARD PACIFIC CORP.**

I, the undersigned, hereby certify that I am John P. Babel, Executive Vice President, General Counsel & Secretary of Standard Pacific Corp., a company duly organized and existing under the laws of the State of Delaware (the "Company").

I further certify that the following Resolutions were duly adopted by the Executive Committee of the Board of Directors of the Company on July 29, 2013 are now in full force and effect, and have not been amended, modified or revoked:

Standard Pacific Homes – Northern California Region Officers

RESOLVED, that the following individuals will serve as officers of the Company's Northern California Region, in replacement of any and all officers formerly designated, the term of such office to commence immediately and to continue until his or her successor shall be duly chosen and qualified or until his or her earlier resignation or removal:

<u>Name</u>	<u>Title</u>	<u>Geographic Assignment</u>
Thomas C. Burrill	President	Bay Area
Bryan Billy	Customer Service Manager	Bay Area
Ronald V. Buck	Vice President – Construction	Bay Area
Petrece Herder	Vice President – Land Acquisition	Bay Area
Oren Jon McCaustland	Land Development Manager	Bay Area
Craig Champion	Land Acquisition Manager	Bay Area
Bridgit Koller	Sr. Project Manager	Bay Area
Carl M. Metz	Director of Sales	Bay Area
Douglas Moses-Batson	Project Planner	Bay Area
Mandi Kaercher	Assistant Project Manager	Bay Area
Jill Norman	Operations Coordinator	Bay Area
Jon E. Nicholson	President	Sacramento
Ken Tornay	Vice President – Operations	Sacramento
Eric Anderson	Director of Land Development	Sacramento
Allison Elias	Sales Manager	Sacramento
Karina Guerrieri	Project Manager	Sacramento
Holly Auwinger	Marketing Manager	Sacramento
Karla Grenon	Customer Care Coordinator	Sacramento
Michele Joy	Vice President – Sales & Marketing	Northern California Region
James Ramage	Director of Purchasing	Northern California Region
Trina Johnson	Escrow Coordinator	Northern California Region
Julie Dvorsky	Escrow Manager	Northern California Region

RESOLVED FURTHER, that the above-listed persons be, and each of them hereby is, authorized to negotiate, approve, execute and deliver, either as designated officers of the Company's Northern California Region or as authorized representatives of the Company, deeds, development,

land use and other entitlement applications and agreements, and all other agreements and documents relating to the real estate development and construction business conducted by this Company (including in its capacity as a partner in a partnership or member of a limited liability company), in the geographic region to which he or she has been assigned; and

RESOLVED FURTHER, that the above-listed persons be, and each of them hereby is, authorized and directed to execute, deliver and file, as appropriate, such certificates, affidavits, agreements and other documents, as may be deemed necessary, desirable or appropriate to effectuate the purposes of these resolutions.

IN WITNESS WHEREOF, I hereunto subscribe my name on this 19th day of September, 2013.



John P. Babel
Executive Vice President, General Counsel &
Secretary

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "STANDARD PACIFIC CORP.", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF AUGUST, A.D. 2008, AT 4:39 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.

2271078 8100

080880936

You may verify this certificate online
at corp.delaware.gov/authver.shtml



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6798763

DATE: 08-18-08

**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
STANDARD PACIFIC CORP.**

(Pursuant to Section 242 and 245 of the General Corporation Law of the State of Delaware)

Standard Pacific Corp., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Corporation"), does hereby certify:

FIRST: The date of filing of the original Certificate of Incorporation of the Corporation with the Secretary of State of Delaware was August 14, 1991.

SECOND: This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors and stockholders of the Corporation in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware and it amends and restates the provisions of the Certificate of Incorporation of the Corporation.

THIRD: The text of the Certificate of Incorporation of the Corporation is hereby amended and restated to read in its entirety as follows:

ARTICLE I

NAME

The name of the Corporation is Standard Pacific Corp.

ARTICLE II

DEFINITIONS

For purposes of this Amended and Restated Certificate of Incorporation, the following terms shall have the meanings indicated, and all capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in Section 203(c) of the Delaware General Corporation Law, as in effect on the date hereof:

(A) "Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such first Person. As used in this definition, "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of securities, partnership interests or by contract or otherwise. Notwithstanding the foregoing, solely for purposes of this Amended and Restated Certificate of Incorporation, the directors and officers of the Corporation or any of its Subsidiaries shall not, solely as a result of holding such office, be deemed Affiliates of the Investor. With respect to the Investor, the term "Affiliate" shall also include its general partner or investment manager or similar Person, and any other entity with the same general partner or investment manager or similar Persons.

- (B) "Board" shall mean the Board of Directors of the Corporation.
- (C) "Investor" shall mean MP CA Homes LLC, a Delaware limited liability company.
- (D) "Person" shall mean any individual, corporation, partnership, firm, joint venture, association, limited liability company, joint-stock company, trust, unincorporated organization, governmental or regulatory body or other legal entity.
- (E) "Voting Stock" shall mean stock of the Corporation of any class or series entitled to vote generally in the election of directors of the Corporation, and each reference herein to a percentage or portion of shares of Voting Stock shall refer to such percentage or portion of the votes entitled to be cast by the holders of such shares.

ARTICLE III

REGISTERED OFFICE

The address of the registered office of the Corporation in the State of Delaware is 160 Greentree Drive, Suite 101, City of Dover 19904, County of Kent and the name of its registered agent at that address is National Registered Agents, Inc.

ARTICLE IV

PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law.

ARTICLE V

AUTHORIZED CAPITAL STOCK

SECTION 1 Number of Authorized Shares. The Corporation shall be authorized to issue two classes of shares of stock to be designated, respectively, "Common Stock" and "Preferred Stock"; the total number of shares of all classes of stock that the Corporation shall have authority to issue is six hundred ten million (610,000,000) shares, consisting of six hundred million (600,000,000) shares of Common Stock, par value of \$.01 per share, and ten million (10,000,000) shares of Preferred Stock, par value \$.01 per share.

SECTION 2 Common Stock. Shares of Common Stock may be issued from time to time in one or more series. Shares of Common Stock that are redeemed, purchased or otherwise acquired by the Corporation may be reissued except as otherwise provided by law. The Board is hereby authorized to fix or alter the designations, powers and preferences, and relative, participating, optional or other rights, if any, and qualifications, limitations or restrictions thereof, including, without limitation, dividend rights (and whether dividends are cumulative), conversion rights, if

any, voting rights (including the number of votes, if any, per share, as well as the number of members, if any, of the Board or the percentage of members, if any, of the Board each series of Common Stock may be entitled to elect), rights and terms of redemption (including sinking fund provisions, if any), redemption price and liquidation preferences of any wholly unissued series of Common Stock, and the number of shares constituting any such series and the designation thereof, and to increase or decrease the number of shares of any such series subsequent to the issuance of shares of such series, but not below the number of shares of such series then outstanding. Notwithstanding the foregoing, the Board shall have no power to alter the rights of any shares of Common Stock then outstanding. Unless and until the Corporation shall file with the Delaware Secretary of State a certificate of designations creating a series of Common Stock, all shares of Common Stock shall be of one class without series and shall be denominated "Common Stock." Upon the first filing with the Delaware Secretary of State of a certificate of designations creating a series of Common Stock, which series shall be denominated "Class B Common Stock," each share of Common Stock outstanding or held in the treasury immediately prior to such filing shall be denominated "Class A Common Stock," and each certificate representing then outstanding shares of Common Stock shall thereafter be deemed to represent shares of Class A Common Stock.

SECTION 3 Preferred Stock. Shares of Preferred Stock may be issued from time to time in one or more series. Shares of Preferred Stock that are redeemed, purchased or otherwise acquired by the Corporation may be reissued except as otherwise provided by law. The Board is hereby authorized to fix or alter the designations, powers and preferences, and relative, participating, optional or other rights, if any, and qualifications, limitations or restrictions thereof, including, without limitation, dividend rights (and whether dividends are cumulative), conversion rights, if any, voting rights (including the number of votes, if any, per share, as well as the number of members, if any, of the Board or the percentage of members, if any, of the Board each class or series of Preferred Stock may be entitled to elect), rights and terms of redemption (including sinking fund provisions, if any), redemption price and liquidation preferences of any wholly unissued series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, and to increase or decrease the number of shares of any such series subsequent to the issuance of shares of such series, but not below the number of shares of such series then outstanding. Notwithstanding the foregoing, the Board shall have no power to alter the rights of any shares of Preferred Stock then outstanding.

SECTION 4 Distributions Upon Liquidation. In the event of any dissolution, liquidation or winding up of the affairs of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Corporation, the holders of each series of Preferred Stock shall be entitled to receive, out of the net assets of the Corporation, an amount for each share of such series of Preferred Stock equal to the amount fixed and determined by the Board in the resolution or resolutions creating such series and providing for the issuance of such shares, and no more, before any of the assets of the Corporation shall be distributed or paid over to the holders of Common Stock and any Preferred Stock with rights to participate with the Common Stock in such event. If, upon such dissolution, liquidation or winding up, the assets of the Corporation distributable as aforesaid among the holders of Preferred Stock of all series shall be insufficient to permit full payment to them of said preferential amounts, then such assets shall be distributed ratably among such holders of Preferred Stock in proportion to the respective total amounts which they shall be entitled to

receive as provided in this Section 4. After payment in full of said preferential amounts to the holders of Preferred Stock of all series, the remaining assets and funds of the Corporation shall be divided among and paid to the holders of shares of each series of Common Stock and shares of Common Stock without series, and any Preferred Stock with rights to participate with the Common Stock in such event, each in accordance with the resolution or resolutions of the Board creating such series and providing for the issuance of such shares.

ARTICLE VI

ANNUAL MEETINGS OF STOCKHOLDERS

The annual meeting of stockholders shall be held at such time, on such date and at such place (within or without the State of Delaware) as provided in the Bylaws of the Corporation. Subject to any requirement of applicable law, the books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws of the Corporation. Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

ARTICLE VII

CALL OF SPECIAL MEETINGS OF STOCKHOLDERS

Special meetings of stockholders of the Corporation for any purpose or purposes may be called at any time by a majority of the members of the Board of Directors or by a committee of the Board of Directors which has been duly designated by the Board of Directors and whose power and authority, as provided in a resolution by the Board of Directors or in the Bylaws of the Corporation, includes the power to call such meetings, but such special meetings of stockholders of the Corporation may not be called by any other Person or Persons or in any other manner.

ARTICLE VIII

NUMBER OF DIRECTORS

The number of directors that shall constitute the whole Board shall be as specified in the Bylaws of the Corporation, as the same may be amended from time to time. Notwithstanding the foregoing, during any period in which the holders of any one or more series of Preferred Stock, voting as a class, shall be entitled to elect a specified number of directors by reason of dividend arrearages or other contingencies giving them the right to do so, then and during such time as such right continues, (A) the then otherwise authorized number of directors shall be increased by such specified number of directors and the holders of shares of such series of Preferred Stock, voting as a class, shall be entitled to elect such specified number of directors in accordance with the procedure set forth in the resolution or resolutions of the Board creating such series and providing for the issuance of such shares and (B) each such additional director shall serve until his or her successor shall be elected and shall qualify, or until his or her right to hold such office terminates pursuant to the resolution or resolutions of the Board creating such series of Preferred Stock and providing for the issuance of shares of such series, whichever occurs earlier. Whenever the holders of shares of such series of Preferred Stock are divested of such right to

elect directors pursuant to the resolution or resolutions of the Board creating such series and providing for the issuance of such shares, the terms of office of all directors elected by the holders of such series of Preferred Stock pursuant to such rights, or elected to fill any vacancies resulting from the death, resignation or removal of directors so elected by the holders of such series, shall forthwith terminate and the authorized number of directors shall be reduced accordingly.

ARTICLE IX

STOCKHOLDER ACTION BY WRITTEN CONSENT

Subject to any rights of the holders of any series of Preferred Stock to act by written consent as set forth in the applicable certificate of designations, any action required or permitted to be taken by stockholders of the Corporation may be effected only at a duly called annual or special meeting of stockholders and may not be effected by a written consent or consents by stockholders in lieu of such a meeting; provided, however, that so long as the Investor, together with its Affiliates, owns shares representing at least 40% of the voting power of the Voting Stock, any action required or permitted to be taken by stockholders of the Corporation at any annual or special meeting of stockholders may be effected without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding capital stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of capital stock entitled to vote thereon were present and voted.

ARTICLE X

LINES OF BUSINESS

SECTION 1 Duties. In recognition and anticipation (i) that directors, officers and/or employees of members or partners of the Investor and its Affiliates may serve as directors and/or officers of the Corporation, (ii) that the Investor or members or partners of the Investor and its Affiliates may engage and are expected to continue to engage in the same, similar or related lines of business and/or other business activities as those in which the Corporation or any of its subsidiaries, directly or indirectly, may engage, and that the Investor or members or partners of the Investor and its Affiliates may compete with the Corporation and its subsidiaries in one or more of such business lines and/or business activities, (iii) that the Investor or members or partners of the Investor and its Affiliates may have an interest in the same areas of corporate opportunity as the Corporation and its subsidiaries, (iv) that the Investor or members or partners of the Investor and its Affiliates may engage in material business transactions with the Corporation and its subsidiaries, and (v) that, as a consequence of the foregoing, it is in the best interests of the Corporation that the respective rights and duties of the Corporation and of the Investor and the members or partners of the Investor and its Affiliates, and the duties of any directors or officers of the Corporation who are also directors, officers or employees of the Investor or members or partners of the Investor and its Affiliates, be determined and delineated in respect of any transactions between, or opportunities that may be suitable for both, the Corporation and its subsidiaries, on the one hand, and the Investor or members or partners of the Investor and its Affiliates, on the other hand, and in recognition of the benefits to be derived by

the Corporation through its contractual, corporate and business relations with the Investor and members or partners of the Investor and its Affiliates (including possible service of directors, officers or employees of the Investor or members or partners of the Investor and its Affiliates as directors, officers or employees of the Corporation or its subsidiaries), the provisions of this Article X shall, to the fullest extent permitted by law, regulate and define the conduct of certain of the businesses and affairs of the Corporation in relation to the Investor and members or partners of the Investor and its Affiliates and the conduct of certain affairs of the Corporation as they may involve the Investor and the members or partners of the Investor and its Affiliates and their respective directors, officers and employees, and the power, rights, duties and liabilities of the Corporation and its directors, officers and stockholders in connection therewith. Any Person purchasing or otherwise acquiring any shares of capital stock of the Corporation, or any interest therein, shall be deemed to have notice of and to have consented to the provisions of this Article X.

SECTION 2 Similar Activities or Lines of Business. Except as otherwise set forth herein or agreed in writing between the Corporation and the Investor or its Affiliates, the Investor and its Affiliates shall, to the fullest extent permitted by law, have no duty to refrain from (x) engaging in the same, similar or related lines of business and/or other business activities as the Corporation or any of its subsidiaries, or (y) doing business with any client, customer or vendor of the Corporation or any of its subsidiaries, and neither any member or partner of the Investor and its Affiliates nor any officer, director or employee thereof (except as provided in Section 3 of this Article X) shall to the fullest extent permitted by law be deemed to have breached his, her or its fiduciary duties, if any, to the Corporation by reason of engaging in any such line of business or activity. In the event that the Investor or a member or partner of the Investor and its Affiliates acquires knowledge of a potential transaction or matter that may be a corporate opportunity for both the Corporation or any of its subsidiaries and the Investor or a member or partner of the Investor and its Affiliates, provided that knowledge of the potential transaction or matter came to the attention of such Persons other than as a result of his, her or its position with the Corporation or that of their Affiliates with the Corporation, none of the Investor or any such member or partner of the Investor and its Affiliates, to the fullest extent permitted by law, shall (i) be determined to have failed to comply with its duty (fiduciary or otherwise) to the Corporation and its stockholders with respect to such corporate opportunity, (ii) have a duty to communicate or offer such corporate opportunity to the Corporation or any of its subsidiaries, or (iii) be determined to have acted in bad faith or in a manner inconsistent with the best interests of the Corporation or any of its subsidiaries or its stockholders or to have acted in a manner inconsistent with or opposed to any fiduciary duty to the Corporation or its stockholders by reason of the fact that the Investor or such member or partner of the Investor and its Affiliates pursues or acquires such corporate opportunity for itself, directs such corporate opportunity to another Person or does not communicate or offer information regarding such corporate opportunity to the Corporation.

SECTION 3 Shared Officers and Directors. Except as otherwise agreed in writing between the Corporation and the Investor or its Affiliates in the event that a director or officer of the Corporation who is also a director, officer or employee of the Investor or a member or partner of the Investor and its Affiliates (a "Shared Officer") acquires knowledge of a potential transaction or matter that may be a corporate opportunity for both the Corporation or any of its subsidiaries and the Investor or a member or partner of the Investor and its Affiliates, provided that

knowledge of the potential transaction or matter came to the attention of such Persons other than as a result of his, her or its position with the Corporation or that of their Affiliates with the Corporation, to the fullest extent permitted by law, no such Shared Officer shall (i) be determined to have failed to comply with his or her duty (fiduciary or otherwise) to the Corporation and its stockholders with respect to such corporate opportunity, (ii) have a duty to communicate or offer such corporate opportunity to the Corporation or any of its subsidiaries, or (iii) be determined to have acted in bad faith or in a manner inconsistent with the best interests of the Corporation or its stockholders or to have acted in a manner inconsistent with or opposed to any fiduciary duty to the Corporation or its stockholders by reason of the fact that the Investor or any member or partner of the Investor and its Affiliates pursues or acquires such corporate opportunity for itself, directs such corporate opportunity to another Person; or does not communicate or offer information regarding such corporate opportunity to the Corporation; *provided*, with respect to each of (i), (ii), and (iii) above, that such director or officer acts in a manner consistent with the following:

(A) any corporate opportunity offered to any person who is a Shared Officer by virtue of an officer position with the Corporation or an officer and director position with the Corporation shall belong to the Corporation (in which case such Shared Officer must present the opportunity in the first instance to the Corporation);

(B) any corporate opportunity offered to any person who is a Shared Officer by virtue of having a director position with the Corporation shall belong to the Corporation if such opportunity was expressly offered to such person solely in his or her capacity as a director of the Corporation (in which case such Shared Officer must present the opportunity in the first instance to the Corporation);

(C) any corporate opportunity offered to any person who is a Shared Officer shall belong to the Investor or the applicable member or partner of the Investor and its Affiliates if such opportunity was expressly offered to such person solely in his or her capacity as a director, officer or employee of the Investor or such member or partner (in which case such Shared Officer must present the opportunity in the first instance to the Investor or such member or partner); and

(D) any corporate opportunity otherwise offered to any person who is a Shared Officer shall belong to the Investor or the applicable member or partner of the Investor and its Affiliates.

The Corporation renounces its interest and expectancy in, or in being offered an opportunity to participate in, any corporate opportunity not expressly allocated to it under this Article X.

SECTION 4 Expiration. This Article shall expire on the date that the Investor, together with its Affiliates, ceases to own shares representing at least 10% of the voting power of the Voting Stock.

ARTICLE XI

ELECTION OF DIRECTORS

SECTION 1 Board. The Board of Directors shall consist of only one class. Except as set forth in Article VIII, (A) each director shall serve until his successor shall have been duly elected and qualified unless he shall resign, become disqualified or shall otherwise be removed, and (B) in the event of any change in the authorized number of directors, each director then continuing to serve as such shall nevertheless continue as a director until the expiration of his current term or his prior death, resignation or removal.

Vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may, unless the Board of Directors determines otherwise, only be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director; *provided, however*, that if the holders of any class or classes of stock or series thereof are entitled to elect one or more directors, vacancies and newly created directorships of such class or classes or series may only be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

SECTION 2 Stockholder Nominees. Nominations by stockholders of persons for election to the Board shall be made only in accordance with the procedures set forth in the Bylaws of the Corporation.

SECTION 3 Removal. Subject to the rights of the holders of any series of Preferred Stock then outstanding, any director, or the entire Board, may be removed from office with or without cause at any time, and only by the affirmative vote of the holders of a majority of the shares of Voting Stock then outstanding.

ARTICLE XII

LIABILITY AND INDEMNIFICATION

To the fullest extent permitted by the Delaware General Corporation Law, as the same exists or may hereafter be amended (the "Delaware Law"), a director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. The Corporation shall indemnify, in the manner and to the fullest extent permitted by the Delaware Law, any person (or the estate of any person) who is or was a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether or not by or in the right of the Corporation, and whether civil, criminal, administrative, investigative or otherwise, by reason of the fact that such person is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise. The Corporation may indemnify, in the manner and to the fullest extent permitted by the Delaware Law, any person (or the estate of any person) who is or was a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether or not by or in the right of the Corporation, and whether civil, criminal, administrative, investigative or

otherwise, by reason of the fact that such person is or was an employee or agent of the Corporation, or is or was serving at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise. The Corporation may, to the fullest extent permitted by the Delaware Law, purchase and maintain insurance on behalf of any such director, officer, employee or agent against any liability which may be asserted against such person. To the fullest extent permitted by the Delaware Law, the indemnification provided herein shall include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement and, in the manner provided by the Delaware Law, any such expenses may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding. The indemnification provided herein shall not be deemed to limit the right of the Corporation to indemnify any other person for any such expenses to the fullest extent permitted by the Delaware Law, nor shall it be deemed exclusive of any other rights to which any person seeking indemnification from the Corporation may be entitled under any agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office.

No repeal or modification of the foregoing paragraph shall adversely affect any right or protection of a director of the Corporation existing by virtue of the foregoing paragraph at the time of such repeal or modification.

ARTICLE XIII

AMENDMENT OF CORPORATE DOCUMENTS

SECTION 1 Certificate of Incorporation. The Corporation reserves the right at any time and from time to time to amend, alter, change or repeal any provisions contained in this Certificate of Incorporation; and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved herein.

SECTION 2 Bylaws. In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board is expressly authorized and empowered to make, alter or repeal the Bylaws of the Corporation, subject to the power of the stockholders of the Corporation to alter or repeal any Bylaw made by the Board.

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IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by Clay A. Halvorsen, its Executive Vice President, General Counsel and Secretary, as of this 18th day of August, 2008.

/s/ Clay A. Halvorsen

Name: Clay A. Halvorsen
**Title: Executive Vice President, General
Counsel and Secretary**