

WHEN RECORDED, PLEASE RETURN TO:
Sundance Cottages Owners
Association, Inc.
c/o Michael Gehret, Esq.
Armstrong Teasdale, LLP
4643 South Ulster Street, Suite 800
Denver, Colorado 80237

ENT 142690 : 2021 PG 1 of 11
Andrea Allen
Utah County Recorder
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RECORDED FOR Armstrong Teasdale LLP - Utah
ELECTRONICALLY RECORDED

Affects Parcel Nos. 52-278-0007, 52-278-0012, 52-278-0022,
52-278-0023, 52-278-0024, 52-278-0025, 52-278-0026,
52-278,0027, 52-278-0028, 52-278-0029, 52-278-0030,
52-278-0031, 52-278-0032, 52-278-0033, 52-278-0034,
52-278-0038, 52-281-0004, 52-281-0005, 52-281-0006,
52-281-0013, 52-281-0014, 52-281-0015, 52-281-0016,
52-281-0017, 52-281-0021, 52-281-0035, 52-281-0036,
52-281-0037, 52-284-0001, 52-284-0002, 52-284-0003,
52-284-0008, 52-284-0009, 52-284-0010, 52-284-0011,
52-284-0018, 52-284-0019, 52-284-0020 and 52-284-0039

**FIFTH AMENDMENT TO
CONDOMINIUM DECLARATION FOR
SUNDANCE COTTAGES**

THIS FIFTH AMENDMENT TO CONDOMINIUM DECLARATION (the “**Fifth Amendment**”) is made and executed as of the 10 day of August, 2021, by the undersigned being all of the Board of Trustees (the “**Board**”) for Sundance Cottages Owners Association, Inc., a Utah nonprofit corporation (the “**Association**”).

RECITALS

A. Sundance Cottages (the “**Declarant**”) submitted that certain real property more particularly described on **Exhibit “A”** attached hereto (the “**Property**”) to the provisions of the Condominium Ownership Act of the State of Utah by that certain Record of Survey Map of Mandan Cottages aka Sundance Cottages recorded June 25, 1986, as Entry No. 20005 and Map Filing No. 3332 in the office of the County Recorder of Utah County, Utah, and by that Condominium Declaration for Sundance Cottages (as amended, the “**Declaration**”) recorded on May 20, 1987 in the office of the County Recorder of Utah County, Utah, as Entry No. 19868, in Book 2417, at Pages 379 through 449, inclusive, the defined terms of which Declaration are hereby made part hereof by this reference; and

B. The Declaration, was amended by the First Amendment to Condominium Declaration for Sundance Village Cottages (the “**First Amendment**”) recorded June 2, 1987, as Entry No. 21563, in Book 2421, at Pages 254 through 261, inclusive, by that certain Second Amendment to Condominium Declaration for Sundance Village Cottages (the “**Second Amendment**”) recorded August 7, 1987, as Entry No. 30294, in Book 2440, at Pages 488 through 499, inclusive, by that certain Third Amendment to Condominium Declaration for

Sundance Village Cottages (the “**Third Amendment**”) recorded October 21, 1987, as Entry No. 39179, in Book No. 2461, at Pages 685 through 696, inclusive, and by that certain Fourth Amendment to Condominium Declaration for Sundance Village Cottages (the “**Fourth Amendment**”) recorded November 23, 1987, as Entry No. 42826, in Book No. 2470, at Pages 563 through 572, inclusive, in the office of the County Recorder of Utah County, Utah; and

C. Nothing in this Amendment is intended to affect the voting with the Association as described in the Declaration; and

D. This Amendment has been approved by the required affirmative vote of Unit Owners in accordance with Article XXVII of the Declaration.

W I T N E S S E T H

NOW, THEREFORE, the Declaration, as previously amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment, is hereby further amended as follows, with such amendment to become effective upon the recording of this Fifth Amendment in the office of the County Recorder of Utah County, Utah:

1. Addition of Article XL. The Declaration is hereby amended to add the following as Article XL:

ARTICLE XL
Unit Air Conditioning Systems and Hot Tubs

This Article references the option of an Owner to install an indoor portable air-conditioning unit (“Portable System”), a ductless mini-split air conditioner and heat pump system, or similar system, and associated indoor air handler (“Air Handler”), outdoor compressor (“Compressor”), if applicable, and all lines between the Compressor and the Air Handler and supporting electrical supply, or all vent hoses, ducting, and lines associated with a Portable System (collectively, as applicable, an “AC System”) to service a Unit. Notwithstanding the foregoing or anything to the contrary contained herein, an “AC System” shall not include a window-mounted air conditioner or a central air conditioner, and window-mounted air conditioners and central air conditioners shall be prohibited within the Property. This Article also references the option of an Owner to install an outdoor hot tub (“Hot Tub”) within a Unit’s Limited Common Area. An AC System and a Hot Tub are referred to herein, individually and collectively, as an “Accessory System”.

1. With the prior written consent of the Board of Trustees, an Owner may install or cause to be installed an Accessory System. In order to obtain the Board of Trustees’ prior written consent to the installation of an Accessory System, an Owner shall:

(a) In the case of an AC System, submit a written request for approval specifying in detail the proposed AC System, together with plans and specifications showing the nature, kind, shape, height, color, materials, and

location of the AC System, including, without limitation, a proposed cover or enclosure for the Compressor for an AC System, to the Board of Trustees. The location of the Compressor shall be limited to the balcony or patio areas within the respective Unit's Limited Common Area. There shall be a single aperture in and through the necessary Common Areas and Facilities (i.e., the exterior wall) for the supply, venting, or electrical supply lines of the AC System (i.e., between the Compressor and the Air Handler, or venting hoses for an indoor portable air-conditioning unit). If the proposed AC System includes multiple Air Handlers inside a Unit, the supply, venting, or electrical supply lines for and between such multiple Air Handlers shall be contained entirely within the Unit and not located in or on the Common Areas and Facilities (i.e., an exterior wall). Notwithstanding anything to the contrary set forth herein, an Owner may install an indoor Portable Unit without the prior consent of the Board of Trustees. However, if the Portable Unit requires venting to the outside of the Unit, the Owner must first obtain written approval from the Board of Trustees for the venting of the indoor Portable Unit. There shall be an easement through the necessary Common Areas and Facilities for a single vent hole for each Portable System in a Unit. The proposed location of each vent hole must be in the plans and specifications included with the written request for approval under this Section. In the case of a Unit that has been separated into multiple lock off short term rentable units (each a "Lock Off Unit"), each Lock Off Unit may have a maximum of one vent hole for an indoor Portable Unit.

(b) In the case of a Hot Tub, submit a written request for approval to the Board of Trustees specifying in detail the proposed Hot Tub, together with plans and specifications showing the nature, kind, shape, dimensions, color, materials, and location of the Hot Tub. The location of each Hot Tub shall be limited to the balcony or patio areas within the respective Unit's Limited Common Area. There shall be a single aperture in and through the necessary Common Areas and Facilities (i.e., the exterior wall) for the electrical supply lines for each Hot Tub. In the case of Units that have been separated into multiple Lock Off Units, one Hot Tub may be located in the balcony or patio areas within the Limited Common Areas attached to each Lock Off Unit. In the case of a written request to install a Hot Tub on a balcony, the Unit owner shall also submit certification from a structural engineer that the balcony will support the weight and use of the proposed Hot Tub.

(c) Certify to the Board of Trustees that the work of installing the Accessory System (the "Work") will be performed by a contractor licensed in the State of Utah and that all permits required by any applicable governing body will be obtained before the Work will commence;

(d) Certify to the Board of Trustees that the Work will not result in any structural modifications to the building or Common Areas and Facilities, or any part thereof, or impair the structural soundness or integrity of any Unit, the building, or the Common Areas and Facilities, or any part thereof;

(e) If required by the Board of Trustees, provide an indemnification agreement executed by the Owner related to the matters addressed in Article XL; and

(f) Submit to the Board of Trustees any additional information, plans and specifications which the Board of Trustees may reasonably request.

The Board of Trustees, in its sole discretion, shall determine the criteria and requirements for the installation of an Accessory System. No changes or deviations in or from the plans and specifications once approved by the Board of Trustees shall be made without the prior written approval of the Board of Trustees. The approval by the Board of Trustees of any Accessory System or other work pursuant to this Section shall not be deemed a waiver of the Board of Trustees' right to withhold approval of any similar or other construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval. The approval required of the Board of Trustees pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other recorded instrument. The Board of Trustees may condition its approval of any application, plans or other items submitted to it on delivery to the Board of Trustees of evidence satisfactory to the Board of Trustees that the Owner seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Board of Trustees shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Board of Trustees shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity. The Board of Trustees shall determine the criteria and requirements for approval of an Accessory System in order to, among other reasons, minimize the impact on adjacent or nearby Units (i.e., with respect to appearance, location, or noise of the proposed Accessory System). The Board of Trustees, in its discretion, may consult with third parties in the Board of Trustees' determination of the criteria and requirements. At a minimum, the Board of Trustees shall consult with the owners of adjacent Units to determine the potential impact on neighboring Units. The Board of Trustees may approve or disapprove of any plans and specifications submitted to it in its sole discretion. The Board of Trustees shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Board of Trustees, nor any individual Board of Trustees member, shall be liable to any person for any official act of the Board of Trustees in connection with submitted plans and specifications.

2. Upon the Board of Trustees' approval of the Accessory System, the following provisions shall apply to the Owner who submitted such application and such Owner's Unit:

(a) The Owner who has requested such approval shall proceed, at such Owner's sole responsibility, cost, and expense, to perform, construct or make the installation of the Accessory System or other Work approved by the Board of

Trustees as soon as practicable and shall diligently pursue such Work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Board of Trustees, and cause all such Work to be completed in accordance with applicable law, code, or local ordinance;

(b) There shall be granted to the Owner, for such Owner and its successors-in-interest, an easement for a single aperture in and through the necessary Common Areas and Facilities (i.e., the exterior wall) for the installation and maintenance of the supply, venting, or electrical lines of the AC System (i.e., between the Compressor and the Air Handler), in the size and location set forth in the plans and specifications for the AC System approved by the Board of Trustees, and the Owners shall be deemed to have granted such easement upon the Board of Trustees' approval pursuant to Article XL, Section 1;

(c) In the case of Portable Units, there shall be granted to the Owner, for such Owner and its successors-in-interest, an easement for a single aperture in and through the necessary Common Areas and Facilities (i.e., the exterior wall) of each Lock Off Unit for the installation and maintenance of a vent for the Portable Unit in the size and location set forth in the plans and specifications for the AC System approved by the Board of Trustees, and the Owners shall be deemed to have granted such easement upon the Board of Trustees' approval pursuant to Article XL, Section 1;

(d) In the case of a Hot Tub, there shall be granted to the Owner, for such Owner and its successors-in-interest, an easement for a single aperture in and through the necessary Common Areas and Facilities (i.e., the exterior wall) of each Lock Off Unit for the installation and maintenance of the electrical lines for the Hot Tub in the size and location set forth in the plans and specifications for the Hot Tub approved by the Board of Trustees, and the Owners shall be deemed to have granted such easement upon the Board of Trustees' approval pursuant to Article XL, Section 1;

(e) The Owner who has requested such approval shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from (i) the Work, (ii) the claim of any mechanic's lien for labor performed or for materials furnished in work on such Owner's Unit against the Unit of another Owner or against the Common Areas and Facilities, or any part thereof, (iii) any personal injury, death, or destruction of property caused by the Work, (iv) any damage, structural or otherwise, to the building or Common Areas and Facilities caused by the Work, and (v) any damage to the building, the Common Areas and Facilities, or another Owner's Unit caused by the Accessory System; and

(f) The Owner of the Unit in which the Accessory System has been installed shall, at such Owner's sole cost and expense: (i) operate the Accessory System, including, without limitation, electrical supply and cost of electricity to

operate the Accessory System; and (ii) maintain the Accessory System pursuant to the provisions of Article XXII. The Accessory System shall not be part of the Common Areas and Facilities, and the Association shall have no responsibility for the installation, operation, use, maintenance, repair, or replacement of the Accessory System. The Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability of loss arising from the installation, operation, use, maintenance, repair, or replacement of the Accessory System. Any Accessory System that was installed before the date of this Fifth Amendment shall be maintained and operated by the Owner of the Unit in which the system is installed in accordance with the requirements of this subsection (f). Any modification to an Accessory System installed before or after the date of this Fifth Amendment requires the written approval of the Board of Trustees pursuant to Article XL of the this Fifth Amendment.

3. Nothing in this Article creates the right to subdivide any of the Units. The term Lock Off Unit does not refer to subdivided Units, but rather refers to Units that have multiple rooms that can be rented separately. For example, Unit 14 has three separate rooms that can be rented separately as Unit 14A, 14B and 14C. For purposes of this Article, the term Lock Off Unit refers to each room that can be locked off from the other portions of the Unit and rented separately. Pursuant to Article IV, the provisions of this Article XL shall run with the land and shall be binding upon all Unit Owners or subsequent Unit Owners, their grantees, mortgagees, successors, heirs, personal representatives, devisees, lessees, assigns and guests.

2. Ratification. The Declaration, as previously amended and as amended herein, shall remain in full force and effect.

3. Certification. Pursuant to Article XXVII of the Declaration, the members of the Board, by their signatures below, hereby certify that the vote required to amend the Declaration has occurred and that this Fifth Amendment was approved by said vote.

[Remainder of Page Intentionally Blank; Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Fifth Amendment as of the day and year first-above written.

**Sundance Cottages Owners Association, Inc., a
Utah nonprofit corporation**

A handwritten signature in black ink, appearing to read "Allan D. Mitchell", written over a horizontal line.

Allan D. Mitchell, President of Sundance Cottages
Owners Association, Inc.

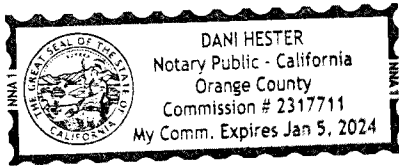
CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Orange }
On August 10, 2021 before me, Dani Hester
Date Here Insert Name and Title of the Officer
personally appeared Allan D. Mitchell
Name(s) of Signer(s)

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 Dani Hester
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document:

Document Date: Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

Signer's Name:

Corporate Officer - Title(s):

Corporate Officer - Title(s):

Partner - Limited General

Partner - Limited General

Individual Attorney in Fact

Individual Attorney in Fact

Trustee Guardian or Conservator

Trustee Guardian or Conservator

Other:

Other:

Signer is Representing:

Signer is Representing:

**EXHIBIT A
TO FIFTH AMENDMENT TO
CONDOMINIUM DECLARATION FOR
SUNDANCE COTTAGES**

EXHIBIT "A"

Legal Description of the Property

Beginning at the corner common to Sections 10, 11, 14 and 15, Township 5 South, Range 3 East, Salt Lake Base and Meridian; thence South 0°07'50" East 168.25 feet; thence North 49°01'00" East 497.93 feet; thence North 0°50'00" East 259.71 feet; thence along the arc of a 211.27 foot radius curve to the right 89.51 feet, the chord of which bears North 66°55'14" East 88.85 feet; thence along the arc of a 87.70 foot radius curve to the left 66.28 feet, the chord of which bears North 57°24'22" East 64.72 feet; thence NORTH 92.23 feet; thence North 42°57'18" West 329.41 feet to the southeast corner of the KENNETH FRANCK property described as lot "A" and lot "B" on Administratrix's Deed 6437; thence along the south line of said FRANCK property South 89°52'10" West 293.71 feet to the east line of TIMPHAVEN HOMES Plat "2"; thence South 0°07'50" East along said plat line 820.35 feet to the Point of Beginning. Containing 7.738 Acres. Basis of Bearings: The Section line between the Southwest corner of Section 11 and the West Quarter Corner of Section 11, Township 5 South, Range 3 East, Salt Lake Base and Meridian being North 0°07'50" West;

TOGETHER WITH (1) a perpetual, nonexclusive easement over, along and across the property described in the immediately succeeding paragraph (the "Servient Tenement") for pedestrian and vehicular ingress to and egress from the property described in the immediately preceding paragraph (the "Dominant Tenement"); and (2) a perpetual, nonexclusive easement in, through, along and across the Servient Tenement to install, use, keep, maintain, repair and replace, as required, utility lines, pipes and conduits of all types for the benefit of and appurtenant to the Dominant Tenement:

Beginning at a point on the easterly fee title boundary of Sundance Cottages, a Utah condominium project, said point being NORTH 487.69 feet and EAST 516.31 feet from the Southwest corner of Section 11, Township 5 South, Range 3 East, Salt Lake Base and Meridian; thence along the arc of a 87.70 foot radius curve to the left 12.43 feet, the chord of which bears North 31°41'31" East 12.42 feet; thence North

27°37'50" East 167.29 feet; thence along the arc of a 98.81 foot radius curve to the right 18.28 feet to the southwesterly right-of-way, of the Alpine Loop highway, the chord of which bears North 32°55'47" East 18.25 feet; thence along the arc of a 578.72 foot radius curve to the right 30.30 feet along said right-of-way, the chord of which bears North 42°33'01" West 30.30 feet; thence along the arc of a 128.81 foot radius curve to the left 28.68 feet, the chord of which bears South 34°00'35" West 28.62 feet; thence South 27°37'50" West 124.06 feet to the Easterly fee title boundary of said Cottages; thence SOUTH 62.79 feet along said easterly boundary to the Point of Beginning. Containing 0.121 Acres.

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