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14175 S REDWOOD RD  
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When Recorded, Please Mail to:

4 Independence, LLC  
c/o Bryan J. Flamm  
1099 West South Jordan Parkway  
South Jordan, UT 84095

**NEIGHBORHOOD DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR INDEPENDENCE AT THE POINT  
PLAT D-2**

THIS NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR INDEPENDENCE AT THE POINT PLAT D-2 (this "Declaration") is made and executed this 23 day of January, 2013, by 4 Independence, LLC, a Utah limited liability company, with an address of 1099 West South Jordan Parkway, South Jordan, Utah 84095 ("Declarant").

**RECITALS**

A. Declarant is the owner of all of that certain real property located in Bluffdale City, Salt Lake County, Utah, more particularly described on Exhibit A attached hereto (the "Property"). Declarant is developing the Property as a planned unit development to be known as "Independence at the Point Plat D-2" (the "Project"). The Project consists of eighteen (18) single-family Lots.

B. The Project is located in and is a part of the Independence at the Point development project, and accordingly, the Project is also subject to the covenants, conditions and restrictions set forth in the Declaration of Covenants, Easements, Conditions and Restrictions for Independence at the Point (the "Master Declaration") recorded October 17, 2012, as Entry No. 11493945 in Book 10067 at Page(s) 3032 et seq., of the Official Records of the Salt Lake County, Utah Recorder.

C. Pursuant to Section 4.1 of the Master Declaration, this Declaration is intended as a "Neighborhood Declaration" and relates specifically and only to the Project.

D. In order to efficiently manage and to preserve the Common Area located within the Project, it is necessary and desirable to create a nonprofit corporation to own and maintain Common Area in the Project; and to collect assessments and disburse funds as hereinafter set forth for such purpose. Independence at the Point Plat D-2 Homeowners Association, a nonprofit corporation, has been or will be incorporated for the purpose of exercising the aforementioned powers and functions.

## **DECLARATION**

NOW, THEREFORE, it is hereby declared that the Project shall be held, sold, conveyed, leased, rented, encumbered, and used subject to the following easements, rights, liens, charges, covenants, servitudes, restrictions, limitations, conditions, and uses, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. The Project is not a cooperative.

### **ARTICLE I**

#### **DEFINITIONS**

The following words, phrases, or terms used in this Declaration shall have the following meanings:

(a) "Common Area" shall mean all land within the Project that is designated as Common Area by this Declaration and areas shown or otherwise designated as Common Area on the Plat, including but not necessarily limited to the Private Alley identified on the Plat.

(b) "Common Expenses" shall mean all expenses for maintenance, repairs, utilities and taxes incurred on or in connection with Common Area within the Project, all insurance premiums, all expenses incurred in connection with enforcement of this Declaration, all expenses expressly declared to be Common Expenses by this Declaration or the Sub-Association Bylaws, and all other expenses which the Association is entitled to incur pursuant to the provisions of this Declaration or its Sub-Association Bylaws. Common Expenses do not include any utility services which are separately billed or metered to individual Lots, which separately billed or metered utility services shall be the sole responsibility of the applicable Lot Owner.

(c) "Declarant" shall mean and refer to 4 Independence, LLC, a Utah limited liability company and/or any successor to said company which, either by operation of law or through a voluntary conveyance or transfer, comes to stand in the same relationship to the Project as did its predecessor.

(d) "Development Agreement" shall mean that certain Development Agreement for Independence at the Point (Amended & Restated) dated November 27, 2012, entered into between Declarant and the City of Bluffdale, as may be amended from time to time in accordance with the terms thereof.

(e) "IDRC" shall mean and refer to the Independence Design Review Committee, established pursuant to the Development Agreement.

(f) "Lot" shall mean any of the eighteen (18) detached, single-family home building pads, separately numbered and individually described on the Plat and intended

for private use and ownership, and any such additional building pads platted in future phases of the Project, if any.

(g) “Master Association” means the Association established pursuant to the Master Declaration.

(h) “Master Declaration” has the meaning given to that term in Recital B above. In the event of any conflict between the Master Declaration and this Declaration, the terms of the Master Declaration shall control.

(i) “Member” shall mean any person that is a member of the Sub-Association pursuant to the provisions of Section 4.2.

(j) “Owner” shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Lot. If there is more than one record holder of legal title to a Lot, each record holder shall be an “Owner.”

(k) “Master Declarant” means 4 Independence, LLC, a Utah limited liability company.

(l) “Master Project” means the Independence at the Point development project, which Master Project is subject to the Master Declaration, as the same may be expanded from time to time by the Master Declarant.

(m) “Plat” shall mean the collective reference to the duly approved and recorded plat previously filed in the office of the Salt Lake County Recorder for the Project, and all future plats for future phases of the Project, if any, which may be added to the Project at Declarant’s discretion as provided in Section 11.3 below.

(n) “Project” shall mean (i) Independence at the Point Plat D-2 and (ii) all future plats for future phases of Independence at the Point Plat D-2, if any, which may be added to the Project at Declarant’s discretion as provided in Section 11.3 below, as shown on the Plat and governed by this Declaration.

(o) “Project Plan” means that certain Project Plan attached as an exhibit to the Development Agreement, which consists of, among other things, Design Guidelines relating to the Master Project.

(p) “Property” shall mean and refer to that certain real property located in Bluffdale City, Salt Lake County, State of Utah, and more particularly described on Exhibit A hereof, together with any other real property added to the Project pursuant to Section 11.3.

(q) “Sub-Association” shall mean Independence at the Point Plat D-2 Homeowners Association.

(r) “Sub-Association Annual Assessment” shall mean the charge levied and assessed each year against each Lot pursuant to Section 5.2 hereof.

(s) “Sub-Association Articles” shall mean and refer to the Articles of Incorporation of the Sub-Association.

(t) “Sub-Association Board” shall mean the Board of Trustees of the Sub-Association.

(u) “Sub-Association Bylaws” shall mean and refer to the Bylaws of the Sub-Association, as amended from time to time. A copy of the Sub-Association Bylaws is attached hereto and incorporated herein as Exhibit B.

(v) “Sub-Association Maintenance Charges” shall mean any and all fines, penalties and collection costs incurred in connection with delinquent Sub-Association Annual Assessment or Sub-Association Special Assessment pursuant to Section 5.2.

(w) “Sub-Association Special Assessment” shall mean any assessment levied and assessed pursuant to Section 5.2.

## ARTICLE II

### LAND USE CLASSIFICATION AND DENSITIES

2.1 Land Use Classification. This Project shall be developed as a “Single Family Residential Use” subdivision, as defined in the Master Declaration.

2.2 Density of Project. The Project shall be developed into single-family residential lots, in a total number of Lots not to exceed eighteen (18).

## ARTICLE III

### MASTER ASSOCIATION

3.1 Master Association. As further set forth in the Master Declaration, every Owner shall be a member of the Master Association. Membership in the Master Association is mandatory and shall be appurtenant to the Lot in which the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner’s Lot, and any such transfer shall automatically transfer the membership appurtenant to such Parcel to the new Owner thereof. All of the rights, responsibilities, duties, and obligations of the Owners with respect to their membership in the Master Association are set forth in the Master Declaration.

## ARTICLE IV

### SUB-ASSOCIATION

4.1 Formation of Sub-Association. The Sub-Association shall be a nonprofit Utah corporation or limited liability company charged with the duties and invested with the powers prescribed by law and set forth in its Sub-Association Articles and Sub-Association Bylaws and this Declaration. Neither the Sub-Association Articles nor Sub-Association Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Specifically, the Sub-Association is formed for the limited purpose of owning, operating, and maintaining the Common Area located within the Project, in a manner consistent with the terms of this Declaration, and for the purpose of collecting assessments and disbursing funds for such purpose.

4.2 Membership. In addition to an Owner's membership in the Master Association, every Owner shall also be a Member of the Sub-Association. Membership in the Sub-Association shall be mandatory and shall be appurtenant to the Lot in which the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and any such transfer shall automatically transfer the membership appurtenant to such Lot to the new Owner thereof. Each Member shall have a non-exclusive right and easement for use and enjoyment of all Common Area within the Project. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Notwithstanding the foregoing, a Member's right and easement of use and enjoyment is subject to the following:

(a) The right of the City of Bluffdale, Salt Lake County and any other governmental or quasi-governmental body having jurisdiction over the Project to access and have ingress and egress to, from, over and across all Common Area;

(b) The rights of the Sub-Association and the Declarant set forth in this Declaration.

4.3 Voting Rights. The Sub-Association shall have the following-described two (2) classes of voting membership:

(a) Class A. Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Sub-Association is held. Although each of the multiple Owners of a single Lot shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Lot. Which of the multiple Owners of a single Lot shall cast the vote on the basis of that Lot is determined under Section 4.4 of this Article IV.

(b) Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to eighteen (18) votes for each Lot in which the interest required for membership in the Sub-Association is held. The Class B membership shall

cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Lots contained in the Project; or (ii) the expiration of fifteen (15) years after the date on which Declarant first conveys to a purchaser fee title to a Lot.

4.4 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Sub-Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

4.5 Lists of Owners. The Sub-Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Lot which is owned by such person. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Sub-Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Salt Lake County, Utah. The Sub-Association may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it, or at its option, the Sub-Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Salt Lake County, Utah. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Sub-Association is otherwise advised.

4.6 Board of Trustees and Officers. The affairs of the Sub-Association shall be conducted by the Sub-Association Board and such officers as the Sub-Association Board may elect or appoint in accordance with the Sub-Association Articles and Sub-Association Bylaws as the same may be amended from time to time. The initial Sub-Association Board shall be composed of three (3) natural persons, who need not be Members of the Sub-Association. The Sub-Association Board may also appoint various committees and may appoint and hire at Sub-Association expense a manager or management company, who shall, subject to the direction of the Sub-Association Board, be responsible for the day-to-day operation of the Sub-Association. The Sub-Association Board shall determine the compensation to be paid to the manager, the management company or any other employee of the Sub-Association.

4.7 Personal Liability. Neither the Declarant, any manager or member of Declarant, nor any member of the Sub-Association Board, officer, manager or other employee or committee member of the Sub-Association shall be personally liable to any Member, or to any other person, including the Sub-Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, negligence, or other matter, of any kind or nature except for acts performed intentionally and with malice.

## ARTICLE V

### ASSESSMENTS

5.1 Master Assessments. The Owners shall be required to pay such assessments as may be required by the Master Association pursuant to the terms of the Master Declaration, including but not limited to a Sub-Association Annual Assessment, Sub-Association Special Assessment, Sub-Association Maintenance Charge, and/or Reinvestment Fee imposed by the Master Association, all as set forth in the Master Declaration.

5.2 Purpose of Sub-Association Assessments; Assessment Lien. Without limiting the generality of Section 5.1, all Members of the Sub-Association further hereby covenant and agree, and each Owner, except Declarant, by acceptance of a deed to a Lot is deemed to covenant and agree, to pay to the Sub-Association the following assessments and charges: (a) Sub-Association Annual Assessments, (b) Sub-Association Special Assessments, and (c) Sub-Association Maintenance Charges, all such assessments and charges to be established and collected as hereinafter provided. The Sub-Association Annual Assessments, Sub-Association Special Assessments and Sub-Association Maintenance Charges, together with interest, costs and reasonable attorneys' fees, shall be secured by a lien (the "Assessment Lien") on the Lot to which they relate, in favor of the Sub-Association, which shall be a continuing servitude and lien upon the Lot against which each such assessment or charge is made. The Assessment Lien shall be a charge on the Lot, shall attach from the date when the unpaid assessment or charge shall become due, and shall be a continuing lien upon the Lot against which each assessment is made. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them. The Assessment Lien may be foreclosed by the Sub-Association in substantially the same manner as provided for non-judicial foreclosure of deeds of trust on real property upon the recording of a Notice of Delinquent Assessment or charge as set forth in Section 5.7 hereof. The Sub-Association shall be entitled to purchase the Lot at any foreclosure sale. Notwithstanding anything in this Declaration to the contrary, Declarant shall not be charged, and is exempt from paying, any assessments, whether Sub-Association Annual Assessment, Sub-Association Special Assessment, Sub-Association Maintenance Charges or otherwise, with respect to Lots owned by Declarant. Pursuant to Utah Code Ann. ("U.C.A.") 57-8a-212 (2011), the Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Advanced Title Company, with power of sale, the Lots and all improvements to the Lots for the purpose of securing payment of all Sub-Association Annual Assessments, Sub-Association Special Assessments and Sub-Association Maintenance Charges, together with interest, cost and reasonable attorneys' fees, under the terms of the Declaration.

5.3 Sub-Association Annual Assessments. Sub-Association Annual Assessments for each Owner of a Lot shall include the Owner's pro rata share of Common Expenses associated with the Common Area based on the total amount of Lots in the Project. Commencing on the date on which Declarant first conveys to a purchaser fee title to a Lot, a Sub-Association Annual Assessment shall be made against each Lot, except any Lot owned by Declarant, for the purpose of paying (or creating a reserve for) all Common Expenses.

After the one year anniversary of the date on which Declarant first conveys to a purchaser fee title to a Lot, the Sub-Association Annual Assessment may be increased each year in the discretion of the Sub-Association Board by not more than twenty percent (20%) of the Sub-Association Annual Assessment for the previous year.

From and after the one year anniversary of the date on which Declarant first conveys to a purchaser fee title to a Lot, the Sub-Association Annual Assessment may be increased above the twenty percent (20%) per year limit by a vote of sixty percent (60%) of the Members who are voting in person or by proxy, at a meeting duly called for that purpose.

5.4 Sub-Association Special Assessments. In addition to the Sub-Association Annual Assessment authorized above, the Sub-Association may levy, except with respect to Lots owned by Declarant, in any assessment period, a Sub-Association Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Common Area or for the purpose of defraying other extraordinary expenses; *provided, however*, that all Sub-Association Special Assessments must be assented to by a vote of fifty-one percent (51%) of the Members who are voting in person or by proxy, at a meeting duly called for that purpose. Sub-Association Special Assessments for the Common Area shall be paid pro rata by the Owners of all of the Lots based on the total number of Lots in the Project.

5.5 Uniform Rate of Assessment. Sub-Association Annual Assessments for Lots shall be fixed at a uniform rate for all Lots, except Lots owned by Declarant, and may be collected on a yearly basis or more frequently if the Sub-Association Board shall so determine.

5.6 Establishment of Annual Assessment Period. The period for which the Sub-Association Annual Assessment is to be levied (the "Assessment Period") shall be the twelve month period beginning January 1 of each year. The Sub-Association Board, in its sole discretion from time to time, may change the Assessment Period by recording with the County an instrument specifying the new Assessment Period. The Sub-Association Board shall fix the amount of the Sub-Association Annual Assessment against each applicable Lot at least thirty (30) days in advance of the end of each Assessment Period. Written notice of the Sub-Association Annual Assessment shall be sent to each Member of the Sub-Association. Failure of the Sub-Association to send a bill to any Member shall not relieve the Member of liability for payment of any assessment or charge. The due dates shall be established by the Sub-Association Board. The Sub-Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Sub-Association setting forth whether the assessments on a specific Lot have been paid.

5.7 Effect of Nonpayment. Any assessment or charge or installment thereof not paid when due shall be deemed delinquent and in the discretion of the Sub-Association Board may bear interest from thirty (30) days after the due date until paid at the interest rate of eighteen percent (18%) per annum, and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Sub-Association in collecting the same. The Sub-Association Board may also record a Notice of Delinquent Assessment or Charge (the "Notice") against any Lot as to which an assessment or charge is delinquent. The Notice shall be executed by an officer of the Sub-Association or a member of the Sub-Association Board, set forth the amount



of the unpaid assessment, the name of the delinquent Owner, and a description of the Lot. The Sub-Association Board may establish a fixed fee to reimburse the Sub-Association for the Sub-Association's cost in recording such Notice, processing the delinquency, and recording a release of such lien, which fixed fee shall be treated as part of the Sub-Association Maintenance Charge of the Sub-Association secured by the Assessment Lien. The Sub-Association may bring an action at law against the Owner personally obligated to pay the delinquent assessment and/or foreclose the lien against such Owner's Lot. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the benefits derived from assessments or abandonment of his or her Lot. Notwithstanding anything in this Declaration to the contrary, Declarant shall not be charged and is exempt from paying any assessments, whether Sub-Association Annual Assessment, Sub-Association Special Assessment, Sub-Association Maintenance Charges, or otherwise, with respect to Lots owned by Declarant.

5.8 Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with a Lot as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges. Except as provided above, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot shall not affect the Assessment Lien.

## ARTICLE VI

### MAINTENANCE

6.1 Common Area. The Sub-Association, or its duly delegated representative, shall maintain and otherwise manage all Common Area in the Project. This maintenance will include the appropriate upkeep and repair of all Common Area, including, without limitation, the sweeping, snow removal, repair, replacement and maintenance of the Common Area. The Sub-Association Board shall be the sole judge as to the appropriate maintenance of all Common Area. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of such properties shall be taken by the Sub-Association Board or by its duly delegated representative.

6.2 Assessment of Certain Costs. In the event that the need for maintenance or repair of Common Area is caused through the willful or negligent act of any Owner (except Declarant), his or her family, guests or invitees, the cost of such maintenance or repairs shall be added to and become part of the Sub-Association Maintenance Charge to which such Owner's Lot is subject and shall be secured by the Assessment Lien.

## ARTICLE VII

### RIGHTS AND POWERS OF SUB-ASSOCIATION

7.1 Sub-Association's Rights. In addition to the rights and powers of the Sub-Association set forth in this Declaration, the Sub-Association shall have such rights and powers as are set forth in its Sub-Association Articles and Sub-Association Bylaws. In the event of any

conflict between the Sub-Association Articles and Sub-Association Bylaws and this Declaration, the terms of this Declaration shall control.

7.2 Rights of Enforcement. The Sub-Association, as the agent and representative of the Members, and the Declarant shall have the right to enforce the covenants, conditions, restrictions, liens, charges now and hereafter imposed by the provisions set forth in this Declaration by any proceeding at law or in equity. If the Sub-Association or Declarant prevails in any proceeding at law or in equity to enforce the provisions of this Declaration, the Sub-Association or Declarant is entitled to an award of its costs and reasonable attorneys' fees associated with the action. Failure by the Sub-Association or Declarant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

7.3 Insurance. The Sub-Association may obtain in its name and keep in full force and effect at all times, insurance policies for such casualty and public liability and other insurance policies as the Sub-Association Board deems necessary or desirable. The cost of such insurance shall be a Common Expense. The Sub-Association shall have no duty or obligation to procure or maintain insurance of any kind on any particular Lot.

## **ARTICLE VIII**

### **MAINTENANCE**

In the event any portion of any Lot or Common Area, except Lots owned by Declarant, is so maintained or used by an Owner or the Sub-Association as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto; or in the event any portion of a Lot, except Lots owned by Declarant, is being used in a manner which violates this Declaration; or in the event any Member, except Declarant, is failing to perform any of its obligations under this Declaration or the architectural guidelines and standards of the IDRC, the Master Association may take corrective action with respect to the foregoing as further set forth in the Master Declaration. As further set forth in the Master Declaration, the Master Association shall have the right to assess "Maintenance Charges" (as defined in the Master Declaration) with respect to any such corrective action taken by the Master Association.

## **ARTICLE IX**

### **DESIGN REVIEW**

9.1 Purpose. As further set forth in the Master Declaration, in order to create, maintain and improve the Master Project as a pleasant and desirable environment, to establish and preserve a consistent and harmonious design for the Master Project community and to protect and promote the value of the Master Project, all exterior design, landscaping and changes or alterations to existing use, landscaping and exterior design and development within the Project shall be subject to design review and approval by the IDRC.

9.2 Design Guidelines. As further set forth in the Master Declaration, the Project and all residences constructed thereon shall be subject to the Design Guidelines set forth in the Project Plan of the Development Agreement, including without limitation, the single-family home design review and approval process as set forth therein.

## ARTICLE X

### COVENANTS, CONDITIONS AND RESTRICTIONS

10.1 Land Use and Building Type. No Lot shall be used for other than residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) single-family dwelling, not to exceed the height limitation for the applicable zone of Bluffdale City as specified at the time of recordation of the Plat. Unless otherwise approved by the IDRC, each dwelling must have at least a two-car and no more than a three-car garage. Carports may not be built. All such dwellings shall meet the minimum size requirements of Bluffdale City as specified at the time of the recordation of the Plat. Height shall be measured as per Bluffdale City Ordinance. The side yard for each building shall meet the minimum requirements of the Independence at the Point Project Plan.

10.2 Architectural Control. To maintain a degree of protection to the investment which homeowners in this area may make, homes of superior design are requisite, and designs shall be limited to those approved by the IDRC. In the event of any reconstruction of an improvement or a house on a Lot due to a casualty, the design, quality, and appearance of the reconstructed home shall be substantially the same as the structure initially built, unless otherwise approved by the IDRC. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the IDRC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade on any Lot, shall be subject to the prior written approval of the IDRC. Once approved by the IDRC, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the IDRC. Subsequent to receiving approval of the IDRC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from Bluffdale City.

No construction, reconstruction or modification of a home or landscaping may commence without approval by the IDRC of the working drawings including, but not limited to, the following:

- (a) Plot plans to scale showing the entire site, building, garages, walks, drives, fences, lights, and retaining walls, with elevations of the existing and finished grades and contours including those at the outside corners of the buildings and at adjacent property line and street fronts and elevations of floors from a designated point on the street.
- (b) Detailed floor plans showing dimensions and measurements.

(c) Detailed elevations, indicating all materials and colors and showing existing and finished grades.

(d) Detailed sections, cross and longitudinal.

(e) Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc.

Specifications shall give complete descriptions and color samples of materials to be used on the exterior of the residence.

10.3 Construction Quality, Size and Cost. The IDRC will base its approval of construction plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines and other provisions found within the Project Plan.

10.4 Construction Time. The IDRC shall have final control for approval of all color and material plans. There is no time limit for beginning construction; however, upon commencement, the construction time for the exterior portion of any structure shall not exceed twelve (12) months from start to finish. "Start" shall be the instant any foliage is cut or removed in anticipation of the landscaping or construction to be built. All building debris, excavation, dirt, etc. associated with the building process shall be removed within the twelve (12) month period. Such debris and excavation dirt shall not be permitted on any of the streets or sidewalks within the Project.

10.5 Building Location. No building shall be located on any Lot nearer than the minimum building set-back, side street and side lot lines required by the Project Plan; provided, however, that customary storage sheds may be permitted upon approval of the IDRC.

10.6 Landscaping. Any trees, lawns, shrubs, or other planting on any Lot shall be properly nurtured and maintained by the Owner of such Lot.

Only such foliage shall be removed from each Lot as is necessary for clearing the driveway, excavating for the foundation, and for lawns and patio areas. Lawn, patio, and garden areas are subject to approval by the IDRC. Owners are encouraged to plant trees and shrubs to enhance the natural beauty, provide windbreaks, and improve erosion control within the Project. The planting of trees that will have a high profile and obstruct the view from neighboring Lots is prohibited. Such trees may be pruned or removed at the discretion of the Master Association.

Each dwelling shall have installed surrounding it an outdoor sprinkler system for fire protection and irrigation. Installation of sod and sprinklers for the front yard of each Lot within the Project shall be completed prior to the receipt of a certificate of occupancy from Bluffdale City, weather permitting. In the event that weather does not permit, the cost of sod and sprinklers for the front yard shall be bonded as and to the extent required by Bluffdale City ordinance, and such sod and sprinklers shall be completed as soon as reasonably practicable thereafter.

No planting or structures shall be placed or permitted which may damage or interfere with established slope ratios, create erosion, or change the direction of drainage channels. All

materials used to retain and contour the slope of any Lot or improvement must conform with the natural beauty and color of the Property and must be approved by the IDRC.

Landscaping of the individual Lots shall be installed and maintained by each individual Owner, and Common Area shall be installed and maintained by the Sub-Association. Landscaping may include a combination of lawns, shrubs, or ground cover. Ground cover may include vegetative vines, low-spreading shrubs, or annual or perennial flowering or foliage plants. Ground cover may also include mineral or non-living organic permeable material in not more than fifty percent (50%) of the net landscaped area. Mineral ground cover may include such materials as rocks, boulders, gravel, or brick over sand.

10.7 Accessory Structures. Patio structures, trellises, sunshades, gazebos, awnings, window treatments, blinds, flag poles, and any other appurtenant buildings shall be constructed of materials consistent with the colors, textures, and materials approved for the dwelling and shall be integral to the architecture of the house and subject to the prior written approval of the IDRC in its discretion.

10.8 Exterior Antennas, Lights, and Power Lines. Exterior antennas are prohibited without the prior written approval of the IDRC. Exposed metal flues, vents, ventilator, or other metallic rooftop protrusions shall be coated or painted with a neutral color which will blend harmoniously with the surrounding Property. Satellite TV dishes will be allowed, provided they are placed or screened so they are not readily visible to neighboring Lots and streets. All power lines and similar type cables shall be buried underground. No short-wave radio antennas may be constructed on any Lot or attached to any structure thereon without the prior written approval of the IDRC.

10.9 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or its occupants. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber, and other building materials will be piled only in such areas as may be approved by the IDRC or the Master Association. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the IDRC or the Master Association, which may require screening of the storage areas.

The use of motorcycles and other motorized recreational vehicles which may produce audible annoyance to the Owners shall be limited to ingress and egress of the Property.

No oil or gas drilling, development, operations, refining, storage, quarrying, or mining operations of any kind shall be permitted upon any Lot.

The burning of rubbish, leaves, or trash on the Property is prohibited. Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during collection.

No Owner shall permit anything or condition to exist upon any Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

The Master Association, in its sole discretion, shall have the right to determine the existence of any nuisance.

10.10 Repair of Building. No building or structure on any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Section 10.2 above, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

10.11 Fuel Storage. No tank for storage of fuel may be maintained above the surface of the ground without the prior written consent of the IDRC.

10.12 Building Material Storage. Excluding with respect to the initial construction of residences within the Project, no building material of any kind or character shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements, and then the material shall be placed within the property lines of the Lot upon which the improvements are to be erected and shall not be placed in the streets or between the curb and the property line.

10.13 Reservation of Access, Maintenance, and Utility Easements. Declarant reserves easements for access, electrical, gas, communications, cable television and other utility purposes and for sewer, drainage and water facilities, and maintenance of the respective Lots by the Owners or agents authorized to conduct maintenance on behalf of the Owner, (whether servicing the Property or other premises or both) over, under, along, across and through the Property, together with the right to grant to Bluffdale City and Salt Lake County, or any other appropriate governmental agency or to any public utility or other corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Sub-Association and those claiming by, through or under the Owners or the Sub-Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof.

10.14 Solar Equipment. Solar panels (if any) are to be integrated into roof design. Panels and frames must be compatible with roof colors, all equipment must be screened from view, and prior written approval must be obtained from the IDRC.

10.15 Pools, Spas, Fountains, Game Courts. Pools, spas, fountains, and game courts must be approved by the IDRC and shall be located to avoid impacting adjacent properties with light or sound. Pool heaters and pumps must be screened from view and sound insulated from

neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or similar area ramps, which structures shall be prohibited.

10.16 Fences and Walls. Unless otherwise approved by the IDRC, fencing and walls shall be masonry, stone, tan vinyl, or wrought iron. Fences and walls are to be color coordinated with the approved dwelling colors. Use of landscaping materials for hedges and fencing is encouraged. No structures or fences shall be permitted in any areas designated by Bluffdale City as non-buildable.

10.17 Parking and Storage. No major mechanical work or repairs are to be conducted in streets or front yards. No inoperative vehicle shall be placed or remain on any Lot adjacent to a street for more than forty-eight (48) hours. No commercial-type vehicles shall be parked or stored on the front yard setback of any Lot or within the side yard buildings setback on the street side of a corner Lot, or on the residential street except while engaged in transportation. Trailers, mobile homes, trucks over three quarter ton capacity, boats, campers not on a truck bed, motor homes, buses, tractors, and maintenance or commercial equipment of any kind shall be parked or stored behind the front yard setback in an area reasonably screened from street view as approved by the IDRC. Sufficient side yard gate access should be planned and provided for in the design of the home to permit ingress, egress, and storage of trailers and recreational type vehicles on the side and rear yards. The storage or accumulation of junk, trash, manure, or other offensive or commercial materials is prohibited.

10.18 Additional Easements.

(a) Easements for Encroachments. If any structure constructed by Declarant on any Lot now or hereafter encroaches upon any other Lot, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Lot due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

(b) Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of residences on Lots, and (b) construction, installation and maintenance on lands within, adjacent to, or serving the Property other facilities, planned for dedication to appropriate governmental authorities. The reservations contained in this paragraph shall expire twenty-five (25) years after the date on which this Declaration was first filed for record in the Office of the County Recorder of Salt Lake County, Utah.

10.19 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of this Declaration which prohibit or restrict non-residential use of Lots, regulate parking of vehicles, and restrict

signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of residences within the Project so long as the location of such model homes and the opening and closing hours are approved by the IDRC, and the construction, operation and maintenance of such model homes otherwise complies with all of the provisions of this Declaration. The IDRC may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of Bluffdale City and any rules of the IDRC. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner thereof is not actively engaged in the construction and sale of residences within the Project, and no home shall be used as a model home for the sale of homes not located within the Master Project.

## **ARTICLE XI**

### **AMENDMENTS**

11.1 Term: Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of thirty (30) years from the date of recordation. From and after such date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the Owners of Lots casting sixty-seven percent (67%) of the total votes cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may be terminated at any time if at least ninety-five percent (95%) of the votes cast by all Owners shall be cast in favor of termination at an election held for such purpose. If the necessary votes are obtained, each Sub-Association Board shall cause to be recorded in the office of the Salt Lake County Recorder a "Certificate of Termination," duly signed by the President and attested by the Secretary of the Sub-Association, with their signatures acknowledged. Thereupon, the covenants herein contained shall have no further force and effect, and the Sub-Association shall be dissolved pursuant to the terms set forth in the Sub-Association Articles.

11.2 Amendments. This Declaration may be amended by recording in the office of the Salt Lake County Recorder a "Certificate of Amendment," duly signed and acknowledged as required for a Certificate of Termination. The Certificate of Amendment shall set forth in full the amendment adopted and shall certify that at an election duly called and held pursuant to the provisions of the Sub-Association Articles and Sub-Association Bylaws of the Sub-Association, the Owners casting sixty-seven percent (67%) of the votes at the election voted affirmatively for the adoption of the amendment. Anything in this Article IX or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration (a) to such extent and with such language as may be requested by Federal National Mortgage Association, HUD, or similar agencies or entities and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lots or any portions thereof, and (b) for any other purpose, for so long as (i) Declarant



owns at least one (1) Lot within the Project, and (ii) such amendment does not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

11.3 Expansion of Project. Declarant shall have the right in its sole discretion upon recording a Certificate of Amendment signed by Declarant to expand the Project to include additional phases and Lots, and/or to add to the development known as Independence at the Point Plat D-2, all of which additional property shall, upon recording such Certificate of Amendment, be subject to this Declaration.

**ARTICLE XII**

**MISCELLANEOUS**

12.1 Interpretation of the Covenants. Except for judicial construction, the Master Association, by its Board of Trustees, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Master Association’s construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

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

12.3 Rules and Regulations. The Sub-Association shall have the right to adopt rules and regulations with respect to all aspects of the Sub-Association’s rights, activities, and duties, including rules and regulations relating to the use of the Common Area, provided such rules and regulations are not inconsistent with the provisions of this Declaration.

12.4 General Reservations. Declarant reserves the right to grant, convey, sell, establish, amend, release, and otherwise deal with easements, reservations, exceptions, and exclusions with respect to the Property which do not materially interfere with the best interests of Owners and/or the Sub-Association including, but not limited to, access and utility easements, road easements, pedestrian and equestrian easements, pedestrian and hiking trails, and drainage easements.

12.5 Run with the Land. Declarant for itself, its successors, and assigns, hereby declares that all of the Property shall be held, used, and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in the Property.

*[Remainder of Page Intentionally Left Blank.]*

IN WITNESS WHEREOF, Declarant has executed this Declaration this 24 day of January, 2013.

4 INDEPENDENCE, LLC, a Utah limited liability company

By: DAI Partners, LLC, a Utah limited liability company

By: *Bryan J. Flamm*  
Bryan J. Flamm, Manager

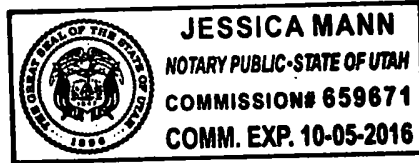
STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 24 day of January, 2013, by Bryan J. Flamm, a Manager of DAI Partners, LLC, a Utah limited liability company, the manager of 4 Independence, LLC, a Utah limited liability company.

*Jessica Mann*  
Notary Public

My Commission Expires: 10-5-16

1189249



**EXHIBIT A**

**(Legal Description of the Property)**

All of Independence at the Point Plat "D-2", according to the Official Plat thereof, on file in the Salt Lake County Recorder's Office, State of Utah.

**EXHIBIT B**

**(Sub-Association Bylaws)**

*See attached.*

**BYLAWS  
OF  
INDEPENDENCE AT THE POINT PLAT D-2  
HOMEOWNERS ASSOCIATION**

**ARTICLE 1.  
DEFINITIONS**

1.01 Declaration.

As used herein, "Declaration" means the Declaration of Covenants, Conditions and Restrictions for Independence at the Point Plat D-2, as recorded in the Official Records of Salt Lake County, Utah on October 17, 2012, as Entry No. 11493945, and as may be further amended from time to time. The development consists of detached single family home building pads and dwellings on separate parcels, separately numbered and individually described in one or more plat(s), duly approved and recorded in the Office of the Salt Lake County Recorder from time to time. The Project is located in and is a part of the Independence at the Point development project, and accordingly, the Project is also subject to the covenants, conditions and restrictions set forth in the Declaration of Covenants, Conditions and Restrictions for Independence at the Point (the "Master Declaration") recorded October 17, 2012, as Entry No. 11493945 in Book 10067 at Page(s) 3032 et seq., of the Official Records of the Salt Lake County, Utah Recorder. In the event of any conflict between the Master Declaration and the Declaration, the Articles of Incorporation of the Association (the "Articles"), or these Bylaws, the terms of the Master Declaration shall control.

1.02 Other Definitions.

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

**ARTICLE 2.  
OFFICES**

Independence at the Point Plat D-2 Homeowners Association (the "Association") is a Utah nonprofit corporation, with its principal office located at 1099 West South Jordan Parkway, South Jordan, Utah 84095.

**ARTICLE 3.  
VOTING, QUORUM, AND PROXIES**

3.01 Voting.

As more fully set forth in the Declaration, the Association shall have two classes of membership, Class A and Class B. Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. Although each of the multiple Owners of a single Lot shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Lot. Which of the multiple Owners of a single Lot shall cast the vote on the basis of that Lot is determined as provided in the Declaration.

The Class B Member shall be the Declarant. The Class B Member shall be entitled to eighteen (18) votes for each Lot in which the interest required for membership in the Association is held. The Class B membership shall cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Lots contained in the Project; or (ii) the expiration of fifteen (15) years after the date on which Declarant first conveys to a purchaser fee title to a Lot.

### 3.02 Quorum.

Subject to and except as otherwise required by law or the Declaration, the presence in person or by proxy of Owners entitled to vote more than thirty-three percent (33%) of the total votes of the Owners shall constitute a quorum.

### 3.03 Proxies.

Votes may be cast in person or by proxy. Every proxy must be executed in writing by the Owner or such Owner's duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

### 3.04 Majority Vote.

At any meeting of the Owners, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Owners, unless the vote of a greater number is required by law, the Declaration, or these Bylaws.

## **ARTICLE 4.** **ADMINISTRATION**

### 4.01 Annual Meeting.

The annual meeting of the Owners shall be held at a time designated by the Board in the month of February in each year, or at such other date designated by the Board, for the purpose of electing trustees and for the transaction of such other business as may come before the meeting. If the election of trustees shall not be held on the date designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Owners to be convened as soon thereafter as may be convenient. The

Board may from time to time by resolution change the date and time for the annual meeting of the Owners.

4.02 Special Meetings.

Except as otherwise prescribed by statute or the Declaration, special meetings of the Owners, for any purpose, may be called by the president or by a majority of the trustees and shall be called by the president at the written request of Owners entitled to vote twenty percent (20%) or more of the total votes of all Owners, such written request to state the purpose or purposes of the meeting and to be delivered to the Board or to the president.

4.03 Place of Meetings.

The Board may designate the Association's principal offices or any place within Salt Lake County, Utah, as the place for any annual meeting or for any special meeting called by the Board.

4.04 Notice of Meeting. Written or printed notice of any meeting of the Owners, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally, by mail, or by electronic means (i.e. e-mail, text messaging or another similar manner) to each Owner entitled to vote at such meeting not less than thirty (30) nor more than sixty (60) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Owner at such Owner's address as it appears in the office of the Association, with postage thereon prepaid. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may set a record date for such determination of Owners, in accordance with the laws of the State of Utah. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

4.05 Informal Action by Owners.

Any action required or permitted to be taken at a meeting of the Owners may be taken with or without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted.

**ARTICLE 5.**  
**BOARD OF TRUSTEES**

5.01 Number and Election of Trustees.

The Board of Trustees (the "Board") shall consist of no less than three (3) and no more than five (5) trustees. The initial trustees shall hold office until the election or appointment of their successors at the first annual meeting. Thereafter, subject to the terms and conditions of Sections 5.02 and 5.03 below, each trustee will hold office for a term of two (2) years, and the Owners entitled to vote shall elect the trustees at the annual meetings; provided, however that the terms of the trustees will be staggered so that the terms of approximately one-half of the trustees

will expire each year. The Board will make appropriate arrangements to accomplish the staggering of terms by providing for the initial election of certain trustees for one or two year terms.

5.02 Removal of Trustees. Each trustee may be removed, with or without cause, by a majority vote of all Owners of the Lots entitled to vote.

5.03 Replacement of Trustees.

i. A vacancy on the Board created by the removal, resignation, or death of a trustee appointed or elected by the Owners shall be filled by a trustee elected by the Owners entitled to vote.

ii. Any trustee elected or appointed pursuant to this Section 5.03 shall hold office for the remainder of the unexpired term of the trustee who was replaced.

5.04 Resignations.

Any trustee may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.05 Regular Meetings.

Regular meetings of the Board may be held without call or formal notice at such places within or outside the State of Utah, and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of Owners, or any special meeting of Owners at which a Board is elected.

5.06 Special Meetings.

Special meetings of the Board may be held at any place within the State of Utah or by telephone, provided that each trustee can hear each other trustee, at any time when called by the president, or by two or more trustees, upon the giving of at least three (3) days' prior notice of the time and place thereof to each trustee by leaving such notice with such trustee or at such trustee's residence or usual place of business, or by mailing it prepaid and addressed to such trustee at such trustee's address as it appears on the books of the Association, or by telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the trustees shall be required.

5.07 Quorum.

A majority of the number of trustees fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the



trustees in attendance shall, except where a larger number is required by law, by the Articles, by the Declaration, or by these Bylaws, decide any question brought before such meeting.

5.08 Waiver of Notice.

Before, at, or after any meeting of the Board, any trustee may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a trustee at any meeting of the Board shall be a waiver of notice by such trustee except when such trustee attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

5.09 Informal Action by Trustees.

Any action required or permitted to be taken at a meeting of the trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the trustees entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the trustees.

**ARTICLE 6.**  
**OFFICERS AND AGENTS**

6.01 General.

The officers of the Association shall be a president, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

6.02 Removal of Officers.

The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

6.03 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

6.04 President.

The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its

officers, agents, and employees. The president of the Association is designated as the officer with the power to prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

6.05 Secretary.

The secretary shall:

- i. keep the minutes of the proceedings of the Owners meetings and of the Board meetings;
- ii. see that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration, and as required by law;
- iii. be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board;
- iv. maintain at the Association's principal offices a record containing the names and registered addresses of all Owners, the designation of the Lot owned by each Owner, and, if such Lot is mortgaged, the name and address of each mortgagee; and
- v. in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

6.06 Treasurer.

The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his/her duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Association. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

**ARTICLE 7.**  
**EVIDENCE OF OWNERSHIP, REGISTRATION OF**  
**MAILING ADDRESS, AND LIEN HOLDERS**

7.01 Proof of Ownership.

Any person on becoming an Owner shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in the Lot. Such copy shall remain in the files of the Association.

7.02 Registration of Mailing Address.

If a Lot is owned by two or more Owners, such Owners shall designate one address as the registered address. The registered address of an Owner or Owners shall be furnished to the secretary of the Association within ten (10) days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Lot or by such persons as are authorized to represent the interests of all Owners of the Lot. If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Lot.

7.03 Liens.

Any Owner who mortgages or grants a deed of trust covering such Owner's Lot shall give the Association written notice of the name and address of the holder of such mortgage or deed of trust and shall file true, correct, and complete copies of the note and security instrument with the Association.

7.04 Address of the Association.

The address of the Association shall be 1099 West South Jordan Parkway, South Jordan, Utah 84095. Such address may be changed by the Board from time to time upon written notice to all Owners and all listed mortgagees.

**ARTICLE 8.**  
**SECURITY INTEREST IN MEMBERSHIP**

Owners shall have the right irrevocably to constitute and appoint a holder of a mortgage or deed of trust their true and lawful attorney-in-fact to vote their membership in the Association at any and all meetings of the Association in which such Owner is entitled to vote and to vest in such holder any and all rights, privileges, and powers that they have as Owners under the Articles and these Bylaws or by virtue of the Declaration. Unless otherwise expressly provided in such proxy, such proxy shall become effective upon the filing of notice by such holder with the secretary of the Association. A release of the mortgage or deed of trust covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve Owners, as mortgagors or grantors of a deed of trust, of their duties and obligations as Owners or to impose upon the holder of a mortgage or deed of trust the duties and obligations of an Owner.

**ARTICLE 9.**  
**AMENDMENTS**

9.01 By Trustees.

Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the trustees shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action. Notwithstanding the foregoing, unanimous approval of the trustees shall be required to amend or repeal Sections 5.02 through 5.04 hereof.

9.02 Owners.

Subject to any rights conferred upon holders of a security interest in the Declaration, the Owners may, by the vote of the holders of at least sixty-seven percent (67%) of the votes of the Owners entitled to vote, unless a greater percentage is expressly required by law, the Articles, the Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented. Notwithstanding the foregoing, unanimous approval of the Owners shall be required to amend or repeal Sections 5.02 through 5.04 hereof.

**ARTICLE 10.**  
**MISCELLANEOUS**

10.01 Fiscal Year.

The fiscal year of the Association shall be such as may from time to time be established by the Board.

10.02 Other Provisions.

The Declaration contains certain other provisions relating to the administration of the Project, which provisions are hereby incorporated herein by reference.

10.03 Officer/Trustee Qualifications.

No individual may serve as an officer or trustee of the Association if that individual, or if such individual is associated with a Lot Owner, the Lot Owner associated with that individual, is delinquent in the payment of any dues, fees, assessments, or the like arising out of the Declaration, these Bylaws, or the Association's Articles of Incorporation. Provided, that nothing in the previous sentence shall require an officer or trustee of the Association to also be an Owner of a Lot within the Project.

[SECRETARY'S CERTIFICATE APPEARS ON THE NEXT PAGE]

SECRETARY'S CERTIFICATE

I, the undersigned and duly elected Secretary of Independence at the Point Plat D-2 Homeowners Association, a Utah nonprofit corporation (the "Association"), do hereby certify that the foregoing Bylaws were adopted as the Bylaws of the Association effective as of January 24, 2013, and that the same do now constitute the Bylaws of the Association.

IN WITNESS WHEREOF, I have hereunto subscribed my name as the Secretary of the Association effective as of January 24, 2013.

  
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Milton P. Shipp, Secretary

**INDEPENDENCE AT THE POINT PLAT "D2"**

A PORTION OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, LOCATED IN SALT LAKE COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT S89°46'54"W ALONG THE SECTION LINE 1485.96 FEET AND SOUTH 478.80 FEET FROM THE NORTHEAST CORNER OF SECTION 14, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE S41°08'47"E 65.46 FEET; THENCE ALONG THE ARC OF A 731.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: S41°16'13"E) 233.43 FEET THROUGH A CENTRAL ANGLE OF 18°17'46" (CHORD: S39°34'54"W 232.44 FEET); THENCE S30°26'01"W 503.78 FEET; THENCE N52°05'21"W 121.51 FEET; THENCE ALONG THE ARC OF A 5.00 FOOT RADIUS CURVE TO THE RIGHT 7.85 FEET THROUGH A CENTRAL ANGLE OF 90°00'00" (CHORD: N7°05'21"W 7.07 FEET); THENCE N37°54'39"E 5.38 FEET; THENCE ALONG THE ARC OF A 245.00 FOOT RADIUS CURVE TO THE LEFT 31.97 FEET THROUGH A CENTRAL ANGLE 7°28'38" (CHORD: N34°10'20"E 31.95 FEET); THENCE N30°26'01"E 688.68 FEET; THENCE ALONG THE ARC OF A 350.00 FOOT RADIUS CURVE TO THE LEFT 15.75 FEET THROUGH A CENTRAL ANGLE OF 2°34'40" (CHORD: N29°08'41"E 15.74 FEET) THENCE ALONG THE ARC OF A 216.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: S22°43'47"W) 98.48 FEET THROUGH A CENTRAL ANGLE OF 26°07'26" (CHORD: S54°12'30"E 97.63 FEET) TO THE POINT OF BEGINNING.

CONTAINS: 2.18± ACRES