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**AFTER RECORDING RETURN ORIGINAL TO:**

Adams Property LLC  
Attn: Mike Flood  
12 South Main  
Kaysville, UT 84037

***EASTRIDGE PARK PRUD MASTER COMMUNITY***

***Layton City, Utah***

***A Group of Residential Subdivisions & Developments***

**AMENDED & RESTATED MASTER DECLARATION OF  
COVENANTS, CONDITIONS, & RESTRICTIONS**

ADAMS PROPERTY LLC  
A Utah limited liability company  
DEVELOPER / DECLARANT

**AMENDED & RESTATED  
MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE EASTRIDGE PARK PRUD MASTER COMMUNITY**

This Amended & Restated Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for the Eastridge Park PRUD ("Declaration"), a Utah planned, mixed residential use development (the "Master Declaration") is executed and adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Destination Homes, Inc. and Adams Property LLC, a Utah limited liability company and made effective as of the date recorded in the Davis County Recorder's Office, (Adams Property, LLC being the "Declarant" or "Developer").

**ARTICLE I  
RECITALS**

WHEREAS, Destination Homes, Inc. is the owner of certain real property subject to this Declaration and consents to the recording of this Declaration and is a signatory hereto in the capacity of an owner of real property. Notwithstanding, Adams Property, LLC, and its successors and assigns, is the sole Declarant and Developer.

WHEREAS, this Declaration affects and concerns the real property located in Davis County and more particularly described as follows ("Property"):

1. All of Lots 101 through 109 of EASTRIDGE PARK PRUD PHASE 1A, inclusive of all Common Area and Open Space parcels, located in the City of Layton City, according to the official approved final plats thereof, as recorded in the office of the County Recorder of Davis County, State of Utah; and (Tax I.D. Nos. 10-305-0101 through 0110)
2. All of Lots 201 through 208 of EASTRIDGE PARK PRUD PHASE 2A, inclusive of all Common Area and Open Space parcels, located in the City of Layton City, according to the official approved final plats thereof, as recorded in the office of the County Recorder of Davis County, State of Utah; and (Tax I.D. Nos. 10-304-0201 through 0210)
3. All of Lots 209 through 232 of EASTRIDGE PARK PRUD PHASE 2B, inclusive of all Common Area and Open Space parcels, located in the City of Layton City, according to the official approved final plats thereof, as recorded in the office of the County Recorder of Davis County, State of Utah; and (Tax I.D. Nos. 10-306-0209-0234)
4. Any and all future Lots or parcels that are recorded and developed as future phases and/or Neighborhood Associations of EASTRIDGE PARK PRUD master community that are within the 70 acre development parcel granted preliminary plat approval by Layton City on May 7, 2015, which is more particularly described in **Exhibit A**, attached hereto or such other adjacent real property hereinafter annexed into the Association. Each respective phase will be subject to and bound by this Declaration along with additional covenants, conditions, agreements and restrictions, within Neighborhood Declarations that may accompany the pertinent phases (Recitals 1-4 being collectively referred to as "Property" or "Subdivision").

WHEREAS, Property remains within the Declarant Control Period, as Class D Membership exists. Accordingly, pursuant to Article 12.3 of the enabling Declaration, this Declaration is hereby amended by the Declarant.

WHEREAS, It is the desire and intention of the Declarant to subdivide and sell the Property described above, and, by the execution of this instrument, it is the intention and desire of the Declarant, to make the Property subject to the covenants, conditions, agreements, restrictions, easements, reservations, limitations and equitable servitudes set forth in this Declaration to: (i) aid in the enhancement and preservation of property values, (ii) provide for the proper design, development, improvement and use of the Property by the Declarant and all other persons or entities who may subsequently acquire an interest in the Property consistent with a general master plan approach, (iii) create a residential development of high quality, and, (iv) provide for the continued maintenance and protection of certain common areas and common facilities in the master community and its sub-communities or Neighborhood Associations;

WHEREAS, in order to achieve the objectives and desires of the Declarant, the Declarant will control the management and government of the Property and the Association of Owners to be created, until such time as the Owners take over the management functions of the Association in accordance with the management transfer conditions more particularly set forth in this Declaration.

WHEREAS, the Subdivision shall be managed by a single Manager, including the management of all Neighborhood Associations. The Association shall not enter into a contract for management with a Manager that exceeds a ninety (90) day requirement for termination.

## ARTICLE II DECLARATION

NOW, THEREFORE, the Declarant hereby submits the Property to the provisions of this Declaration and declares that the Property and each Lot, tract or parcel thereof is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following covenants, conditions, restrictions, easement, reservations, limitations and equitable servitudes, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, protection, maintenance, improvement and sale of the Property or any Lot therein, and to enhance the value, desirability and attractiveness thereof. The Covenants and Restrictions set forth herein shall run with the land and each estate therein and shall be binding upon all persons having or acquiring any right, title or interest in the Property and any Lot therein; and shall inure to the benefit of and be binding upon the Declarant and its successors-in-interest, and may be enforced by the Declarant, or by any Owner, or by the Association, or by the Architectural Control Committee on behalf of the Association, as hereafter provided.

Notwithstanding the foregoing, no provision of this Declaration shall be construed or enforced to prevent or limit the Declarant's right to complete development of the Property in accordance with the plan as it currently exists or is modified from time to time by the Declarant, nor prevent normal and reasonable construction activities during the construction of Improvements upon any Lot in the Subdivision. No development or construction activities shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that the same are actively, efficiently and expeditiously pursued to completion. Further, during the Declarant Control Period, Declarant shall be exempt from any required approval, conditions or restrictions imposed by the Architectural Control Committee.

In the event of any conflicts between the provisions of this Declaration and the requirements of the applicable ordinances of the City of Layton City, Utah, other than provisions stated in the aforementioned Development Agreement, or any municipality that may annex any portion of said project (as to that portion or portions), the more restrictive provisions shall control.

### ARTICLE III DEFINITIONS

As used in this Declaration, unless the context otherwise specified or requires, the following words and phrases shall be defined as follows:

ACC: The Architectural Control Committee for the Subdivision.

ACC Rules/ACC Standards: The written rules and standards developed and adopted, initially by the Declarant and, subsequently by the ACC pursuant to the powers granted under Article X hereof, as amended from time to time. Such ACC Rules/ACC Standards shall be developed and contain rules and standards which will promote quality architectural, design, engineering and building standards that incorporate a reasonable degree of variety and flexibility while maintaining an overall design and conceptual consistency congruent with a master planned community.

Annexation: The process by which additional tracts or parcels of land, including platted Lots improved with single-family, or multi-family attached dwellings, not initially a part of the Property are made subject to this Declaration.

Assessment: A payment required of Association members, including Regular, Special, Neighborhood, or Individual Assessments as provided in this Declaration.

Association: The Eastridge Park Master Homeowners Association, Inc., a Utah non-profit corporation to be organized by the Declarant and existent for the purpose of providing self-government for the Property as set forth in this Declaration.

Attached: Where two or more primary living structures are attached or combined.

Basement: Any living area that is below the level of the floor the front door enters in on.

Board: The duly elected, and thereby qualified, Board of Directors of the Association.

Building: A structure constructed on a Lot on a temporary or permanent basis and unless specified to the contrary, shall include all other appurtenances and improvements thereto or used in connection therewith.

Bylaws: The Bylaws of the Association, including any amendments thereto duly adopted.

City: City of Layton City.

County: Davis County, State of Utah.

Declaration: This instrument as it may be amended or supplemented from time to time.

Development: The project to be undertaken by the Declarant resulting in the improvement of the Subdivision or any additional property annexed hereunder, including landscaping, amenities, construction of roadways, utility services and other Improvements.

Detached: Where two or more structures that make up a primary living residence (i.e. house and garage), or two or more primary living structures are not combined or attached.

Improvements: All structures and appurtenances thereto of all kinds and types, including but not limited to, buildings, roads, storm drains, driveways, parking Lots, sidewalks, walkways, walls, fences, screens, landscaping, poles, signs and lighting. Improvements shall not include those items which are located totally on the interior of a building and cannot be readily observed when outside thereof.

Initial Construction: The first construction of permanent improvements on a Lot.

Individual Assessment: An Assessment levied by the Association upon one or more Lots, but not upon all Lots within the Subdivision, for the purpose of securing payment by the Owner(s) thereof of amounts expended or to be expended by the Association to (i) pay for special amenities or services provided to the Lot or Lots, (ii) to cure an Owner's breach hereunder, (iii) correct a condition prohibited.

Lot/Unit: A portion of the Property which is a legally described tract or parcel of land within the Subdivision or which is designated as a Lot or Unit on any recorded subdivision plat relating to the Property, including any Improvement located thereon.

Master Plan: Shall mean the master development plan for the Property (as amended and expanded from time to time to include additional property annexed to the Subdivision and to accommodate reasonable variations from the original master concepts for subdivisions within the Property and to meet the requirements of governmental authorities having jurisdiction over the development of the Property), which development plan has been created by the Declarant, reviewed by and accepted by appropriate governmental authorities, combined with certain recreational and open-space uses.

Member: Any person(s) who is an Owner of a Lot within the Subdivision.

Neighborhood Assessment: An Assessment levied by a Neighborhood Association upon one or more Lots, for the purpose of securing payment by the Owner(s) thereof of amounts expended or to be expended by the Neighborhood Association to (i) pay for special amenities or services provided to the Lot or Lots, (ii) to cure an Owner's breach hereunder, (iii) correct a condition prohibited. Neighborhood Assessment may be further defined and modified for the respective Lots within each Neighborhood Association as provided for in the individual declarations for Neighborhood Associations.

Neighborhood Association: An association of owners of a particular group of Lots to be organized by the Declarant, or organized by a subsequent purchaser/builder upon Declarant's written approval of any Declaration concerning a Neighborhood Association, and existent for the purpose of providing self-government for the specific property defined and in the respective neighborhood or phases of the Development.

Occupant: Any person, association, corporation, or other entity who or which is an Owner, or has leased, rented, been licensed, or is otherwise legally entitled to occupy and use any Building or Improvement on a Lot whether or not such right is exercised, including their heirs, personal representatives, successors and assigns.

Owner: A person or persons or other legal entity or entities, excluding the Declarant(s), holding fee simple title to a Lot in the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, but including any Mortgagee (of any priority) or other security holder provided said Mortgagee or other security holder is in actual possession of a Lot as a result of foreclosure or otherwise, and any person taking title through such Mortgagee or other security holder by purchase at foreclosure sale or otherwise.

Plat: A final subdivision plat covering any real property in the Subdivision, as recorded in the office of the County Recorder, Davis County, Utah, as the same may be amended by duly recorded amendments thereto.

Regular Assessment: An assessment levied by the Association to provide funds to pay the ordinary estimated expenses of the Association.

Special Assessment: An assessment levied by the Association other than a Regular or Individual Assessment.

Subdivision: The whole of the Property and any additional land annexed thereto as provided herein, including any such additional land as may be platted and annexed hereunder under a different name (also sometimes referred to herein as "Property").

Supplemental Declaration: The additional or different conditions, covenants, conditions, restrictions and easements relating to a particular tract, parcel of real property, or Neighborhood Association within the Subdivision promulgated by the Declarant, or organized by a subsequent builder/purchaser, with the written approval of the Declarant, and recorded in the official records of Davis County, Utah. Unless specifically provided to the contrary, or unless the context otherwise requires, a reference to "Declaration" shall include "Supplemental Declarations."

#### ARTICLE IV PURPOSE

The Property is hereby made subject to the Covenants and Restrictions contained in this Declaration, all of which shall be deemed to be imposed upon and run with the land and each and every Lot and parcel thereof, and shall apply to each and every Owner and Occupant thereof and their respective successors-in-interest and assigns, to insure the proper design, development, improvement, use and maintenance of the Property for the purpose of:

- a. Enforcing quality of design, development, improvement, use and maintenance as shall protect and enhance the investment and use of all Lots and Improvements;
- b. Preventing the erection of Improvements of improper design or construction with improper or unsuitable materials or with improper quality and method of construction;
- c. Encouraging and insuring the erection of quality and attractive Improvements appropriately located within the Property to assure visual quality and harmonious appearance and function;
- d. Securing and maintaining proper set-backs from streets and open areas in the Subdivision;
- e. Integrating the development of the different Lots by setting common general standards consistent with the ACC Rules/ACC Standards existing from time to time;
- f. Taking advantage of and utilizing, for purposes of promoting all of the foregoing and further enhancing the value and quality of each Owner's and each Occupant's interest in the Subdivision or in any Lot or Lots therein, a master planned residential community concept accommodating a diversity of residential property uses and designs within a common and

harmonious community plan with recreational and open space uses supportive of the overall planned community concepts envisioned by the Declarant;

- g. Managing, operating, insuring, constructing, improving, repairing, replacing, altering and maintaining the Association Property;
- h. Providing certain facilities, services and other benefits to the Owners including without limitation distributing culinary water;
- i. Administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby;
- j. Levying, collecting and enforcing the Assessments, charges and liens imposed pursuant hereto including without limitation those necessary to purchase water from respective entities (if so required);
- k. Developing and maintaining common areas and facilities;
- l. Taking any action that it deems necessary or appropriate to protect the interests and general welfare of Owners; and
- m. Any other purpose permitted by law.

As used hereafter, "Project Objectives" shall mean the foregoing specified purposes. Each purpose specified herein is an independent purpose and is not restricted by reference to or inference from the terms of any other purpose.

## **ARTICLE V PERMITTED USES, RIGHTS, AND PERFORMANCE STANDARDS**

Section 5.1 **Use.** Unless otherwise specified in an Amended or Supplemental Declaration covering a particular Plat(s), Lot(s), or parcel(s), Lots shall be used only for single-family residential purposes (including multi-family as approved) and such uses as are customarily incidental thereto. The Townhome phases of the Subdivision, Phase 2 collectively, shall be restricted from allowing more than 8 of the total 52 approved units (15.3%) from being rented at any given time. It is incumbent upon the Association to enforce this restriction. No other phases within the Subdivision are subject to Association rental restrictions, but may be subject to such restrictions as defined in the Layton City municipal code (if any).

Section 5.2 **Description of Improvements.** It is intended that the Project will consist of a variety of single-family residential products, types, styles and models, including by way of illustration but not limitation townhomes, cottage homes, single family residences, detached housing, attached housing, or combinations thereof. The Declarant will also construct Common Area and Facilities. In addition, there may be trails and parks located in the common areas, as well as other improvements of a less significant nature. The location and configuration of the improvements referred to herein have been depicted on the preliminary plat as approved by the City, and will be delineated on the Plats. During the Developer Control Period while Class B Membership exists, the Declarant shall approve the design of all Improvements. Thereafter, an Architectural Control Committee may be established to oversee the minimum architectural and design standards for each Neighborhood, Lot and Dwelling, which shall be recorded with each phase. All construction plans and specifications must be reviewed and expressly approved in writing by the

Declarant or Architectural Control Committee. During the Developer Control Period while Class B Membership exists, Declarant shall be exempt from architectural restrictions.

Section 5.3 **Legal Status.** The Plat shows the number of each Lot or Unit, its location, and the Common Areas and Facilities to which it may have immediate access. All Lots and Units shall be capable of being independently owned, encumbered and conveyed; and shall have an appurtenant uniform undivided percentage of ownership interest in the Common Areas and Facilities.

Section 5.4 **Membership in Master and Neighborhood Associations.** By virtue of his acceptance of a deed or other document of conveyance to a Lot or Unit, each Owner shall be considered a member of the Master Association and its respective Neighborhood Association (if any), which membership is mandatory and may not be partitioned or separated from the ownership of the Lot or Unit.

Section 5.5 **Allocation of Profits, Losses and Voting Rights.** Profits, losses, and voting rights in the Master Association and each Neighborhood Association (if any) shall be allocated as set forth in the Declaration and Bylaws. The ownership of the Common Area and Facilities appurtenant shall be held by the Association.

Section 5.6 **Limited Common or Private Yard Area.** Limited Common Area or Private Yard Area shall mean and refer to those Common Areas and Facilities designated in the Declaration or Plat as reserved for use of a certain Lot or Lots to the exclusion of the other Lots. Limited Common Area may not be partitioned from the Lot to which it is appurtenant. The following items if designated to serve a single Lot or Unit, even if located outside the Lot or Unit are Limited Common Area and Facilities allocated exclusively to a Lot or Unit: a private garden or planting area, shutter, an awning, a window box, a doorstep, a stoop, a porch, a balcony, a patio, an exterior door, an exterior window, a driveway, a walkway, and any other fixture. Limited Common Area may also include a front, side and/or rear yard area if designated as such on the Plat. Such right of exclusive use shall automatically accompany the transfer of the Lot to which it relates.

Section 5.7 **Right to Modify Lot Boundaries and Interior Boundary Lines.** Declarant reserves the unilateral right to modify Lot boundaries and interior boundary lines and/or combine Lots or Units so long as it owns the Lots or Units; provided, however, such changes may not extensively alter the boundaries of the Common Area and Facilities nor change the percentages of ownership interest.

Section 5.8 **Change in Use or Nature of Common Area and Facilities.** The Declarant is granted and hereby expressly reserves the right to unilaterally change the use or nature of the Common Area and Facilities until the termination of the period of Declarant Control as defined in Article VII.

Section 5.9 **Change in Type of Lot Type or Dwelling Unit Type.** The Declarant reserves the right to unilaterally change the type, nature, scope, features, size, style, design, configuration, location, and so forth of a Lot or Unit within any Neighborhood so long as it owns the property.

Section 5.10 **Sensitive Lands Overlay Zone.** The property within the Subdivision is partially or wholly located with Layton City's Sensitive Lands Overlay Zone, as shown on Layton City Sensitive Lands and Geologic Hazards Map dated 3/14/2008 (on public display in the Layton City Planning Department at the time of this recording). In conjunction with the approval of the Eastridge Park PRUD subdivision, subdivision level geotechnical and geologic studies and reports were conducted and prepared on the Property. Said studies and reports are on file for public inspection with the Layton City Planning Department. Each individual Lot owner/building contractor/purchaser is responsible for complying with the geotechnical studies and reports completed by Intermountain Geo-Environmental Services, Inc. (IGES).



Layton City is not responsible for any engineering or inspection failure or any damages resulting therefrom. Any damage caused to public property, public interest in property, public improvements, or public facilities in the subdivision, by either a failure to comply with the referenced reports, shall be repaired by the party failing to comply therewith. Each Lot owner/building contractor will be required to sign a document prepared by Layton City that indicates the existence of geotechnical reports regarding the subdivision and willingness to comply with said reports. This entire Tract, is located within the Layton City Sensitive Lands Overlay Zone, and as such has been including all flood plans and drainage channels, shall be designated as being within the Sensitive Area Overlay Zone.

Section 5.11 **Public Trail.** The Declarant shall provide a public trail, generally ten feet (10') wide, except where property constraints prohibit this width, running through various parts of the Subdivision. Said Trail will be constructed and developed in conjunction with the respective phase or Neighborhood in which it is located.

Section 5.12 **Buildings or Dwellings.** Each dwelling unit shall have an attached or fully enclosed garage adequate for a minimum of two (2), and a maximum as determined by the ACC, standard size automobiles. No carports shall be allowed.

a. **Dwelling Size.** Each phase of the Subdivision will have an Amended or Supplemental Declaration recorded after the date of this Declaration, and in conjunction with each phases plat recording, which may define minimum living area requirements (square footage) for their respective dwelling units. Living areas shall be calculated exclusive of garages, open porches, and basements, and shall be based minimum square footage from the "ground floor" and up. "Ground floor" shall typically be defined as the first floor with a floor elevation extending above the top back of curb at the driveway approach side of the Lot, with any exceptions to this definition being determined by the ACC.

IN ANY CASE IN THE SUBDIVISION, THE ARCHITECTURAL CONTROL COMMITTEE RESERVES THE RIGHT TO GRANT EXCEPTIONS BUILDING OR DWELLING SIZE RESTRICTIONS IN ORDER TO PLACE AN APPROPRIATE HOME ON A SPECIFIC LOT DUE TO SLOPE RESTRICTIONS, LOT IRREGULARITY OR FOR ANY OTHER REASON THEY DEEM REASONABLY APPROPRIATE.

b. **Dwelling Quality:** All improvements on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in compliance and conformity with all laws and ordinances of the city of Layton City, Davis County, and the State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

c. **Dwelling Exterior Materials:** The integrity and harmony of the original design, and the quality of construction and materials throughout the Project is important. All construction shall be comprised of new materials, with exception to the use of used brick or wood members with prior written approval of the Architectural Control Committee. Each phase of the Subdivision will have an Amended or Supplemental Declaration recorded after the date of this Declaration, and in conjunction with each phases plat recording, which may define specific exterior material requirements for their respective dwelling units. In general, the dwelling's exterior for all phases of the Subdivision shall be comprised of combinations of the following materials (but not required to use all): Cement composite, wood, and/or wood-composite sidings; stucco; masonry, including brick and stone.

Each dwelling must have a minimum 25-year Architectural (laminated) asphalt type shingle. The ACC must approve any other variation from this specification. No tile or gravel roofs shall be permitted. Roof pitches shall be a minimum 6/12 with exceptions allowed for small shed roofs, porch roofs, and other roofs over minor appurtenances.

**Section 5.13 Approval of Use and Plans.** During the period of Declarant Control, Declarant shall have the ability to approve of all plans within the Subdivision at Declarant's sole discretion. Following the period of Declarant control, the overall architectural style and detailing of each Improvement (including each Building) and the associated landscaping and site use is subject to ACC review and approval. **All architectural designs, plans, specifications, construction materials, and colors must be (a) reviewed and approved by the Architectural Control Committee ("ACC") prior to commencement of any construction activities; and, (b) consistent with the governing documents. Any alterations in approved plans, specifications, construction materials, and colors, following ACC approval, require a re-review and approval with the ACC.** Extraordinarily stylized or unique building shapes, or styles, such as geodesic domes, A-Frames, or cubic block homes are prohibited. The determination of whether or not a proposed Building is within this prohibited category of unique building styles shall rest with the ACC and such determinations shall be made in the sole and absolute discretion of the ACC; provided, that in making such determination, the ACC may consult with Owners of Lots in the immediate surrounding area of the Lot where the subject Building is proposed. No Initial Construction, including any site preparation or excavation of the Lot or other preparatory construction of Improvements for such Initial Construction shall be undertaken, built, constructed, erected or placed on a Lot unless and until the plans, specifications and site plan therefore have been reviewed in advance and approved by the ACC in accordance with the provisions of this Master Declaration, and any relative Amended or Supplemental Declarations. After Initial Construction, no other work of construction, excavation, or any exterior alteration to Improvements on a Lot shall be undertaken without obtaining the same advance approvals as are required with respect to Initial Construction.

Detached structures such as garden sheds and garages must be approved by the ACC. Detached structures are not allowed in the Townhome phases of the Subdivision. If the detached structure functions as a major component of the overall property function (i.e. garage), they are to be constructed of similar exterior materials and be the same color of the primary structure unless otherwise approved by the ACC. Sheds, outbuildings, pergolas, and picnic pavilions may be of different construction and materials, but must be approved by the ACC. All property owners are required to check with the governing municipality for building code requirements and zoning restrictions related to all detached structures before construction of said structure commences. Detached structures allowed for the benefit and use of the Patio Home owner, would be constructed on Common Area property, and must be approved by the ACC.

The Owner shall submit two sets of site, building, fencing, and landscaping plans to the ACC for approval.

THE ACC WILL REQUIRE THE OWNER, ITS CONTRACTOR OR AGENT, TO PAY THE FOLLOWING NON-REFUNDABLE REVIEW FEE(S), PER PLAN, WHEN THE SUBMITTAL IS MADE:

Initial Review Fee:	\$350.00 per plan (including home, landscape, fence, etc.)
Re-Review Fee:	\$150.00 per re-submittal of plans that have been rejected or required to provide more information.

THE ACC HAS THE AUTHORITY TO ENGAGE THE SERVICES OF OUTSIDE AGENTS TO REVIEW SUCH PLANS. ALL DWELLING SIZES, FLOOR PLANS AND EXTERIOR MATERIALS

MUST BE SUBMITTED TO THE ACC IN WRITING, AS OUTLINED IN SECTION 5.12 OF THESE COVENANTS AND ANY RELATIVE AMENDED OR SUPPLEMENT DECLARATIONS, AND APPROVALS MUST BE OBTAINED IN WRITING PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES ON THE HOME. IF SAID APPROVALS ARE NOT OBTAINED AND CONSTRUCTION BEGINS, OWNER SHALL BE SUBJECT TO A \$500.00 FINE, WHICH MAY BE LEVIED AS A LIEN, AT THE SOLE DISCRETION OF THE ACC OR THE HOA. THE DECLARANT RELATED ENTITIES, AS DEFINED IN 8.6 HEREIN, ARE EXEMPT FROM THE REQUIREMENT TO SUBMIT PLANS FOR ACC APPROVAL.

Section 5.14 **Prohibited Buildings/Uses**. No trailer or other vehicle, tent, shack, garage, accessory building or out-building shall be used as a temporary or permanent residence. No noxious or offensive activities shall be conducted on any Lot nor shall anything be done or any use made thereon or thereof which may be or become an unreasonable annoyance or nuisance to the Occupant(s) of the other Lots within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise. Nothing herein is intended to prohibit Declarant or its affiliated building and business entities from placing a construction trailer and/or sales trailer on a Lot, making reasonable use of construction equipment or otherwise undertaking efforts to develop the Subdivision or constructing the homes.

Section 5.15 **Exterior Antennas and Dishes**. No exterior antennae or dish (including HAMM), may be installed on a Lot without the prior written consent of the Declarant or ACC as to its location. Owners are required to utilize existing cables and hardware when installing antennas or dishes. Further such antennas and dishes may not be located anywhere on the front façade of the dwelling and must be screened from view whenever possible.

Section 5.16 **Easements**. Certain easements, as hereinafter described, are hereby reserved for the use and benefit of the Declarant and granted for the use and benefit of each Lot, and for the use and benefit of each Owner and Occupant, and for the use and benefit of the Association and/or the City, and their successors and assigns, for the purposes incident to such use, development and maintenance of the Property, in conformance with the following:

a. Grant of Easement. Declarant hereby reserves to itself and grants to the Master Association a nonexclusive, perpetual right-of-way and easement over, across and through the Project, together with the right to use, operate, maintain, repair and replace the Common Areas and Facilities, and all improvements therein, subject to all of the terms, covenants, conditions and restrictions set forth herein. The easement is to be used in common by the Declarant, Master Association, Neighborhood Association and the Owners, subject to all of the terms, covenants, conditions and restrictions set forth herein. The easement created is intended to be used as a private non-exclusive easement for the use and benefit of Declarant, Master Association, each Neighborhood and the Owners.

b. Encroachments. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Lot or Unit or Lots or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Lot or Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Lot or Unit or Lots or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Lots or Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be

constructed within the Project, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

c. **Declarant's Easement.** The Master Association hereby grants and conveys to the Declarant an exclusive easement to make such use of the Common Areas and Facilities, including private streets & parking areas, as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Master Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities, for use by the Master Association, Neighborhood Associations and Owners. This includes an easement for the purpose of permitting the Declarant, the Association and/or the City, their contractors and agents, to enter onto those portions of Lots contiguous to any property owned by the Association and/or the City to maintain, replace and restore landscaping and other Improvements within the Association and/or City property.

d. **Construction Easements.** The Declarant hereby reserves for itself and its affiliates and assignees a temporary construction easement over the Common Areas and Facilities, including private streets & parking areas, for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well as all Lots, Units, Common Areas and Facilities. The Owners of Lots or Units do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors and vibrations which may temporarily disrupt their quiet enjoyment of their Lots or Units and the Common Areas and Facilities, appurtenant thereto until all improvements are complete, and such Owners do hereby waive any right to object to such construction activity; provided, however, Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owners of Lots or Units in the Project. Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.

e. **Entry Monument Easement.** Easements for the Entry Monument and its corresponding plantings, landscape features and physical improvements, utilities, drainage systems and facilities, and irrigation are reserved hereby within Common Areas on the recorded Plat. An Owner may not do any landscaping, grading or work, or install any structure, building, improvement, planting, or other object, natural or artificial, or materials which may damage or interfere with the Entry Monument, installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way, or impair its view, nature, scope, function or utility. If an Owner violates the duties set forth herein, the Declarant is granted and hereby expressly reserves the right to enter onto the property to restore the area to its original condition at the sole cost of the Owner, and without being guilty of a trespass.

f. **Public Trail.** The Declarant hereby dedicates to the general public a nonexclusive, perpetual right-of-way over, across and through the public trail, the actual width of which will be designated on respective plats, running through the various Common Areas throughout the Project.

g. **Public Utility Easements.** Public Utility Easements ("PUE") are so designated on the Plat serving as easements for the installation, maintenance and location of public utility facilities of all kinds, including but not limited to power, telephone, natural gas, and radio and television transmission facilities.

h. **Drainage Easements.** No Owner shall obstruct, divert, alter or interfere in any way with the drainage of water upon, across or over any portion of the Property to the detriment of any other Owner. Each Owner shall, at its own expense, maintain the drainage ways and channels on his Lot in proper condition free from obstruction allowing drainage to occur to designated drainage facilities (if any).

i. Any additional easements, if any, as shown and designated on the recorded Plat(s) for the Subdivision including without limitation easements along the sides, front and rear of each Lot as shown on the Plat for maintenance, repair and/or replacement of utility and/or drainage facilities.

Except as provided herein, the above easement areas (excluding any equipment or appurtenances owned by the Declarant, the Association, the City, or a utility company located thereon) herein reserved shall be maintained by the Owner of the Lot upon which they are situated. No Improvements (which includes but is not limited to sheds, outbuildings, garages, fences, etc.) shall be placed or permitted to remain on such easement areas located within any Lot so as to interfere with the intended use or purpose of such easement(s), and no other activity shall be undertaken on any Lot which may interfere with the use and access intended to be provided by such easement or the installation or maintenance of the utilities or other facilities, if any, located thereon or therein.

The easements reserved to the Declarant hereunder shall be fully assignable or otherwise transferable by the Declarant to the Association and/or the City at the sole discretion of the Declarant.

Section 5.17 **Drainage.** Generally, the side and rear property lines are deemed drainage easements, and no Lot shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage pattern over the Lot to and from adjoining land. In the event it becomes necessary to change the established drainage over a Lot, adequate provision shall be made for proper drainage. Any fence or wall erected along the side or rear property line of any Lot shall contain "weep holes" or shall be otherwise constructed so as to not prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The owner of the Lot shall continuously maintain the sloped or swale areas of their Lot and all improvements in them, except for those improvements for which a public authority, utility company or the Association is responsible.

Section 5.18 **Lighting.** All private exterior lighting and interior lights reflecting outside shall not be placed in any manner which shall cause glare or excessive light spillage on any neighboring Lot(s). Reasonable holiday lighting and decorations may only be displayed during the period starting November 15 of each year to January 15 of the next year (or until weather allows for safe removal, which shall be determined by the Board.)

Section 5.19 **Animals.** No more than 2 (two) common domestic pets (i.e. cats, dogs and other indoor pets) per Lot are allowed. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or about the property. Residents with pet(s) shall abide by the pet rules and regulations adopted by the HOA from time to time. No pet may be allowed to create a nuisance. The following activities are deemed to be a nuisance: (1) Pets outside a Dwelling Unit and not in a fenced yard or in a cage or on a leash and under the control of the pet owner or his designee at all times; and (2) Pets in violation of the rules and regulations as adopted by HOA resolution. Pets, which constitute a nuisance, in the sole opinion of the HOA management committee, must be removed from the Property.

No dog will be allowed to roam unattended in the Property. Dogs shall be kept in the house, a dog run, kennel, or a fenced yard. All dog runs or kennels must be approved by the ACC, and shall be screened off

and out of the direct view from any street, and shall be in the rear yard of the home. At other times, dogs shall be on a leash and under the direct control and supervision of the owner.

Section 5.20 **Commercial Use Prohibited**. No commercial trade or business may be conducted in or from any Lot unless: 1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; 2) the business activity conforms to all zoning requirements for the Property, and the necessary and required permits and licenses are obtained; 3) the business activity does not involve door-to-door solicitation of residents of the Property; 4) the business activity does not require the storing and warehousing of large quantities of materials or products in view of any surrounding properties; and, 5) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the HOA. The terms "trade or business" shall have their ordinary and generally accepted meanings, which shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefore. As used herein, "commercial or business" activity shall not include the rental or leasing by an Owner of a Lot and the Improvements thereon for residential purposes. This Section specifically prohibits the use of a Lot for the commercial repair or sale of any vehicle, equipment, boat or other fuel operated equipment.

The Declarant, its authorized agents, and/or its affiliated building and business entities may use a Lot(s) for development and sales activities relating to the Subdivision, model homes or real estate sales.

Section 5.21 **Maintenance**. The following provisions shall govern the maintenance of Lots and all Improvements thereon:

a. Each Owner of a Lot or Neighborhood Association (if applicable) shall maintain all Improvements located thereon in good and sufficient repair and shall keep the Improvements thereon painted or stained, lawns cut, shrubbery trimmed, windows unbroken, rubbish and debris removed, weeds cut and otherwise maintain the same in a neat and aesthetically pleasing condition.

b. Each Owner of a Lot or Neighborhood Association (if applicable) shall have the responsibility for all upkeep and maintenance of their Lot and neighboring Public right-of-way properties to the lip of the curb, whether sidewalk Improvements have been constructed or not. This is to include landscaping maintenance and upkeep, snow removal from sidewalks, etc. All common area landscaped areas shall be the responsibility of the Association.

c. All damage to any Improvements shall be repaired as promptly as is reasonably possible.

d. A Building that is vacant for any reason shall be kept locked and properly maintained, including maintaining windows (no broken glass shall be allowed), doors, landscaping and other exterior elements in good order and repair.

e. All structures, facilities, equipment, objects and conditions determined by the ACC in its sole discretion to be offensive, shall be enclosed within an approved structure or appropriately screened from public view. All trash, debris, garbage and refuse shall be kept at all times in a covered container and all such containers are encouraged to be kept on a Lot within an enclosed structure or screened from public view.

f. No articles, goods, machinery, materials or similar items shall be stored, kept or maintained on a Lot in the required set-back area along a public or private right-of-way or otherwise kept in the open or exposed to public view.

g. Any event or condition on a Lot which, in the sole discretion of the ACC, creates an unsightly or blighting influence, shall, in a manner satisfactory to the ACC, be corrected, removed or screened from public view, as the case may be, by the Owner of the Lot, notwithstanding the fact that such event or condition may not be specifically described and/or prohibited in this Declaration.

h. In the event that any Owner or Neighborhood Association (if applicable) shall permit any Improvement, including any landscaping, which is the responsibility of such Owner or Neighborhood Association (if applicable) to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board and/or its assignees, upon fifteen (15) days prior written notice to the Owner of such Lot or Neighborhood Association (if applicable), shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing the same, and such Owner shall immediately become responsible to the Association for the cost thereof, and be subject to promptly reimburse the Association for said expenses. The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefore, or the amounts may, at the option of the Board, be levied as an Individual Assessment against said Lot and shall be enforceable in the same manner as other assessments set forth in Article VIII of this Declaration.

The foregoing provisions shall not apply to subdivided land owned by builders or by the Declarant that is used for open space or is otherwise in a predevelopment status.

Section 5.22 **Boats, Campers and Other Vehicles**. Trailers, recreational vehicles, trucks larger than standard pickups, boats, tractors, campers, garden or maintenance equipment and vehicles other than automobiles, when not in actual use, shall be kept at all times on the side of the home screened from public view; and at no time shall any of said vehicles or equipment be parked or stored on a public or private right-of-way within the Subdivision for more than 24 hours. The parking or storage of commercial equipment, including, but not limited to, truck trailers or cabs, construction or excavation equipment, etc., is prohibited. The primary purpose of the garage required on each Lot is for the parking and storage of automobiles and other vehicles. No other use of a garage or conversion of a garage, which prohibits or limits the use of a garage for the parking or storage of the number of automobiles for which is it designed, shall be permitted. Parking on the lawn or unpaved portion of the Lot or in a public or private right-of-way within the Subdivision, other than for temporary purposes (as determined by the ACC), is prohibited. No inoperative vehicle shall be parked or stored at any time on a Lot unless wholly within an enclosed structure. A minimum of two (2) off-street parking spaces for automobiles shall be provided on each Lot in addition to the garage spaces, provided that parking in the front yard setback area of the Lot shall be allowed only in the space directly in front of the garage. In no event shall streets be utilized for parking inoperative vehicles, recreational vehicles, boats, campers, trailers or other similar vehicles. No repairs of any vehicle shall be undertaken within the subdivision, except wholly within the owner's garage and with the garage door closed.

Section 5.23 **Garage Doors**. Garage doors shall be kept closed except when open for a temporary purpose.

Section 5.24 **External Energy Devices**. No energy producing devices including, but not limited to, solar panels and generators of any kind, shall be constructed, installed or maintained on any Lot without the prior written approval of the ACC, except as follows:

a. Heat pumps, air conditioning compressors, or similar appliances shown on the plans approved by the ACC. Owners making use of such equipment shall take reasonable efforts to mitigate the sound of such equipment and to screen it from public view from the front of a Lot. Evaporative coolers, whether roof mounted or window mounted are prohibited unless otherwise approved by the ACC.

b. The use of generators and other external energy producing devices shall be authorized on a temporary basis in the event and during the period of an emergency. This authorization is expressly implied under these circumstances, and does not require a submission to the ACC, HOA Board, etc.

Section 5.25 **Signs**. No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for rent or for sale by displaying a single, neat, vacancy sign or "For Sale" sign, thereon, with the sign and hanging apparatus not exceeding a total of 6 square feet. Signs advertising the name of the builder, its real estate broker, and the name of the institution providing financing may be displayed on a Lot during construction of the improvements are allowed providing said sign and hanging apparatus may not exceed 16 square feet. Lighted, moving or flashing signs for any purposes are prohibited. Directional signs may be used to give directions to traffic or pedestrians or give special instructions provided the same is approved by the ACC prior to installation. The Declarant shall regulate project and builder signage during the development phases of construction and marketing of homes within the Subdivision. Signs advertising the development of the Subdivision may be displayed at the entrances to the Subdivision or elsewhere within the Subdivision as approved by the ACC. All Declarant Related Entities are exempt from all signage restrictions.

Section 5.26 **Subdividing**. No Lot which has been platted and approved as a final building or residential Lot (whether for single-family buildings or otherwise) may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written consent of the ACC; provided, however, that nothing herein shall be deemed to prevent an Owner from transferring or selling any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety, or as community property, or require the approval of the ACC therefore. In addition, the conveyance of an insignificant portion(s) of a Lot to the Owner of the Lot which abuts said conveyed portion for the purpose of correcting a common boundary or other similar purpose shall not be deemed to be a subdividing of a Lot within the prohibition contained herein.

Section 5.27 **Fences, Walls & Hedges**. It is strongly encouraged that privacy between Lots be established by hedges, trees, shrubbery or other landscaping. All fences, walls, hedges, high plantings, obstructions and other visual or privacy barriers (hereafter collectively "fences") within the Project must (a) strictly comply with the applicable ordinances of the City, ACC standards and specifications for fencing, and in conformance with fencing standards and specifications set forth below; and, (b) be expressly approved in writing by the Architectural Control Committee. In the event there are conflicts between the requirements of the City ordinances, and the ACC standards and specifications, the stricter requirement shall control. OWNERS SHOULD NOT ORDER FENCE MATERIALS THAT ARE NOT IN COMPLIANCE WITH SUCH ORDINANCES, STANDARDS AND SPECIFICATIONS. Each Owner by acceptance of a deed or other document of conveyance expressly agrees that any non-conforming fence or fences may be removed by the Declarant or its assigns without further notice and at the Owner's sole



expense, and they shall not be guilty of a trespass. All fences constructed on Lots within the Subdivision shall be subject to the following additional conditions and restrictions:

a. The style, type, color and tone of all fencing in the community shall be as determined by the Declarant, and subsequently determined by the ACC once the Declarant Control Period has terminated. This includes all fencing within the Neighborhood associations. In any case, a sample of the fence material must be submitted for review and approval, prior to construction in order to confirm that the style, type, color and tone is acceptable.

b. Fences greater than 36" in height shall not project beyond the front yard setback or 4' back from the front corner of the Building (whichever distance is greater) unless reviewed and approved by the ACC. No fence higher than six feet (6') shall be allowed unless reviewed and approved by the ACC.

c. Street side yard fences on corner Lots shall not be erected closer than 1' to the public sidewalk, or within the corner vision traffic angle as determined by the City, and must be located on the Owner's property.

d. All fences shall be constructed and installed and maintained in good appearance and condition at the expense of the Owner of the Lot on which they are located and all damaged fencing shall be repaired or replaced to original design, materials and color within a reasonable time after said damage occurs.

e. No fence shall interfere with the use and enjoyment of any easement reserved in this Declaration or shown on the recorded Plat(s) of the Property.

f. Fences bordering the common areas / open spaces shall be of the same construction, style, color, and brand as determined by the review and approval of the ACC.

g. Fences installed by the Declarant, City or other public agency, or the Association on or along property owned by the City or Association, and/or on or along landscape buffer easements owned by Owner of Lot, shall not be altered or modified by any Owner or Occupant in any manner other than for routine maintenance (including painting, repair and replacement). Except as may be approved by the ACC, any Owner of Lots bordering the landscape buffer along Antelope Drive and Emerald Drive shall not be allowed to install any secondary fence that is within public view, inside the common fence installed by the Declarant.

h. Materials:

(1) Single Family Residential (detached) structures: All allowed fences or walls shall be of brick, stone, wrought iron, pre-cast concrete, or vinyl. No fence or walls shall be constructed of chain link, wire mesh, slump block (painted or unpainted) or concrete block unless approved in writing by the Architectural Control Committee. See previous provisions for fence material requirements and restrictions along common areas / open spaces. Except as provided herein, or as utilized by the Declarant, chain link fencing is not a permitted fence type. Exceptions may be granted by the ACC on a case-by-case basis where: (1) such fence would be limited to a small area (such as a dog run), and (2) where the chain link fence is not used as a perimeter fencing method and would not be open to public view. In all events, uses of chain link fencing must receive prior approval by the ACC in writing with respect to location, color and other compliance with the ACC fencing standards and specifications.

Notwithstanding the foregoing, the Declarant shall be authorized to utilize chain link fencing at its sole discretion, as necessary for any phase of the Development.

(2) Cottage Home Single Family Residential structures: All allowed fences shall be constructed of the same style type and materials as approved by the ACC. Specific locations of allowed fencing are determined by the ACC, and shall require express written approval of the same before commencement of construction. Since fencing will be placed on Limited Common Areas, a community fencing plan will be provided by the Declarant and/or ACC for standardized approval of location.

Section 5.28 **Party Walls and Fence.** The rights and duties of Owners with respect to party walls or party fences, which are constructed as part of initial construction, shall be as follows:

a. The Owners of contiguous Lots who have a party wall or party fence shall both equally have the right to use such wall or fence, provided that such use by one (1) Owner does not interfere with the use and enjoyment of the other Owner. It is possible that the first Owner may build a party wall or fence before the adjacent Owner occupies their property. In this case, the first Owner is responsible for the cost of the wall or fence, without remuneration or reimbursement for said wall or fence.

b. In the event that any party wall or party fence is damaged or destroyed through the act of an Owner, or any of its agents or guests, or members of its family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the party wall or party fence without cost to the other adjoining Owner or Owners.

c. In the event any such party wall or party fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time) other than by the act of an adjoining Owner, its agents, guests or family, it shall be the obligation of the Owners whose Lots adjoin such wall or fence to rebuild and repair such wall or fence at their joint and equal expense.

d. Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any party wall or party fence without the prior consent of all Owners of any interest therein, whether by way of easement or in fee.

e. In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a party wall or party fence, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the ACC, the decision of which shall be binding.

Section 5.29 **Open Space Landscaping.** Large common areas of open space will be maintained by the Association and are more particularly defined in Article VI.

Section 5.30 **Landscaping of Lots.** The following provisions shall govern the landscaping of Lots within the Subdivision:

a. Owners or Neighborhood Association (if applicable) shall be responsible to landscape and maintain any portions of the public rights-of-way contiguous to their property that is not incorporated in common amenity landscaping. Any trees, shrubs or landscape treatments planted within public rights-of-way shall comply with the City's ordinances and approved tree species list (if it exists, is applicable &/or required). All trees, lawns, shrubs or other plantings shall be properly nurtured and maintained or replaced at the Owner's expense upon request of the ACC.

b. If a home is completed and occupancy is granted by the City on or before August 1<sup>st</sup> of the given calendar year, the Lot must be fully landscaped within 90 days of the date of occupancy. If occupancy is granted by the City after August 1<sup>st</sup>, then the Lot must be fully landscaped by June 1<sup>st</sup> of the next calendar year. Should there be unavoidable delays due to unusual inclement weather, the ACC may grant an extension to this at its sole discretion.

c. The minimum landscaping requirements for Lots within the Subdivision, unless otherwise specified in an Amended or Supplemental Declaration, shall be as follows:

(1) The initial landscaping shall include, as a minimum, the planting of lawn, trees and shrubs as follows: All front yard lawn shall be sod (hydroseed and other forms of seeding are prohibited); two (2) two 2" minimum caliper deciduous trees; one (1) 5' minimum conifer or evergreen tree; five (5) five-gallon shrubs; and, twelve (12) one-gallon shrubs are to be planted in the front yard.

(2) All yards (front and back) shall be irrigated with an automatic underground sprinkler system. Drip watering systems are to be utilized in and around planters that are adjacent to foundations (see geotechnical recommendations).

(3) Owners or Neighborhood Association (if applicable) shall use best efforts to position landscaping around utility boxes, vaults, and pedestals so as to screen them from street view.

Section 5.31 **Laws.** Nothing shall be done or kept in, on or about any Lot or common area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

Section 5.32 **Damage or Waste.** No damage to, or waste of, the common area shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

Section 5.33 **Mail Boxes.** The mailbox location is regulated by the US Postmaster and is restricted by the same. Some restrictions may also be placed by the city. If a mailbox location other than that of the Postmaster dictated CBU (Central Box Unit) is desired, it must first gain approval from the Postmaster and then the ACC in writing.

Section 5.34 **Refuse & Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in the sanitary containers provided by the City. All containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 5.35 **Excavations & Completing Improvements.** No excavation shall be made on any Lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration, or repair of a structure or other improvements has once begun, the work must be executed diligently and completed within a reasonable time.

Section 5.36 **Off-Site Lot Improvements.** Before taking title or possession of any Lot, the Owner shall inspect the completed offsite Lot improvements. Except for deficiencies or defects specified by the

Owner to the Declarant before ownership is taken, the Owner hereby releases the Declarant from further obligations or responsibility as to the installation of the off-site Lot improvements.

a. **CONDITIONS OF ACCEPTANCE OF UNCOMPLETED LOTS AT CLOSING:** If the off-site Lot improvements are not complete at the time ownership is taken, the Declarant will, upon completion of the uncompleted off-site Lot improvements, give written notice of completion to the Owner and, unless such Owner notifies the Declarant of any deficiencies within seven (7) days after the date of receipt of the notice of completion, the off-site Lot improvements shall be deemed acceptable to the Owner and the Declarant will be released from any further obligations or responsibilities as to the installation of the previously incomplete off-site Lot improvements.

b. **CONDITIONS OF ACCEPTANCE OF COMPLETED LOTS AT CLOSING:** Upon transfer of title from Declarant to Owner, Owner shall assume full responsibility for accepting property 'AS IS' for the following: 1) Sewer; 2) Water; 3) Secondary Water; 4) Gas; 5) Electric; 6) Telephone; 7) Land Drains (if applicable); 8) Curb & Gutter; 9) Sidewalks; 10) Asphalt roads; 11) Rough Grading; 12) Property Corners; and, 13) others as applicable.

c. All Owners understand that the Declarant does not own or exercise any control over the water rights from the existing irrigation structures and piping installed throughout the property. All Owners further understand that the Declarant is powerless in seeking to have said water rights assigned.

d. The Property has been developed as residential subdivisions within the City and all streets, water, storm drain improvements and rights-of-way will be dedicated to and maintained by the City (unless so designated as Private on the recorded Plats). The City will also be providing water service and garbage removal (unless otherwise designated to be a private system).

Section 5.37 **Private Utilities & Infrastructure.** At the time of initial recording of this Declaration, and with subsequent Amended or Supplemental Declarations, all utilities and infrastructure throughout the Subdivision that are outside the public right-of-way: including private streets, private utility mains and service laterals, detention basins, community drainage swales, drain lines, landscaping, etc, are to be owned, and maintained by the Association. This includes drain lines from retaining walls, except where built on individual Lots.

Land-drain systems that serve Phases 1 & 2 (including all sub-phase parcels) will be privately owned and maintained by the Association. This includes piping facilities & structures that cross through public rights-of-way (i.e. Emerald Drive).

Section 5.38 **Other.** Without limiting the generality of any of the foregoing provisions:

a. Unless otherwise approved by the ACC, no horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot or home. The ACC, in its sole discretion, shall have the right to determine the existence of any such nuisance.

b. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways, sidewalks, trails, or common properties within the Project.

c. The discharge of firearms, including without limitation, "B-B" and "Airsoft" type guns (or of similar nature) and pellet guns, is prohibited.

d. On-site storage of gasoline or other fuels is prohibited on any Lot, with the exception of up to ten (10) gallons of fuel stored for emergency purposes and operation of lawn mowers, power tools, recreational vehicles, or other similar tools or equipment.

e. All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers, and similar items shall be stored so as not to be visible from the streets or adjacent property. No such items shall be allowed to remain on the front of the Lots so as to be visible from adjacent property when not in use.

f. Reflective window coverings are prohibited.

g. Above ground swimming pools greater than five feet in diameter are expressly prohibited, unless otherwise approved by the ACC. Under no circumstances shall said pools be permitted on Common Areas (including Limited Common areas).

Section 5.39 **Addition of ACC Rules/ACC Standards.** The Declarant, or in the event of the Declarant's failure to do so, the ACC, shall have the power to promulgate ACC Rules/ACC Standards relating to the planning, construction, alteration, modification, removal or destruction of Improvements within the Property as shall be deemed necessary or desirable by the Declarant, or the ACC, as the case may be, to carry out the purposes of this Declaration.

Section 5.40 **Exemption of Declarant.** Nothing herein contained shall limit the right of the Declarant to subdivide or re-subdivide any Lot or portion of the Property or to grant licenses, reservations, rights-of-way or easements to utility companies, public agencies or others; or to complete excavation, grading and Development to or on any Lot or other portion of the Property owned or controlled by the Declarant, or to alter the foregoing and its Development plans and designs, or construct additional Improvements as the Declarant deems advisable in the course of Development of the Subdivision. This Declaration shall not limit the right of the Declarant at any time prior to acquisition of title to a Lot by an Owner to establish on that Lot additional licenses, restrictions, rights-of-way and easements to itself, to utility companies and to others, as may from time to time be reasonably necessary. The Declarant need not seek or obtain ACC approval of any Improvements constructed or placed within the Property by the Declarant in connection with the Development of the Subdivision. The Declarant shall be entitled to the non-exclusive use, without charge, of any property owned by the Association within the Subdivision in connection with the marketing of the Lots therein.

## ARTICLE VI OPEN SPACES AND ASSOCIATION PROPERTIES

Section 6.1 **Common Areas, Wetlands, Parks, & Open Space Parcels.** At the time of initial recording of this declaration, and with subsequent Amended or Supplemental Declarations, all Common Areas, wetlands (if any), parks, and Open Spaces in the Subdivision are owned by the Declarant, and operated and maintained by the Association.

a. **Ownership Changes:** Declarant will in due time deed common areas, wetlands (if any), and open spaces to the Association. The 16 acres of property located at the south end of the master-planned subdivision, designated as a future public park, will be dedicated in due time to Layton City in accordance with a development agreement recorded on the Property.

b. **Maintenance:** All responsibilities for the maintenance of and/or costs associated with the maintenance of Common Areas & Open Spaces and amenities associated with or found within

the said areas shall be paid for by the Association through the means of collection prescribed herein. This includes any arterial landscape buffers, in public rights-of-way or in common areas along Antelope Drive. Any parks dedicated to Layton City will be maintained by the city.

Section 6.2 **Association Property.** The Association or Neighborhood Association may own, hold and control real property and easements within the Subdivision, together with facilities, equipment and other related personal property, and operate and maintain the same, for the use, enjoyment and/or benefit of the Owners of Lots and property within the Subdivision. Each Owner of a Lot, the Owner's family, licensees, invitees, lessees and contract purchasers who reside on the Lot, shall be entitled to use the property owned by the Association or Neighborhood Association subject to the following:

a. **Articles, etc.** The provisions of the Articles and Bylaws of the Association applicable to the Lot, this Declaration, and the rules, regulations and standards promulgated thereunder, and each Owner, in using the Association properties, shall comply with the same.

b. **Suspension of Rights.** The right of the Association to suspend the rights to use properties owned by it (except roads and other means of access by the Owner) for any period during which any Assessment against that Owner's Lot remains unpaid; and for any infraction of published rules and regulations of the Association.

c. **Dedications.** The right of the Association to dedicate or transfer all or any part of properties owned by it to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board.

d. **Mortgage or Conveyance of Association Property.** Except as provided in subsection (c) above or in the Bylaws, after governance of the Association vests in the Class A Members entirely, no portion of the Association's property shall be mortgaged or conveyed by the Association without the prior approval of at least two-thirds (2/3) of all Members, which approval may be obtained in writing or by a vote of the respective Members at a meeting called for such purpose.

e. **Special Uses or Limitations.** As defined in the recorded Plats, some common areas / open spaces may be designated, conveyed, assigned, or recorded for the use by owners of Eastridge Park and the general public at large as required by the City. These properties may be dedicated and conveyed to the City at a later time. In any case, the Master Association or Neighborhood Associations have the right to designate time, place and activity restrictions on the property until at such time that said common area is conveyed to the City.

Some common areas / open spaces may be designated, conveyed, assigned, or recorded for the express use and sole benefit of the owners of a certain Neighborhood Associations or phase of Eastridge Park. Examples of this include but are not limited to: Common and Limited Common areas in and around the Cottage Homes and Townhomes.

Section 6.3 **Damages.** An Owner shall be liable for any damages to property owned by the Association which may be sustained by reason of the negligence, reckless or intentional misconduct of said Owner or of his family, licensees, invitees, lessees or contract purchasers, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be as an Individual Assessment against that Owner's Lot and may be collected as provided in Article IX, below.

Section 6.4 **Damage and Destruction.** In the case of damage by fire or other casualty to property owned by the Association, personal insurance proceeds to compensate for damage and destruction of Association property shall be paid to the Association, and the Association shall thereafter determine what repair or reconstruction shall be undertaken.

**ARTICLE VII**  
**EASTRIDGE PARK PRUD MASTER HOMEOWNERS ASSOCIATION, INC.**

Section 7.1 **Organization of Association.** The Association shall be organized by the Declarant as a Utah non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its Bylaws (attached as Exhibit B), and this Declaration. Neither said Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted as to be inconsistent with this Declaration.

**Members.** Each Owner (including the Declarant) of a Lot by virtue of being such an Owner and for so long as such ownership is maintained shall be a Member of the Association. Owners shall have such voting rights in accordance with their Class of Membership. A membership in the Association shall not be assignable, except to the successor-in-interest of the Owner and a membership in the Association shall be appurtenant to and inseparable from the Lot owned by such Owner. A membership in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

Section 7.2 **Classes of Membership.** The Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

a. **Class "A".** Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to one (1) equal vote for each Unit in which they are an Owner. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Association that Person shall be entitled to cast all votes appertaining to that Unit. But if more than one of such Person(s) is present, the votes appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Unit may not be divided between Owners of such Unit or with respect to matters before the Association, and all such votes appurtenant to any one Unit shall be voted in one block. If the vote of a majority of the owners of a Unit cannot be determined, no vote shall be cast in relation to such Unit.

b. **Class "B".** The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive one hundred (100) votes for each recorded Unit owned by Declarant and one hundred (100) votes for each acre of property owned by Declarant within the Subdivision but not yet a recorded Plat. The Class "B" membership shall also be entitled to appoint the members of the Board and Association during the Class B Control Period.

Section 7.3 **Governance and Voting Rights of Members & Class B Control Period.** The governance of the Association and voting rights of the Class A and B Members shall be as follows:

a. Upon recordation of this Declaration, the right to govern the affairs and maintain Declarant Control of the Association shall be vested solely in the Class B Member as follows:

b. The Class "B" Control Period (or Declarant Control Period) runs until ninety (90) days after the first to occur of the following:

- (1) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (2) When, at its discretion, the Class B Member so determines.

c. Notwithstanding anything to the contrary in this Declaration, Declarant may exercise its discretionary termination of control in whole or in part as to any portion of the Subdivision at its sole election and determination. In doing so as to a portion of the Subdivision, it does not waive any reversionary or remaining control as to all other portions of the Subdivision, the control of which is not expressly terminated by Declarant.

Section 7.4 **Architectural Control Committee.** Following the Declarant Control Period, the Association Board shall have the right to appoint and remove members of the Architectural Control Committee, all subject to the provisions of this Declaration. One or more members of the Board may serve on the Architectural Control Committee. The Architectural Control Committee shall be initially made up of three (3) members appointed by the Declarant.

Section 7.5 **Association Litigation.**

a. In recognition of the expenses and disruption associated with litigation, the Association shall not commence a judicial or administrative proceeding without the approval of the Declarant for so long as the Members govern the Association and thereafter only upon the approval of Owners representing at least 75% of the total vote of the Association.

b. Neither the Association nor any Owner shall institute an action against any person which arises out of an alleged defect in the development of the Subdivision until: (i) Declarant and the person(s) who physically constructed the portion of the subdivision in which the alleged defect exists have been notified and given a reasonable time and opportunity in which to inspect, assess, correct, or redesign any alleged defect or other portions of the Subdivision (provided, however, that the terms of this Section shall not create an obligation of any person to effect a repair of an alleged defect); (ii) the Association or Owner(s) have pursued their remedies under any express warranty covering all or any portion of the alleged defect; (iii) the Declarant and the affected contractor(s) have been given the opportunity to be heard at a meeting of the Association regarding the alleged defect; and (iv) all proposed parties to the action have been given a reasonable opportunity to mediate any dispute or disagreement relating to the alleged defect, and have either participated or refused to participate in such mediation.

c. No action affected by this Section shall be conducted utilizing legal counsel who are compensated on a contingency fee or similar means of compensation in which litigation costs and attorneys fees are not paid on a current basis or are paid out of the settlement or judgment amount recovered by the Association in such action.

d. This Section shall not apply to: (i) actions brought by the Association to enforce this Declaration or the Bylaws (including, without limitation, the foreclosure of liens); (ii) the collection



of assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Association in proceedings instituted against it; or, (v) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of an express contract with the Association or its manager for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 7.6 **Budgets and Financial Statements.** The Board is authorized and required to adopt a budget for each fiscal year.

a. The Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget.

b. Unless otherwise established by the Board, regular Assessments shall be paid in equal monthly installments.

## ARTICLE VIII ASSESSMENTS

Section 8.1 **Covenant to Pay Assessments.** Each Owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular, Special, Neighborhood, and Individual Assessments or charges levied by the Association, in such amounts as the Board shall determine to be necessary, in conformance with the provisions hereof. All such Assessments, together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall, upon conveyance of a Lot from Declarant, be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made, and shall be also the personal obligation of the Owner of such Lot at the time when the Assessment becomes due and payable, provided, however, that all such assessments shall be junior and subordinate to the lien of a first mortgage or first deed of trust encumbering the Lot or in the case of a Declarant-owned Lot, to Declarant's debt covenants. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may waive or otherwise avoid liability for any Assessment by non-use of the property of the Association or by abandonment of his Lot. The Declarant and its successor(s) is/are exempt from being assessed or paying any assessments or fees.

Section 8.2 **Regular Assessments.** Regular Assessment shall be levied in conformance with the following:

a. Regular Assessments shall be assessed on a calendar year basis unless otherwise determined by the Board.

b. The Regular Assessments shall be based upon advance estimates of annual cash requirements as determined by the Board for the maintenance and operation of the property owned by the Association and all easement areas, if any, controlled by the Association and for the performance by the Association of its other duties and responsibilities. Such estimates may include (as applicable), but shall not be limited to, expenses of management, administration and funding of ACC activities, preservation and architectural control of a park intended for the recreational use of the Owners, premiums for all insurance which the Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, snow removal from access roads and pathways, legal and

accounting fees, creation of reserve funds, and any deficit remaining from previous periods, surplus and/or sinking fund(s), and other expenses or obligations incurred or expected as they may be required by the Association in compliance with this Declaration.

c. The initial annual Regular Assessment due and payable for that calendar year during which the Declarant conveys fee title to a Lot to an Owner shall be in the amount determined by the Declarant, or Owners once it obtains governance of the Association, and has prepared its first annual budget.

Section 8.3 **Special Assessments**. In addition to Regular Assessments, the Board may levy at any time a Special Assessment payable over such period as the Association or Neighborhood Association may deem appropriate for the following purposes:

a. To defray, in whole or in part, the cost of any construction or reconstruction of Improvements on property owned by the Association, unexpected repair or replacement of property or any facility located thereon or an easement area controlled by the Association, the furnishing of a special service or services (other than those appropriate for a Limited or Neighborhood Assessments), building up of Association reserves, or for any other expenses incurred or to be incurred as provided in the Declaration.

b. To cure a deficit in the common and ordinary expenses of the Association for which Regular Assessments for a given calendar or fiscal year are or will be inadequate to pay, as determined by the Board.

c. To pay any tax or assessment of local governmental units including without limitation the City of Layton City and Davis County.

Section 8.4 **Individual Assessments**. In addition to Regular and Special Assessments, Owners shall pay Individual Assessments as follows:

a. **Special Service Area**. The Association shall have the power to levy an Individual Assessment against Owners and Lots that are benefactors of special services or amenities (For Example: Full yard landscaping maintenance in the Townhome or Cottage Homes, etc.). Said Individual Assessments should typically be associated with a specific Neighborhood Association or phase of Lots within the Subdivision.

b. **Maintenance and Repair**. The Association shall have the power to incur expenses for maintenance and repair of any Lot or any Improvements on a Lot, if such maintenance and repair is necessary, in the opinion of the Board, to protect the property owned by the Association or any other portion of the Property, and if the Owner of said Lot has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to said Owner. The Board shall levy an Individual Assessment against the Owner of the Lot owned by said Owner to pay for the cost of such maintenance and repair, and any other cost or expense, including attorneys' fees, arising out of or incident to such maintenance and repair and the Assessment therefore.

c. **Correction of Violations**. In addition to maintenance and repair, the Board, upon certification from the ACC of the failure or refusal of an Owner to correct a violation of this Declaration or the ACC Rules/ACC Standards, shall have the power to correct any such violation on a Lot or any Improvement on a Lot, and incur costs necessary in connection therewith. The

reasonable cost of such corrective action, together with interest, related expenses and attorneys' fees shall be assessed and collected as set forth in Article X of this Declaration.

d. Limited Purpose. The Association shall have the power to levy an Individual Assessment against Owners and Lots for any limited special purpose which the Board believes necessary with respect to certain Lots but not an appropriate expense for payment by the Association. Such Individual Assessment shall not be made until the Owners of said Lots subject thereto have been given an opportunity, after notice, to participate in a hearing before the Board with respect to said Individual Assessment.

Section 8.5 Neighborhood Assessments. In addition to Regular and Special Assessments, Owners within individual Neighborhood Associations shall pay Neighborhood Assessments as follows:

a. Neighborhood Assessments shall be assessed on a calendar year basis unless otherwise determined by the Board or Neighborhood Association Board.

b. The Neighborhood Assessments shall be based upon advance estimates of annual cash requirements as determined by the Board for the maintenance and operation of the property owned and/or maintained by the Neighborhood Association and all easement areas, if any, controlled by the Neighborhood Association and for the performance by the Neighborhood Association of its other duties and responsibilities. Such estimates may include (as applicable), but shall not be limited to, expenses of management, administration and funding of ACC activities, preservation and architectural control of a park intended for the recreational use of the Owners, premiums for all insurance which the Neighborhood Association is required or permitted to maintain hereunder, landscaping and care of grounds, lighting, water charges, trash collection, sewerage charges, repair and maintenance, snow removal from access roads and pathways, legal and accounting fees, creation of reserve funds, and any deficit remaining from previous periods, surplus and/or sinking fund(s), and other expenses or obligations incurred or expected as they may be required by the Neighborhood Association in compliance with this Declaration or relevant Supplemental Declarations.

c. The initial annual Neighborhood Assessment due and payable for that calendar year during which the Declarant conveys fee title to a Lot to an Owner shall be in the amount determined by the Declarant, or Owners once it obtains governance of the Neighborhood Association, and has prepared its first annual budget.

Section 8.6 Commencement of Regular & Neighborhood Assessments. Assessments against each Lot shall commence on the date the Declarant conveys title of the Lot to an Owner who is not the Declarant. Nothing herein contained shall obligate the Declarant to pay any assessment with respect to a Lot owned by Declarant or its assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Dwellings on the Unit (collectively "Declarant Related Entities")—the Declarant Related Entities are exempt from paying any fees and or assessments.. Developers of Neighborhood Associations may provide for similar exemptions or a reduced Assessment of Neighborhood Assessments or for vacant Lots owned by an Owner other than the Declarant of the Neighborhood Association Full Regular and Neighborhood Assessments would commence once a home is completed and sold, transferred, and/or conveyed to the new Owner.

Section 8.7 Uniform Rate of Assessment. Except as expressly provided to the contrary in this Declaration, Regular and Special Assessments of the Association shall be levied at a uniform rate for all Lots. Assessments for Special Service Areas shall also be levied at a uniform rate for all Lots.

Neighborhood Assessments shall be levied at a uniform rate for all Lots within that Neighborhood Association.

Section 8.8 **Assessments, Due Date, Interest and Penalties**. The Board may set, by resolution, a policy concerning the collection of delinquent Assessments. Any Assessments not paid within ten (10) days of the due date may incur late fees, interest, collection fees, attorney fees and costs as established by the Board. Assessment levied by the Association, if not paid when due, shall bear interest at an annual rate of eighteen percent (18%). Such interest shall commence on the date the Assessment becomes due and payable.

Section 8.9 **Reinvestment Fee**. Upon acquisition of a fee title of record to a Lot from Declarant, and from subsequent Owner to Owner, the acquiring Owner of such Lot shall make a contribution to the Association in an amount of Four-Hundred and Fifty Dollars (\$450.00) for such Lot, or as determined by the Board by resolution, not to exceed ½ of one percent of the sales price (or fair market value of the Lot if not acquired through sale). The Declarant Related Entities are exempt from paying any Reinvestment Fees. Such reinvestment fee shall be (a) deposited by the Owner into the purchase and sale escrow and disbursed therefrom to the Association, and (b) in addition to, and not in lieu of, annual Neighborhood Reinvestment Fees or Regular Assessments. The Reinvestment Fee shall be deposited with the Master Association, unless the Owner of the Lot is also a member of a Neighborhood Association, in which case the contribution will be deposited with the Neighborhood Association. Once set-up expenses are paid, the remaining balance of the Reinvestment Fee shall be split evenly between the Master Association and the Neighborhood Association. Set-up expenses are determined by contract with the HOA manager of the Master Association.

Section 8.10 **Reserve Fund Analysis**. Following the Class B Period, the Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

Section 8.11 **Reserve Fund Account Creation**. The Board shall create a reserve fund account that is separate and distinct from the Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a separate line item in the approved budget. The Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Board's discretion, to fund the reserve account.

## ARTICLE IX ENFORCEMENT OF ASSESSMENTS

Section 9.1 **Right to Enforce**. The right to collect and enforce payment of the Assessments made by the Association is vested in the Association. Each Owner of a Lot hereby agrees to the enforcement of the payment of all Assessments in the manner herein provided. In the event an attorney is employed for the collection of an Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of any of the terms and conditions of this Declaration, the Owner against whom such enforcement is sought shall pay reasonable attorneys' fees and court costs in connection therewith.

Section 9.2 **Lien**. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.

Section 9.3 **Foreclosure.** The Association shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 9.4 **Other Remedies.** All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The “One Action Rule” shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Unit(s), and/or other obligees jointly and severally.

Section 9.5 **Payment by Tenant.** The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

Section 9.6 **Attorney Fees.** In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Unit(s).

Section 9.7 **Appointment of Trustee.** The Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, with power of sale, the Unit/Lot and all Improvements to the Unit/Lot for the purpose of securing payment of assessments under the terms of this Declaration.

## ARTICLE X RELATIONSHIP BETWEEN MASTER ASSOCIATION AND NEIGHBORHOOD ASSOCIATIONS

Section 10.1 **Payment & Collection of Assessments.** The Neighborhood Association is authorized to impose and collect Neighborhood Assessments and other allowed or required Assessments set forth in this Declaration, including the Assessments on behalf of the Master Association. The Master Association hereby appoints, assigns and designates the Neighborhood Association with all required authority to act on its behalf in the collection of Assessments. The Neighborhood association shall remit to the Master Association the funds collected on behalf of the Master Association. The Neighborhood Association shall remit to the Master Association all Assessments due and owing for its Neighborhood Association Members to the Master Association.

Section 10.2 **Authority.** The Neighborhood Association is hereby given the full legal authority and assignment from the Master Association to collect and is hereby empowered by the Master Association to collect any and all Master Association Assessments and fees upon Owners within the respective Neighborhood Association.

Section 10.3 **Priority of Certain Provisions in Supplemental Declarations for Neighborhood Associations.** The following provisions in this Declaration may be impacted by conflicting provisions within Supplemental Declarations with respect to specific Neighborhood Associations. Provisions within the Supplemental Declarations for Neighborhood Associations shall control over the following provisions in this Declaration:

- a. 5.15 Exterior Antennas and Dishes;
- b. 5.18 Lighting;
- c. 5.19 Animals;
- d. 5.21 Maintenance;
- e. 5.22 Boats, Campers and Other Vehicles;
- f. 5.27 & 5.28 Fences & Party Walls;
- g. 5.29 and 5.30 Open Space Landscaping & Landscaping of Lots.

Notwithstanding the exclusions set forth in Paragraphs (a)-(f), the construction or remodeling of any Improvement must receive prior, written approval from the ACC.

Section 10.4 **Common Area.** Nothing herein contained shall restrict or prohibit a Neighborhood Association from owning, in its own name, Common Area or other property related thereto, the use of which shall be restricted to Members of that Neighborhood Association. However, it is the intent of this Declaration that any such Common Area owned by a Neighborhood Association, the use and maintenance thereof and the activities of the Neighborhood Association, shall be consistent with and in furtherance of the Subdivision as a whole.

## ARTICLE XI ARCHITECTURAL CONTROL COMMITTEE

Section 11.1 **Members of the Committee.** The Architectural Control Committee shall be initially comprised of at least three (3) persons, all of whom shall be appointed as herein provided. A member of the ACC shall hold office until they have resigned or have been removed, but in any event, until said Member's successor has been appointed. Members of the ACC may be removed at any time, with or without cause.

Section 11.2 **Appointment.** So long as the governance of the Associations remains vested in the Declarant, the members of the ACC shall be as set forth in Section 7.5. Thereafter, all members of the ACC shall be appointed or removed by the Board. The ACC shall have the right by a resolution in writing unanimously adopted, to designate one (1) of its members to take any action or perform any duties for and on behalf of the ACC. In the absence of such designation, the vote of any two (2) members of the ACC shall constitute an act of the ACC.

Section 11.3 **Compensation.** The members of the ACC may receive compensation for services rendered upon execution of an agreement with the Board relative to such compensation, and may be reimbursed for actual expenses incurred by them in the performance of their duties hereunder.

Section 11.4 **Non-Liability.** Neither the ACC, or any member thereof, or the Declarant or any partner, officer, employee, agent, successor or assign thereof, shall be liable to the Association, any Owner

or any other person for any loss, damage or injury arising out of or connected with the performance by the ACC of its duties and responsibilities by reason of a mistake in judgment, negligence or nonfeasance arising out of it in connection with the approval or disapproval or failure to approve an application. Every Owner who submits an application to the ACC for approval of plans and specifications agrees, by submission of such application, and every Owner or Occupant of any Lot agrees, by acquiring title thereto or an interest therein, not to bring any action or suit against the Association, the ACC, or any member thereof, or the Declarant or any officer, partner, employee, agent, successor or assign thereof to recover such damages.

Section 11.5 **Approval Required**. No construction, alteration, modification, removal or destruction of any Improvements of any nature whatsoever, whether real or personal in nature, shall be initiated or be permitted to continue or exist within the Subdivision without the prior express written approval of the ACC.

Section 11.6 **Variances**. The ACC may authorize variances from compliance with the requirements of any conditions and restriction contained in this Declaration, the ACC Rules/ACC Standards, or any prior approval when, in the sole discretion of the ACC, circumstances such as topography, natural obstructions, aesthetics or environmental considerations or hardship may so require. Such variances must be evidenced in a writing signed by at least two (2) members of the ACC. If a variance is granted as provided herein, no violation of this Declaration, ACC Rules/ACC Standards or prior approval shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the ACC Rules/ACC Standards for any purpose except as to the particular subject matter of the variance thereof and the specific Lot covered thereby. The ACC shall have the right to consider and grant a variance as herein provided either with or without notice to other Owners or a hearing of Owners thereon. The granting of a variance by the ACC pursuant to this Section shall not relieve the Owner from the obligation to fully comply with the applicable ordinances of the County, or any annexing municipality and the PRUD standards and other conditions of approval for the Subdivision.

Section 11.7 **Application**. To request ACC approval for the construction, alteration, modification, removal or demolition of any Improvements within the Property, the Owner shall submit a written application in conformance with the following:

a. The application shall be in a form required by the ACC, which must be signed by the Owner and contain all information requested and be accompanied by all other material to be submitted as hereafter provided.

b. All applications must contain, or have submitted therewith, two (2) copies of each of the following (collectively called "plans and specifications") prepared in accordance with acceptable architectural standards and submitted with the application form, if any, approved by the ACC:

c. **Site Plan**. A site plan showing the location of the Building(s) and all other structures and Improvements including fences and walls on the Lot, Lot drainage and all set-backs, curb cuts, driveways, parking areas, proposed landscaping, and other pertinent information relating to the Improvements. Said plans are preferred to be in an electronic format, and at a scale that fits on an 11"x17" print.

d. **Building Plan**. A building plan at a scale no less than 1/8" = 1'. Building elevation drawings of the north, south, east and west sides, and detailed specifications which shall indicate, by sample if required by the ACC, all exterior colors, materials and finishes, including roof, to be used, and shall be in accordance with submittal information required in Section 5.13 above.

e. The ACC may, in its discretion, require the Owner to furnish additional specification, drawings, material samples or such other information as the ACC, in its sole discretion reasonably exercised, shall deem necessary or convenient for the purpose of assisting the ACC in reviewing and processing the application.

Section 11.8 **Decision**. In reviewing the application and the materials submitted therewith and in reaching a decision thereon, the ACC shall use its best efforts and judgment to insure that all Improvements shall produce and contribute to an orderly and aesthetically complementary design and appearance and be of the quality required to maintain the Subdivision as a quality residential development. Unless extended by mutual consent of the Owner and the ACC, the ACC shall render its decision with respect to an application within thirty (30) calendar days after the receipt of a properly submitted and complete application. The decision of the ACC may be in the form of an approval, a conditional approval or denial, as follows:

a. The decision of the ACC shall be in writing, signed by a member of the ACC, dated, and a copy thereof sent to the Owner, via email or other form, at the address shown on the application.

b. In addition to the requirements of Section 10.8(a), a conditional approval shall set forth with particularity the conditions upon which the application is approved and the Owner shall be required to affix a copy of said conditions to the working drawings or blueprints which are to be kept on the job site during the entire course of the work to which said plans relate.

c. In addition to the requirements of Section 10.8(a), a denial of an application shall state with particularity the reasons for such denial.

Section 11.9 **Inspection and Complaints**. The ACC is empowered to inspect all work in progress on any Lot, at any time, and may respond to complaints from other Owners as follows:

a. An ACC inspection shall be for the purpose of determining whether the Owner is proceeding in accordance with the approved application or is deviating therefrom or is violating this Declaration or the ACC Rules/ACC Standards or the approved plans and specifications. Each owner or builder shall instruct their respective workers and employees to proceed with construction only per ACC approved plans. Any modifications or deviations from approved plans must be re-approved by the ACC prior to installation.

b. The ACC is further empowered to receive from other Owners (each a "Complainant"), complaints in writing involving deviations from approved applications or violations of this Declaration or any applicable ACC Rules/ACC Standards. In the event the ACC receives such a complaint from a Complainant:

(1) It shall first determine the validity of such complaint by inspection or otherwise. Should the ACC determine that there has been a substantive deviation or a violation, it shall promptly issue a notice in writing thereof to the Owner and to the Complainant, which notice shall specify the particulars of the deviation or violation and shall demand that the Owner conform to either or both of the following directives:

(i) The Owner shall immediately cease the activity which constitutes a deviation or violation.



(ii) The Owner shall adhere to the corrective measures set forth in the written notice.

(2) Should the ACC determine there has been no substantive deviation or violation, it shall promptly issue a notice of such determination to the Owner and the Complainant.

Section 11.10 **Hearing.** An Owner submitting an application under Section 10.7, or an Owner served with a written notice of deviation or violation, or a Complainant, shall have the right to a hearing to be held by the ACC for the purpose of presenting facts and information to the ACC relative to the application, deviation or violation or complaint, as the case may be. Such hearing must be requested by such party within ten (10) calendar days from the date the written notice of the decision of the ACC is mailed to the Owner of Complainant, as evidenced by the records of the ACC. The hearing shall be held within thirty (30) days following receipt by the ACC of the request for a hearing, unless the ACC shall extend said period of time because of the unavailability of ACC members. A hearing may be continued by the ACC for the purpose of further investigation or to receive additional evidence. Upon completion of the hearing, the ACC shall issue a written opinion to the involved parties within thirty (30) calendar days thereafter which opinion shall set forth the findings of the ACC with respect to the matters at issue and shall affirm, modify or rescind its previous decision as contained in the original written notice. If the ACC incurs any costs or expenses in connection with the investigation, processing or hearing on a matter involving a deviation or violation, including the costs of retaining a consultant(s) to advise the ACC and legal fees, such costs shall be paid by the Owner requesting the hearing, or in the case of a complaint, a Complainant, unless an Owner is found to be in violation in which event such Owner shall pay all such costs. The payment of such costs shall be enforceable as provided in Section 10.12, below.

Section 11.11 **Appeal.** The Owner or Complainant shall have the right to appeal to the Board a decision of the ACC on an application with respect to the conditions imposed thereon or a denial thereof, or a decision of the ACC adverse to the Owner or the Complainant reached following a hearing held pursuant to Section 10.10, above, subject to the following:

a. Neither an Owner nor a Complainant shall be entitled to an appeal with respect to deviations or violation unless said Owner or Complainant, or their authorized representatives, has participated in the ACC hearing.

b. A notice of appeal shall be in writing and shall be delivered by mail to the Secretary of the Board within ten (10) calendar days from the date of the decision by the ACC. Said notice of appeal shall be dated and shall contain the name of the Owner and the Complainant, as the case may be, together with a copy of the written decision or determination of the ACC.

c. The failure to an Owner or Complainant to appeal a decision of the ACC in the manner and within the time herein provided shall terminate all rights of said Owner or Complainant to appeal said decision and it shall be binding and enforceable.

d. The Board shall fix a date for the hearing of such an appeal which date shall be not later than thirty (30) calendar days from the date of receipt of a notice of appeal unless extended by the Board because of the unavailability of Board members. The Owner and Complainant, if any, shall be advised of the time and place of the hearing by a mailed written notice. Written notice of time and place for hearing shall also be served by mail upon each member of the ACC.

e. The Board may require the Owner or Complainant to provide additional information to facilitate the Board's decision and the failure of such party to comply promptly with such a request shall entitle the Board to deny the appeal, in which event the decision by the ACC shall be considered final and not subject to further appeal.

f. At the hearing the Owner or the Complainant, as the case may be, and the ACC, together with their representatives and other witnesses, shall present their position to the Board. The order of presentation and the evidence to be admitted shall be solely within the discretion of the Board; provided, however, that the Owner or the Complainant, as the case may be, and the ACC, shall have the opportunity to question and cross-examine witnesses presented by the other. The Owner or the Complainant, as the case may be, and the ACC, will have the opportunity to present final argument consistent with rules adopted by the Board for such hearing process. Any party may be represented by an attorney at any hearing by the ACC or the Board.

g. Upon receiving all of the evidence, oral and documentary, and following the conclusion of the hearing, the Board shall retire to deliberate and shall reconvene at a time and place determined by the Board, at which time the Board shall cast its official ballot and the decision shall be duly recorded in the minutes of the meeting. The Owner or the Complainant, as the case may be, and the ACC members, shall be given written notice of the decision which shall be deemed given when deposited in the United States mail, postage prepaid and properly addressed.

h. If the Board incurs any costs or expenses in connection with the investigation, processing or hearing on an appeal, including the costs of retaining a consultant(s) to advise the Board and legal fees, such costs shall be paid by the party(s) filing the appeal unless the decision by the Board constitutes a substantial reversal of the decision of the ACC, in which event such costs shall be paid by the Association. If the party filing the appeal is obligated to pay such costs, payment of the same shall be enforceable as provided in Section 10.12, below.

i. A decision by the Board of an appeal shall be final and shall not be subject to reconsideration or further appeal.

Section 11.12 **Enforcement**. The ACC, upon approval by the Board, shall be authorized on behalf and in the name of the Association, to commence such legal or equitable proceedings as are determined by it to be necessary or proper to correct or enjoin any activity or condition existing within the Subdivision, the continuation of which violates the provisions of this Declaration, the ACC Rules/ACC Standards or the approved plans and specifications subject to the following:

a. The ACC shall not commence such legal or equitable proceedings until a written notice of the deviation or violation has been appropriately prepared and given to the Owner but thereafter the ACC shall have the sole discretion to commence such proceedings.

b. The authority of the ACC as herein provided shall include the power to retain legal counsel and expert witnesses, pay filing fees, deposition costs, witness fees and all other ordinary and necessary expenses incurred in commencing and carrying out said legal or equitable proceedings, all of which costs shall be paid by the Association.

c. In the event the ACC and/or Association shall prevail in any such legal or equitable proceedings, the Board may elect to require that all costs and expenses incurred in connection therewith including, but not limited to, attorneys' fees shall be reimbursed to the Association by the Owner against whom said proceedings are filed and upon the failure of said Owner to reimburse the

Association within five (5) calendar days after written demand therefore is mailed to the Owner, the Association shall have the right to levy an Individual Assessment against the Owner and the Lot owned by the Owner which Assessment shall be equal to said costs and expenses incurred plus any additional costs and expenses incurred in levying the Assessment. Said Individual Assessment shall be due and payable at such time or in such installments as may be determined by the Board, in its sole discretion. The failure of the Owner to pay said assessments or any installment thereof when due, shall be enforceable in the manner provided in Article IX, above.

Section 11.13 **Additional Damages**. In addition to the costs and expenses to be reimbursed by the Owner or the Complainant, all other costs, expenses and damages determined by the Board to be proximately caused by the deviation or violation or the costs and expenses incurred by the Association to correct the same shall be assessed as an Individual Assessment against the Owner and the Lot owned by said Owner, or the Complainant and the Lot owned by the Complainant, as the case may be, which Individual Assessment shall be due and payable at such time or in such installments as determined by the Board, in its sole discretion. The right of the Board to enforce said Individual Assessment shall be the same as provided in Article IX, above.

Section 11.14 **Non-Exclusive Remedy**. The right of the Association to levy an Individual Assessment as described in Sections 10.12 and 10.13, above, shall not be deemed to be an exclusive remedy of the Association and it may, in its sole discretion, without waiver of any other legal or equitable remedy, pursue enforcement of the lien of said Individual Assessment(s), proceed to collect any amount due directly from the Owner and/or pursue any other remedies available at law or in equity.

## ARTICLE XII ANNEXATION

Section 12.1 **Annexation**. Additional phases may be annexed to the Subdivision and brought within the provisions of this Declaration by the Declarant, at any time, without the approval of any Owner or the Association. To annex additional phases to the Subdivision, the Declarant shall record a supplemental declaration that shall describe the additional property to be annexed to the Subdivision, and the Declarant may supplement with additional or different covenants and restrictions applicable to the annexed property, as the Declarant may deem appropriate, and the Declarant may delete or modify such covenants as are contained in this Declaration that the Declarant deems inappropriate for the annexed property. Upon such annexation, the Owners of the Lots within the annexed property shall become Members of the Association with the same rights, privileges and obligations as all other Members. . Notwithstanding the foregoing, it is anticipated that each annexed parcel shall be developed and platted as a separate and distinct subdivision and the annexation thereof shall not, by virtue of such annexation, be considered an alteration, amendment or change to the plat for any prior subdivision comprising the Property governed by the provisions of this Declaration.

**Section 12.2 Annexation by Builder/Developer**. With written approval from Declarant, a builder/developer that purchases Lots constituting an entire phase of the Development, may create a Neighborhood Association and record a Supplemental Declaration for that Neighborhood Association annexing certain the related property into the Subdivision.

## ARTICLE XIII MISCELLANEOUS

Section 13.2 **Interpretation of Restrictions.** All questions or interpretations of the Restrictions, shall be resolved by the Board, and its decision shall be final, binding and conclusive on all the parties affected.

Section 13.3 **Amendment.** At any time while this Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant's successors and assigns during the Class B Control Period at the sole discretion of the Declarant. Thereafter, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes of the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

Section 13.4 **Books and Records.** The Board shall take appropriate action to develop, implement and update procedures for record retention. The Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

Section 13.5 **Non-Waiver.** The failure of the Declarant, the Board or any Owner in any one or more instances to insist upon the strict performance of any of the covenants, conditions, restrictions, easements or other provisions of this Declaration or to exercise any right or option contained herein, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment for the future of such covenant, condition, restriction, easement or other provision, but the same shall remain in full force and effect.

Section 13.6 **Acceptance.** Each Owner of a Lot, each purchaser of a Lot under a contract or agreement of sale and each holder of an option to purchase a Lot, by accepting a deed, contract of sale or agreement or option, accepts the same subject to all of the covenants, conditions, restriction, easements and other provisions set forth in this Declaration and agrees to be bound by the same.

Section 13.7 **Limitation on Liability.** Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no representations or warranties whatsoever that the plan presently envisioned for the complete development and use of the Property can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be committed to or developed for a particular use, or that if land is one used for a particular use, that such use will continue in effect. Declarant shall not be liable to any Owner for any action taken or omitted to be taken so long as the conduct of Declarant was in good faith, except such as may arise from the willful misconduct or gross negligence of Declarant.

Section 13.8 **Indemnification of Board Members.** Declarant, each member of the Board and each member of the ACC shall be indemnified by the Owners against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of being or having been a member of the Board or the ACC, or any settlement thereof, whether or not said person is a member of the Board or ACC at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board or the ACC approves such settlement and reimbursement as being in the best interest of the Association or Owners. This Section shall extend to and apply also for the indemnification of the Declarant and its employees, officers, directors, and shareholders during the period that the governance of this Association is vested in the Declarant.

Section 13.9 **Notices.** Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is made by

mail, it shall be deemed to have been delivered seventy-two (72) hours after the same has been deposited in the United States mail, postage prepaid, properly addressed.

Section 13.10 **Interpretation.** The provisions of this Declaration and any Amended or Supplemental Declaration shall be liberally construed to effectuate objectives set forth in Article IV, above, and shall be construed and governed by the laws of the State of Utah. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine feminine or neuter shall include the masculine, feminine or neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

Section 13.11 **Severability.** Notwithstanding anything herein to the contrary, each of the provisions hereof shall be deemed independent and severable and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

IN WITNESS WHEREOF the Declarant has executed this Declaration as of the date first hereinabove set forth.

DECLARANT:

ADAMS PROPERTY LLC  
A Utah limited liability company

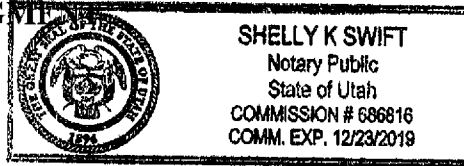
BY:  \_\_\_\_\_

NAME: MICHAEL FLOOD

TITLE: AUTHORIZED REPRESENTATIVE

ACKNOWLEDGMENT

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



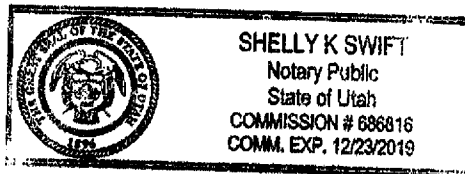
On the 25th day of August, 2016, personally appeared before me \_\_\_\_\_  
Michael Charles Flood, who being by me duly sworn did acknowledge that he is the  
Authorized Representative and authorized signer of Adams Property LLC, a Utah limited  
liability company, who acknowledged to me that said company executed the same.

Shelly K Swift  
Notary Public

Destination Homes, Inc. hereby consents to the recording of this Declaration as an Owner of certain real property within the Subdivision.

Destination Homes, Inc., a Utah corporation

Dale S Bailey  
By: \_\_\_\_\_  
Its: Vice President



STATE OF UTAH )  
 : ss  
COUNTY OF Davis )

On the 24th day of August, 2016, personally appeared before me,  
Dale S Bailey, who being by me duly sworn did say that he is V. President of Destination Homes, Inc. and that  
the within and foregoing instrument was signed in behalf of said corporation and the said he duly  
acknowledged to me that he executed the same.

Shelly K Swift  
Notary Public

