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Rhonda Francis, Summit County Recorder

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By DART ADAMSON & DONOVAN

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**SECOND AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR
THE FROSTWOOD TOWNHOMES
(A Townhome Planned Unit Development)**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE FROSTWOOD TOWNHOMES, INC., a Utah townhome planned unit development (“**Second Amendment**”) is made this 13 day of January 2021, is made and executed by the Frostwood Villas Homeowners Association, Inc., a Utah nonprofit corporation, dba Frostwood Townhomes Homeowners Association (the “Association”), on behalf of its current and future Members.

A. WHEREAS, the Association is a Utah nonprofit corporation formed under the Utah Revised Nonprofit Corporation Act, Utah Code Annotated section 16-6a-101, et seq.;

B. WHEREAS, on December 3, 2015, the Declaration of Covenants, Conditions, Easements and Restrictions for The Frostwood Townhomes were recorded in the office of the Summit County Recorder as Entry No. 1034182, in Book 2327 at Page 1442 (the “**Original Declaration**”);

C. WHEREAS, on January 30, 2018, the Amended Declaration of Covenants, Conditions, Easements and Restrictions for the Frostwood Townhomes were recorded in the office of the Summit County Recorder as Entry No. 1085725, in Book 2447 at Page 1745 (the “**Amended Declaration**”);

D. WHEREAS, Section 11.02 of the Original Declaration provides that the Declaration may be amended upon affirmative vote of a majority of the Class A members and Class B members;

E. WHEREAS, Owners on or about December 9, 2021, at a duly noticed Meeting of the Association, at least sixty-seven percent (67%) of the Owners voted in the affirmative to approve the amendment in accordance with the provisions of the Original Declaration. The President of the Association has certified the vote to execute and record this Second Amendment pursuant to the requirements of the Act and the Declaration; and,

F. WHEREAS, the covenants, conditions, easements and restrictions contained in this Declaration and in the Exhibits attached hereto shall be enforceable equitable covenants and equitable servitudes and shall run with the land.

NOW, THEREFORE, the Association hereby submits this Second Amendment to the Original Declaration as follows:

AMENDMENT

1. **Management of Common Elements, Limited Common Areas and Townhome Exterior Components.** Section 5.1 of the Original Declaration shall be deleted in its entirety and replaced with the following:

5.1 Management of Common Elements, Limited Common Areas and Townhome Exterior Components. The Association shall own and be responsible for the exclusive management, control, operation and maintenance of the Common Elements designated to it and shall keep the same in good, clean, attractive, safe and sanitary condition, order and repair. Where it deems necessary or desirable, the Association may construct, reconstruct, repair or replace any capital improvement related to or located upon the Common Elements. The Association shall be responsible for all maintenance, repair and replacement of the roofs of the Townhomes. Except for the maintenance of exterior yards and landscaping on Lots, maintenance of private and common portions of driveways (including cleaning, resurfacing, snow removal, sanding and salting), and the maintenance of the exterior components of Townhomes (including painting, maintaining and repairing thereof), the Association shall not be responsible for the maintenance of any Lot. The Association may, by written contract, delegate in whole or in part, to such person or persons as it shall deem advisable, such of the Association's duties, responsibilities and functions as are properly delegable. The Association shall have the right to exercise any right or privilege given to it herein or reasonably necessary to effectuate any such right, privilege or duty. All goods and services procured by the Association in performing its responsibilities shall constitute a Common Expense. Nothing contained in this Declaration shall be construed to obligate the Association to incur any expenses which cannot be reimbursed to the Association from the Owners by virtue of an Assessment.

2. **Repair and Maintenance Rights and Duties of Owners.** Section 5.9 of the Original Declaration shall be deleted in its entirety and replaced with the following:

5.9 Repair and Maintenance Rights and Duties of Owners. Except for those portions of the Lot which the Association is required or elects to maintain and repair, each Lot Owner shall, at his sole cost and expense, maintain and repair all interior and non-structural components of his Townhome, keeping the same in good condition. In addition, each Owner shall maintain, repair and replace as necessary, all doors and windows (and appurtenant hardware and accessories) to his Townhome, and any separate air conditioning, water heating, or other separate utility unit

which services his Townhome. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Townhome. In the event an Owner fails to maintain his Townhome or to provide other maintenance or repair as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specifically assess the cost thereof to such Owner, and, if necessary, lien his Lot for the amount thereof.

3. **Common Assessments.** Section 6.3 of the Original Declaration shall be deleted in its entirety and replaced with the following:

6.3 **Common Assessments.** The Common Assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation and welfare of the Members, to meet any obligations imposed on, incurred or assumed by the Association, to cover costs, including overhead and administrative costs, for the operation of the Association, and the ownership, operation, management, repair, and replacement of the Common Elements, exterior yards and landscaping on Lots, Limited Common Areas and Townhome exterior components, to pay all assessments payable by the Association to the Master Association pursuant to the Master Declaration, to pay all assessments payable by reason of being included in the CVMA and the Canyons SPA, to pay applicable county and other property taxes, and to establish impound accounts as may be required by any governmental entity. The Common Assessments may also be used to establish adequate reserves for maintenance, repair, and replacement of the Common Elements under the ownership and/or control of the Association. Common Assessments shall be levied against each Lot and the Owner thereof, and shall be payable in such manner and at such times, including monthly or quarterly installments, as the Board may determine.

(a) The total Common Assessments shall be based upon advance estimates of cash requirements by the Association to provide for payment of all estimated expenses growing out of or connected with the operation of the Association and the ownership, operation, management, maintenance and repair of the Common Elements, which estimates may include, among other things, expenses of snow removal, taxes, special assessments, premiums for all insurance which the Association is required or permitted to maintain pursuant hereto (including insurance to cover the Association's indemnification obligations for Trustees and officers), repairs and maintenance, wages for Association employees compensation of a manager, legal and accounting fees, the creation of reasonable reserves, surplus and/or sinking funds for the replacement of capital items and other

purposes, and any other expenses and liabilities which may be incurred by the Association for the benefit of the members. Common Assessments shall be made on a calendar year basis. The amount of the Common Assessments shall be initially proposed by the Board and presented to a meeting of the Members in a detailed budget for approval. The Annual Budget shall itemize for the applicable year the estimated deficits or surpluses from the prior operating period. The Annual Budget shall serve as notice of and as the supporting document for the Common Assessment for the upcoming fiscal year and as a guideline under which the Project shall be operated during such annual period. Notice of the proposed Common Assessment for the ensuing year shall accompany the notice of the meeting, and shall be emailed or mailed to each member not later than thirty (30) days prior to the date set for such meeting. Such notice shall also set forth the estimated assessment amount of each member for the calendar year covered by said assessments, determined as provided in this Declaration. Common Assessments representing particular cost items may, but shall not be required to, be allocated to a particular Lot or Lots, depending on the extent of benefit received by the particular Lot or Lots in question (as determined by the Board in the exercise of its discretion); therefore common Assessments may not necessarily be the same for all Lots. At the end of each calendar year, the Board shall determine the exact amount of the Common Expenses which have been incurred, and shall charge or credit each Owner in the next assessment period for the difference between the actual Common Expenses incurred for the prior assessment period and the estimated Common Expense upon which said Common Assessment was based. Within ninety (90) days of the close of each calendar year, each Owner shall be provided a copy of the operating statement of the Association for the preceding year. Said operating statement shall provide reasonable detail of the actual income and expenses of the Association for the applicable year.

(b) Common Reserve Fund. Separate Assessments to the Common Reserve Fund may include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair and replacement of all or a portion of the Common elements, or for any other purpose as determined by the Board. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account to be held in trust for the purposes for which they are collected. Such amounts shall be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the members. Capital Improvement Assessments collected by the Association shall be added to the Common Reserve Fund.

(c) Emergency Increases in Common Assessments. The Board may increase Common Assessments in an "emergency situation," which is defined as any one of the following: (i) an extraordinary expenditure

or the increase of an impound account balance required by order of court or any governmental entity with jurisdiction over any portion of the Project; (ii) an extraordinary expenditure necessary to operate, repair or maintain the Common Elements or any other property for which the Association is responsible where a threat to personal safety on the common Elements or on such other property is discovered, or where the expenditure is required as a condition to the confirmation of insurance on any portion of the Project, or is required by a governmental entity or an agreement with a governmental entity (including, without limitation, the operation and maintenance of traffic controls and gates); and (iii) an extraordinary expenditure necessary to replace, repair or maintain the Common Elements or any other property for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing its budget (however, prior to the imposition and collection of an assessment under this Subsection 6.3(c), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment).

4. **Notices.** Section 11.1 shall be deleted in its entirety and replaced with the following:

11.1 **Notices.** Upon acquisition of title to a Lot, each Owner shall provide written notice to the Association of such Owner's address, including an email address, for purposes of furnishing notices in connection with this Declaration. Owner shall be responsible to update the Association of any change of address, including email address. The Association shall maintain a record of the notice addresses furnished by the Owners. The address provided by an Owner shall be used for any notice required to be given under this Declaration and if no such address shall have been provided, then the address used by Summit County for the mailing address of real property tax statements for such Lot shall be used for such notice. All notices to be given pursuant to this Declaration shall be sufficient if given by email, by personal service, by guaranteed overnight delivery service or by being mailed postage prepaid, certified or registered mail, return receipt requested, to the prescribed address.

Any time period provided in the giving of any notice hereunder shall commence upon the date of email delivery, personal service, the date after delivery to the guaranteed overnight delivery service or two (2) days after mailing certified or registered mail. Notice of the regular annual meeting or special meetings of the Members shall be sent as set forth in the Bylaws.

5. **Effectiveness.** This Second Amendment shall be considered supplemental to the Original Declaration. Except as expressly amended herein, the Original Declaration, shall remain in full force and effect and shall not be canceled, suspended, or otherwise abrogated by the recording of this Second Amendment.

[Signatures to follow on next page]

EXHIBIT A

Legal Description of the Property

All of Parcel F6, of the First Amended Master Development of Plat of Frostwood, a Planned Community on Record at the Summit County Recorder's Office, Entry No. 799952. Contains 4.69 acres more or less.

Parcel Number FRSTW-F6-1-A-AM

Legal LOT 1-A FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA THE COMMON AREA.

Parcel Number FRSTW-F6-2-B-AM

Legal LOT 2-B FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2529.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA.

Parcel Number FRSTW-F6-3-A-R-AM

Legal LOT 3-A-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-4-A-AM

Legal LOT 4-A FROSTWOOD PARCEL F6 TOWN HOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMTVION AREA. 2398-1147

Parcel Number FRSTW-F6-5-A-R-AM

Legal LOT 5-A-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA. 2418-1860

Parcel Number FRSTW-F6-6-A-AM

Legal LOT 6-A FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA. 2437-528

Parcel Number FRSTW-F6-7-A-R-AM

Legal LOT 7-A-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA. 2413-858

Parcel Number FRSTW-F6-8-A-AM

Legal LOT 8-A FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA. 2415-179

Parcel Number FRSTW-F6-9-A-R-AM

Legal LOT 9-A-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA 2418-302

Parcel Number FRSTW-F6-10-D-R-AM

Legal LOT 10-D-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2330.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-11-C-AM

Legal LOT 11-C FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2070.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA.

Parcel Number FRSTW-F6-12-C-R-AM

Legal LOT 12-C-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2070.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA.

Parcel Number FRSTW-F6-13-D-AM

Legal LOT 13-D FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2330.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA

Parcel Number FRSTW-F6-14-A-AM

Legal LOT 14-A FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA.

Parcel Number FRSTW-F6-15-B-AM

Legal LOT 15-B FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2529.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA

Parcel Number FRSTW-F6-16-A-R-AM

Legal LOT 16-A-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA

Parcel Number FRSTW-F6-17-A-AM

Legal LOT 17-A FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA.

Parcel Number FRSTW-F6-18-A-R-AM

Legal LOT 18-A-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2578.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-19-D-AM

Legal LOT 19-D FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2824.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-20-C-R-AM

Legal LOT 20-C-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2534.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-21-C-AM

Legal LOT 21-C FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2534.00 SQ FT. TOGETHER WITH AN EQUAL% IN THE COMMON AREA.

Parcel Number FRSTW-F6-22-D-R-AM

Legal LOT 22-D-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE.

CONT 2824.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-23-D-AM

Legal LOT 23-D FROSTWOOD PARCEL F6 TOWNHOMES AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2330.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-24-C-R-AM

Legal LOT 24-C-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2070.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-25-C-AM

Legal LOT 25-C FROSTWOOD PARCEL F6 TOWNHOMES AMENDED ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2070.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.

Parcel Number FRSTW-F6-26-D-R-AM

Legal LOT 26-D-R FROSTWOOD PARCEL F6 TOWNHOMES AMENDED: ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE. CONT 2330.00 SQ FT. TOGETHER WITH AN EQUAL % IN THE COMMON AREA.