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Gary W. Ott  
Recorder, Salt Lake County, UT  
VIAL FOTHERINGHAM LLP  
BY: eCASH, DEPUTY - EF 11 P.

WHEN RECORDED RETURN TO:  
VIAL FOTHERINGHAM LLP  
602 EAST 300 SOUTH  
SALT LAKE CITY, UT 84102

**FIRST AMENDMENT TO THE  
AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF  
THE FIELDS AT DRAPER CONDOMINIUMS**

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF THE FIELDS AT DRAPER CONDOMINIUMS is made and executed on the date set forth below and shall be effective upon recording in the Salt Lake County Recorder's Office.

**RECITALS**

A. Whereas, the original Declaration of Covenants, Conditions and Restrictions of The Fields at Draper Phase 2C Condominiums was recorded in the office of the Salt Lake County Recorder on May 1, 1998 as Entry No. 6949319, in Book 7965, beginning at page 229 (the "Original Declaration").

B. The Original Declaration was replaced in its entirety by the Amended and Restated Declaration of Condominium of The Fields at Draper Condominiums recorded with the Salt Lake County Recorder on September 23, 1998 as Entry No. 7095024, beginning at page 1454 (the "Declaration").

C. Whereas, the Association and the Owners now desire to amend the Declaration to align it with current Utah condominium laws, industry standards, and to better ensure a more efficient and effective form of management and governance. .

D. Pursuant to the Utah Condominium Ownership Act at §57-8-39, the Declaration can be amended by the affirmative vote of at least sixty-seven percent (67%) of the voting interests of the Association.

E. At least sixty-seven percent (67%) of the voting interests of the Association have approved the following amendments.

F. No Lenders have requested notice from the Association as required by Section 13.1 of the Declaration.

**AMENDMENTS**

**Amendment One**

It is proposed that the definition of the "Act" as used in Article 1 of the Declaration be revised and amended to read as follows:

"Act" shall mean the Utah Condominium Ownership Act, codified beginning at Section 57-8-1, Utah Code Annotated, as the same may be amended from time to time. This Association is specifically made subject to future amendments to the Act and any interpretation, rights, and remedies available to any Owner or the Association shall be based upon and determined by the Declaration, the Act as it exists at the time of making the determination, and any other applicable documents such as the Bylaws, Articles, and similar documents.

#### Amendment Two

It is proposed that Article 2, Section 2.3 of the Declaration be revised and amended to read as follows:

2.3 Interpretation of Declaration and Applicability of the Act. The Condominium Project shall be governed by the Act. Any interpretation, rights, and remedies available to any Owner or the Association shall be based upon and determined by the Declaration, the Act as it exists at the time of making the determination, and any other applicable documents such as the Bylaws, Articles, and similar documents.

#### Amendment Three

It is proposed that Article 10 of the Declaration be revised and amended to read as follows:

### **ARTICLE 10 INSURANCE**

10.1 Insurance. The Committee shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

(a) Annual Insurance Report. Not later than sixty (60) days prior to the beginning of each fiscal year, the Management Committee may obtain a written report by a reputable insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association) setting forth the existing insurance obtained pursuant to the Declaration and stating whether in the opinion of such broker or consultant, the insurance complies with the requirements of the Declaration and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance

reasonably required for the protection of the Owners and Lenders in light of the insurance then available and the prevailing practice with respect to other similar condominium projects. The Management Committee shall be protected in relying on the written report furnished pursuant to this Subsection provided reasonable care and prudence were exercised in selecting such insurance broker, agent, or consultant. The most recent annual insurance report shall be made available to all Lenders and Owners upon request.

(b) Property Insurance.

1) Hazard Insurance. The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Units, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

a) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Unit or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Units, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.

b) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

c) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Units) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

d) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a Replacement Cost Endorsement under which the insurer agrees to pay up to one hundred percent (100%) of the Property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an Agreed Amount Endorsement which must waive or eliminate the requirement for coinsurance.

e) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for

contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

2) Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

a) the Association's policy provides primary insurance coverage;

b) notwithstanding Subsection (a) above, and subject to Subsection (c) below:

(i) the Owner is responsible for the Association's policy deductible; and

(ii) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

c) An Owner that has suffered damage to any combination of a Unit or a Limited Common Area appurtenant to a Unit ("Unit Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Unit Damage ("Unit Damage Percentage") for that Unit to the amount of the deductible under the Association's property insurance policy; and

d) If an Owner does not pay the amount required under Subsection (b) above within 30 days after substantial completion of the repairs to, as applicable, the Unit or the Limited Common Area appurtenant to the Unit, the Association may levy an assessment against the Owner for that amount.

3) Flood Insurance. If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a policy of flood insurance shall be maintained covering the Project, or, at a minimum, that portion of the Project located within the Special Flood Hazard Area. That policy shall cover any machinery and equipment that are not part of a building and all Common Area within the Project ("Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Program for the Insurable Property within any portion of the Project located within a designated flood hazard

areas; or (ii) one hundred percent (100%) of the insurable value of the Insurable Property. If the Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Committee, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

4) Earthquake Insurance. The Association may purchase earthquake insurance as the Committee deems appropriate. If the Committee elects not to purchase earthquake insurance, a vote of the Owners present at the annual meeting, with a proper quorum, shall be required to confirm this decision. If the Owners at the annual meeting do not confirm the decision to not purchase earthquake insurance, the Committee shall purchase earthquake insurance within (60) days of the vote.

5) Association's Obligation to Segregate Property Insurance Deductible. The Association shall keep in a segregated bank account an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.

6) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Committee determines that a claim is likely not to exceed the Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.

7) Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation under Subsection (2) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

c. Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than Two Million Dollars (\$2,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which should preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

d. Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Committee, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Project's Documents, and breach of contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) provide coverage for defamation. In the discretion of the Committee, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

e. Insurance Coverage for Theft and Embezzlement of Association Funds. The Association shall obtain insurance covering the theft or embezzlement of funds that shall: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) Officers and Committee members of the Association, (b) employees and volunteers of the Association, (c) any manager of the Association, (c) officers, directors, and employees of any manager of the Association, and (d) coverage for acts.

f. Worker's Compensation Insurance. The Committee shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Committee deems appropriate.

g. Certificates. Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association and upon written request, to any Owner or Mortgagee.

h. Named Insured. The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.

i. Association has the Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be

repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

j. Insurance Trustee. In the discretion of the Committee or upon written request executed by Owners holding at least 50% of the Ownership Interest of the Association, the Committee shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Committee (as the case may be) shall require.

k. Owner Act Cannot Void Coverage Under Any Policy. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

l. Waiver of Subrogation against Owners and Association. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

m. Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements required by U.C.A. §57-8-43 that became law in 2011, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance laws applicable to condominium associations shall apply to this Association.

#### **Amendment Four**

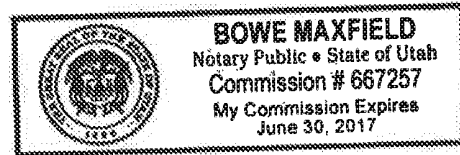
It is proposed that Article 15, Section 15.3 of the Declaration be revised and amended to read as follows:

15.3 General Amendment Requirements. Except as permitted by Article 3, Section 15.1, Section 15.2, or as otherwise permitted or required by the Act, this Declaration may be amended only upon the affirmative vote of at least sixty-seven percent (67%) of the votes in the Association. Amendments to the Declaration shall be proposed by either a majority of the Management Committee or by Owners holding at least thirty percent (30%) of the votes in the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting



of The Fields at Draper Condominiums Association, Inc., that he/she has been authorized by the Management Committee to execute this document on the, and that the foregoing instrument was approved in accordance with applicable state laws and the Declaration to the best of his/her knowledge.

  
Notary Public



**EXHIBIT A**  
**Fields at Draper Condominiums - Parcel Numbers**  
**192 Condominium Units; 14 Phases**

**Phase 1**

34-07-101-001-0000
34-07-101-002-0000
34-07-101-003-0000
34-07-101-004-0000
34-07-101-005-0000
34-07-101-006-0000
34-07-101-007-0000
34-07-101-008-0000
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34-07-101-034-0000

**Phase 2**

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**Phase 3**

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**Phase 4**

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**Phase 5**

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**Phase 6**

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**Phase 7**

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34-07-131-041-0000

34-07-131-042-0000
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**Phase 8**

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34-07-103-002-0000
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34-07-103-005-0000
34-07-103-006-0000
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34-07-103-008-0000
34-07-103-009-0000

**Phase 9**

34-07-103-011-0000
34-07-103-012-0000
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34-07-103-014-0000
34-07-103-015-0000
34-07-103-016-0000
34-07-103-017-0000

**Phase 10**

34-07-132-001-0000
34-07-132-002-0000
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34-07-132-004-0000
34-07-132-005-0000
34-07-132-006-0000
34-07-132-007-0000

**Phase 11**

34-07-132-010-0000
34-07-132-011-0000
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34-07-132-014-0000

34-07-132-015-0000
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**Phase 12**

34-07-132-022-0000
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34-07-132-025-0000
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**Phase 13**

34-06-352-003-0000
34-06-352-004-0000
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34-06-352-008-0000
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34-06-352-012-0000

**Phase 14**

34-06-352-015-0000
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