

When Recorded, Mail to:  
Soda Row Townhome Association, Inc.  
c/o Mary Chamberlain  
11274 Kestral Rise Road, Suite F  
South Jordan, UT 84009

With a copy to:  
Shumway Van  
c/o Robert T. Spjute  
8 East Broadway, Suite 550  
Salt Lake City, UT 84111

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*(Space above line for Recorder's use)*

AMENDMENT NO. 3  
TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SODA ROW TOWNHOME PROJECT

THIS AMENDMENT NO. 3 TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SODA ROW TOWNHOME PROJECT and the BY-LAWS OF SODA ROW TOWNHOME ASSOCIATION, INC. (this "***Amendment***") is made and executed as of October 25<sup>th</sup>, 2017 by DAYBREAK COMMUNITIES, LLC, a Delaware limited liability company, as successor-in-interest to KENNECOTT LAND COMPANY, a Delaware Corporation, which is the successor-in-interest to Daybreak Development LLC, a Delaware limited liability company (formerly known as Kennecott Land Residential Development Company, a Delaware corporation) ("***Declarant***").

RECITALS:

- A. Certain real property in Salt Lake County, Utah, more particularly described in Exhibit A, was subjected to certain covenants, conditions and restrictions pursuant to that certain Declaration of Covenants, Conditions and Restrictions for Soda Row Townhome Project recorded on January 26, 2010, as Entry No. 10885373, in Book 9799, Pages 3280-3322, in the Salt Lake County Recorder's Office, and as amended and supplemented by Declarant from time to time (Collectively, as amended and supplemented, the "***Declaration***").
- B. Declarant under the Declaration hereby adopts this Amendment and certifies that all of the requirements to amend the Declaration have been satisfied, Declarant is in control of the Soda Row Townhome Association, Inc. (the "***Association***"), and this Amendment is adopted prior to the termination of the Declarant Control Period pursuant to the authority granted in Section 15.5 of the Declaration (as defined in the Declaration).

- C. Declarant under the By-laws of the Soda Row Townhome Association, Inc. (the “*By-laws*”) adopts this Amendment and certifies that all of the requirements to amend the By-laws have been satisfied, Declarant is in control of the Association, and this Amendment is adopted prior to the termination of the Declarant Control Period pursuant to the authority granted in Article X of the By-laws.
- D. The purpose of this Amendment is to establish and clarify the maintenance obligations of both Owners and the Association for Buildings and Dwellings.
- E. This Amendment is also to clarify the term in which a Director serves on the Association’s Board.

NOW, THEREFORE, the Declarant hereby declares as follows:

**AMENDMENT TO DECLARATION:**

- 1. **Definitions.** Except to the extent otherwise defined herein, all capitalized terms used in this Amendment shall have the meaning ascribed thereto in the Declaration.
- 2. **Revised Provisions.** This Amendment restates and amends Sections 5.1, 5.2 and 5.3 of the Declaration and supersedes any prior amendment of Sections 5.1 and 5.2.

Sections 5.1, 5.2 and 5.3 of the Declaration are hereby amended and restated in their entirety to read as follows:

**5.1 Owner Responsibility Regarding Buildings and Dwellings.** With respect to the maintenance, repair, alteration, and remodeling of Buildings, each Owner shall maintain and be permitted to alter or remodel the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum drywall, paneling, wall paper, paint, wall and floor tile and flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within such Owner’s Dwelling, including any non-exterior doors and non-exterior windows. Each Owner shall furnish and be responsible for, at such Owner’s own expense, all of the maintenance, repairs and replacements within the Owner’s Dwelling. Such obligation shall include, without limitation:

- (a) maintenance, repair and replacement of all doors, including interior and exterior caulking (provided that, in connection with an exterior painting project, the Association’s contractor(s) may caulk as needed and appropriate), awnings, thresholds, casings and door jambs, landings, stairs, sidewalks that serve individual units, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, fireboxes of fireplaces and any other materials constituting the finished surfaces of floors, ceilings, or interior walls, except that the Association shall retain the obligation to paint exterior doors, including thresholds, casings and door jambs;
- (b) maintenance, repair, replacement and exterior cleaning of all interior and exterior windows, including interior and exterior caulking (provided that, in connection with an exterior painting project, that the Association’s contractor(s) may caulk as needed and appropriate), awnings, windows and window components including but not limited to

window frames, reveals, skylights, and door glass or equivalent materials, caulking, and the interior, except that the Association shall retain the right and obligation to paint the exterior portion of window frames and window shutters;

(c) maintenance, repair and replacement of all utility lines (such as power, natural gas, water, sewer, telecommunications, cable and any other future utility lines) that serve the Owner's Dwelling from the point of connection, including backflow preventer and stop and waste valve, as well as maintaining, running, insulating, and/or sufficiently heating utility lines and any exterior hose bibs that are exclusively used by that an Owner to prevent frozen pipes regardless of whether or not the Owner's Dwelling is occupied at the time, and any pop up drains located on an Owner's Lots (if located within an Owner's fenced yard), to ensure proper functionality and drainage;

(d) maintenance of decking, patios (inclusive of, but not limited to, posts, balusters, railings, skirting, and steps), , fencing and balconies, exterior screens, shutters, chimney flues and backyards that are within an Owner's exclusive control, in a clean and sanitary condition, including but not limited to free of pests, rodents and pet waste, and in good order and repair (*provided, however*, that the Association shall retain the right to paint or repaint any decking or patios, inclusive of posts, balusters, railings, skirting, and steps, to maintain a harmonious aesthetic appearance in the Project);

(e) maintenance, repair and replacement of the Owner's garage door, including the mechanical systems and all parts of the door, except that the Association shall maintain the exterior painting of the exterior of the garage door. The Association may seek reimbursement or contribution for any damages arising from the negligent or intentional damage to garage doors or surrounding common areas by an Owner or the Owner's tenants, family members, guests, visitors, or invitees;

(f) maintenance, repair and replacement of the garage interior concrete slab and driveways or driveway apron, except the Association shall repair or replace the garage interior concrete slab if it is determined that damage was caused by adjoining foundation or footing movement;

(g) maintenance, repair and replacement of all of the following which serve the Owner's Dwelling exclusively: lighting fixtures (except exterior building mounted lights and walkway lights which are not located within patios and balconies which are not exclusively controlled by the Owner), fans, plumbing fixtures, stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers and forced air units), solar panels (subject to the provisions below), intercoms, security systems and other such appliances, fixtures and decorations as an Owner may install; and

(h) maintenance, repair and replacement of all of fences (whether or not installed as part of a Dwelling) consistent with the Community-Wide Standard and, where applicable, after approval of the Design Review Committee.

(1) The Association may, in its sole and absolute discretion, allow the installation of a solar panel onto the exterior portion of an Owner's Dwelling, at the

Owner's own expense, if: (a) the Owner obtains the prior written consent and approval of the Association for the installation of the solar panel; (b) the solar panel is installed by the Association or by a third-party selected or approved by the Association; and (c) the Owner agrees in writing to assume responsibility for, and cover all of the costs associated with, the installation, maintenance, repair and replacement of the solar panel, and any damage caused to the roof and all roofing components and structure by the installation, maintenance, repair or replacement of the solar panel, and the Owner agrees in writing to pay for the removal of the solar panel(s) in the event that it inhibits the maintenance, repair, or replacement of any portion of the roof, wall or exterior portion of the Dwelling to which it is attached by the Association or another Owner. The obligations imposed on the Owner by this subsection shall also apply to any and all subsequent Owners of the Dwelling to which the solar panel is to be attached.

(2) The Association may remove, or cause to be removed at the Owner's expense, any solar panel attached to any exterior portion of any Dwelling within a Building if the Association determines that the solar panel has not been installed, maintained, repaired, replaced, or removed by the Owner of the solar panel in accordance with the provisions of this Article.

**Additional Owner Covenants.** The Owner shall not alter any utility lines, pipes, wires, conduits or systems that serve one or more other Dwellings. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board. Such right to repair, alter and remodel is coupled with the obligation to replace any materials removed with similar types or kinds of materials. The Owner shall also maintain the surface of the interior supporting walls, and the Association shall maintain the structural integrity of interior supporting walls. The Owners shall promptly notify the Association in writing of any structural integrity issues concerning the interior of such Owner's respective Dwelling promptly upon becoming aware of the same. If any Owner fails to promptly notify the Association in a timely manner of structural integrity issues, then such Owner may be responsible for all repair costs, as determined by the Association. An Owner shall maintain and keep in good repair the interior of his or her Dwelling, including the fixtures thereof. All fixtures and equipment installed within the Dwelling shall be maintained and kept in good repair by the Owner thereof. An Owner shall do no act and shall perform no work that will or may impair the structural soundness or integrity of the Building in which such Owner's Dwelling is located, impair any easement or hereditament, or violate any laws, ordinances, regulations and codes of the United States of America, the State of Utah, the County of Salt Lake, the City of South Jordan, or any other agency or entity which may then have jurisdiction over said Lot/Dwelling. Any expense to the Association for investigation or enforcement under this Article shall be borne by Owner if such investigation establishes a violation of this paragraph. Each Owner shall be liable to the Association or other Owners for damages to person or property in the project caused by such Owner's negligence or the negligence of the Owner's tenants, family members, guests, visitors, or invitees.

**5.2 Association Responsibility Regarding Buildings and Dwellings.** Except for the Owner's responsibilities set forth in this Article, the Association shall have the duty of maintaining, replacing and repairing the Buildings including, without limitation, footings

and foundations, structural components (inclusive of structural posts of any kind), roofs and common sanitary sewer laterals (if any) and other common utilities (if any). The cost of said maintenance, replacement and repair shall be assessed to all of the Owners. The Board shall not need the prior approval of the Members to cause such maintenance, replacement or repairs to be accomplished, notwithstanding the cost thereof; subject, however, to Article 10 hereof.

**5.3 Maintenance of Lots.** The Association shall maintain the landscaping and related improvements on the Lots, as set forth herein. The areas maintained by the Association, including the exterior of the Buildings, shall be referred to herein as the “Maintained Areas”. The Maintained Areas shall include the front lawn and front yard garden areas, excluding any of the following: stand-alone planters, window boxes, walls and enclosed areas within fences (whether or not installed by a builder or by Owner) or walls (i.e., fenced areas with a gate [whether opened, closed, locked, or unlocked] shall be deemed “enclosed” hereunder). Owners may reasonably enhance the landscaping on their Lot (if any) by planting flower bulbs or flowers; provided, however, that an Owner shall not modify any irrigation components, lines or systems.

**Snow Pushing.** The Association shall perform reasonable snow pushing for the common area as defined in Section 3.4, for example: common area streets, common area access ways, common area fire lanes, and common area sidewalks, driveways and driveway aprons serving multiple Lots. Owners shall be responsible for snow pushing and/or removal at all other entry points to their Lot, including without limitation patios, porches, balconies, pathways, sidewalks serving single lots, and sidewalks bordering an Owner’s Lot. Owners shall also be responsible to ensure appropriate use of snow and ice melt salts and other substances so as not to damage the concrete surfaces of streets, access ways, fire lanes, sidewalks, driveways and driveway aprons

## **AMENDMENT TO FORM OF BYLAWS OF THE ASSOCIATION**

Article IV, Sections 3(a) and 3(b) of the Bylaws is hereby amended and restated in its entirety to read as follows:

Section 3. Permanent Board.


(a) Following the termination of the Declarant Control Period, the Board shall be composed of three (3) Directors, elected by the Owners, and two (2) Directors appointed by the Declarant, but can be increased up to as many as seven (7) members upon the majority vote of the existing Board or the majority vote of the Owners at the duly called meeting of the Owners. Directors elected by the Owners are referred to hereinafter as “Owner Directors.”

(b) So long as Declarant is a member of the Association pursuant to Article III hereof, the Declarant shall be entitled to appoint, remove, and replace two Directors on the Board. Thereafter, the Directors elected by the Declarant shall resign and the remaining

Directors shall be entitled to appoint a Director to serve until the next annual meeting, at which time the Owners shall be entitled to elect a Director(s) to fill such position(s). In addition, following the Declarant Control Period, the Directors of the Board shall serve staggered, three (3)-year terms. At each annual meeting, the members, by plurality vote, shall elect an Owner Director to replace the Owner Director(s) whose terms has/have expired and all such Owner Directors shall be elected for a term of three (3) years, except that the Board shall have the right to cause an Owner Director to be elected for less than a three (3) year term if it becomes reasonably necessary to re-establish the intended staggered terms. If the Board increases the number of Directors, the newly appointed Directors shall serve until the first annual meeting after such increase, at which time the terms of the new directorships shall be designated by the Board.

IN WITNESS WHEREOF, the undersigned as executed this Amendment this 25<sup>m</sup> day of October, 2017.

DAYBREAK COMMUNITIES, LLC

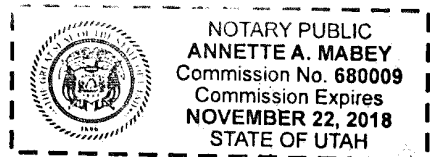
  
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Scott Kaufmann  
Vice President

STATE OF UTAH                    )  
                                                  )ss  
COUNTY OF SALT LAKE    )

On the 25<sup>th</sup> day of October, 2017, before me Annette Mabe, the undersigned Notary Public, personally appeared SCOTT KAUFMANN, and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the written instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

  
NOTARY PUBLIC



My commission expires: 11/22/2018

**Exhibit A**

**Legal Description**

That certain real property located in the City of South Jordan, County of Salt Lake, State of Utah, being more particularly described as follows:

TOWNHOME LINER LOTS:

122, 123, 124, and 125, inclusive, of that certain map plat entitled "KENNECOTT DAYBREAK COUPLET LINER PRODUCT #1 amending Parcel C of the Amended Kennecott Daybreak Phase 1 Subdivision, Parcel "I" and "J" of the Kennecott Daybreak Phase II subdivision and Lots 4 thru 7 of the Amended Lot M-104 Kennecott Daybreak Phase 1 Subdivision of the Kennecott Master Subdivision #1" according to the official plat recorded July 2, 2009, as Entry No. 10745550 in Book 2009P beginning at Page 88 in the Official Records of Salt Lake County, Utah.

AND

Lots 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, inclusive, of that certain map plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #1 AMENDING PARCEL A OF THE KENNECOTT DAYBREAK VC1 DAYCARE SUBDIVISION" recorded on April 9, 2010, as Entry No. 10930466, Book 2010P, at Page 64 of the Official Records of Salt Lake County, Utah.

TAX PARCEL NUMBERS:

L	101	27-19-158-021-0000
L	102	27-19-158-022-0000
L	103	27-19-158-023-0000
L	104	27-19-158-024-0000
L	105	27-19-158-025-0000
L	106	27-19-158-019-0000
L	107	27-19-158-018-0000
L	108	27-19-158-017-0000
L	109	27-19-158-016-0000
L	110	27-19-158-006-0000
L	111	27-19-158-007-0000
L	112	27-19-158-008-0000
L	113	27-19-158-009-0000

AND

Lots 114, 115, and 116, inclusive, of that certain map plat entitled "AMENDED KENNECOTT DAYBREAK VC1 MULTI FAMILY #1 AMENDING AND EXTENDING LOTS 114 THRU 116 AND VACATING A PORTION OF ROCK POINT DRIVE" recorded on April 15, 2011, as Entry No. 11167535, Book 2011P, at Page 46 of the Official Records of Salt Lake County, Utah.

TAX PARCEL NUMBERS:

L	114	27-19-158-010-0000
L	115	27-19-158-011-0000
L	116	27-19-158-012-0000

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTIFAMILY #2A AMENDING PARCEL B OF THE KENNECOTT DAYBREAK APARTMENT VENTURE #1" recorded on March 15, 2011, as Entry No. 11150330, Book 2011p, at Page 28 of the Official Records of Salt Lake County, Utah.

Lot	Parcel Number
117	26-24-278-002-0000
118	26-24-278-003-0000
119	26-24-278-004-0000
120	26-24-278-005-0000
121	26-24-278-006-0000
122	26-24-278-007-0000
123	26-24-278-008-0000
124	26-24-278-009-0000
125	26-24-278-010-0000
126	26-24-278-011-0000
127	26-24-278-012-0000
128	26-24-278-013-0000
129	26-24-278-014-0000
130	26-24-278-016-0000
131	26-24-278-017-0000
132	26-24-278-018-0000
133	26-24-278-019-0000
134	26-24-278-020-0000
135	26-24-278-022-0000
136	26-24-278-023-0000



137	26-24-278-024-0000
138	26-24-278-025-0000
139	26-24-278-026-0000
140	26-24-278-027-0000
141	26-24-278-028-0000
142	26-24-278-029-0000
101	26-24-278-001-0000
102	26-24-278-015-0000
103	26-24-278-021-0000

AND

Lots 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169 and 170, inclusive, of that certain map plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #2B AMENDING PARCEL B OF THE KENNECOTT DAYBREAK APARTMENT VENTURE #1" recorded on September 13, 2011, as Entry No. 11242550, Book 2011p, at Page 116 of the Official Records of Salt Lake County, Utah.

143	26-24-279-021-0000	162	26-24-435-010-0000
144	26-24-279-020-0000	163	26-24-435-009-0000
145	26-24-279-019-0000	164	26-24-435-008-0000
146	26-24-279-018-0000	165	26-24-435-007-0000
147	26-24-279-017-0000	166	26-24-435-001-0000
148	26-24-279-016-0000	167	26-24-435-002-0000
149	26-24-279-015-0000	168	26-24-435-003-0000
150	26-24-279-014-0000	169	26-24-435-004-0000
151	26-24-279-011-0000	170	26-24-435-005-0000
152	26-24-279-010-0000		
153	26-24-279-009-0000		
154	26-24-279-002-0000		
155	26-24-279-003-0000		
156	26-24-279-004-0000		
157	26-24-279-005-0000		
158	26-24-279-006-0000		
159	26-24-279-007-0000		
160	26-24-279-008-0000		
161	26-24-435-011-0000		

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #3 AMENDING PARCEL H OF KENNECOTT DAYBREAK PHASE II SUBDIVISION" recorded on August 10, 2012, as Entry No. 11448425, Book 2012P, at Page 123 of the Official Records of Salt Lake County, Utah.

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #4 AMENDING PARCEL H OF KENNECOTT DAYBREAK PHASE II SUBDIVISION" recorded on May 29, 2013, as Entry No. 11651096, Book 2013P, at Page 94 of the Official Records of Salt Lake County, Utah.

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #4A AMENDING LOTS C-105 AND C-112 THRU C-125 OF KENNECOTT DAYBREAK VILLAGE CENTER 1A AND LOTS 101-121 OF KENNECOTT DAYBREAK COUPLET LINER PRODUCT #1" recorded on June 13, 2013, as Entry No. 11663048, Book 2013P, at Page 113 of the Official Records of Salt Lake County, Utah.

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #5 AMENDING PARCEL C OF KENNECOTT DAYBREAK APARTMENT VENTURE #1" recorded on August 8, 2013, as Entry No. 11702275, Book 2013P, at Page 156 of the Official Records of Salt Lake County, Utah.

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #6 AMENDING PARCEL D OF AMENDED KENNECOTT DAYBREAK PHASE 1 SUBDIVISION AND LOTS 4-7 AND 126-134 OF KENNECOTT DAYBREAK COUPLET LINER PRODUCT #1" recorded on June 25, 2014, Entry No. 11871615, Book 2014P, at Page 163 of the Official Records of Salt Lake County, Utah.

AND

All of the real property described on that certain plat entitled "KENNECOTT DAYBREAK VC1 MULTI FAMILY #7 AMENDING LOTS C-223 THROUGH C-231 OF KENNECOTT DAYBREAK VILLAGE CENTER 1A," recorded on September 4, 2015, as Entry No. 12127333, Book 2015P, at Page 207 of the Official Records of Salt Lake County, Utah.