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ADAM GARDINER  
RECORDER, SALT LAKE COUNTY, UTAH  
PARKVIEW PROPERTIES INC  
1718 SUMMER STONE COURT  
SANDY UT 84092  
BY: PSP, DEPUTY - WI 33 P.

After Recording Return to:  
VIAL FOTHERINGHAM, LLP  
515 South 400 East  
Salt Lake City, Utah 84111

**DECLARATION OF COVENANTS,  
CONDITIONS & RESTRICTIONS**

For  
PARKVIEW VILLAS  
A Subdivision  
in Salt Lake County, Utah

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Parkview Villas, a Subdivision, (this "Declaration") is made and executed, as of the last date set forth in the notarized signature below, by Parkview Properties & Development, Inc. ("Declarant").

**RECITALS:**

(A) This Declaration will take effect on the date recorded at the office of the Salt Lake County Recorder's Office (the "Effective Date").

(B) Declarant is the owner of certain real property located in Salt Lake County, Utah and more particularly described as follows (the "Property"):

A PART OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 SOUTH RANGE 1 EAST SALT LAKE BASE AND MERIDIAN, IN SALT LAKE COUNTY, UTAH:

BEGINNING AT A POINT ON THE NORTH LINE OF 11400 SOUTH STREET, SAID POINT BEING NORTH 89°53'40" WEST ALONG THE QUARTER SECTION LINE 394.23 FEET AND NORTH 00°06'20" WEST FROM THE CENTER QUARTER CORNER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 89°53'40" WEST ALONG SAID NORTH LINE TO THE EASTERLY LINE OF HAWKWOOD ESTATES PHASE 3, RECORDED MARCH 13, 1990 AS ENTRY NO. 4891914 IN BOOK 90-3 AT PAGE 22, AT THE SALT LAKE COUNTY RECORDER'S OFFICE, THENCE NORTH 0°06'20" EAST 304.95 FEET ALONG SAID EASTERLY LINE AND ALONG THE EASTERLY LINE OF HAWKWOOD ESTATES PHASE 4, RECORDED AUGUST 28, 1996 AS ENTRY NO. 6441280 IN BOOK 9608P AT PAGE 285 AT SAID SALT LAKE COUNTY RECORDER'S OFFICE TO A POINT ON THE SOUTHERLY LINE OF HAWKWOOD ESTATES PHASE 1,

RECORDED MARCH 28, 1986 AS ENTRY NO. 4221139 IN BOOK 86-3 AT PAGE 33 AT SAID SALT LAKE COUNTY RECORDER'S OFFICE; THENCE CONTINUING ALONG SAID SOUTHERLY LINE THE FOLLOWING TWO COURSES: THENCE 1) SOUTH 87°28'54" EAST 177.34 FEET; 2) SOUTH 89°55'42" EAST 62.20 FEET; THENCE SOUTH 00°06'20" WEST 297.53 FEET TO THE POINT OF BEGINNING.

CONTAINING 71,875 SQ FT OR 1.650 ACRES  
13 LOTS

(C) Declarant desires to subject the Property to the terms of this Declaration. Declarant intends to develop a residential subdivision on the Property pursuant to the Community Association Act, Utah Code Sections 57-8a-101, *et. seq.* Declarant will develop and convey all of the Lots within the Subdivision subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Subdivision. Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Declaration. The Property does not constitute a cooperative.

(D) Declarant has deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and otherwise administer and enforce the provisions of this Declaration. For such purposes, contemporaneously with the recording of this Declaration, Declarant will register with the Utah Department of Commerce the Articles of Incorporation for Parkview Villas Homeowners Association, Inc. (the "Association").

(E) The Association is governed by the terms of this Declaration, the Articles of Incorporation for Parkview Villas Homeowners Association, Inc., and the Bylaws for Parkview Villas Homeowners Association, Inc., which Bylaws are attached hereto as **Exhibit "A"** and shall be recorded in the Salt Lake County Recorder's Office contemporaneously with the recording of this Declaration.

(F) Declarant declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Lot located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon Declarant, and its successors in interest; and may be enforced by the Declarant and by the Association.

(G) Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Lot or Unit owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; and (4) assignment of Declarant's rights under this Declaration in whole or part. This Declaration shall be binding upon the Declarant, as well as its successors in interest, and may be enforced by the Declarant or the Association.

(H) These Recitals are made a part of this Declaration

## COVENANTS, CONDITIONS AND RESTRICTIONS

### ARTICLE I DEFINITIONS

1.0 Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Declaration, shall have the following meanings:

(A) "Act" means the Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*

(B) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by the Board.

(C) "Assessment" or "assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee or other charge.

(D) "Articles" shall mean the Articles of the Association, as amended from time to time.

(E) "Association" shall mean PARKVIEW VILLAS HOMEOWNERS ASSOCIATION, INC., and, as the context requires, the officers or directors of that Association.

(F) "Board" or "Board of Directors" shall mean the duly elected and acting Board of Directors of PARKVIEW VILLAS HOMEOWNERS ASSOCIATION, INC.

(G) "Bylaws" shall mean the Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as **Exhibit "A."**

(H) "City" shall mean Sandy City, Utah and its appropriate departments, officials and boards.

(I) "County" shall mean Salt Lake County, Utah and its appropriate departments, officials and boards.

(J) "Common Areas" shall mean all property designated on the recorded Plat(s) as Common Area, being intended ultimately to be owned by the Association for the benefit of all Owners, together with all improvements thereon and all of the easements appurtenant thereto, including but not limited to a private roadway and detention basins.

(K) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas; (B) providing facilities, services and other benefits to Owners as set forth in this Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments, charges, fines, penalties and liens imposed pursuant hereto; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act.

(L) "Declarant" shall mean and refer to Parkview Properties & Development, Inc., a Utah corporation, and its successors and assigns.

(M) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Parkview Villas, a Subdivision, together with any subsequent amendments or additions through supplemental declarations.

(N) "Governing Documents" shall mean this Declaration, Bylaws, Articles, Rules, and any other documents or agreements binding upon an Owner.

(O) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Units, dwellings, garages, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

(P) "Lot" shall mean any numbered building Lot shown on any official and recorded Plat(s), including all Improvement located thereon.

(Q) "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Subdivision.

(R) "Member" shall mean and refer to every person who holds membership in the Association, including an Owner and the Declarant as set forth herein.

(S) "Owner" shall mean the person or persons having title to any Unit. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of any obligations, including the trustee and/or beneficiary under a deed of trust or mortgagee under a mortgage.

(T) "Party Wall" shall have the meaning set forth in the Declaration.

(U) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

(V) "Plat(s)" shall mean an official and recorded plat of Parkview Villas, including all subsequent phases when recorded, as approved by the City and recorded in the office of the Salt Lake County Recorder, as it may be amended from time to time.

(W) "Property" shall have the meaning set forth in the Recitals.

(X) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

(Y) "Subdivision" shall mean Parkview Villas and all Lots, as shown on the Plat(s) and any future Plat(s) covering the Property.

(Z) "Subdivision Improvements" shall mean all improvements to be installed outside the boundaries of Units or within easements as identified on the Plats that are necessary to provide public road access and/or private road access and utility service to the Units, and including other construction work required to comply with any conditions of City or County or other governmental agencies to the approval of the Subdivision or any Plat(s) thereof.

(AA) "Unit" shall mean the single family residence built or to be built on any Lot, whether or not it shares a Party Wall and includes all mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures and the like, shall be considered part of the Unit, as shall all structural walls, floors and ceilings, windows and window frames, doors and door frames, garage doors, and driveways. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any other property of any kind, including fixtures within any Unit shall be considered part of the Unit. The components of a Unit shall be maintained and insured as further provided in this Declaration.

**ARTICLE II**  
**EASEMENTS**

2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Unit and in no event shall be separated therefrom, or encumbered, pledged, assigned or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Unit. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

2.2 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Units by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;

(b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

(c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, transporting school children, utility access/installation, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association, provided that such dedication or transfer must first be assented to in writing by the Owners of at least seventy-five percent (75%) of the Units (not including Units owned by Declarant).<sup>1</sup> No such dedication or transfer, however, may take place without the Association first receiving written approval

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<sup>1</sup> Declarant shall enjoy this right without limitation generally and these limitations specifically up through transfer of control of the Subdivision, as set out in this Declaration.

from City and/or County pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer.

2.3 Reservation of Access and Utility Easements. Declarant hereby reserves an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. Each Owner in accepting the deed to a Unit expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

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

2.5 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Units on Units, (b) to maintain sales or leasing offices, management offices and models throughout the Subdivision and to maintain one or more advertising signs on the Common Area with respect to the sales of Units, or other property in the Subdivision or within any of the Undeveloped Land, (c) improvement of the Common Areas, and construction, installation and maintenance thereon of roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (d) construction, installation and maintenance on lands within, adjacent to, or serving the Property of roadways, walkways, and other facilities, planned for dedication to appropriate governmental authorities.

2.6 Easement in Favor of Association. The Property is hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and

independent contractors:

- (a) For inspection during reasonable hours of the Lots in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair and replacement of portions of the Common Area;
- (c) For correction of emergency conditions on one or more Units or on portions of the Common Area;
- (d) For the purpose of enabling the Association, the ACC or any other committees appointed by the Association to exercise and discharge during reasonable hours their respective rights, powers and duties;
- (e) For inspection during reasonable hours of the Lots and Common Area in order to verify that the Owners and occupants, and their guests, tenants and invitees, are complying with the provisions of the Governing Documents.

### ARTICLE III COMMON AREAS

3.1 The Common Areas shall be and are hereby conveyed to the Association, a Utah non-profit corporation, subject to this Declaration and subject to all easements as set forth in this Declaration.

3.2 The Common Areas consist of areas designated as Common Areas on the recorded Plat(s), including any structures related to the operation or maintenance of the Common Areas, together with any rights of way and utilities, as shown on the recorded Plat(s), including but not limited to private roads and open space.

### ARTICLE IV PARTY WALLS

4.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Unit within the Subdivision and placed on the dividing line between two Units shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

4.2 Repair and Maintenance. Each Unit that shares one or more Party Wall(s), will also share elements of a common roof, a common exterior wall, or other common exterior elements with adjacent Unit(s). The Owners acknowledge that certain repairs or maintenance to Units with a Party Wall(s) may become necessary, which repairs or maintenance cannot be



performed on one Unit only, but may necessarily involve the other attached Units. Therefore, all repairs to the roof and exterior walls of all Units will be made by the Association.

4.3 Insurance. The existence of Party Walls within the Subdivision will require blanket property insurance coverage as required by the Governing Documents and/or Act.

**ARTICLE V**  
**MAINTENANCE OF COMMON AREAS**  
**& UNITS**

5.1 Subdivision. The Subdivision consists of twelve (12) attached townhomes and one (1) detached townhome.

5.2 Maintenance by the Association of Common Areas. The Association shall maintain all Common Areas in good order and repair and shall otherwise manage and operate all Common Areas, as it deems necessary and appropriate. The Association shall furnish and be responsible for, at the Association's expense, the maintenance, repair and replacement of the Common Areas, which include the following:

(a) Snow Removal. The Association shall make reasonable and prudent efforts to contract with a third party for the removal of snow from private roads and other relevant Common Areas within the Subdivision. Owners shall be responsible for removing snow from driveways, entryways, porches, patio areas, and other applicable areas on their Unit. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow will be delegated to a third party, who will utilize its discretion in the frequency of the snow removal and the amount of accumulation meriting removal. The Association shall not be responsible or liable for said third party's discretion and removal of snow.

(b) Private roads within the Subdivision;

(c) Structural components of the detention basins and sprinkler system, if any, within the detention basins;

(d) Perimeter Fencing around the border of the Subdivision;

(e) Community light poles (if any);

(f) Community mailboxes (if any);

(g) Walkways and sidewalks that serve more than one Lot and are not the responsibility of the City or County; and

(h) Private utility lines/infrastructure that serves more than one Unit and is not the responsibility of the City or County;

5.3 Association's Responsibility for Maintenance, Repair and Replacement of the Units:

- (a) Roofs and rain gutters;
- (b) Foundations (excluding any concrete pad within a Unit);
- (c) Sewer and drainage pipes, water, and utility lines to the extent said utilities serve two or more Units; and
- (d) Outside exterior surfaces of Units.

5.4 Owner's Responsibility for Maintenance of Lots & Units. Each Owner, at such Owner's sole cost and expense, shall maintain and/or replace an Owner's Lot and Unit, and the Improvements constituting a part thereof, in good order and repair, including:

- (a) Structural components, framing and insulation of the Units;
- (b) Drywall, wallboard and similar materials within a Unit;
- (c) Concrete pad in the Units and garages;
- (d) Driveways, entryways, decks, patios and porches;
- (e) All interior and exterior doors, including frames, locks, hinges, door jams and garage doors;
- (f) Finished interior of the Unit, including: flooring, tiles, wallpaper, paint, carpet, wood, fireplaces, other material comprising finished interior floors, walls or ceilings;
- (g) Skylights, windows, window wells, window sills, window frames, shutters, glass, screens, and patio doors;
- (h) Sewer and drainage pipes, wiring, power, water and other utility lines to the extent located within an Owner's Unit or serves only that Owner's Unit;
- (i) Plumbing fixtures, fans, stoves, refrigerators, appliances, furnaces (portable heaters are not permitted except as necessary during construction), fireplaces, vents, chimneys, HVAC systems, compressors, condensers, ducting, air conditioning, water spigots, lighting fixtures, pipes, and similar appliances, fixtures and pipes that exclusively serve an Owner's Unit(s);
- (j) All other items that are Owner Improvements, including solar panels,

awnings, attic vents, and roof-mounted equipment and devices (and necessary attachments and water seals therefore);

(k) Any of the following located wherever they might be located (inside or outside of the Unit) that serve an Owner's Unit exclusively: lighting fixtures (including lighting attached to exterior walls, but not including Association security lights), fans, plumbing fixtures (other than pipes located outside of a Unit and that do not exclusively serve that Unit), stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers, ducting, and forced air units). Intercoms, security systems, water spigots and bibs, vents, chimneys and fireplaces, and such other appliances, fixtures, and decorations as an Owner may install as permitted in this Declaration;

(l) Landscaping and sprinkler maintenance of the Lots; and

**(m) Owners of Lots 1 and 13 shall be responsible to perform general landscaping and sprinkler maintenance of the detention basin areas adjacent to their Lots, which shall include mowing, edging, blowing of grass, raking and disposal of leaves. The Association shall remain responsible for the infrastructure within the detention basins.**

5.5 Repairs by Association. In the event that an Owner permits his Unit or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Unit and take corrective action to abate the condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Association a lien on the Unit and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Unit in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

5.6 Alterations of Exterior Appearance. The Owners will maintain their Units and Improvements in substantially the same condition and appearance as that approved by the ACC. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the ACC.

5.7 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the ACC, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is

intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the ACC, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Unit for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

5.8 Maintain in Clean Condition. The Owner shall be responsible for keeping the Unit and Improvements thereon in a clean and sanitary condition, free of pests and rodents, and uncluttered. Each Owner shall keep the interior of his Unit, including without limitation all interior walls, doors, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean and sanitary condition and in a good state of repair. If any such Unit shall develop an unclean or unsanitary condition or fall into a state of disrepair, and in the event that the Owner of such Unit shall fail to correct such condition or state of disrepair promptly following written notice from the Association, the Association shall have the right under the Governing Documents or to petition any court of competent jurisdiction, for legal or equitable relief. Provided, however, that the Association shall in no event have the obligation to correct or eliminate any such condition or state of disrepair. The Board of Directors may set forth in the Rules any limits, restrictions, or guidelines on what may or may not be left, stored, or installed in any Unit, which may include a prohibition on leaving, installing or storing any items in such places.

## ARTICLE VI MEMBERSHIP

6.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Unit and such membership shall automatically terminate when the Owner cease to have an ownership interest in the Unit. Upon the transfer of an ownership interest in a Unit the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Unit is held. Notwithstanding the foregoing, the Declarant shall also be considered an Owner and granted voting rights as a Class "B" member, as defined below.

## ARTICLE VII VOTING

7.1 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 fifty (50) votes for each recorded Unit owned by Declarant or Declarant Related Entity. The Class "B" membership shall also be entitled to appoint the members of the Board and Association during the Class "B" Control Period.

#### ARTICLE VIII CONTROL PERIOD

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

(a) 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

(b) When, at its discretion, the Class B Member so determines.

8.2 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.

#### ARTICLE IX HOMEOWNER ASSOCIATION

9.1 Organization. The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. The Association shall be comprised of the Owners within the Subdivision, and is established for the benefit of the Owners and the enforcement of the Governing Documents. Membership in the Association is deemed an appurtenance to the Unit, and is transferable only in conjunction with the transfer of the title to the Unit. The Association shall serve as the organizational body for all Owners.

9.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Unit; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense (with the exception of water, sewer, power and natural gas); (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Subdivision at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Unit(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

9.3 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Association. The Association has the power to levy assessments against each Unit as necessary to carry out its functions. Assessments shall be levied against all Units in the Property, except those Units owned by Declarant and/or Declarant related entities, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Unit, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Unit with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Unit at the time the assessment fails due. No Owner may exempt himself or his Unit from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Unit. In a voluntary conveyance of a Unit, the grantee shall be

jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) The Association may levy special assessments for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by other assessments. No special assessment will be levied without approval of a majority of a quorum of the Owners at a Special or Regular Meeting, or upon the written consent of a majority of Owners.

(c) In addition, the Association may levy individual assessments on every Unit, Owner or occupant that shall cause any damage to the Subdivision or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Unit(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

(d) The Association may levy a reserve fund assessment, as set forth in this article.

(e) The Association may levy other assessments or fees, as authorized by the Governing Documents.

9.4 Budget. 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 adopted budget.

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

9.5 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.

9.6 Reserve Fund Account Creation. The Board shall create a reserve fund account that is separate and distinct from the Association's general account. 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.

9.7 Reinvestment Fee. The Association shall have power to levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the amount of \$350.00, unless a lesser amount is determined by the Board.

9.8 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Unit on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide. Notwithstanding, Assessments for those Units 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 Units (collectively "Declarant Related Entities") shall not commence until the completed Unit is conveyed to an Owner that is not the Declarant or a Declarant Related Entity. No amendment of this Declaration changing the allocation assessments with regard to Declarant or Declarant Related Entities shall be valid without the consent of the Declarant.

9.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner (or their Unit) for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

9.10 Hearing Process. The Board shall have authority to create a reasonable hearing process, consistent with the Act, applicable when the Association takes an adverse action related to any particular Owner(s).

9.11 Association Rules. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the maintenance of animals in the Subdivision; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.

(a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217.

9.12 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provides the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition,



when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Unit Owner's sale of his/her Unit, the Association may charge a fee not to exceed \$50.

9.13 Availability of Documents. The Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to govern its record retention procedures.

9.14 Indemnity of Association Board and Officers. The Association will indemnify the officers, agents and Board of the Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under the Governing Documents.

9.15 Election, Notice of Election, Notice of Meeting and Special Meetings. Election procedures and notice of any meeting shall be conducted as set forth in the Articles of Incorporation and Bylaws of the Association.

9.16 Number of Board, Term of Office. The appointment, election and term of the Members of the Board are set forth in the Bylaws and Articles. Members of the Board of Directors may serve consecutive terms, and may also serve as officers of the Association.

9.17 Independent Accountant/Bookkeeper. The Association may retain the services of an independent accountant or bookkeeper to assist the Board of Directors and officers to maintain accurate financial records of the Association.

## ARTICLE X

### NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

10.1 Delinquent Assessment. Any Assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

10.2 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.

10.3 Lien. Upon recording of a notice of lien on any Unit, 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.

10.4 Foreclosure. The Association shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit 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 Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Unit 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.

10.5 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.

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

10.7 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).

10.8 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 and all Improvements to the Unit for the purpose of securing payment of assessments under the terms of this Declaration.

**ARTICLE XI**  
**SUBORDINATION OF LIEN TO INSTITUTIONAL**  
**FIRST AND SECOND MORTGAGES**

11.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second mortgage of record made in good faith and for value, recorded prior to a recorded notice of lien by the Association. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to foreclosure of a prior, recorded institutional first or second mortgage shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer; provided, that to

the extent there are any proceeds of the sale on foreclosure of such mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such mortgage, the lien shall apply to such excess. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the mortgagee holding an institutional first or second mortgage of record or other purchaser of a Unit obtains title pursuant to remedies under the mortgage, its successors and assigns shall not be liable for the share of the assessments by the Association chargeable to such Unit that became due prior to the acquisition of title to such Unit by such acquirer. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer.

## **ARTICLE XII** **USE LIMITATIONS & RESTRICTIONS**

12.1 **Single Family.** All Units shall be used only for single-family residential purposes. "Single Family" shall mean one household of persons related to each other by blood, marriage, or adoption, or one group of not more than two unrelated persons per bedroom.

12.2 **Zoning Regulations.** The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Subdivision. No Unit may be occupied in a manner that is in violation of any statute, law or ordinance.

12.3 **Licensed Contractor.** Unless the Architectural Control Committee gives a written waiver of approval to an Owner, no Improvement may be constructed, remodeled or altered on any Unit except by a licensed contractor, duly qualified and licensed by the appropriate governmental authorities.

12.4 **No Business or Commercial Uses.** No portion of the Subdivision may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent (a) the Declarant, or other builders, from using one or more Units for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until 100% of the Units are sold in the Subdivision, whichever occurs later, or (b) the use by any Owner of his Unit for a home occupation pursuant to City or County ordinance. Businesses, professions or trades may not require heavy equipment or create a nuisance within the Subdivision, and may not noticeably increase the traffic flow to the Subdivision.

12.5 **Restriction on Signs.** No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a Unit or 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. The Declarant is exempt from all signage restrictions.

12.6 Completion Required Before Occupancy. No Unit may be occupied prior to its completion and the issuance of a certificate of occupancy by the City and/or County.

12.7 Unit to be Constructed First. No garage, out building or other Improvement may be constructed prior to the construction of the Unit.

12.8 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Subdivision are to be underground, including lines within any Unit which service installations entirely within that Unit.

12.9 Sewer Connection Required. All Units are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Unit. All Units must be connected to the sanitary sewer system.

12.10 Drainage. No Owner shall alter the direction of natural drainage from his Unit, nor shall any Owner permit accelerated storm run-off to leave his Unit without first using reasonable means to dissipate the flow energy.

12.11 No Transient Lodging Uses. The Units are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, a bed and breakfast, AirBnB, VRBO or other uses for providing accommodations to travelers. No leases of any Unit shall be for a period of less than 90 days. No Unit shall be subjected to time interval ownership.

12.12 No Re-Subdivision. No Unit may be re-subdivided.

12.13 Combination of Units. No Unit may be combined with another Unit without the consent of the Architectural Control Committee.

12.14 Construction. No Unit or structure shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction unless any delays are approved in writing by the ACC. This shall not be applicable during the Class B Control Period.

12.15 Maintenance of Property. All Units, and the Improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Unit or the Improvements on it to fall into a state of disrepair.

12.16 No Noxious or Offensive Activity. No noxious or offensive activity shall be

carried out on any Unit or the Subdivision, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Units. No Owner or occupant shall engage in activity within the Subdivision in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

12.17 No Hazardous Activity. No activity may be conducted on any Unit that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners' insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained).

12.18 No Unsightliness. No unsightliness is permitted on any Unit. This shall include, without limitation, the open storage of any building materials (except during construction of an Improvement); open storage or parking of construction equipment; open storage or parking of vehicles, trailers or other pieces of equipment that are unusable, in poor condition or unsightly; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; and the storage or accumulation of any other material that is unsightly.

12.19 Garbage. All garbage, rubbish, and trash shall be kept in covered containers. In no event shall such containers be maintained so as to be visible for neighboring Units, roadways and Common Areas. The storage, collection and disposal of garbage, rubbish and trash shall be in strict compliance with applicable laws and the Rules of the Board.

12.20 Lighting. All Owners are encouraged to illuminate porch and garage exterior lighting during the night to better illuminate the street and promote safety in the community. Holiday or seasonal decorative lights, that otherwise comply with the terms of the Governing Documents, are permitted.

12.21 No Annoying Sounds. No speakers, windbells, windchimes, or other noise making devices may be used or maintained on any Unit which creates noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Units, except for security or fire alarms.

12.22 Livestock, Poultry and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Unit, except that dogs, cats or other household pets (maximum of two) may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's control. "Control" for the above purposes shall only mean on a leash or lead, within a vehicle, within the Unit of the Owner, or within confines on the premises of the Owner. Pet owners shall promptly remove and dispose of all feces emitted by their pets. Fierce, dangerous or vicious animals or animals that cause a nuisance by barking or other offensive activity shall not be permitted. Failure to abide by these conditions shall result in fines as authorized by the Board and potential removal of the offending animal.

(a) Any exterior fencing, containment or kennel (whether permanent or

temporary) must receive prior, written approval from the ACC.

12.23 Fencing. Any fencing installed by an Owner must receive prior, written approval from the ACC.

12.24 Vehicles & Parking. No vehicles are to be parked or stored on the front or side streets, lanes or driveways of the Units unless they are in running condition, properly licensed, regularly used and in compliance with City and/or County ordinances. Further, vehicles may not be parked on streets within the Property during periods of snowfall, which generally occur from November through February. No recreational vehicles, campers, motorcycles, atvs, trailers, boats, or similar vehicles may be parked or stored in the driveways, streets, lanes or elsewhere within the Subdivision. Recreational vehicles, campers, motorcycles, atvs, trailers, boats, and similar vehicles must be parked or stored in a garage or screened from the view of neighboring Units or Common Area. Prior written permission must be obtained from the ACC before constructing any material that will be utilized to screen the subject vehicles.

The Association reserves the right to adopt Rules relating to the parking of vehicles within the Subdivision including, without limitation: (1) the right to immediately remove or cause to be removed any vehicles that are improperly parked, (2) restrictions on the time period and duration that any guest, visitor, or street parking may be utilized; (3) restrictions or bans on vehicles without Department of Transportation compliant mufflers and exhaust systems, and (4) the assessment of fines to Owners and occupants who violate such Rules.

12.25 Exterior Antennas and Satellite Dishes. An Owner is first required to utilize existing cables, satellite dishes, antennas and related structures before installing any new hardware to the exterior of the Unit. Prior, written approval from the ACC as to the location of any new satellite dishes, antennas, cables and related hardware is required.

12.26 Approved Builder. During the Class B Control Period, only contractors approved in advance by Declarant, in its sole discretion, may construct Improvement(s) upon the Units.

12.27 Firearms, Incendiary Devices and Graffiti. The use of firearms, fireworks and incendiary devices or the painting or graffiti, within the Subdivision is prohibited. The terms firearms, including but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, air-soft guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

12.28 Temporary Structures. No Owner or resident shall place upon any part of the Subdivision any temporary structures including, but not limited to tents, trailers, or sheds, without the prior written consent of the Board of Directors.

12.29 Energy Conservation Equipment. No solar energy device, solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed within the Subdivision without the prior written consent of the Board of Directors.

12.30 Clotheslines. No clotheslines shall be permitted.

12.31 Nuisances. No noxious or offensive trade, activity or nuisance shall be permitted on any Lot nor shall anything be done which may be or become an annoyance to the neighborhood.

### ARTICLE XIII ARCHITECTURAL CONTROL COMMITTEE

13.1 Purpose. It is the intention and purpose of this Declaration to impose architectural standards on the Improvements and landscaping to any Unit of a type and nature that result in buildings and yards which are architecturally and aesthetically compatible in terms of Unit coverage, proportion, materials, colors and general appearance. To accomplish this goal, the Association shall have authority to establish the ACC, which is empowered to oversee and enforce the Design Guidelines, which are contained within a separate document maintained by the Board.

13.2 Architectural Control Committee Created. If no ACC is appointed, those duties will be fulfilled by the Board.

13.3 Approval by Committee Required. Following the Class B Control Period, no Improvements of any kind will be made on any Unit without the prior written approval of the ACC.

13.4 Declarant and Board not Liable. The Declarant, the Board, and its members shall not be liable to the applicant for any damages, or to the Owners of any Units within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted to the ACC for review. The Owners shall have no claim against the Declarant as a result of the performance or failure to perform the duties by the ACC.

13.5 Exemption of Declarant. At any time during the Class B Control Period, Declarant need not submit or receive any approval from the ACC.

### ARTICLE XIV INSURANCE

14.1 Insurance Requirement. The Association shall obtain insurance as required in this Declaration and as required by applicable law. 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.

As used in this Article:

- (1) "Covered Loss" means a loss, resulting from a single event or occurrence that is covered by the Association's property insurance policy.
- (2) "Unit Damage" means damage to any Unit or a combination of Units.
- (3) "Unit Damage Percentage" means the percentage of total damage resulting in a covered loss that is attributable to each Unit damaged.

#### 14.2 Property Insurance.

(a) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas and Units, including the single detached Unit (including fixtures and building service equipment) is required.

- (i) At a minimum, any required 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.
- (ii) Any 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 Unit if applicable) 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.
- (iii) A 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; or (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.
- (iv) 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) "Equipment Breakdown," if the Subdivision has central heating or cooling or other equipment or other applicable fixtures, equipment, or installations, which shall provide that the insurer's minimum liability per accident at least equals the lesser of one million dollars (\$1,000,000) or the insurable value of the building containing the equipment.



(b) 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:

- (i) The Association's policy provides primary insurance coverage;
- (ii) The Owner is responsible for the Association's policy deductible;
- (iii) The Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible;
- (iv) An Owner who owns a Unit and has suffered Unit Damage as part of Covered Loss is responsible for an amount calculated by applying the Unit Damage Percentage for that Unit to the amount of the deductible under the Association's property insurance policy; and
- (v) If an Owner does not pay the amount required under this Article within 30 days after substantial completion of the repairs to, as applicable, the Unit or the appurtenant to the Unit, the Association may levy an assessment against the Owner for that amount.

(c) Flood Insurance. If any part of the property insured by the Association 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. If the property insured by the Association is not situated in a Special Flood Hazard Area, The Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover floods not otherwise covered by blanket property insurance.

(d) Earthquake Insurance. The Association may nonetheless, if approved by a majority of Owners, purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.

(e) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors 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.

(f) Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner's obligation for the Association's policy deductible and of any change in the amount of the deductible.

14.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, 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 one million dollars (\$1,000,000) 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 would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.

14.4 Directors and Officers Insurance. The Association shall obtain Directors and Officers liability insurance protecting the Board of Directors, 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 Governing Documents, and breach of contract (if available). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) 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
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, 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.

14.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds that shall:

- (a) Provide coverage for an amount of not less than the sum of three months regular assessment in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (b) Provide coverage for theft or embezzlement of funds by:
  - (i) Officers, Board of Directors, or Members of the Association;
  - (ii) Employees and volunteers of the Association;
  - (iii) Any manager of the Association; and
  - (iv) Officers, directors and employees of any manager of the Association.

14.6 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 lender.

14.7 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.

14.8 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable the Association, and shall not be payable to a holder of a security interest. 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 proceeds remaining 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, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and 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 representative, successors or assigns of an Owner.

14.9 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.

14.10 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.

14.11 Owners' Individual Coverage. **EACH OWNER SHOULD PURCHASE INDIVIDUAL PROPERTY AND/OR EXTENDED COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INDEPENDENT INSURANCE AGENT.**

#### ARTICLE XV DAMAGE & DESTRUCTION

15.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

15.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct.

If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

15.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association, in a neat and attractive condition.

**ARTICLE XVI**  
**DISBURSEMENT OF PROCEEDS**

16.1 If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner(s) shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account.

**ARTICLE XVII**  
**REPAIR AND RECONSTRUCTION**

17.1 If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

**ARTICLE XVIII**  
**CONDEMNATION**

18.1 Whenever all of any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total Association vote by any authority having the power of condemnation or eminent domain), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on

which improvements have been constructed, then, unless within sixty (60) days after such taking the Owners representing at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If the taking does not involve any improvements of the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**ARTICLE XIX**  
**MISCELLANEOUS PROVISIONS**

19.1 Violation Deemed a Nuisance. Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance, and is subject to abatement by the Association or by any other Owner.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by an Owner or by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

19.2 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 the Governing Documents (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.

19.3 Repurchase Option for Construction Defect Claims. In the event any Owner shall commence action against Declarant or its assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Units on the Lot (collectively "Declarant") in connection with any alleged construction defects in such Owner's Unit, Declarant shall have the option, but not the obligation, to purchase such Unit on the following terms and conditions:

(a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner's warranty, in connection with the alleged defect:

(i) The purchase price paid by the original Owner of the Unit & Lot when originally purchased from Declarant;

(ii) The agreed upon value of any improvements made to the Unit by anyone other than Declarant;

(iii) The Owner's reasonable moving costs; and

(iv) Any reasonable closing costs incurred by the Owner in connection with the purchase of another primary residence within ninety (90) days after closing of repurchase provided for herein.

(b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant's intent to exercise the option herein.

(c) Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.

(d) Exercise of the repurchase option as provided for herein above shall constitute full and final satisfaction of all claims relating to the subject Unit and Lot. The Owner shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

(e) Declarant's option to repurchase granted herein with respect to any particular Unit and Lot shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Unit and Lot including all applicable tolling periods.

19.4 Amendment Requires Consent of Declarant. Notwithstanding any other provision of this Declaration, this Article and its subsections may not be amended except with the prior written consent of the Declarant.

19.5 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

19.6 Limited Liability. Neither the Declarant, the Board (or its individual members), nor any Owner shall have personal liability to any other Owner for actions or inactions taken under these covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority, under these covenants, and without malice.

19.7 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Unit, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this

Declaration and shall not be affected by the disability of any such Owner or Occupant.

19.8 No Representations and Warranties. EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE SUBDIVISION THAT THE DECLARANT, ASSOCIATION, AND THE BOARD OF DIRECTORS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE SUBDIVISION AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SUBDIVISION.

19.9 Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Declaration, the Plat, the Articles, Bylaws, and then the Rules.

19.10 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.

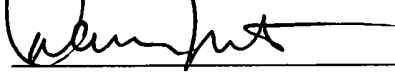
19.11 Constructive Notice. Every person who owns, occupies or acquires any right, title or interest in any Unit in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Declaration against his/her Unit, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Unit.

19.12 Notices. All notices under this Declaration are provided as set forth in the Bylaws.

19.13 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Subdivision. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.



Parkview Properties & Development, Inc., a Utah corporation



By: Darren Nate

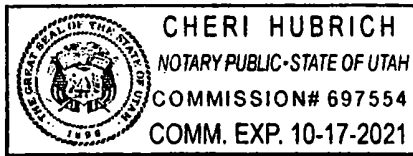
Its: PRESIDENT

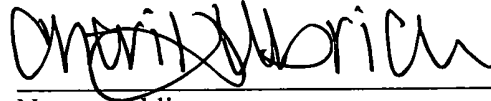
STATE OF UTAH )

: ss

COUNTY OF SALT LAKE )

On the 23rd day of FEBRUARY, 2018, personally appeared before me, Darren Nate, who being by me duly sworn did say that he is PRESIDENT of Parkview Properties & Development, 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.



  
Notary Public