

13582890
3/1/2021 3:05:00 PM \$192.00
Book - 11128 Pg - 813-910
RASHELLE HOBBS
Recorder, Salt Lake County, UT
JENKINS BAGLEY PLLC
BY: eCASH, DEPUTY - EF 98 P.

AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS, AND
RESTRICTIONS
FOR
COVE POINT HOMES ASSOCIATION
IN
SALT LAKE COUNTY, UTAH

Table of Contents

RECITALS 1

ARTICLE 1: DEFINITIONS..... 3

 1.1 “Act” 3

 1.2 “Allocated Interest” 3

 1.3 “Architectural Control Committee” 3

 1.4 “Articles” 3

 1.5 “Assessment” 3

 1.6 “Association” 3

 1.7 “Board Member” 3

 1.8 “Board of Directors” or “Board” 3

 1.9 “Bylaws” 3

 1.10 “Committee Member” 4

 1.11 “Common Area” 4

 1.12 “Common Expenses” 4

 1.13 “Declaration” 4

 1.14 “Design Guidelines” 4

 1.15 “Dwelling” 4

 1.16 “Electronic Transmission” or “Electronically Transmitted” 4

 1.17 “Governing Documents” 4

 1.18 “Lender” 4

 1.19 “Limited Common Area” 4

 1.20 “Lot” 5

 1.21 “Manager” 5

 1.22 “Mortgagee” means the same as “Lender.” 5

 1.23 “Nonprofit Act” means the 5

 1.24 “Occupant” 5

 1.25 “Owner” 5

 1.26 “Person” 5

 1.27 “Plat” 5

 1.28 “Project” 5

 1.29 “Property” 5

| | | |
|--|---|-----------|
| 1.30 | “Rules” | 5 |
| 1.31 | “Terms and Conditions” | 5 |
| ARTICLE 2: THE PROJECT | | 5 |
| 2.1 | Binding Effect of Governing Documents..... | 5 |
| 2.2 | Nature of the Project | 6 |
| 2.3 | Project Name | 6 |
| 2.4 | Identification of Lots | 6 |
| 2.5 | Registered Agent | 6 |
| ARTICLE 3: LOTS, COMMON AREA, & ALLOCATED INTERESTS | | 6 |
| 3.1 | The Lots..... | 6 |
| 3.2 | Common Area | 6 |
| 3.3 | No Severance of Common Area..... | 7 |
| 3.4 | Limited Common Area..... | 7 |
| 3.5 | Allocated Interest of Each Lot in the Votes of the Association | 7 |
| 3.6 | Plat..... | 7 |
| ARTICLE 4: MAINTENANCE & MODIFICATION..... | | 8 |
| 4.1 | Owner Responsibility for Maintenance of Lots | 8 |
| 4.2 | Association Responsibility for Maintenance of Lots and Limited Common Areas..... | 8 |
| 4.3 | Maintenance of Common Area | 9 |
| 4.4 | Default in Maintenance | 9 |
| 4.5 | Modifications to Lots and Architectural Review | 10 |
| 4.6 | Architectural Control Committee..... | 10 |
| 4.7 | Right to Sell or Transfer Common Area | 13 |
| 4.8 | Utilities..... | 14 |
| 4.9 | Contractor Working in Project. | 14 |
| ARTICLE 5: ORGANIZATION & GOVERNANCE OF ASSOCIATION | | 14 |
| 5.1 | Organization of Association..... | 14 |
| 5.2 | Modifying or Changing the Name of the Project..... | 14 |
| 5.3 | Legal Organization | 14 |
| 5.4 | Membership and Voting Rights | 14 |
| 5.5 | Availability of Documents | 15 |
| 5.6 | Board of Directors or Board..... | 15 |

| | | |
|--|---|-----------|
| 5.7 | Board Members | 16 |
| 5.8 | Limitation on Authority of Owners, Board Members, Officers, and the Board . | 16 |
| 5.9 | No Reliance on Actions Contrary to Governing Documents | 16 |
| 5.10 | Registration with the State | 16 |
| ARTICLE 6: POWERS, RIGHTS & RESPONSIBILITIES OF THE ASSOCIATION | | 16 |
| 6.1 | General Powers and Obligations | 16 |
| 6.2 | Specific Powers and Duties | 17 |
| 6.3 | Paying Expenses | 17 |
| 6.4 | Setting and Collecting Assessments | 17 |
| 6.5 | Adopting and Enforcing Rules | 17 |
| 6.6 | Hiring Managers and Delegating Responsibilities | 18 |
| 6.7 | Other Necessary Rights | 18 |
| 6.8 | Enforcement Rights | 18 |
| 6.9 | Fines | 18 |
| 6.10 | Discretion in Enforcement | 19 |
| 6.11 | Reserve Fund | 20 |
| 6.12 | Conflicts of Interest with Service Providers and Vendors | 20 |
| 6.13 | Establishing Hearing Procedures | 20 |
| 6.14 | Annual Meeting | 20 |
| 6.15 | Project Airspace, Drones, and Unmanned Aircraft | 20 |
| 6.16 | Reinvestment Fee Covenant upon Sale or Transfer of Lot | 21 |
| 6.17 | Title to Common Areas | 21 |
| 6.18 | Audit of Association Finances | 22 |
| 6.19 | Bulk Service Agreements | 22 |
| ARTICLE 7: BUDGETS & ASSESSMENTS | | 22 |
| 7.1 | Purpose of Assessments | 22 |
| 7.2 | Budget and Regular Assessment | 22 |
| 7.3 | Payment of Regular Assessments | 23 |
| 7.4 | Adjustments to Regular Assessments | 23 |
| 7.5 | Personal Obligation for Assessment | 23 |
| 7.6 | Allocation of Assessments | 23 |
| 7.7 | Rules Regarding Billing and Collection Procedures | 23 |
| 7.8 | Statement of Unpaid Assessment | 23 |

| | | |
|---|---|-----------|
| 7.9 | Account Payoff Information..... | 24 |
| 7.10 | Special Assessments..... | 24 |
| 7.11 | Individual Assessments to Individual Lot..... | 24 |
| 7.12 | Acceptance of Materials or Services..... | 24 |
| 7.13 | Application of Excess Assessments..... | 25 |
| 7.14 | No Offsets..... | 25 |
| 7.15 | How Payments Are Applied..... | 25 |
| 7.16 | Loans..... | 25 |
| ARTICLE 8: NONPAYMENT OF ASSESSMENTS & LIABILITY | | 25 |
| 8.1 | Delinquency..... | 25 |
| 8.2 | Collection Charges and Interest..... | 25 |
| 8.3 | Joint and Several Liability of Owner..... | 25 |
| 8.4 | Lien..... | 26 |
| 8.5 | Action at Law..... | 26 |
| 8.6 | Foreclosure Sale..... | 26 |
| 8.7 | Homestead Waiver..... | 27 |
| 8.8 | Termination of Delinquent Owner’s Rights to Common Areas..... | 27 |
| 8.9 | Requiring Tenant to Pay Rent to Association..... | 27 |
| 8.10 | Notice of Default by Lot Owner..... | 27 |
| 8.11 | Attorney Fees Incurred as a Result of a Default..... | 27 |
| 8.12 | Lender Responsibility after Lender’s Foreclosure..... | 27 |
| 8.13 | Association Responsibility after Foreclosure of Association’s Lien..... | 28 |
| ARTICLE 9: PROPERTY RIGHTS IN LOTS & COMMON AREA | | 28 |
| 9.1 | Easement of Enjoyment..... | 28 |
| 9.2 | Title to Common Areas..... | 28 |
| 9.3 | Limitation on Easement..... | 28 |
| 9.4 | Private Easements for Particular Lots..... | 29 |
| 9.5 | Easement for Utility Services..... | 29 |
| 9.6 | Easements for Encroachments..... | 30 |
| 9.7 | Non-Exclusive Easements..... | 30 |
| 9.8 | Right of Entry..... | 30 |
| ARTICLE 10: USE LIMITATIONS & CONDITIONS..... | | 31 |
| 10.1 | Use of Common Areas..... | 31 |

| | | |
|-----------------------------------|---|-----------|
| 10.2 | Signs..... | 31 |
| 10.3 | Nuisance..... | 32 |
| 10.4 | Offensive or Unlawful Activities..... | 32 |
| 10.5 | Temporary Structures..... | 32 |
| 10.6 | Parking..... | 32 |
| 10.7 | Recreational and Commercial Vehicles..... | 33 |
| 10.8 | Equipment and Automobile Maintenance..... | 33 |
| 10.9 | Holiday Decorations..... | 33 |
| 10.10 | Unsightly Items..... | 34 |
| 10.11 | Animals..... | 34 |
| 10.12 | Residential Occupancy..... | 35 |
| 10.13 | Leases..... | 35 |
| 10.14 | No Subdivision or Recording by Owners of Terms and Conditions..... | 36 |
| 10.15 | Energy Conservation Equipment..... | 36 |
| 10.16 | Variances..... | 36 |
| 10.17 | Hazardous Substances..... | 37 |
| ARTICLE 11: INSURANCE..... | | 38 |
| 11.1 | Insurance Requirement..... | 38 |
| 11.2 | Annual Insurance Report..... | 38 |
| 11.3 | Property Insurance..... | 38 |
| 11.4 | Earthquake Insurance..... | 39 |
| 11.5 | Flood Insurance..... | 39 |
| 11.6 | Comprehensive General Liability (CGL) Insurance..... | 39 |
| 11.7 | Directors' and Officers' Insurance..... | 39 |
| 11.8 | Insurance Coverage for Theft and Embezzlement of Association Funds..... | 40 |
| 11.9 | Workers Compensation Insurance..... | 40 |
| 11.10 | Right to Negotiate All Claims & Losses & Receive Proceeds..... | 40 |
| 11.11 | Insurance Trustee..... | 40 |
| 11.12 | Certificates..... | 41 |
| 11.13 | Named Insured..... | 41 |
| 11.14 | Owner Act Cannot Void Coverage Under Any Policy..... | 41 |
| 11.15 | Waiver of Subrogation against Owners and the Association..... | 41 |
| 11.16 | Owner's Homeowners Insurance..... | 41 |

| | | |
|--|--|-----------|
| 11.17 | Right of Action..... | 41 |
| 11.18 | Applicable Law | 41 |
| ARTICLE 12: EMINENT DOMAIN..... | | 41 |
| 12.1 | Taking of Common Area..... | 41 |
| 12.2 | Taking of Entire Project | 41 |
| 12.3 | Total Taking of a Lot | 41 |
| 12.4 | Partial Taking of a Lot | 42 |
| 12.5 | Priority and Power of Attorney | 42 |
| ARTICLE 13: TERMINATION and sale of project..... | | 42 |
| 13.1 | Required Vote | 42 |
| 13.2 | Termination Agreement | 42 |
| 13.3 | Sale of Project Following Termination | 42 |
| 13.4 | Association Duties..... | 42 |
| 13.5 | Proceeds of Sale | 43 |
| 13.6 | Allocation upon Termination | 43 |
| ARTICLE 14: AMENDMENTS..... | | 43 |
| 14.1 | General Amendment Requirements | 43 |
| 14.2 | Scope of Amendments | 43 |
| 14.3 | Execution and Effective Date of Amendments | 43 |
| 14.4 | Changes to Plat or Boundaries of the Association | 44 |
| ARTICLE 15: INTERPRETATION, CONSTRUCTION, & APPLICATION OF DECLARATION..... | | 44 |
| 15.1 | No Waiver | 44 |
| 15.2 | Conflicting Provisions..... | 44 |
| 15.3 | Interpretation of Declaration and Applicability of the Act | 44 |
| 15.4 | Cumulative Remedies | 44 |
| 15.5 | Severability..... | 44 |
| 15.6 | Construction | 45 |
| 15.7 | Applicable Law | 45 |
| 15.8 | Gender and Number | 45 |
| 15.9 | Effect of Declaration | 45 |
| ARTICLE 16: NOTICE | | 45 |
| 16.1 | Notices..... | 45 |

| | |
|---|-----------|
| ARTICLE 17: ATTORNEY FEES AND COSTS..... | 48 |
| 17.1 Legal Costs Associated with Disputes with Owners..... | 48 |
| ARTICLE 18: RESERVES..... | 49 |
| 18.1 Requirement for Reserves | 49 |
| ARTICLE 19: LEASING AND NON-OWNER OCCUPANCY..... | 50 |
| 19.1 Leasing and Non-Owner Occupancy. | 50 |
| 19.2 Definitions..... | 50 |
| 19.3 Permitted Rules | 51 |
| 19.4 Requirements for Leasing and Non-Owner Occupancy | 51 |
| 19.5 Joint and Several Liability of Owner and Non-Owner Occupants..... | 52 |
| 19.6 Demanding Rental Payments from Tenant | 52 |
| ARTICLE 20: GENERAL PROVISIONS | 52 |
| 20.1 Compliance with Governing Documents. | 52 |
| 20.2 Enforcement of Governing Documents..... | 52 |
| 20.3 No Liability of Officials | 52 |
| 20.4 Use of Funds Collected by the Association | 52 |
| 20.5 No Priority Over Lender’s Rights | 53 |
| 20.6 Owner Liability and Indemnification..... | 53 |
| 20.7 Security..... | 53 |
| 20.8 Reasonable Accommodations | 53 |
| 20.9 No Representations and Warranties | 54 |
| | |
| EXHIBIT A | |
| EXHIBIT B | |
| EXHIBIT C | |
| EXHIBIT D | |
| EXHIBIT E | |

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR

COVE POINT HOMES ASSOCIATION

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR COVE POINT HOMES ASSOCIATION (this “**Declaration**”) is adopted by the Cove Point Homes Association (the “**Association**”), a Utah nonprofit corporation, and is effective as of the date it is recorded in the Salt Lake County Recorder’s office.

RECITALS

- A. The original, or enabling, Declaration of Covenants, Conditions, and Restrictions of Cove Point was recorded on May 26, 1976, in the Salt Lake County Recorder’s office as Entry No. 2818317, in Book 4212, and beginning at Page 277 (the “**Enabling Declaration**”).
- B. A plat related to Cove Point Phase 1, or Phase I, was recorded on May 26, 1976, in the Salt Lake County Recorder’s office as Entry No. 2818316 (the “**Phase I Plat**”).
- C. A plat related to Cove Point Phase 2, or Phase II, was recorded on December 30, 1976, in the Salt Lake County Recorder’s office as Entry No. 2892736 (the “**Phase II Plat**”).
- D. An Amendment of Declaration and Annexation of Contiguous Land for Cove Point, Phase II was recorded on February 17, 1977, in the Salt Lake County Recorder’s office as Entry No. 2910356, in Book 4451, and beginning at Page 209 (the “**First Amendment**”).
- E. A plat related to Cove Point Phase 3, or Phase III, was recorded on May 31, 1977, in the Salt Lake County Recorder’s office as Entry No. 2950818 (the “**Phase III Plat**”).
- F. An Amendment of Declaration and Annexation of Contiguous Land for Cove Point, Phase III was initially recorded on October 12, 1978, in the Salt Lake County Recorder’s office as Entry No. 3180979, in Book 4753, and beginning at Page 892, and subsequently re-recorded on April 22, 1980, in the Salt Lake County Recorder’s office as Entry No. 3425889, in Book 5091, and beginning at Page 1216 (the “**Second Amendment**”).
- G. An Amendment to Declaration of Covenants, Conditions and Restrictions of Cove Point – Phases I, II, and III was recorded on December 4, 1995, in the Salt Lake County Recorder’s office as Entry No. 11976647, in Book 10288, and beginning at Page 1057 (the “**Third Amendment**”).
- H. An Amendment to Declaration of Covenants, Conditions, and Restrictions of Cove Point – Phases I, II, and III was recorded on January 15, 2015, in the Salt Lake County Recorder’s office as Entry No. 6227569, in Book 7283, and beginning at Page 9336 (the “**Fourth Amendment**”).
- I. An Amendment to the Declaration of Covenants, Conditions and Restrictions of Cove Point was recorded on October 14, 2015, in the Salt Lake County Recorder’s office as Entry No. 12150097, in Book 10370, and beginning at Page 2512 (the “**Fifth Amendment**”).
- J. An Amendment to the Declaration of Covenants, Conditions and Restrictions of Cove Point was recorded on November 25, 2015, in the Salt Lake County Recorder’s office as

Entry No. 12178375, in Book 10382, and beginning at Page 8784 (the “**Sixth Amendment**”).

- K. An Amendment to the Declaration of Covenants, Conditions and Restrictions of Cove Point was recorded on October 21, 2016, in the Salt Lake County Recorder’s office as Entry No. 12395251, in Book 10490, and beginning at Page 7760 (the “**Seventh Amendment**”).
- L. The Association and Owners hereby desire to establish the Terms and Conditions for the mutual benefit and burden of the Association, and all current and future Owners, Occupants, Lenders, and others acquiring any interest in the Project.
- M. This Declaration affects the real property located in Millcreek City, Salt Lake County, State of Utah, described with particularity on **Exhibit A**, which exhibit is attached hereto and incorporated herein by reference.
- N. The Bylaws of the Association attached hereto as **Exhibit B** supersede and replace any previously adopted bylaws of the Association and any amendments thereto.
- O. Certain Limited Common Areas are specifically assigned to Lots as set forth on **Exhibit C**, which exhibit is attached hereto and incorporated herein by reference.
- P. The amended plat document attached hereto as **Exhibit D** (the “Amended Plat”), which exhibit is incorporated herein by reference, shows amendments to the Plats for Phases 1, 2, and 3 of the Cove Point planned unit development. The Amended Plat identifies Limited Common Area assigned to each Lot as well as certain private easements for Lots. The Amended Plat may be recorded with the Salt Lake County Recorder’s office after approval by Millcreek City and any other required entities. In the event that the Association must make minor revisions to the Amended Plat at the request of Millcreek City or any other entity approving the Amended Plat, then the Owners’ approval of the Amended Plat shall extend to such minor revisions as long as the approved document is substantially similar to that version attached hereto. If there are any discrepancies between the document attached hereto as Exhibit D and the recorded version of the Amended Plat, the recorded version shall control and shall be considered the “Amended Plat” for purposes of the Declaration.
- Q. This amended Declaration and the Amended Plat are adopted to: (1) clarify and define the rights of the Association and the Owners, in and to the Project; (2) conform to changes to the Utah Community Association Act and other Utah law; (3) provide for a general plan for managing the Project and Property; and (4) in furtherance of the effort to efficiently and economically provide a quality living environment and protect and enhance the value of the Project and the Property.
- R. This Declaration, along with and subject to any future amendments, shall be the sole Declaration for the Project and completely replaces and supersedes in all respects the Enabling Declaration, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, and all other prior declarations and amendments thereto made prior to the date of the recording of this Declaration, regardless of whether or not such prior declarations and amendments were recorded, properly adopted, or referenced in this Declaration.

- S. The Board of Directors has obtained the approval of the Owners and first mortgagees necessary to adopt and record this amended Declaration and the Amended Plat. The Owners' written consents are set forth on **Exhibit E**.

NOW, THEREFORE, pursuant to the Recitals set forth above, which are incorporated herein, and subject to the Terms and Conditions set forth below, the Association hereby adopts this Declaration, and the exhibits attached hereto. This Declaration, together with the Plat, Bylaws, and Rules adopted by the Association, and applicable statutes, define and govern the rights of the Owners and the Association related to the Project.

ARTICLE 1: DEFINITIONS

As used herein, unless the context otherwise requires:

- 1.1 **“Act”** means the Community Association Act (Utah Code § 57-8a-101 *et seq.*) in effect at the time this Declaration is recorded, and as such statute may be amended from time to time.
- 1.2 **“Allocated Interest”** means the interest of that Owner of a particular Lot which is applicable for the purposes of voting, the payment of Common Expenses, and for other purposes indicated in this Declaration or the Act. Each Lot has an equal Allocated Interest; thus, there is one (1) vote per Lot.
- 1.3 **“Architectural Control Committee”** or **“ACC”** means the Cove Point Homes Association Architectural Control Committee as set forth herein.
- 1.4 **“Articles”** means the Association's Articles of Incorporation filed with the Utah Division of Corporations and Commercial Code, or the chartering document of any other legal entity, if any is formed for the Association.
- 1.5 **“Assessment”** means any monetary charge imposed or levied on an Owner by the Association as provided for in the Association's Declaration or in the Act.
- 1.6 **“Association”** refers to COVE POINT HOMES ASSOCIATION, the membership of which includes each Owner in the Project. The Association is incorporated as a nonprofit corporation. If the Owners are ever organized as another type of entity or if the Owners act as a group without legal organization, the term “Association” as used in this Declaration refers to that entity or group.
- 1.7 **“Board Member”** means a duly-qualified and elected or appointed member of the Board of Directors.
- 1.8 **“Board of Directors”** or **“Board”** means the entity or governing body with primary authority to manage the Association's affairs.
- 1.9 **“Bylaws”** means the Association's Bylaws attached hereto as **Exhibit B** and all valid amendments and supplements thereto. No amendment to the Bylaws is effective until it is recorded with the Salt Lake County Recorder's office.

- 1.10 **“Committee Member”** means an appointed member of the Architectural Control Committee or another type of Sub-Committee established by the Board in accordance with the procedures set forth in the Bylaws.
- 1.11 **“Common Area”** or **“Common Areas”** means the common area within the Project as reflected on the Plats for the Project, any improvements thereon, and specifically including, but not necessarily limited to those areas identified in Section 3.2 of this Declaration.
- 1.12 **“Common Expenses”** means the actual and estimated costs for: (a) maintenance, management, operation, repair, and replacement of the Common Area which is maintained by the Association; (b) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, consultants, and employees; (c) extermination services for insects and rodents in Common Areas, security, landscaping, and other related services for the Common Areas as determined by the Board; (d) insurance and bonds required or allowed by this Declaration; (e) the establishment of reserves; (f) other miscellaneous charges incurred by the Association as provided for or allowed in the Act or the Governing Documents; (g) any expenses incurred by the Association related to bulk service agreements entered into by the Association; and (h) any other expenses of the Association arising from operating the Association and not otherwise defined or precluded by the Governing Documents or any applicable law.
- 1.13 **“Declaration”** means this Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Cove Point Homes Association, including all attached exhibits, which are incorporated by reference, and any and all amendments thereto.
- 1.14 **“Design Guidelines”** means those requirements governing the site location and architectural design of Dwellings and other buildings, structures, and improvements within the Project as adopted by the Board.
- 1.15 **“Dwelling”** means a detached structure built, or to be built, on the Lot and all improvements thereto, including the attached garage and any mechanical equipment located outside of the Lot but designed to serve only that Lot and the structure built on the Lot, and all utility lines or installations serving only the Lot and the structure built on the Lot, and which structure is designed and intended for residential use and occupancy.
- 1.16 **“Electronic Transmission”** or **“Electronically Transmitted”** means a process of communication not directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval, and reproduction of information by the recipient, whether by email, texting, facsimile, or otherwise.
- 1.17 **“Governing Documents”** means and refers to the Declaration, the Plat, the Bylaws, the Rules, Design Guidelines, the Articles, and any other written instrument by which the Association may exercise power, manage, maintain, or otherwise affect the Project. The hierarchy of the Governing Documents is that set forth in Section 228 of the Act.
- 1.18 **“Lender”** means a holder of a mortgage or deed of trust secured, or collateralized, by a Lot.
- 1.19 **“Limited Common Area”** means a portion of the Common Area specifically designated in this Declaration and on the Plat for the exclusive use of Owners of one or more Lots to the exclusion of other Owners. Conveyance of a Lot includes the use of the Limited

Common Area appurtenant to the Lot. Certain Limited Common Areas are specifically assigned to Lots as set forth on **Exhibit C** to the Declaration and as identified on the Amended Plat.

- 1.20 **“Lot”** means and refers to any parcel in the Project and may be designated on the Plat as a “Lot,” each of which is intended for residential use. Reference to a Lot includes reference to the Allocated Interest appurtenant to such Lot, except where the context specifically requires otherwise.
- 1.21 **“Manager”** means any entity or Person engaged by the Board of Directors to manage the Project.
- 1.22 **“Mortgagee”** means the same as “Lender.”
- 1.23 **“Nonprofit Act”** means the Utah Revised Nonprofit Corporation Act (Utah Code § 16-6a-101 *et seq.*) in effect at the time this Declaration is recorded, and as such statute may be amended from time to time.
- 1.24 **“Occupant”** means a Person or Persons, other than an Owner, in possession of, using, entering into, or living in a Dwelling on the Project, including, without limitation, family members, tenants, guests, and invitees of an Owner or an Occupant.
- 1.25 **“Owner”** means the Person or Persons who are vested with record title to a Lot, and whose interest in the Lot is held (in whole or in part) in fee simple, according to the records of the Salt Lake County Recorder; however, the term “Owner” does not include a Lender or the trustee or beneficiary under a deed of trust.
- 1.26 **“Person”** means a natural individual, corporation, estate, limited liability company, partnership, trustee, association, government, governmental subdivision or agency, or any other legal entity with the legal capacity to hold title to real property.
- 1.27 **“Plat”** means, and refers collectively to, the record of survey map or maps of Cove Point recorded with the Salt Lake County Recorder’s office and all amendments and supplements thereto. As the context requires, the term “Plat” shall further include the Amended Plat.
- 1.28 **“Project”** means the Property and all structures, Dwellings, and improvements thereon including the Lots and Common Areas.
- 1.29 **“Property”** means the property legally described and identified in **Exhibit A** and all easements and rights appurtenant thereto.
- 1.30 **“Rules”** means and refers to the rules, policies, guidelines, procedures, regulations, and resolutions adopted by the Board of Directors.
- 1.31 **“Terms and Conditions”** means any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.

ARTICLE 2: THE PROJECT

- 2.1 **Binding Effect of Governing Documents.** The Association hereby confirms that the Property is part of the Project and declares and agrees that the Project and all of the Lots must be held, transferred, mortgaged, encumbered, occupied, used, and improved subject to the Terms and Conditions, which Terms and Conditions, to the extent they are

included in recorded documents, constitute equitable servitudes and covenants and conditions running with the land and are binding upon and inure to the benefit of the Association, and each Owner, including the Owner's heirs, executors, administrators, personal representatives, successors, and assigns. By acquiring any interest in a Lot such Owner consents to, and agrees to be bound by, all the Terms and Conditions in the Governing Documents.

- 2.2 **Nature of the Project.** The Project is an individual single-family residential subdivision consisting of eighty-one (81) residential Lots, a clubhouse, a pool, tennis court, private roadways, and other open areas. Each Lot may contain a separate Dwelling. The Project is a planned unit development and is not a cooperative or a condominium.
- 2.3 **Project Name.** The Project is named "Cove Point" and is located entirely in the City of Millcreek, Salt Lake County, Utah. The name commonly used by the Association for the Project may be different than the name identified in this Declaration or on the Plat.
- 2.4 **Identification of Lots.** All of the Lots are referenced specifically and identified by location on the Plat.
- 2.5 **Registered Agent.** The registered agent of the Association is as provided for in the Association's entity filings.

**ARTICLE 3:
LOTS, COMMON AREA, & ALLOCATED INTERESTS**

- 3.1 **The Lots.** Each Lot is identified on the Plat by a distinct Lot number.
 - (a) Subject to further specification herein, each Lot generally consists of any and all improvements on or within the boundary of the Lot and all structures and related equipment or installation on or within the boundary of the Lot, including but not limited to:
 - (1) The Dwelling constructed on a Lot and components thereof, in or on the boundary of any Lot;
 - (2) All garages, sheds, or other approved structures attached to or located adjacent to a Dwelling; and
 - (3) All pipes, wires, conduits, public utility, water or sewer laterals and lines, or any other similar fixtures lying inside the designated vertical boundaries of a Lot or servicing only the Lot.
- 3.2 **Common Area.** The Common Area is owned by the Association. Common Area includes all Limited Common Area and, unless otherwise more specifically provided in this Declaration, Common Area further means the real property for the common use and enjoyment of the Owners and specifically includes, but is not limited to, the following:
 - (a) All Common Areas designated as such on the Plat including any area designated as a Common Area or open space;
 - (b) The clubhouse, pool, tennis court, and other recreational facilities and similar improvements;
 - (c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities for the common use of all Lot Owners or for the Common Area;

- (d) The sidewalks, streetlights, landscaping, sprinkler system (including shut-off valves wherever they may be located), and other amenities not dedicated to a municipality and located outside the boundaries of the Lots;
 - (e) The private roadways and asphalted parking areas; and
 - (f) All other parts of the Project necessary or convenient to its existence, maintenance, safety, or normally in common use.
- 3.3 **No Severance of Common Area.** The right to and interest in the Common Area is appurtenant to each respective Lot and may not be severed from the ownership of the Lot. Notwithstanding the foregoing, a portion of the Common Area specifically designated in this Declaration or on the Plat as Limited Common Area is for the exclusive use of certain Owners of one or more Lots to the exclusion of other Owners.
- 3.4 **Limited Common Area.** The Limited Common Area consists of areas identified on the Plat, including the Amended Plat, as Limited Common Area, and generally includes areas spatially associated with and lying adjacent to but outside the boundaries of the particular Lots, which may include but are not necessarily limited to the side and rear yards, patios, porches, decks, walkways, and driveways appurtenant to the Lot. In the event that the real property identified as parcel number 16-36-304-039 does not appear as Limited Common Area on the Plat, such parcel shall be treated as Limited Common Area for the Lots which are associated with the parcel and the boundaries of such Limited Common Area for each associated Lot will be the location of the fence(s) installed on the parcel. The Limited Common Area which constitutes the driveway to a particular Lot includes the area extending from the garage opening to the street curb with a width not to exceed the width of the garage.
- (a) **No Severance of Limited Common Area.** The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Lot where so identified and may not be severed from the ownership of the Lot.
 - (b) Any existing patios, decks, fences, or other apparatus (including utility installations and all equipment thereof) intended to serve a Lot, but located in Common Area outside the boundaries of the Lot, shall constitute Limited Common Area pertaining to that particular Lot. The Plat has been amended to reflect the existing fences as built in the Limited Common Areas.
 - (c) Should it be unclear from the Plat or this Declaration if a particular area is Common Area or Limited Common Area, the Board of Directors shall have absolute authority in determining the proper designation of that particular area.
- 3.5 **Allocated Interest of Each Lot in the Votes of the Association.** Each Lot is entitled to a vote equal to its Allocated Interest for all matters related to the Association that Owners are permitted or required to vote or approve, and Owners shall cast such votes in accordance with the Bylaws. Each Lot has an equal Allocated Interest of one (1) vote.
- 3.6 **Plat.** The Plat and all dimensions, descriptions, and identification of boundaries therein, are hereby incorporated into and made a part of this Declaration. If any conflict exists between the Plat and this Declaration, the Declaration controls.

**ARTICLE 4:
MAINTENANCE & MODIFICATION**

4.1 Owner Responsibility for Maintenance of Lots.

- (a) Each Owner shall furnish and be responsible for, at the Owner's own expense, the maintenance, repair, and replacement of the Owner's Lot and appurtenant Limited Common Area, not otherwise delegated to the Association in this Declaration, including, but not limited to: (1) all of the Dwelling; (2) any porch, patio, deck, walkway, and driveway that serves the Owner's Lot exclusively (except snow removal on such walkways and driveways, which will be provided by the Association); (3) shrubs and trees (except that the Association will be responsible for trimming certain shrubs and trees in the Common Areas, including Limited Common Areas as set forth in Section 4.2), flowers, and flowerbeds (including the weeding of such flowerbeds) that are located in the enclosed or fenced-in Limited Common Area appurtenant to the Owner's Lot; and (4) any and all improvements thereof (including utility installations and all equipment located within and without the Lot boundaries to the extent they service only the Owner's Lot). Owners are responsible for the maintenance of the exterior of the Dwelling, such as, but not necessarily limited to, the roof, rain gutters, windows, doors, and siding. Owners of the Lots sharing a common fence and/or common gate shall equally pay and be responsible for the maintenance, repair, and replacement of such fence. Fences and gates located on the exterior boundaries of the Limited Common Areas appurtenant to the Lot shall be maintained, replaced, and repaired by the Lot Owner.
- (1) If any Owner is replacing any porch, patio, and deck then, in accordance with Section 4.6, the Owner must submit plans to the Architectural Review Committee and obtain approval for the plans before beginning any construction.
- (b) Each Owner is further responsible for keeping the Lot, and all porches, patios, decks, walkways, driveways, landscaping (including the grass, trees, shrubs, bushes, flowers, plants, similar improvements) located within the boundaries of the Lot, and other exterior areas of a Lot in a clean and sanitary condition and in good condition and repair. The Board may set forth in the Rules any limits, restrictions, or guidelines on what may or may not be left, stored, installed, or placed on the exterior of any Lot, which may include a prohibition on leaving, installing, or storing any items or animals in such places.
- (c) The Board may adopt in the Rules a standard of maintenance for any area which is the responsibility of the Owner, including standards for the level of maintenance, repairs, weed control, etc.

4.2 Association Responsibility for Maintenance of Lots and Limited Common Areas.

The Association shall maintain, repair, replace, and care for the following on a Lot or Limited Common Area: (1) the lawn and sprinkler systems (including shut-off valves), including within enclosed or fenced-in Limited Common Areas, except that if the gate to such area is locked by an Owner, if dogs are present, or if animal waste is present on the lawn, such Owner shall be responsible for all maintenance, repair, and replacement within the enclosed area; (2) snow removal on driveways and walkways; (3) tree trimming (the timing of which is based upon the Board's discretion), unless the tree is located on private property of an Owner; (4) trimming of shrubs and bushes under eaves

at the front of the residential Dwelling; and (5) light bulbs in exterior light fixtures.

4.3 **Maintenance of Common Area.**

- (a) Except as maintenance obligations are otherwise assigned to Owners in this Declaration, the Association shall repair, maintain, replace, clean, and pay all expenses associated with the Common Area as that area is defined in this Declaration and identified on the Plat. This includes the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area. The Association shall do all such other and further acts that the Board deems necessary to preserve and protect the Common Area, in accordance with the general purposes specified in this Declaration. The Association retains the absolute right to remove and replace any structure, item, or condition in the Common Area.
- (b) Except as otherwise set forth in the Declaration, the Association shall furnish and be responsible for, at the Association's expense, the maintenance, repair, and replacement of the Common Areas, including the following: (1) the lawn, trees, shrubs, and other plants and landscaping within the Common Areas but not otherwise located within the enclosed or fenced-in Limited Common Area for which maintenance responsibilities are assigned to an Owner; (2) the walkways and any future structures or amenities that may be constructed; (3) any streetlights located within the Common Area; (4) the perimeter fencing around the Project not otherwise the responsibility of an Owner under Section 4.1(a); and (5) the sprinkler system throughout the Project areas. Notwithstanding the foregoing and anything to the contrary in this Declaration, the Association is not obligated to maintain any utility or utility system or component which is maintained by any municipality.
- (c) **Snow Removal.** The Association shall take reasonable efforts to remove snow from any Common Area and roads as necessary to allow vehicle and pedestrian access. The Association is also responsible for snow removal on the driveways and sidewalks, or walkways, in the Project
- (d) **Standard of Maintenance.** The Board may determine, in its sole discretion, the appropriate maintenance standard for the Common Area, so long as those areas are maintained in the best interests of the Owners.
- (e) **Individual Assessment of Maintenance Expenses to Specific Owner.** If the need for maintenance, repair, or replacement to Common Area is caused by an Owner or an Occupant, the Association shall assess to the particular Owner, who is also responsible for the Occupant's actions, the actual cost of such maintenance, repair, or replacement to the extent the costs are not paid for by any applicable insurance.
- (f) For so long as the real property identified as parcel no. 16-36-303-027 with an address of 3850 Parkview Dr. is owned by the Association, this real property will be maintained by the Association and the costs for such maintenance shall be paid as a Common Expense of the Association.

4.4 **Default in Maintenance.** If an Owner or Occupant fails to: (1) maintain a Lot according to the maintenance standard set forth by the Association and as required in the Governing

Documents, or (2) make repairs otherwise required of the Owner in such a manner as may be deemed reasonably necessary in the Board's judgment to preserve and protect the structural integrity, attractive appearance, good condition, and value of the Lots in the Project, then the Association may take any action allowed for a failure to comply with the Governing Documents and may give written notice to such Owner or Occupant stating with particularity the nature of the default and the corrective action that the Board determines to be required and requesting that the same be carried out within a period of at least fourteen (14) days or a greater length of time if the Board so determines. This notice is a remedy available to the Association in addition to levying a fine against the Owner. If the Owner or Occupant fails to carry out such action within the period specified by the notice, then the Association may take any action allowed for a default of the Governing Documents. In addition, the Association may cause corrective action to be taken (which may include completing any landscape maintenance, snow removal, repairs, or replacements) and may assess the Owner for all costs associated therewith as an Individual Assessment as set forth in Article 7 herein.

4.5 **Modifications to Lots and Architectural Review.** Without the Association's prior approval, an Owner may not: (1) install or build any new structure, fence, or Dwelling; (2) make alterations, upgrades, or modifications to any part of the exterior of any structure or Dwelling; or (3) install or alter any new or existing exterior feature such as a driveway, walkway, front yard landscaping, or anything else that alters the exterior appearance of the Lot. This provision is intended to be read as broadly as possible to require approval before any exterior work to a Lot, including changes to front yard landscaping. If the ordinances of Millcreek City require City approval of any modifications to the Lot or Dwelling, Owners are responsible for obtaining the required approvals of Millcreek City and the Association may pursue any enforcement action allowed under the Governing Documents, including requiring the Owner to remove the modifications, against any Owner who fails to obtain the required approval of Millcreek City.

4.6 **Architectural Control Committee (ACC).**

- (a) The ACC should consist of three, or more, members, one of whom is a Board member. The ACC must bring all recommended or proposed alterations to a Dwelling, Lot, and appurtenant Limited Common Area to the Board for approval. The ACC has the Board's right of entry to the Lot and appurtenant Limited Common Area to verify compliance with Section 4.6 of the Declaration and other Terms and Conditions adopted by the Association.
 - (1) The ACC shall serve as an architectural review board and shall regulate the external design, appearance, and location of any structure on any Lot so as to enforce the architectural provisions of the Declaration of Architectural Design Guidelines as may be adopted by the Board.
 - (2) Members of the ACC shall serve for a term of one year, and may serve for consecutive terms of service as appointed by the Board. Any vacancy on the ACC may be filled by the Board to serve the remainder of the term of the originally appointed member(s). The ACC may act even though a vacancy has not been filled. The Board may remove any member of the committee with or without cause.

- (3) The Board need not appoint an ACC. If no such ACC is appointed, the Board has all powers of the ACC and may act in all ways and have all powers otherwise given to the ACC.
- (b) Submission of Plans to Architectural Control Committee for Approval.
- (1) New Structures. No structure of any kind may be erected, placed, moved onto, or commenced without the prior written approval of the Board, after receiving any recommendation from the ACC. The Board may adopt Rules relating to obtaining such prior written approval. Unless and until the Board adopts such Rules, the following provisions will apply. An Owner shall submit such plans and specifications as the ACC may reasonably require, and shall in all cases include the following:
 - (i) A complete set of plans and specifications;
 - (ii) A site plan showing the location of all proposed and existing structures on the Lot and adjacent Limited Common Area;
 - (iii) Exterior elevations for the proposed structures;
 - (iv) Specifications of materials, color scheme, and other details affecting the exterior appearance of the proposed structures; and
 - (v) Description of the plans and provisions for landscaping and grading.
 - (2) Exterior Modifications. No exterior remodels, additions, or major modifications to the Lot, exterior of the Dwelling, or Limited Common Area may be commenced, erected, maintained, made, or done without the prior written approval of the Board. By way of illustration, but not of limitation, the following are considered remodels, additions, or major modifications: painting the exterior of the Dwelling or any structure a new color; excavation; additions of new rooms to a structure; solar collectors or panels; changing the exterior material of a structure; installing a fence; or any other work that significantly alters the appearance of the Lot or Dwelling. The Board may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Association. Such designations will be for the purpose of achieving uniformity of appearance and preservation of property values. The Board may adopt Rules relating to obtaining such prior written approval. Unless and until the Board adopts such Rules, the following provisions apply:
 - (i) Roof mounted air conditioners, satellite dishes, radio antennas, and related equipment shall be kept obscured and hidden from view of the front yard and street and in such a location that it does not interfere with any Owner or Occupant's quiet enjoyment of that Owner or Occupant's Lot. Notwithstanding the foregoing, the Board may approve the placement of such equipment within view of the front yard or street if there is evidence that such placement is necessary for the efficient and proper use of the equipment.

- (ii) Owners must submit such plans and specifications as the ACC reasonably may require, including any of the specific documents included in Section 4.6(b)(1) that may be requested by the ACC.
- (3) Interior Modifications. Unless local government approval is required by law, no approval is required for interior modifications that do not affect the exterior of the Dwelling, although the Board may still adopt Rules relating to the use of Common Area or roadways within the project for staging and other construction needs.
- (4) Rear Yard Landscaping. No approval is required for modifications to the landscaping of the portion of the Limited Common Area behind a Dwelling, so long as such landscaping is not visible from the street.
- (c) Architectural Design Guidelines. The Board, after receiving recommendations from the ACC, shall enforce the Architectural Design Guidelines, if any, adopted by the Board as Association Rules. Such Architectural Design Guidelines may include but are not limited to restrictions on: minimum and maximum square footage, building height, exterior siding and roofing materials, and landscaping.
- (d) Detached and Temporary Structures. All detached structures must receive prior written approval of the Board, after receiving any recommendation from the ACC. Detached structures must be constructed with exterior materials identical to those of the Dwelling unless otherwise approved by the Board. All Owners are required to check the applicable building code requirements and zoning restrictions prior to constructing any detached structure. Temporary structures, including tents, trailers, and sheds are not permitted on any Lot without prior written approval of the Board. Detached or temporary structures may not be used, either temporarily or permanently, for residential purposes.
- (e) Landscaping. Owners must receive approval from the Board, after receiving any recommendation from the ACC, for all front yard and side yard landscaping installations and modifications. Each Lot's associated landscaping should enhance the architecture of the Dwelling and the community. The Board, after receiving any recommendation from the ACC, may disapprove any landscaping practices.
 - (1) All trees planted within public rights-of-way shall comply with Millcreek City ordinances and any applicable approved tree species requirements.
- (f) Conformity with applicable law. All improvements on a Lot must be made, constructed, and maintained, and all activities on a Lot must be undertaken, in conformity with all laws and ordinances of the city of Millcreek, Salt Lake County, and the State of Utah, including all zoning and land use ordinances.
- (g) Expenses of Architectural Control Committee. The Association may charge the Owner of a Lot the actual costs incurred by the ACC, Board, or Association for the processing of any request, plans, or specifications including consultation with a professional.
- (h) Variances. The ACC may recommend variances from compliance with any of the architectural provisions of the Governing Documents, including restrictions on height, size, floor area, placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, or

environmental consideration may require; however, the Board is the governing body which must approve any and all variances. Such variances must be in writing and must be signed by a majority of the Board. If a variance is granted, no violation of the Governing Documents will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance does not waive any Terms and Conditions of the Association's Governing Documents, other than those specifically identified in the variance, nor does it affect an Owner's obligation to comply with all governmental laws and regulations.

- (1) Before the Board approves any variance to the Design Guidelines or another architectural provisions of the Governing Documents, the Board shall hold a special meeting of the Owners at which meeting the requested variance will be discussed and a vote of the Owners taken. If a majority of the Allocated Interests represented in person or by proxy at the special meeting vote in favor of granting the variance then the Board may approve the variance. (The required vote is only a majority of the Allocated Interests represented at the meeting and not a majority of the total Allocated Interests of the Association.)
- (i) Failure of Architectural Control Committee to Act. If the ACC or the Board fails to act upon any written request submitted and does not give a final written response to the Owner within thirty (30) days after a complete submission of documents in a form acceptable to the ACC, such request will be deemed to have been approved as submitted, and no further action will be required. The thirty (30) period does not start to run if the ACC has requested, or requests, additional information in support of the Owner's request.
 - (1) If the Owner's request requires a variance to the architectural provisions of the Governing Documents, then the ACC and Board shall have seventy-five (75) days from the date of the complete submission to give a final written response. This additional time is necessary to seek a vote of the Owners as required under Section 4.6(h)(1).
 - (j) Failure by Owner to Obtain Prior Approval. All improvements must be submitted to the ACC in writing. Approvals must be in writing and obtained prior to the improvements being made. If prior approval is not obtained, the Owner may be subject to a fine for a continuing violation of the Association's Governing Documents. The Association may further pursue an action to remove the improvement, or to enjoin the Owner from further installation or construction of the improvement until approval is given. In accordance with Article 17 of this Declaration, the Association is entitled to recover its reasonable attorney fees and costs incurred in pursuing any such action and in seeking legal advice (regardless of whether a lawsuit is commenced) concerning the Association's legal remedies and rights to bring the Owner into compliance with the Association's Governing Documents.

4.7 **Right to Sell or Transfer Common Area.** The Board may sell or transfer Common Area (including Limited Common Area) only with approval of at least sixty-seven percent (67%) of the Allocated Interests of the Association and in compliance with the

requirements of Utah Code § 10-9a-606. The Association may adopt Rules establishing further policies, procedures, and guidelines related to the selling or transferring of Common Area.

- 4.8 **Utilities.** All utilities (except for water and any other utility subject to a bulk service agreement, which is paid for by the Association) which are metered separately to each Lot are the responsibility of each Lot Owner.
- 4.9 **Contractor Working in Project.** Any contractors hired to work on the Common and Limited Common areas shall be licensed and insured. If required by the Rules, Owners hiring contractors to complete work on the Owner's Lot, Dwelling, and appurtenant Limited Common Area shall provide the Association with a contractor's proof of liability and workers compensation insurance, contractor's license information and contractor's agreement to indemnify the Association from any and all claims including injury and financial damages.

**ARTICLE 5:
ORGANIZATION & GOVERNANCE OF ASSOCIATION**

- 5.1 **Organization of Association.** The Association shall serve as the organizational body for all Owners, and the Association shall act through its Board.
- 5.2 **Modifying or Changing the Name of the Project.** The name of the Project may be modified or changed pursuant to a lawful amendment to this Declaration.
- 5.3 **Legal Organization.** The Association is organized as a nonprofit corporation. In the organization, reorganization, or amendment of any documents related to the legal organization of the Association, the terms in all such documents must, to the extent possible under the applicable law, be consistent with the terms in the Declaration and the Bylaws attached hereto or any lawful amendment thereto. If the legal entity should ever expire or be dissolved for any reason as required or permitted by law, in any reorganization or reinstatement of the entity, the Association shall, to the extent possible and subject to any then-existing legal requirements, adopt documents consistent with the terms of the Declaration and Bylaws.
- 5.4 **Membership and Voting Rights.**
- (a) **Membership.** Membership in the Association consists exclusively of the Owners. Each Owner is a member of the Association so long as such Owner has an ownership interest in a Lot and such membership automatically terminates when the Owner ceases to have an ownership interest in a Lot. Upon the transfer of an ownership interest in a Lot, the new Owner succeeding to such ownership interest will likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot must be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Lot is held.
 - (b) **Voting Rights.** Except as otherwise disallowed in this Declaration or the Bylaws, Owners shall be entitled to one vote per Lot owned.
 - (c) **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine amongst themselves. A vote cast by any of such Owners, whether

in person, by proxy, or by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made or if there are conflicting votes from the same Lot, the vote involved shall not be counted for any purpose other than to determine whether a quorum exists.

- (d) **Record of Ownership.** Every Owner shall promptly file the conveyance document (or in the case of contract buyer, a copy of the sales contract) for the Owner's Lot with a Board Member or the Manager of the Association who shall maintain a record of ownership of the Lots. In addition, every Owner shall register the Owner's contact information with a Board Member or the Manager, which includes phone numbers, email addresses, and other information so required by the Association for Association notice purposes. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an "Individual Assessment" in accordance with the provisions of this Declaration.
- (e) **Proxies.** An Owner may give the Owner's directed proxy to another Owner, a third person, or to a contract purchaser of the Owner's Lot to vote on all matters coming before the Association for vote provided the same is in writing, including electronic form as allowed by Section 16-6a-712 of the Nonprofit Act, signed by the Owner, and is presented to those Association's officers conducting such vote or as may be further provided in the Bylaws.

5.5 **Availability of Documents.** The Association shall make available to the Owners, Lenders, and insurers of any Lender, current copies of the Governing Documents and other minutes, books, records, and financial statements related to the Association's operations. The term "available" as used in this Section means available for inspection and copying within thirty days, unless a shorter time period is required by law, after receiving a proper written request, during normal business hours and under other reasonable conditions. The Association has the right to refuse to disclose information that the Board of Directors determines, in good faith, would reveal sensitive personal or financial information of another Owner or of an employee or agent of the Association, such as bank account numbers, birth dates, or social security numbers. The Association may require that the Owner comply with any statutory provision or other legal requirement applicable to providing this information before providing it.

5.6 **Board of Directors or Board.** The governing body of the Association is the Board of Directors elected or appointed pursuant to the Bylaws. Except as otherwise provided in this Declaration, Bylaws, or the Articles of Incorporation, the Board of Directors shall act, in all instances, on the Association's behalf. Any reference to an act, right, or obligation of the Association in the Governing Documents may only be exerted or complied with through an action of the Board of Directors, unless such the Governing Documents, the Act, or other law specifically requires that the action be taken by the Association upon a vote and approval of the Owners. Except as may be specifically provided in the Declaration, Bylaws, Articles of Incorporation, or by applicable law, no Owner or group of Owners other than the Board of Directors may direct the actions of the Association. The Board may retain professionals, including, without limitation, attorneys, accountants, managers, and bookkeepers to assist in any Board function.

- 5.7 **Board Members.** The Bylaws shall set forth the qualifications and ongoing requirements for Board Members. The Bylaws may further provide for a procedure for removal of any Board Member who fails to comply with the reasonable requirements, which may include some action of the remaining Board Members.
- 5.8 **Limitation on Authority of Owners, Board Members, Officers, and the Board.**
- (a) Except as provided herein or in the Bylaws, the Board, any individual Owner, and any individual Board Member or Officer does not have the authority to and may not act on behalf of the Association or the Board of Directors to:
- (1) Amend or terminate any Governing Document;
 - (2) Elect or remove members of the Board of Directors;
 - (3) Establish or change the qualifications, powers and duties, requirements, or terms of Board Members; or
 - (4) Authorize or agree to any deviation or exception from the Terms and Conditions, except as provided in this Declaration.
- 5.9 **No Reliance on Actions Contrary to Governing Documents.** No one may rely upon any authorization (from the Board of Directors or anyone else) contrary to the terms of the Governing Documents regardless of the circumstances under which it is given, and no claim or defense of estoppel, waiver, or similar equitable or legal claim or defense may be raised by anyone related to any alleged reliance. It is the responsibility of anyone interacting with, visiting, occupying, or purchasing a Lot in the Association to verify that anything that the Association does, does not do, or authorizes related to the Project or the Association is in compliance with the terms of the Governing Documents.
- 5.10 **Registration with the State.** In compliance with Utah Code § 57-8a-105, the Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required by law.

**ARTICLE 6:
POWERS, RIGHTS & RESPONSIBILITIES OF THE ASSOCIATION**

- 6.1 **General Powers and Obligations.** The Association shall have, exercise, and perform the following powers, duties and obligations:
- (a) The powers, duties, and obligations granted to the Association by this Declaration, the Bylaws, and the Articles of Incorporation.
 - (b) The powers and obligations of a nonprofit corporation pursuant to the Nonprofit Act.
 - (c) The powers, duties, and obligations of the Association pursuant to the Act.
 - (d) The powers, duties, and obligations not reserved specifically to Lot Owners.
 - (e) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general health, safety, and welfare of the Owners and Occupants within the Project, including but not limited to the authority to enter into agreements and contracts.

- (f) The powers and obligations of the Association may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by any necessary changes to the other Governing Documents of the Association made in accordance with such instruments and with the Act and the Nonprofit Act.

6.2 **Specific Powers and Duties.** The powers and duties of the Association shall include, without limitation, the following:

- (a) **Maintenance.** The Association shall make provisions for completing all its maintenance, repair, and replacement requirements, including the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area. The Association shall do all such other and further acts that the Board of Directors deems necessary to preserve and protect the Common Area and the Project, in accordance with the general purposes specified in this Declaration.
- (b) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration and other Governing Documents of the Association. The Association has no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.
- (c) **Capital Improvements.** New capital improvements to the Project that do not exceed \$10,000 (adjusted for inflation yearly beginning in 2020 by using the current Consumer Price Index, or “CPI”) may be authorized by the Board alone. New capital improvements in excess of \$10,000 require the approval of a majority of Owners in attendance, whether by person or by proxy, at a duly called meeting of the Owners of the Association. The maintenance, repair, and replacement of existing Common Areas is not considered a new capital improvement.
- (d) **Assessments.** The Association has the authority to levy and collect Assessments to operate the Association and Project and to promote the recreation, health, safety, and welfare of the Owners and Occupants.

6.3 **Paying Expenses.** The Association shall provide for the payment of Common Expenses and any other obligations incurred by the Association.

6.4 **Setting and Collecting Assessments.** The Association shall establish, collect, and account for Assessments as necessary to operate the Project consistent with the requirements of the Governing Documents.

6.5 **Adopting and Enforcing Rules.** The Association, acting through its Board, has authority to promulgate and enforce such reasonable Rules as may aid the Association in carrying out any of its functions and to ensure that the Project is maintained, operated, and used in a manner consistent with the interest of the Owners. If Rules are adopted, the Board shall consistently and uniformly enforce them. The Rules may supplement, clarify, and add detail to issues addressed in other Governing Documents so long as they do not contradict the same. Pursuant to Utah Code § 57-8a-218(15), the requirements of Section 218, Subsections (1) through (13), except Subsection (1)(b)(ii) of the Act, are hereby modified to not apply to the Association; accordingly, the Board has the authority and flexibility to

adopt Rules that are tailored for the Association and the Project. The Board's determination as to whether a particular activity being conducted, or to be conducted, violates, or will violate, the Rules will be conclusive, subject to a judicial determination if any is timely sought. The standard for adoption of Rules is one of reasonableness. A Rule must be reasonable in light of the circumstances pertaining to the situation or issue addressed by the Rule.

- 6.6 **Hiring Managers and Delegating Responsibilities.** The Association may hire a professional management company (the "Manager") to assist the Board in the management and operation of the Project and may delegate its powers and obligations in the Governing Documents to the Manager, employees, or other agents as it deems appropriate; provided, however, that only the Board has the right to approve Association budgets, fines to Owners, and regular and special Assessments. Any powers and duties delegated to any Manager or other Person may be revoked by the Board at any time, with or without cause. The Board of Directors has no authority to enter into any management agreement or contract inconsistent with the terms of the Association's Governing Documents or that provides for any termination fee or requirement for termination only for cause.
- 6.7 **Other Necessary Rights.** The Association has any other right that is reasonably necessary to carry out the terms of the Governing Documents.
- 6.8 **Enforcement Rights.** In addition to any other remedies allowed or provided in the Governing Documents for any violation of the Governing Documents, the Association may: (1) impose fines; (2) collect rents directly from tenants if Owners fail to pay Assessments; and (3) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.
- 6.9 **Fines.** In accordance with Section 57-8a-208 of the Act, the Association, acting through the Board, may assess a fine against a Lot Owner for a violation of the Association's Governing Documents.
- (a) Before assessing a fine, the Board shall give the Lot Owner a written warning which, at a minimum:
- (1) Describes the violation;
 - (2) States the Rule or provision of the Association's Governing Documents that the Lot Owner's conduct violates;
 - (3) States that the Board may, in accordance with the provisions of Utah Code Ann. § 57-8a-208, assess fines against the Lot Owner if a continuing violation is not cured or if the Lot Owner commits similar violations within one (1) year after the day on which the Board gives the Lot Owner the written warning or assesses a fine against the Lot Owner under Utah Code Ann. § 57-8a-208; and
 - (4) If the violation is a continuing violation, states a time that is not less than forty-eight (48) hours after the day on which the Board gives the Lot Owner the written warning by which the Lot Owner shall cure the violation.
- (b) The Board may assess a fine against a Lot Owner, if:

- (1) Within one (1) year after the day on which the Board gives the Lot Owner a written warning described in Section 6.9(a), the Lot Owner commits another violation of the same Rule or provision of the Governing Documents identified in the written warning; or
 - (2) For a continuing violation, the Lot Owner does not cure the violation with the time period that is stated in the written warning described in Section 6.9(a).
- (c) A Lot Owner who is assessed a fine may request an informal hearing before the Board to dispute the fine within thirty (30) days after the day on which the Lot Owner receives notice that the fine is assessed.
- (1) The Board may adopt Rules on how such an informal hearing will be conducted so long as the informal hearing complies with the provision of Section 57-8a-208 of the Act.
- (d) A Lot Owner may appeal a fine assessed pursuant to this Section 6.9 and Section 57-8a-208 of the Act by initiating a civil action within 180 days after:
- (1) If the Lot Owner timely requests an informal hearing, the day on which the Lot Owner receives a final decision from the Board; or
 - (2) If the Lot Owner does not request an informal hearing, the day on which the time to request an informal hearing expires.
- (e) Subject to Section 57-8a-208(6)(b) of the Act, the Board may delegate its rights and responsibilities under this Section 6.9 and Section 57-8a-208 of the Act to a Manager or other managing agent of the Association.

6.10 Discretion in Enforcement.

- (a) Subject to the discretion afforded in this Section, the Board shall uniformly and consistently enforce and implement the Terms and Conditions in the Governing Documents.
- (b) The Board shall use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, and may include in this analysis: (1) whether to compromise a claim made by or against the Board or the Association, and (2) whether to pursue a claim for an unpaid Assessment.
- (c) The Association may not be required to take enforcement action if the Board determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances: (1) the Association's legal position does not justify taking any or further enforcement action; (2) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (3) a technical violation has or may have occurred and the violation is not material as to a reasonable Person or does not justify expending the Association's resources; or (4) it is not in the Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.

- (d) Subject to Subsection (e), if the Board decides under Subsection (c) above to forego enforcement, the Association is not prevented from later taking enforcement action.
 - (e) The Board shall not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.
- 6.11 **Reserve Fund.** The Association shall maintain a reserve fund and shall obtain and update a Reserve Analysis as required in this Declaration and the Act.
- 6.12 **Conflicts of Interest with Service Providers and Vendors.** The Association shall not permit any paid services or materials obtained by the Association to be performed or provided by: (1) any Board Member; (2) any relative of any Board Member, Manager, or of any officer, employee, or owner of the Manager; (3) any business or entity in which any Board Member, Manager, or employee, officer, or owner of any Manager or any relative of the same is employed or has more than a one percent (1%) ownership or beneficial interest; or (4) any business, entity, or Person with any familial or financial relationship with any Board Member, Manager, or of any officer, employee, or owner of the Manager, or any relative of the same. A relative is any natural individual known to be related by blood or marriage. The provision of services and materials for purpose of this provision includes Managers, insurance brokers, investment or financial advisors, accountants, landscapers, contractors, and all other companies and Persons providing services to the Association.
- 6.13 **Establishing Hearing Procedures.** The Board of Directors has the authority to create a reasonable hearing process applicable in case the Association takes adverse action related to any particular Owner or group of Owners or in case a hearing process is required by law. The Board is not under any obligation to offer a hearing process, except as required by law or by the Governing Documents and in any such process has the authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process. The Board may establish the hearing process on an as-needed basis for particular matters as they arise or may set forth a process in the Rules applicable generally to such matters that it designates. The Board may rely on any reasonable information and evidence in determining whether a violation of the Governing Documents has occurred both initially and after a hearing.
- 6.14 **Annual Meeting.** The Association shall arrange for and conduct an annual meeting each year as provided for in the Bylaws and shall arrange for and conduct such other meetings of the Association as are properly requested pursuant to the Governing Documents or the law.
- 6.15 **Project Airspace, Drones, and Unmanned Aircraft.** The Association has the right in the Rules to regulate, ban any use, and impose reasonable requirements on the use of the airspace (all airspace up to public airspace) by anyone over the Property and any structures on the Property. The Association also has the right to regulate, ban, and impose restrictions or requirements on the flying of any device including unmanned aircraft or drones (any remotely controlled or autonomous flying device): (1) within all airspace over the Property, and (2) in any airspace within 1,000 feet of the Property if the device is caused to be flown by an Owner, Occupant, or Person within the Project. Any Rules adopted by the Association that do not prohibit or allow the flying of devices in the Project's airspace will not subject the Association to liability for damages to persons or

property relating to the operation of such a device. Any Owner or tenant causing a flying device to be flown within the airspace over the Property or in violation of any Rule adopted by the Association shall: (1) be responsible for any damage caused by the device, and (2) indemnify and defend the Association, its manager, and all officers and directors (past or present), from any claims related to the device. The Association has the power to establish Rules implementing this Section that may include, and are not limited to, the following: (1) requiring Owners to provide information about and/or photographs of the device to the Association, (2) requiring flying devices to be marked with the Owner's name or other information, (3) establishing certain areas, hours, minimum or maximum height limitations, or banning flying of devices completely, (4) banning altogether or designating required commercial drone delivery landing sites, and (5) any other reasonable Rules related to the flying of devices.

- 6.16 **Reinvestment Fee Covenant upon Sale or Transfer of Lot.** The Board may require the transferor/seller or transferee/buyer to pay a fee related to the transfer of a Lot (a "Reinvestment Fee") as provided for in Utah Code Ann. § 57-1-46. A transfer is any change in the ownership of the Lot as reflected in the office of the county recorder, regardless of whether it is pursuant to a sale of the Lot or not. The amount must be set forth by the Board of Directors in the Rules consistent with Utah Code § 57-1-46. The value of the Lot for purposes of this Section is the higher of: (1) the value of the Lot, including any Dwelling that has been constructed thereon, as determined by the property tax assessor on the date of the transfer of title; (2) the purchase price paid for the Lot, including any Dwelling thereon, related to the transfer; or (3) the value of the Lot and any Dwelling thereon on the date of the transfer of title as determined in an appraisal that may be obtained (in the discretion of the Board of Directors) and paid for by the Association using an appraiser selected by the transferee of the property from a list of five (5) appraisers selected by the Association. This reinvestment fee covenant may not be enforced against: (1) an involuntary transfer; (2) a transfer that results from a court order; (3) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; (4) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (5) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest association's costs directly related to the transfer of the burdened property, not to exceed two hundred fifty dollars (\$250.00) or such other amount as may be established by law. The Association has authority to record any notice required by law to effectuate this provision. The Association has the authority to enact Rules that may include: (1) an exception to the imposition of a Reinvestment Fee for the Owner's conveyance of a Lot into an inter vivos trust; (2) requirements for Owners to provide sales and transfer documents; (3) requirements for the timing of responses to requests such as the selection of the appraiser; (4) default provisions if no selection is made such as allowing the Association to select the appraiser; and (5) other procedural requirements and rules as the Board of Directors deems appropriate to effectuate the terms of this provision in a prompt and reasonable manner.
- 6.17 **Title to Common Areas.** The Association shall hold title to all Common Areas in the Project. The Association shall pay any assessments levied by municipalities upon any portion of the Common Areas, unless otherwise paid for by the Owners of the individual Lots, provided that the Association shall have the right to contest or compromise any

such taxes or assessments.

- 6.18 **Audit of Association Finances.** Upon receipt of a request signed by Owners holding 20% of the Allocated Interests, the Board of Directors shall have an audit conducted of the Association's finances and shall make the audit available to the Owners. Any Owner may have an audit conducted of the Association's records, at that Owner's expense, and the Association shall cooperate in providing access to any records needed for that audit.
- 6.19 **Bulk Service Agreements.** The Association has the right to enter into agreements, as the Board of Directors deems appropriate and with the approval of at least sixty-seven percent (67%) of the Owners, for the provisions of cable, television, internet, telephone, or other similar services for all of the Lots, which agreements may also be known as bulk service agreements. Any such bulk service agreements entered into by the Association prior to the recordation of this Declaration shall remain in full force and effect, and the adoption of this Declaration by the Owners shall constitute a ratification of such agreements. Costs and expenses incurred by the Association under such contracts may be a Common Expense pursuant to the provisions of this Declaration, and any prior Assessments levied by the Association for agreements as a Common Expenses shall be valid and enforceable under the Declaration. In the discretion of the Board, any Assessment may be broken out as a separate line item on invoices, statements, or notices of Assessment.

ARTICLE 7: BUDGETS & ASSESSMENTS

- 7.1 **Purpose of Assessments.** The Association shall use the money it collects for: the purposes of promoting the health, safety, and welfare of the Owners and Occupants; the management, maintenance, care, preservation, operation, and protection of the Project; enhancing the quality of life of the Owners in the Project; enhancing and preserving the value of the Project; and in the furtherance of carrying out or satisfying any other duty or power of the Association.
- 7.2 **Budget and Regular Assessment.**
- (a) The Owners shall adopt a budget for the current fiscal year at the annual meeting, generally held in January. If the Owners do not adopt a budget at the annual meeting then the Association will follow the prior year's budget until a budget for the current year has been adopted by the Owners at a meeting or the Board adjusts the budget in accordance with Section 7.4.
 - (b) The budget should estimate the total Common Expenses to be incurred for the next fiscal year (or that fiscal year for a revised budget), which must be broken down into reasonably detailed expense categories. The budget must include a line item that identifies the amount to be placed into the reserve fund. The budget may include contingencies and estimates as the Board deems appropriate.
 - (c) The Board shall make a copy of the budget available to all Owners at the Annual Meeting.
 - (d) The Board shall determine the amount of the regular Assessments to be paid by the Owners of each Lot by dividing the total budgeted amount by the number of Lots, given that each Lot has an equal Allocated Interest.

- (e) Owners may disapprove a proposed budget pursuant to the terms of Section 57-8a-215 of the Act.
- 7.3 **Payment of Regular Assessments.** Unless otherwise established by the Board and communicated to each Owner, each Owner must pay to the Association the Owner's regular Assessment in equal monthly installments.
- 7.4 **Adjustments to Regular Assessments.** In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, the Board may increase the budget during one fiscal year up to ten percent (10%) without a vote of the Owners. Any increase, or increases, which would exceed an aggregate of ten percent (10%) during a single fiscal year must be approved by Owners holding at least sixty-seven percent (67%) of the total Allocated Interests of the Association. Each Owner's share of the new budget total will be based on the Owner's Allocated Interest upon notice of the adjustment, and unless modified by the Board, each Owner must thereafter pay to the Association the Owner's adjusted regular Assessment.
- 7.5 **Personal Obligation for Assessment.** Each Owner of any Lot, by acceptance of a deed or other instrument creating in such Owner the interest required to be an Owner, whether or not it is so expressed in any such deed or other instrument and regardless of any lien rights or lack thereof, hereby personally covenants and agrees with each other Owner and with the Association to pay to the Association any Assessments as provided for in the Governing Documents. Any Assessment owed by the Lot Owner should be paid by the Lot Owner at or before the time of closing on any sale or conveyance of Owner's Lot. Each such Assessment, together with such interest, collection charges, costs, and attorney fees, is also the personal obligation of the Owner of such Lot at the time the Assessment becomes due.
- 7.6 **Allocation of Assessments.** Except as otherwise provided herein, all Assessments (other than special Assessments to individual Lots) will be allocated to all Owners based on the Allocated Interest of each Lot.
- 7.7 **Rules Regarding Billing and Collection Procedures.** The Board shall adopt Rules setting forth procedures applicable to Assessments provided for in this Declaration and for the billing and collection of all Assessments, provided that such procedures are not inconsistent with the provisions herein. Such procedures and policies may include, but are not limited to, the date when Assessment payments are due and late, establishing late fees and collection charges, and establishing interest (per annum or compounded) that may be charged on unpaid balances. The failure of the Association to send a statement to an Owner or an error in any such statement does not relieve any Owner of liability for any Assessment or charge under the Governing Documents.
- 7.8 **Statement of Unpaid Assessment.** An Owner may request a statement from the Association showing an accounting of all unpaid assessments and charges to the Owner's account. The Association may set forth in the Rules the amount of the fee that the Association will charge for providing such statement; however, unless a different amount is set forth in the Rules, such fee will be twenty-five dollars (\$25.00). For any valid, request, the Association shall provide a written statement of account within a reasonable

time. A written statement from the Association is conclusive in favor of a Person who relies on the written statement in good faith.

- 7.9 **Account Payoff Information.** The Association may charge a fee for providing account payoff information in connection with the closing of an Owner's financing, refinancing, or sale of a Unit. The Association may set forth the amount of the fee in the Rules up to the maintenance amount allowed by law. Unless otherwise determined by the Association in its Rules, such fee shall be fifty dollars (\$50.00). Within five (5) business days of any complete payoff information request, the Association shall provide Assessment payoff information needed for the closing. A request for payoff information needed for a closing must: (a) be conveyed in writing; (b) be conveyed to the primary contact person designated by the Association with the Association's registration with the Utah Department of Commerce; (c) contain: (1) the name, telephone number, and address of the person making the request; and (2) the facsimile number or email address for delivery of the payoff information; (d) be accompanied by a written consent for the release of the payoff information: (1) identifying the person requesting the information as a person to whom the payoff information may be released; and (2) signed and dated by an Owner of the Unit for which the payoff information is requested. Each certificate is conclusive in favor of a Person who relies on the written statement in good faith.
- 7.10 **Special Assessments.** The Board may levy a special Assessment payable over such a period as the Board may determine 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 annual assessments; the cost of any reconstruction or unexpected repair or replacement of the Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration, except for new capital improvements described above. Special Assessments over \$100.00 per Lot in a calendar year must be approved by Owners holding at least sixty-seven percent (67%) of the total Allocated Interests of the Association. Notice in writing of the amount of any special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.
- 7.11 **Individual Assessments to Individual Lot.** In addition to annual and special Assessments authorized above, the Board may levy individual Assessments against a lot and its owner for:
- (a) Costs of providing services to the Lot upon request of the Owner;
 - (b) Costs incurred in bringing an Owner or the Owner's Lot or Dwelling into compliance with the provisions of the Governing Documents;
 - (c) Fines, late fees, collection charges, and interest;
 - (d) Any other charge designated as pertaining to an individual Lot in the Governing Documents; and
 - (e) Attorney fees, costs, and other expenses relating to any of the above.
- 7.12 **Acceptance of Materials or Services.** In the event the Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Project, which benefit individual Lots, and which can be accepted or not by individual Owners, such Owners, in accepting such materials or services, agree that the costs thereof may be

an Individual Assessment pertaining to that Lot, at the Board of Directors' discretion.

- 7.13 **Application of Excess Assessments.** In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may retain the excess in the Association's operating account as working capital, credit the excess against future Assessments, refund the excess to the Owners in proportion to the Allocated Interests of each Lot, or take other action with the funds permitted under this Declaration, as the Board deems appropriate. The Board's decision is binding and conclusive. In addition, the Association is not obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.
- 7.14 **No Offsets.** All Assessments are payable at the time and in the amount specified by the Association, and no offsets against such amounts by Owners are permitted for any reason, including, without limitation, a claim that the Board is not properly exercising its duties and power, a claim in the nature of offset or that the Association owes the Owner money, or that the Association is not complying with its obligations as provided for in the Governing Documents.
- 7.15 **How Payments Are Applied.** Unless otherwise provided for in the Rules, all payments for Assessments are applied to the earliest (or oldest) charges first. Owners have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts.
- 7.16 **Loans.** Upon approval of the Board of Directors, and approval of sixty-seven percent (67%) of all Lot Owners, the Association may borrow money and may provide such security as necessary for the loan, including but not limited to securitizing, pledging, or assigning the Association's right to collect assessments from Owners. Notwithstanding anything to the contrary, no Lot will be security for any loan to the Association without that Owners' consent.

ARTICLE 8: NONPAYMENT OF ASSESSMENTS & LIABILITY

- 8.1 **Delinquency.** Assessments not paid within the time required are delinquent. Whenever an Assessment is delinquent, the Board of Directors may, at its option, invoke any or all of the remedies granted in this Article.
- 8.2 **Collection Charges and Interest.** The Association may adopt or establish billing and collection procedures, including the amount of late fees and interest, in the Rules or by resolution. If the Association does not adopt collection procedures, the following shall apply. Monthly Assessments shall be due and payable on the first (1st) day of each month and shall be considered late if not received by the tenth (10th) of the month. Accounts with an unpaid balance after the tenth of each month shall be charged a \$10.00 late fee. In addition to late fees, interest shall accrue on all unpaid balances, including unpaid prior attorney fees, interest (resulting in compounding of interest), late fees, and Assessments, at one and one-half percent (1.5%) per month, compounded monthly. The Association may also impose and assess to the Owner a collection charge, late fee, and any other reasonable charge by a Manager related to collections.
- 8.3 **Joint and Several Liability of Owner .** The Owner is jointly and severally liable for all Assessments accruing related to that Lot prior to and during the time that an Owner is an

Owner. An Owner is not liable for any Assessments accruing after that Owner has lawfully transferred the Lot to another Owner. The recording of a deed to a Person that has not agreed to take ownership of the Lot is not considered a legal conveyance of title. The obligation in this paragraph is separate and distinct from any lien rights associated with the Lot.

- 8.4 **Lien.** The Association has a lien on each Lot for all Assessments, which include but are not limited to interest, collection charges, late fees, attorney fees, court costs, and other costs of collection (which include all costs and are not limited by those costs that may be awarded under the Utah Rules of Civil Procedure). Pursuant to the Act, this lien will arise and be perfected as of the date of the recording of the Enabling Declaration and will have priority over all encumbrances recorded after this Declaration is recorded, except as otherwise required by law. If an Assessment is payable in installments, the lien is for the full amount of the Assessment from the time the first installment is due, unless the Association provides otherwise in the notice of Assessment. The Association also has a lien on each Lot for all fines imposed against an Owner by the Association. This lien for fines will arise when: (1) the time for appeal described in Utah Code § 57-8a-208(5) has expired and the Owner did not file an appeal; or (2) the Owner timely filed an appeal under Utah Code § 57-8a-208(5) and the district court issued a final order upholding the fine. The Association's lien will have priority over every other lien and encumbrance on a Lot except only: (1) a lien or encumbrance recorded before this Declaration is recorded; (2) a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Association; and (3) a lien for real estate taxes or governmental assessments or charges against the Lot. If the Association's lien is not paid off at or before a Lot is sold or conveyed, the lien shall continue to encumber the Lot and the Association may seek to recover the full amount of the lien from the new Lot Owner through enforcing the lien against the Lot (i.e. through foreclosure), and the Association may still pursue the prior Lot Owner for a monetary judgment of the Assessments owed at the time the Lot was sold or conveyed. The Association may, but need not, record a notice of lien on a Lot.
- 8.5 **Action at Law.** The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay the same or by foreclosure of the Assessment lien. In addition, the Association's choice of one remedy will not prejudice or constitute a waiver of the Association's right to exercise any other remedy. Any attorney fees and costs incurred in this effort will be assessed against the delinquent Owner and the Owner's Lot, and reasonable attorney fees and costs will thereafter be added to the amount in delinquency (plus interest and collection charges, if appropriate). Each Owner vests in the Association, or its assigns, the right and power to bring actions at law or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.
- 8.6 **Foreclosure Sale.** The Association has all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code §§ 57-1-20 and 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot into trust, with power of sale, to Quinn A. Sperry, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

- 8.7 **Homestead Waiver.** Pursuant to Utah Code § 57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Owner waives the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.
- 8.8 **Termination of Delinquent Owner's Rights to Common Areas.** As provided for in the Act, the Association may terminate a delinquent Owner's right to use the Association's recreational facilities, including the tennis courts, swimming pool, clubhouse, and other Common Areas of the Association other than the private roadways used for ingress and egress to the Owner's Lot.
- 8.9 **Requiring Tenant to Pay Rent to Association.** Pursuant to and as provided for in the Act, the Association has a right to demand and collect rent from any Occupant in a Dwelling for any delinquent Assessment balance more than sixty (60) days late. Each Occupant, by moving into the Project, agrees to be personally liable and responsible to the Association for all rent payments after the Association gives proper notice that rent payments must be paid to the Association.
- 8.10 **Notice of Default by Lot Owner.** In the event an Owner neglects for a period of sixty (60) days or more to cure any failure on their part to perform the Owner's obligations under this Declaration or other Governing Documents, the Association, upon written request from the Lender holding a security interest in the Lot, shall give written notice to the Lender of the Owner's default.
- 8.11 **Attorney Fees Incurred as a Result of a Default.** In addition to any attorney fees and costs provided for herein, the Association is entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner's failure to timely pay Assessments, including but not limited to attorney fees and costs incurred to: (1) obtain advice about a default; (2) collect unpaid Assessments; (3) file lawsuits or other legal proceedings related to a default in an effort to collect unpaid Assessments; (4) file pleadings, notices, objections, and proofs of claim in any bankruptcy proceeding; (5) examine the debtor or others related to collections; (6) monitor any bankruptcy proceedings including but not limited to regular monitoring of an Owner's progress in a chapter 13 or chapter 11 plan for the duration of the plan; (7) file any motions, objections, or other adversary proceedings in a bankruptcy matter and all related activities including seeking and responding to discovery; taking depositions or examinations; introducing evidence, hiring and paying expert witnesses; filing motions, pleadings, and other papers; attending trials, hearings, or other court proceedings, including as reasonably necessarily related to assert any non-dischargeability of debts, to assert claims against the estate or co-debtors, to challenge exemptions, to pursue any appropriate adversary proceeding, or for any other reason related to the ultimate attempt to collect unpaid Assessments; and (8) foreclose a lien, secure lien rights, or prepare any notice of lien. This provision is to be construed broadly to permit the Association to recover any reasonable fees and costs in any way related to an Owner's default in the payment of Assessments and the ultimate collection of those Assessments. The Association may levy an Individual Assessment against the Owner to recover the attorney's fees and costs.
- 8.12 **Lender Responsibility after Lender's Foreclosure.** Any first or second position Lender who obtains title to a Lot pursuant to the remedies provided in the Lender's

mortgage or deed of trust or foreclosure of the Lender's security interest in the Lot will not be liable for such Lot's Assessments or charges that accrue prior to the Lender's foreclosure against such Lot. After any such Lender gains title to the Lot, the Lender shall be subject to the Association's Governing Documents and be subject to all obligations that apply to Owners, including, but not limited to, payment of Assessments and maintenance of the Lot, Dwelling, and Limited Common Area appurtenant to the Lot

- 8.13 **Association Responsibility after Foreclosure of Association's Lien.** If the Association takes title to a Lot pursuant to a foreclosure (judicial or non-judicial) of the Association's lien, it is not bound by any of the provisions related to the Lot that are otherwise applicable to any other Owner, including but not limited to obligations to pay assessments, taxes, or insurance, or to maintain the Lot. By taking a security interest in any Lot governed by this Declaration, Lenders cannot make any claim against the Association for nonpayment of taxes, Assessments, or other costs and fees associated with any Lot if the Association takes title to a Lot related to any failure to pay Assessments.

**ARTICLE 9:
PROPERTY RIGHTS IN LOTS & COMMON AREA**

- 9.1 **Easement of Enjoyment.** Subject to the Terms and Conditions of the Governing Documents, each Owner shall have a right and non-exclusive easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, contract purchaser, or other Occupant of the Lot who resides in the Dwelling located on the Lot.
- 9.2 **Title to Common Areas.** The Association shall hold the title to the various Common Areas within the Project.
- 9.3 **Limitation on Easement.** An Owner's right and easement for the use and enjoyment of the Common Areas is subject to the following:
- (a) The Limited Common Area appurtenant to each Lot is limited to the use and enjoyment of the particular Owner(s) and Occupant(s) of the Lot to which the Limited Common Area pertains and not to all Owners generally;
 - (b) The right of the Association to impose reasonable limitations on the number of guests per Lot Owner or Occupant who at any given time are permitted to use the Common Areas;
 - (c) The right of Millcreek City, Salt Lake County, and any other governmental or quasi-governmental body having jurisdiction over the Project to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service;
 - (d) Any and all recorded easements and encroachments pursuant to Section 9.6 of the Declaration;
 - (e) Excepting the pool, any Rule adopted by the Board allowing for an Owner to

reserve a particular part of the Common Area, such as the clubhouse, tennis court, basketball court, etc., for a limited time period, and in which instance the Owner, and other Occupant of the Owner's Lot, who reserved the specific Common Area may restrict access to the Common Area by other Owners, Occupants, and Persons as allowed under the Rules;

- (f) Any other limitation in the Governing Documents, including but not limited to Section 8.8; and
- (g) The right of the Association to dedicate, transfer, or sell all or any part of the Common Areas, and any sewer, water, and storm drain lines to any particular Person, public agency, or governmental authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication, transfer, or sale of Common Area must comply with Section 4.7 of this Declaration.

9.4 **Private Easements for Particular Lots.** There are certain permanent, non-exclusive easements which have been granted by certain Owners to the Owners of adjacent Lots. These easements are identified on the Amended Plat and are subject to any recorded easement agreements. The Owners of the benefitting Lots, or dominant estates, shall be responsible to maintain, repair, and replace, their respective easement area in the same manner as if the easement area constituted portion of the Owner's Lot under the Terms and Conditions of the Declaration. The Association does not guaranty these conveyances, nor does the Association have any responsibility to enforce the terms of these private easements as such easements are strictly an agreement between the parties thereto and not the Association.

9.5 **Easement for Utility Services.** The Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair and replacement of roads and utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable. Easements and rights-of-way over the Project for the installation and maintenance of electricity lines, telephone lines, cable television lines, fiber optics, water lines, gas lines, sanitary sewer lines, drainage facilities, telecommunication fixtures and equipment, utility fixtures and equipment, and such lines, fixtures, or equipment needed or determined by the Board to be helpful in serving the Project, Lots, or Lot Owners in the Project are hereby established and dedicated; provided however, use of said easements and rights-of-way must not unreasonably interfere with the use of the Common Area and facilities and the Lots by the Owners or Occupants. The Association has the power to grant and convey, in the name of the Association or all of the Owners as their attorney-in-fact, to any Person, easements and rights-of-way in, on, over, or under the Common Area and facilities or Lots for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, wireless transmission or reception equipment, conduits, or other devices for electricity, cable television, power, telecommunications, internet, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating, gas lines or pipes, and any other public, quasi-public, or private improvements or facilities. Each Owner in accepting the deed to a Lot 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. Such Owner and those claiming by, through, or under an Owner agree to execute promptly all such

documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Association. However, no easement can be granted pursuant to this paragraph if it would permanently and materially interfere with the use, occupancy, or enjoyment by any Owner of such Owner's Lot.

- 9.6 **Easements for Encroachments.** If any structure or improvement of a Lot in existence for 20 years or more encroaches upon any other Lot or the Common Area as a result of the manner in which the improvements were constructed or due to settling, shifting, alteration, replacement, repair, or restoration, a valid easement for the encroachment, and maintenance of such, shall exist for the improvement or structure, regardless of whether or not such easement is reflected on the Plat. The Owner of any structure or improvement for which such an easement applies shall be responsible for the maintenance, repair, and replacement, if necessary, of such structure and improvement. As necessary, such easement area may be treated as Limited Common Area. The Association, acting through its Board, may, but is not required, to record a written easement reflecting such easements for encroachment on Common Area.
- 9.7 **Non-Exclusive Easements.** The Association has non-exclusive easements with the right of access over and across each Lot, to make inspections, to prevent or mitigate damage to Common Areas, and to maintain, repair, replace, or effectuate the restoration of the Common Area and facilities that the Association is responsible for maintaining which are accessible from such Lot. The Association shall exercise such rights only after providing the notice required in this Declaration.
- 9.8 **Right of Entry.**
- (a) As used in this Section:
 - (1) "Emergency Repair" means a repair that, if not made in a timely manner, will likely result in immediate and substantial damage to a Common Area or to another Lot.
 - (2) "Reasonable Notice" means notice consistent with the provisions of Article 16.
 - (b) Except as otherwise provided in the Declaration, after reasonable notice to the occupant of the Lot being entered, the Board or Manager may access a Lot or Limited Common Area without trespass:
 - (1) From time to time during reasonable hours, as necessary for the maintenance, repair, or replacement of any of the Common Areas; or
 - (2) For making an emergency repair.
 - (c) The Board, Manager, or contractor hired by the Association may enter the Limited Common Area appurtenant to a Lot without notice to repair the sprinkler system, broken pipes, to mow the lawn, and remove snow.
 - (d) Before accessing a Lot to correct a violation of the Governing Documents, the Association shall comply with the following:
 - (1) Send two notices to the Owner (at least ten (10) days apart);
 - (2) Fine the Owner pursuant to the Association's schedule of fines;

- (3) Give the Owner at least thirty (30) days after receipt of the 2nd notice and fine to correct the violation; and
 - (4) If the Owner continues to be in violation of the Governing Documents after the Association has satisfied the requirements in Section 9.8(d)(1)-(3), then Association, acting through the Board or its duly authorized agent, may access a Lot, without trespass, and correct the violation of the Governing Documents. Owners shall be responsible for any costs and fees incurred by the Association as a result of entering a Lot under this Section, which costs and fees shall be assessed to the Lot Owner and against the Lot as an individual Assessment pursuant to the Declaration.
- (e) **Entry to Dwelling.** The Association has no right of entry into a Dwelling except for in the case of an emergency or as necessary to complete maintenance on the Dwelling after Reasonable Notice has been given to the Owner by the Association of the Association's intent to exercise its rights under the Governing Documents to complete the maintenance.

**ARTICLE 10:
USE LIMITATIONS & CONDITIONS**

- 10.1 **Use of Common Areas.** The Association has authority to promulgate and enforce such reasonable Rules and procedures as may aid the Association in carrying out any of its functions and to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners.
- 10.2 **Signs.** The Association may regulate and restrict signs in the Project, to the extent permitted by law, in the Rules and Regulations. Unless the Association adopts additional rules regulating signs in the Project, signs or any other device with the apparent purpose of communicating any message to someone outside of a Lot are prohibited from being hung or displayed on a Dwelling or Lot except as permitted herein, or by the Board in writing. Signs may not be placed in the Common Area except with written permission from the Board. "Signs" includes any type of object (including but not limited to flags, billboards, banners, plaques, a-frames, easel signs, poly-bag signs, corrugated plastic signs, lawn signs, window signs) used to convey a message, symbol, idea, identification, or for any other purpose that signs are typically used, that is placed in, on, or outside of a Lot with the apparent purpose, in whole or in part, of making it visible to people outside of the Lot. Notwithstanding the foregoing, the following signs are permitted, unless otherwise modified in the Rules:
- (a) **American Flag.** Owners and Occupants may display one reasonably sized American flag on the exterior of a Dwelling consistent with the federal Freedom to Display the American Flag Act of 2005, the Utah Display of Flag Act, and Utah Code § 57-8a-219. Flags, if displayed, must be displayed in accordance with United States Code Title 4, Chapter 1. The Rules may not prohibit the display of the American flag as set forth herein as such is allowed by statute.
 - (b) **For Sale and For Rent.** "For Sale" and "For Rent" flyers may be placed in the receptacle provided for that purpose near the Clubhouse.
 - (c) **Holiday Decorations.** Holiday decorations may be displayed as provided for in Section 10.9 the Declaration.

- 10.3 **Nuisance.** Noxious or offensive activity is prohibited within the Project, as is any activity that might be or becomes an annoyance or nuisance to the Owners or Occupants or interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Lots. No Owner, Occupant, or guest of any Owner or Occupant may engage in activity within the Project in violation of any law, ordinance, statute, rule, or regulation of any local, city, county, state, or federal body. The Board may adopt Rules that further describe the activities that are deemed to be nuisances within the Project. A nuisance includes but is not limited to:
- (a) Any unclean, unhealthy, unsanitary, unsafe, unsightly, untidy, or unkempt condition or any condition noxious to the senses including, but not limited to, any condition that emits any foul, unpleasant, or noxious odors or any condition that causes any unreasonable noise or other unreasonable condition that disturbs or might disturb the peace, quiet, safety, comfort, or serenity of the other Owners and Occupants at the Project;
 - (b) Actions or activities tending to cause unreasonable embarrassment, discomfort, annoyance, distress, or a disturbance to any other Owner or Occupant, their guests or invitees, particularly if police or the sheriff must be called to restore order;
 - (c) The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions;
 - (d) The failure to regularly remove rubbish, trash, refuse, waste, dust, debris, and garbage from a Lot;
 - (e) Too much noise or traffic in, on, or about any Lot or the Common Area especially after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers; or
 - (f) Committing a trespass.
- 10.4 **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried out upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be cancelled or suspected, or cause any company issuing such insurance to refuse renewal thereof. Any violation of this Section shall also constitute a nuisance under Section 10.3 of this Declaration.
- 10.5 **Temporary Structures.** No structure or building of a temporary character, including a tent, trailer, or shack, is permitted to be placed upon the Project or used therein for longer than forty-eight (48) hours unless the Board approves it.
- 10.6 **Parking.** Owners and Occupants must park vehicles in the Owner or Occupant's driveways and garages appurtenant to the Owner or Occupant's Lot, or on a non-exclusive first-come, first-serve basis in Common Area parking spaces designated on the

Plat. Owners and Occupants are asked to park first in their garage; next, in their driveway; and finally, in the Common Area parking spaces. Through the Rules, the Association may restrict or limit parking on the private roadways by Owners, Occupants, and their respective family members, tenants, guests, invitees, and by other people associated with the use of the Lots. At no time shall any vehicle be parked in a manner that would block an entrance to a Lot, in front of a garage or walkway, or at any other location within the Project that would impair vehicular or pedestrian access or snow removal. Vehicles parked in the Common Areas parking spaces should utilize only one parking stall. No equipment, material, or vehicles of any nature are permitted to be stored overnight on any street located within the Project, except as otherwise provided herein. The Association may adopt additional Rules relating to the parking of vehicles within the Project by Owners, Occupants, and their respective family members, tenants, guests, and invitees, including, without limitation:

- (a) The right to remove or cause to be removed any vehicles that are improperly parked;
- (b) Restrictions on commercial vehicles and condition of vehicles allowed to be parked;
- (c) Restrictions on the time period and duration of temporary guest parking; and
- (d) The assessment of fines for Owners and Occupants who violate the Parking restrictions and Rules.

- 10.7 **Recreational and Commercial Vehicles.** No boats, trailers, recreational vehicles, or vending or commercial vehicles shall be parked or stored in or upon any of the private streets or in the Common Areas except in compliance with Rules as may be created by the Association. In the Rules, the Board may further define what constitutes a “recreational” and a “commercial” vehicle. Except as otherwise provided by the Rules adopted by the Board, any such referenced vehicles belonging to owners or other residents of the property must fit within and be stored and kept within the Lot’s garage. Only vehicles that are licensed may be operated on the streets within the Project and then only in strict compliance with speed and safety regulations. The Association reserves the right to assess fines and prosecute complaints against those who create ongoing safety or environmental concerns.
- 10.8 **Equipment and Automobile Maintenance.** Unless otherwise provided by the Board, no equipment or car maintenance of any nature shall be permitted on the Project except in a Lot’s garage; or, for vehicle maintenance, in a driveway so long as the vehicle is not left overnight in a condition that makes the vehicle appear that maintenance is still in progress. Car washing or polishing may be done in the Lot’s driveway, if done in accordance with Millcreek City ordinances.
- 10.9 **Holiday Decorations.** Holiday decorations may be displayed on the outside of Dwellings within a reasonable amount of time before and after the related holiday. The Association may adopt additional Rules to regulate holiday decorations in the Project, to the extent permitted by law. Holiday decorations include any type of object (including, but not limited to, lights, wreaths, plants, trees, displays, inflatable items, religious iconography or symbols) relating to any national or religious holiday or used in a manner that holiday decorations are typically understood and which are placed in, on, or outside of a Dwelling

with the apparent purpose, in whole or in part, of making it visible to people outside of the Dwelling.

10.10 **Unsightly Items.** No observable outdoor storage of any kind shall be permitted on front yards, porches, etc., which may be seen from the Association's roads or another Lot except for patio furniture in good repair and condition. Said patio furniture shall conform with standards set by the Board or ACC. Barbecue grills may be maintained on the patios or deck of a backyard subject to the standards set by the Board or ACC. A single storage shed with size, color, and other specifications approved by the Board, in writing, may be constructed in the fenced-in backyard Limited Common Area appurtenant to the Lot. Junk, unlicensed or inoperable cars, or other unsightly items shall not be maintained or stored on any Lot or in the Common Area. The Board may adopt additional Rules regulating the removal, accumulation, and placement of any rubbish, debris, or unsightly material, conditions, or items. Unless and until the Board has adopted Rules, the following apply:

- (a) It is prohibited to construct, reconstruct, repair, or abandon a vehicle, boat, or equipment within the Project, except for work done entirely within a completely enclosed garage or for work of a minor nature completed in a driveway subject to the parking restrictions;
- (b) Owners or Occupants shall cause all rubbish, debris, unsightly materials, or similar objects of any kind to be regularly removed from Lots and to not accumulate therein or thereon;
- (c) Refuse containers and machinery and equipment not a part of the Lot are prohibited on the Lot unless obscured from view of neighboring Lots, or unless otherwise approved by the Board;
- (d) Owners or Occupants shall store all City trash containers within a garage or behind the front wall of the Dwelling, except within twenty-four (24) hours of public collection; and
- (e) Clotheslines are permitted in backyards so long as they are not visible from the streets within the Project.

10.11 **Animals.** Owners may only keep animals in accordance with applicable City, County, and State laws and ordinances. Domestic animals generally kept in households may be kept in the Project subject to the rules and requirements of this Declaration or the Rules adopted by the Board. No more than a combination of any two (2) domestic animals allowed under this Section may be kept in a Lot, Dwelling, or appurtenant Limited Common Area without prior approval of the Board. No livestock or poultry may be kept on any Lot.

- (a) Notwithstanding the foregoing, no animal may be kept within a Lot or appurtenant Limited Common Area which: (1) is raised, bred, kept, or maintained for any commercial purposes; (2) causes a nuisance; or (3) in the good faith judgment of the Board of Directors, results in an annoyance or threat of injury, or is obnoxious to or unreasonably causes anxiety to other Owners or Occupants within the Project. The Board of Directors may exercise its judgment for specific animals even though others of the same breed or type are permitted to remain. All fecal matter must be immediately cleaned up in the Project. The Board may adopt

Rules adding further Terms and Conditions related to animals in the Association not inconsistent with this Declaration including, but not limited to, requirements for registration, specific fees or deposits for Owners of Lots that have animals, the use of leashes, and noise and barking limitations. An Owner who keeps a pet or animal of any kind is liable for any and all damage caused by such pet or animal and shall indemnify and hold harmless the Association and any other Owner from any loss, claim, or liability of any kind arising from or related to such pet or animal. Incessantly barking dogs are not permitted, and their presence will result in fines.

- (b) Owners and Occupants may not permit their dogs to roam unattended in the Project. Dogs must be kept in a Dwelling, dog run, or kennel. All dog runs and kennels must be approved by the Board, screened off, out of the direct view from any street, and should be in enclosed or fenced-in rear yard of the Limited Common Area appurtenant to the Lot. When not confined on a Lot or its appurtenant Limited Common Area, all dogs must be leashed and under the direct control and supervision of an Owner.

10.12 **Residential Occupancy.** All Lots shall have a Dwelling and are restricted to residential use unless approved by the Board to the contrary. No trade or business may be conducted in or from any Dwelling unless:

- (a) The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell, from any other Dwelling or Lot;
- (b) The business activity conforms to all zoning and legal requirements for the Project and the business activity;
- (c) The business activity does not involve the solicitation of Occupants or Owners of the Project;
- (d) The business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other Owners and Occupants of the Project;
- (e) The business activity is disclosed to the Board before business is commenced along with a description of the business activity, a statement of the amount of space required in the Dwelling or Lot for such activity, and a description of any impact on the Project;
- (f) The business activity will not result in the increase of the cost of any of the Association's insurance;
- (g) The Owner of the Lot resides in the Dwelling in which the business activity is proposed for the entire time any business activity is conducted; and
- (h) The Board's ongoing requests for information related to the business as necessary to determine compliance with this paragraph are responded to fully and completely.

10.13 **Leases.** The leasing of a Lot or Dwelling is subject to the provisions of Article 19 of the Declaration and other applicable provisions of the Association's Governing Documents.

10.14 **No Subdivision or Recording by Owners of Terms and Conditions.** No Lot or Dwelling may be split, subdivided, separated, or timeshared into two or more Lots or Dwellings or property interests (whether temporally or spatially), and no Owner of a Lot is permitted to sell or lease part thereof. Owners or other Persons shall not record any subdivision Plat or covenants, conditions, or restrictions with respect to any one Lot. Owners or other Persons shall not record any subdivision Plat or covenants, conditions, or restrictions related to any Lot, any Dwelling, or the Project unless the Board and/or Owners (as required in this Declaration) have first approved the Plat or the proposed covenants, conditions, or restrictions. Any Plat or covenants, conditions, or restrictions recorded in violation of this Section will be null, void, and of no legal effect.

10.15 **Energy Conservation Equipment.** The Board may adopt Rules relating to solar panels to the extent permitted by law, including but not limited to, the type, style, reflectivity, size, or color of the panels. The Board may also adopt Rules related to the installation and maintenance of the panels, including, but not limited to the method of installation, adopting a list of approved installers and disallowing unapproved installers, and setting a level or standard of maintenance. Solar energy collection panels, other energy conservation equipment or attendant hardware that is constructed or installed on the ground must not be visible from the street fronting the Lot on which the equipment is installed. Maintenance and required upkeep of solar energy collection panels, or other equipment and hardware, to include those portions of the Property or dwelling roofing that are affected by said equipment, shall be the sole responsibility of the Property Owner.

The Board has the right to review any and all plans for energy conservation equipment prior to construction or installation, including proposed location. Pursuant to Section 4.6, the Board or the ACC may assess an Owner for any actual cost or expense incurred to review the Owner's application to install such equipment, including for any review, report, or analysis performed by a solar engineer, legal counsel, or other third-party professional. The Board may adopt Rules requiring an Owner to pay a deposit in advance for such actual costs or expenses. All Owners are required to obtain any permits with the governing municipality and comply with building code requirements and zoning restrictions.

10.16 **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the Terms and Conditions set forth in this Article if the Board determines in its discretion (by majority vote): (1) either that the Term and Condition would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such Term and Condition obsolete and unreasonable to enforce; and (2) that the activity permitted under the variance will not have any financial effect or other substantial adverse effect on the Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance will be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act. No variance may be granted that relates to the payment of Assessments unless the Board exercises its discretion under Section 6.10 of the Declaration and it clearly appears after reasonable investigation under the circumstances that the Owner is incapable of paying the Assessment and the Lot is being or has been transferred to a new Owner either

voluntarily or involuntarily through foreclosure.

- (a) Any variance to the architectural provisions of the Governing Documents must be approved by a vote of the Owners as required under Section 4.6(h)(1).

10.17 **Hazardous Substances.**

- (a) The Owners shall comply with applicable Environmental Laws (as defined below), and shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances (as defined below), on or within the Project, that are not properly controlled, safeguarded, and disposed of. The Owners shall not do, nor allow anyone else to do, anything affecting the Project that is in violation of any Environmental Law. The preceding two (2) sentences do not apply to the presence, use, or storage on the Project of small quantities of Hazardous Substances that are generally recognized to be appropriate to the maintenance of a Lot or the Project.
- (b) No one shall permit anything to be done or kept on a Lot or Dwelling which will result in the cancellation of insurance or which would be in violation of any public law, ordinance, or regulation.
- (c) Except as incidental to the storage of camping equipment, vehicles, and other normal maintenance equipment and items, no one shall use or permit to be brought into the Dwellings or Lots any flammable oils or fluids such as gasoline, kerosene, naphtha, benzene, other explosives, or other such articles that are abnormally hazardous.
- (d) Fireworks are prohibited in accordance with governing law.
- (e) Each Owner shall indemnify, defend, and hold the Association and each and every other Owner harmless from and against any and all claims and proceedings (whether brought by private party or governmental agency) for bodily injury, property damage, abatement or remediation, environmental damage or impairment, or any other injury or damage resulting from or relating to any Hazardous Substances located under or upon or migrating into, under, from, or through the Project, which the Association or the other Owners may incur due to the actions or omissions of an indemnifying Owner. The foregoing indemnity applies: (1) when the release of the Hazardous Substance(s) was caused by an indemnifying Owner or an Occupant; and (2) whether or not the alleged liability is attributable to the handling, storage, generation, transportation, or disposal of Hazardous Substance(s) on the Project. The obligations of each Owner under this Section survive any subsequent sale by an indemnifying Owner.
- (f) As used in this Section, "Hazardous Substances" are those substances defined as a toxic or hazardous substance by Environmental Law including but not limited to: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. "Environmental Law" means federal laws and laws of the jurisdiction where the Project is located that relate to health, safety, or environmental protection.

**ARTICLE 11:
INSURANCE**

- 11.1 **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. The Association may obtain different policies from different insurance carriers and may purchase stand-alone policies instead of or in addition to embedded, included coverage, or endorsements to other policies.
- 11.2 **Annual Insurance Report.** The Board of Directors may obtain a written report by an independent and experienced insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association), with specific knowledge and experience in the community association insurance industry, setting forth: (1) a summary description of the insurance coverage obtained by the Association, including the dollar amounts of any such coverage, and any material exceptions, exclusions, and limitations on such coverage; (2) whether, in the opinion of such broker or consultant, the insurance coverage in effect for the Association complies with the requirements of this Declaration and the law; (3) a description of any earthquake insurance and material exclusions and limitations for that coverage, and if no earthquake insurance is obtained, a conspicuous clear statement in both bold and uppercase letters stating: “THE ASSOCIATION HAS NOT OBTAINED EARTHQUAKE INSURANCE”; and (4) a description of any flood insurance and material exclusions and limitations for that coverage; and, if no flood insurance is obtained, a conspicuous clear statement in both bold and uppercase letters stating: “THE ASSOCIATION HAS NOT OBTAINED FLOOD INSURANCE.” The report may also set forth any recommendations or suggestions from the insurance professional regarding current policy provisions, deductibles, exceptions, exclusions, and for additional insurance suggested or recommended for the Owners’ protection in light of the insurance then available and the best practices with respect to other similar projects. If obtained, the Board of Directors shall provide the most recent annual insurance report to any Owner upon request.
- 11.3 **Property Insurance.** The Association shall maintain a policy of property insurance covering the Common Area, including all buildings and improvements, building service equipment and fixtures thereon to the extent that any structure that is normally insured under a property insurance policy is installed or erected on the Common Area and is the Association’s obligation to maintain.
- (a) The blanket policy must exclude land and other items not normally and reasonably covered by such policies. The blanket policy must be an “all in” or “all inclusive” insurance as those terms are used in the insurance industry and must include insurance for any fixture, improvement, or betterment installed in or to or otherwise permanently part of or affixed to Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, and windows.
 - (b) At a minimum, the blanket policy must afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by “special form” property coverage.
 - (c) The blanket policy must be in an amount not less than one hundred percent

(100%) percent of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property must be determined by using methods generally accepted in the insurance industry.

- (d) The blanket policy must 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.
- (e) Each property policy that the Association is required to maintain must also contain or provide for the following: (1) "Inflation Guard Endorsement," if available; and (2) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction).
- (f) The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or, if the policy deductible exceeds ten thousand dollars (\$10,000), an amount not less than ten thousand dollars (\$10,000).

- 11.4 **Earthquake Insurance.** The Association may purchase earthquake insurance as the Board deems appropriate.
- 11.5 **Flood Insurance.** If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Board may purchase flood insurance covering the Project or that portion of the Project located within the Special Flood Hazard Area. If the Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.
- 11.6 **Comprehensive General Liability (CGL) Insurance.** For so long as the Association has any obligation to maintain Common Area, the Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Area and the Owners' membership in the Association. The coverage limits under such policy must not be less than two million dollars covering all claims for death of or injury to any one individual or property damage in any single occurrence. Such insurance must 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.
- 11.7 **Directors' and Officers' Insurance.** The Association shall obtain Directors and Officers liability insurance protecting the Board Members, 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). This policy should, to the extent reasonably available:

(1) include coverage for volunteers and employees; (2) include coverage for monetary and non-monetary claims; (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and (4) provide coverage for defamation. In the discretion of the 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.

- 11.8 **Insurance Coverage for Theft and Embezzlement of Association Funds.** The Association may obtain insurance covering the theft or embezzlement of funds that will provide coverage for: (1) an amount of not less than the sum of three months regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and (2) theft or embezzlement of funds by: (a) Officers and Board members; (b) employees and volunteers of the Association; (c) any Manager of the Association; and (d) officers, directors, and employees of any Manager of the Association.
- 11.9 **Workers Compensation Insurance.** If the Association has any employees, the Board shall purchase and maintain in effect workers compensation insurance for all employees, if any, of the Association to the extent that such insurance is required by law and may purchase workers compensation insurance even if the Association has no employees, as the Board deems appropriate.
- 11.10 **Right to Negotiate All Claims & Losses & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy: (a) are payable to an Insurance Trustee (defined in Section 11.11) if one is designated, or to the Association; and (b) are not be payable to a holder of a security interest. An Insurance Trustee, if one is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds must 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 must be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary and is related to the property has been paid for, must be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: (1) the collection, receipt of, and appropriate disposition of all insurance proceeds; (2) the execution of releases of liability; (3) the execution of all documents; and (4) the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, is irrevocable, and is binding on any heirs, personal representatives, successors, or assigns of an Owner.
- 11.11 **Insurance Trustee.** In the discretion of the Board or upon written request executed by Owners holding fifty percent (50%) or more of the Allocated Interests, the Board shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this Article 11 as the Owners or Board (as the case may be) may require related to a loss and receipt or potential receipt of insurance proceeds.

- 11.12 **Certificates.** Any insurer that has issued an insurance policy to the Association must issue a certificate of insurance to the Association and, upon written request, to any Owner or Lender.
- 11.13 **Named Insured.** The Association must be the named insured under any insurance policy. Each Owner must also be an insured under all property and CGL insurance policies.
- 11.14 **Owner Act Cannot Void Coverage Under Any Policy.** Unless an Owner is acting within the scope of the Owner's authority on the Association's behalf and under the Association's direct authorization to terminate an insurance policy, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.
- 11.15 **Waiver of Subrogation against Owners and the Association.** All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association, the Owners, any person residing with a Lot Owner if an Owner resides in the Lot, and the Association's agents and employees.
- 11.16 **Owner's Homeowners Insurance.** Owners are responsible for obtaining their own insurance policy for the Lot and Dwelling. Owner's insurance policies shall, to the extent reasonably available, include coverage for liability and damages that occur in or arose from the private easement areas set forth in Section 9.4 which pertain to each respective Owner's Lot.
- 11.17 **Right of Action.** Nothing in this Declaration prevents an Owner suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against any Person or entity at fault for the loss.
- 11.18 **Applicable Law.** This Declaration specifically subjects the Association to the insurance requirements and provisions part 4 (currently Utah Code Ann. § 57-8a-401 to -407) of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations apply to this Association.

**ARTICLE 12:
EMINENT DOMAIN**

- 12.1 **Taking of Common Area.** If a portion of the Common Area and Facilities is taken by eminent domain, or sold under threat thereof, and is not comprised of and does not include any Lot, the Board shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Association.
- 12.2 **Taking of Entire Project.** In the event the Project, in its entirety, is taken by eminent domain, or sold under threat thereof, the Project is terminated and the provisions related thereto in this Declaration will apply.
- 12.3 **Total Taking of a Lot.** If a Lot is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for the Owner's Lot and Allocated Interest regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Lot's Allocated Interest will automatically be reallocated to the remaining Lots in proportion to their respective

interests immediately before the taking. Upon such a taking, the Association shall prepare, execute, and record an amendment to the Declaration that accomplishes the adjustment required for this Section.

- 12.4 **Partial Taking of a Lot.** Except as provided in Section 12.3, if part of a Lot is taken by eminent domain, or sold under threat thereof, so that such Lot may still be practically and lawfully used under this Declaration, the award must compensate the Owner for the reduction in the value of the Owner's Lot. Upon such a taking, that Lot's Allocated Interest in the Common Area will remain the same.
- 12.5 **Priority and Power of Attorney.** Nothing contained in this Article entitles an Owner to priority over any Lender under a lien encumbering the Owner's Lot as to any portion of any condemnation award allocated to such Lot. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area or any part thereof. In the event the taking involves all or part of any Lot or the Common Area, the award or proceeds are payable to the Association for the use and benefit of the Owners and their Lenders as their interests may appear. This power-of-attorney is coupled with an interest, is irrevocable, and is binding on any heirs, personal representatives, successors or assigns of an Owner.

ARTICLE 13: TERMINATION AND SALE OF PROJECT

- 13.1 **Required Vote.** Except as otherwise provided in Article 12, the Project may be terminated only by the approval of Owners holding at least sixty-seven percent (67%) of the Allocated Interests.
- 13.2 **Termination Agreement.** An agreement to terminate must be evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by Owners holding at least sixty-seven percent (67%) of the Allocated Interests, unless a higher percentage is required by Utah law. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement, including all ratifications of such termination agreement, must be recorded with the Salt Lake County Recorder's office and is effective only on recordation.
- 13.3 **Sale of Project Following Termination.** A termination agreement may provide that the Association's entire interest in the Project be sold following termination. If, pursuant to such agreement, any real estate in the Project is to be sold following termination, the termination agreement must set forth the minimum terms of the sale.
- 13.4 **Association Duties.** The Association, on the Owners' behalf, may contract for the sale of real estate in the Project on the termination of the Project or related to the approval of the sale of the Project. The contract is not binding on the Owners until approved pursuant to Sections 13.1 and 13.2 of this Declaration. If any real estate in the Project is to be sold, immediately upon approval of the sale of the Property by the Owners or the approval of the Owners of Termination of the Project, title to that real estate will immediately vest in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the Association continues in existence with all powers it

had notwithstanding any termination. Unless otherwise specified in a termination agreement, as long as the Association holds title to the real estate, each Owner and the Owner's successors in interest have a right to occupancy of the Common Areas in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and the Owner's successors in interest remain liable for all Assessments and other obligations imposed on Owners by this Declaration.

- 13.5 **Proceeds of Sale.** The proceeds of any sale of real estate or assets of the Association shall be held by the Association as trustee for Owners and Lenders as their interests may appear. The Association shall distribute proceeds of the sale to Owners and Lenders according to their Allocated Interest. The Association shall not distribute the interest of any Owner in such proceeds except upon the prior payment in full of any Assessment lien or lien of a Lender encumbering such proceeds. Following termination, Lenders holding notes on the Lots that were recorded before termination may enforce those liens in the same manner as any lien holder.
- 13.6 **Allocation upon Termination.** Unless provided otherwise herein, in a termination agreement, or in an approved contract for the sale of the Property, upon any liquidation or termination of all or part of the Project, the Association shall represent the Owners in any proceedings, negotiations, settlements, or agreements related thereto. Each Owner hereby appoints the Association as attorney-in-fact for such purpose, including the allocation of any losses, awards or proceeds resulting from such termination or liquidation. Any proceeds generated by such a termination or liquidation must be made payable to the Association, which will hold such proceeds for the benefit of the Owners and their Lenders.

ARTICLE 14: AMENDMENTS

- 14.1 **General Amendment Requirements.** Except as otherwise provided herein, this Declaration may be amended by the affirmative vote of Owners holding Allocated Interests totaling not less than sixty-seven percent (67%) of the total Allocated Interest. The approval required to amend the Declaration may be obtained by ballot, vote, written consent, or any other means allowed by law. The vote or approval for any one Owner of a Lot is sufficient if there are multiple Owners of the Lot, and so long as any other Owner of the Lot does not vote inconsistently or contest the vote.
- 14.2 **Scope of Amendments.** This Declaration may be amended to add new rights, restrictions, and obligations, or to remove or modify existing rights, restrictions, and obligations. The right to amend must be broadly construed to permit any change to the rights, restrictions, obligations, and other terms in the Declaration. This Declaration may be amended to make a particular section of the Act applicable to the Association, including a section that would not otherwise be applicable to the Association or if the application is unclear, without incorporating other provisions of the Act that are not otherwise applicable to the Association.
- 14.3 **Execution and Effective Date of Amendments.** An amendment that has been adopted as provided herein must be executed by the Board of Directors, through its agent, who must certify that the amendment has been approved and adopted and that the Association has complied with the procedures and requirements necessary to amend the Declaration. The amendment will be effective when it is recorded with the Salt Lake County

Recorder's office.

- 14.4 **Changes to Plat or Boundaries of the Association.** Unless otherwise required under Section 4.7, the Association may adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Project, including any boundary to any Lot or Lots upon the approval by vote of Owners holding sixty-seven percent (67%) of the total Allocated Interests of the Association, in the same manner as required to amend this Declaration. Any such Plat may make material changes to the existing or prior Plat including deleting, adding, or modifying Common Area, or other changes in the layout of the Project. If any such amendment affects any boundary of a Lot, Limited Common Area, or easement, then the Owner of the modified Lot, the Owner's using the modified Limited Common Area, or the Owners who parties to the modified easement must consent in writing. If the approval required herein is obtained, each and every Owner: (1) shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of or consented to the change in the Plat; (2) grants the Association power of attorney to sign necessary documents on each Owner's behalf as necessary for the agreement, amendment, or correction; and (3) consents that the president of the Association, on behalf of the Association and its Board, has the authority to execute any such Amended Plat, supplemental Plat, or correction to the Plat on behalf of the Association and all Lot Owners in the Project.

**ARTICLE 15:
INTERPRETATION, CONSTRUCTION, & APPLICATION OF DECLARATION**

- 15.1 **No Waiver.** Failure by the Association or by any Owner to enforce any Term and Condition in any certain instance or on any particular occasion is not a waiver of such right of enforcement as to that breach and any such future breach of the same or any other Term and Condition.
- 15.2 **Conflicting Provisions.** In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest is the Declaration, the Plat, the Articles, the Bylaws, and then the Rules.
- 15.3 **Interpretation of Declaration and Applicability of the Act.** The Act governs the Project, except where (in compliance with the Act) the Association has included specific provisions in this Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Declaration that are contrary to the Act govern the Project to the extent allowed by the Act. In the case of any conflict between this Declaration and the Act, to the extent the Act does not legally allow this Declaration to contain provisions contrary to the Act, the Act controls and this Declaration is deemed modified accordingly, but only to the extent necessary to come into compliance with the Act.
- 15.4 **Cumulative Remedies.** All rights, options, and remedies of the Association and the Owners in the Governing Documents are cumulative, and none are exclusive of any other, and the Association and the Owners have the right to pursue any one or all of such rights, options, and remedies or any other remedy or relief that may be provided by law simultaneously, consecutively, or alternatively.
- 15.5 **Severability.** Invalidation of any one or a portion of the Terms and Conditions by

judgment or court order in no way affects any other Terms and Conditions, all of which remain in full force and effect.

- 15.6 **Construction.** The provisions of this Declaration must be liberally construed to effectuate its purpose of creating a plan for the development of a residential community and for the maintenance of the Project. The article and section headings have been inserted for convenience only and are not considered or referred to in resolving questions of interpretation or construction. References in this Declaration to article and section numbers, unless otherwise expressly provided, are to the article and section in this Declaration. To the extent permitted by law, the provisions of the Governing Documents must not be interpreted for or against the Association, any Owner, or any other Person subject to their terms.
- 15.7 **Applicable Law.** This Association is specifically made subject to the Act and the law as it is constituted and exists at the time this Declaration is recorded. Amendments to the Act after the date of recording of this Declaration are not applicable to the Association or the Project unless they are applicable as a matter of law or unless the Association makes those amendments applicable by amendment to the Declaration.
- 15.8 **Gender and Number.** Whenever the context of the Governing Documents requires, the singular includes the plural, and vice versa, and the masculine includes the feminine and the neuter, and vice versa.
- 15.9 **Effect of Declaration.** This Declaration is made for the purposes set forth in the recitals in this Declaration, and the Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations, and the like applicable thereto. The Association has no liability whatsoever if any Term and Condition is determined to be unenforceable in whole or in part for any reason.

ARTICLE 16: NOTICE

- 16.1 **Notices.** Any notice to be given to an Owner, a Lender, or the Association under the provisions of the Governing Documents must be in writing and must be delivered as follows:
- (a) Notice to an Owner from the Association.
 - (1) Notice to an Owner will be effective upon the satisfaction of any of the following delivery methods:
 - (i) By a written notice delivered personally to the Owner or the Lot, which will be effective upon delivery.
 - (ii) By a written notice placed in the first-class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address has been furnished, then to the street address of such Owner's Lot. Unless otherwise provided by law, such as provided in Utah Code § 16-6a-103(4), any notice so

deposited in the mail will be deemed effective five days after such deposit.

- (iii) By Electronic Transmission to an Owner which includes:
 - (A) By email that is sent to an email address provided by the Owner for the purpose of Association communications; or an email sent to an email address from which the Owner has communicated related to Association matters, and so long as no indication is received that the email may not have been delivered. Unless otherwise provided by law, any notice sent by email will be deemed effective when received or five days after it is sent, whichever occurs first.
 - (B) By facsimile (whether to a machine or to an electronic receiving unit) to an Owner that is sent to a facsimile number provided by the Owner for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered. Unless otherwise provided by law, any notice sent by facsimile will be deemed effective when received or five days after it is sent, whichever occurs first.
 - (C) By text message to a phone number provided by the Owner for the purpose of Association communications; or a phone number from which the Owner has communicated related to Association matters, and so long as no indication is received that the text message may not have been delivered. Unless otherwise provided by law, any notice sent by text message will be deemed effective when received or five days after it is sent, whichever occurs first.
 - (iv) By any other method that is fair and reasonable as provided for in the Act or otherwise provided for by law.
- (2) Notwithstanding Subsection (1) of this Section, the Association shall send all notices by U.S. Mail if an Owner, by written demand, demands that the Association send all notices by mail.
 - (3) In the case of co-Owners, notice to one of the co-Owners is effective as notice to all such co-Owners. The Association is not required to give more than one notice per Lot, whether electronic or not. In case any two (2) co-Owners receive conflicting notice demands, notice is proper if mailed by first-class mail to the Lot address.
 - (4) In case posting of a notice on the Lot is permitted, such posting is effective when posted on the front or primary access door to the primary Dwelling and the Association may remove any such posting the sooner of either: (a) two days after the event or action for which notice was given; or (b) 10 days after the posting.
- (b) Special Notice Prior to Association Entry.

- (1) Emergency. In case of an emergency or condition requiring immediate entry onto the area of a Lot that is not part of the interior of a Dwelling, as determined by the sole discretion of the Board or its authorized agent, before entry the Association shall: (i) knock on the door of the Dwelling and attempt to obtain permission to enter the Lot from an Occupant or Owner; (ii) if no one answers the knocking, loudly identify who is knocking and state that the Person identified is going to enter the Lot on behalf of the Association, then wait one (1) minute; and (iii) where practicable under the circumstances, attempt to call the Owner or any Occupant prior to entering the Lot to inform them of the entry.
- (2) Non-Emergency. The Association may only enter a Lot or Dwelling for the purposes permitted in this Declaration. If the Association determines that it needs to enter a Lot or Dwelling in a non-emergency situation, then before entering, the Association shall:
 - (i) Give notice to the Owner that an entry is required at least two weeks in advance with such notice stating: (A) that the Association or its authorized Persons will enter, (B) the date and time of the entry, (C) the purpose of entering, (D) a statement that the Owner or Occupant can be present during the time the Association is on the Lot or inside the Dwelling, (E) the full names of any Person who will be entering, and the phone numbers and addresses of the Persons entering or of the company by whom the Persons entering are employed for the purpose of entering, and (F) any other information the Association deems appropriate to include; and
 - (ii) Post the written notice described above on the front door of the Dwelling on the Lot at least seven days prior to entry.
- (c) Notice to a Lender. Notice to a Lender must be delivered by first-class U.S. Mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Association for the purpose of notice or, if no such address has been furnished, to any office of the Lender. Any address for a Lender that is found on a document recorded on the title of a Lot will be deemed an office of the Lender. Any notice so deposited in the mail will be deemed effective when received, or five days after such deposit, whichever occurs first.
- (d) Notice to Association from an Owner. An Owner's notice to the Association will be effective upon the satisfaction of any of the following delivery methods:
 - (1) By a written notice delivered personally to a Board Member, which will be effective upon delivery.
 - (2) By a written notice placed in the first-class U.S. Mail, postage prepaid, to the current registered business address of the Association. Any notice so deposited in the mail will be deemed effective when received, or five days after such deposit, whichever occurs first.
 - (3) By written email correspondence to the Association: (1) that is sent to an email address provided by the Association in the prior 12 months for the purpose of Association communications, or (2) that is emailed to an email

address from which the President of the Association has communicated related to Association matters, and so long as no indication is received that the email may not have been delivered or received. Any notice sent by email will be deemed effective when received, or five days after it is sent, whichever occurs first.

- (4) By facsimile (whether to a machine or by other means) to the Association that is sent to a facsimile number provided by the Association for the purpose of Association communications and so long as no indication is received that the facsimile may not have been delivered or received. Any notice sent by facsimile will be deemed effective when received, or five days after it is sent, whichever occurs first.
- (5) By text message to a phone number provided by the Association for the purpose of Association communications, and so long as no indication is received that the text message may not have been delivered. Unless otherwise provided by law, any notice sent by text message will be deemed effective when received or five days after it is sent, whichever occurs first.

ARTICLE 17: ATTORNEY FEES AND COSTS

17.1 Legal Costs Associated with Disputes with Owners.

- (a) Owner Liable for Fees Incurred in Dispute. If the Association utilizes legal counsel to enforce any Term and Condition after notice to the Owner that the Association intends to enforce the Term and Condition or after the Owner communicates or demonstrates an intent not to comply with the Term and Condition, the Association may assess all reasonable attorney fees and costs associated with such enforcement to the Owner. If a lawsuit is filed, then the prevailing party in the lawsuit may be awarded its attorney's fees and costs incurred in pursuing or defending the action.
- (b) Costs. The term "costs" as used in this Section includes, but is not limited to, copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Declaration to be broader and to include costs that are not included in costs as the term is used in the Utah Rules of Civil Procedure.
- (c) Exception to Owner's Liability for Fees and Costs. If, related to (1) any dispute with an Owner; (2) any challenge by an Owner to a position of the Association on a Term and Condition; or (3) a request of an Owner for direction on the application of a Term and Condition, the Association incurs legal fees or costs related to the interpretation and application of a Term and Condition that: (i) the Association could not establish an initial position on without having incurred the fees and costs, or (ii) results in a substantial modification to a prior position taken by the Association, then the Association shall pay those fees or costs and shall not assess those fees or costs to any Owner. This exception does not apply if a lawsuit is currently pending with regard to the Owner and the issues arise as part of the lawsuit.

**ARTICLE 18:
RESERVES**

- 18.1 **Requirement for Reserves.** The Association shall obtain a reserve analysis and shall maintain a reserve fund for the maintenance, repair, and replacement of the Common Area, pursuant to the following provisions:
- (a) **Collection.** Reserve funds may be collected as part of regular or special Assessments, as determined by the Board.
 - (b) **Amount.** In formulating the Association's yearly budget, the Association shall include a reserve fund line item in an amount the Board of Directors determines, based on the reserve analysis, to be prudent. A reserve fund line item means the line item in the Association's annual budget that identifies the amount to be placed into the reserve fund.
 - (c) **Owner Veto.** Within 45 days after the day on which the Association adopts the annual budget, the Owners may veto the reserve fund line item by a fifty-one percent (51%) vote of the allocated voting interests in the Association at a special meeting called by the Owners for the purpose of voting whether to veto a reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved annual budget of the Association that was not vetoed, the Association shall fund the reserve account in accordance with that prior reserve fund line item.
 - (d) **Segregation of Reserves.** In accordance with Utah Code § 57-8a-211, the Association shall segregate money held for reserves from regular operating and other accounts.
 - (e) **Reserve Analysis.** In accordance with Utah Code § 57-8a-211, the Board shall cause a reserve analysis with an onsite evaluation to be conducted no less frequently than every six years. The Board shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. The Reserve analysis must include, at a minimum: (1) a list of the components identified in the reserve analysis that will reasonably require reserve funds; (2) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis; (3) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis; (4) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and (5) a reserve funding plan that recommends how the association may fund the annual contribution set forth in the reserve analysis. The reserve analysis and updates must project a minimum of thirty (30) years into the future.
 - (f) **Qualifications for Person Preparing Reserve Analysis.** 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. The Person preparing the reserve study must have: (1) experience in current building technologies, (2) a solid working knowledge of building-cost estimating and life-cycle costing for

facilities, and (3) the tools and knowledge to prepare a report. Preferable qualifications include the RS (Reserve Specialist) designation available through the Community Association Institute (CAI), the PRA (Professional Reserve Analyst) designation offered through the Association of Professional Reserve Analysts (APRA), or other designations by similar associations establishing that the Person has some formal training related to preparing a reserve analysis.

- (g) Summary and Copies of Reserve Analysis. In accordance with Utah Code § 57-8a-211, the Association shall annually provide Owners a summary of the most recent reserve analysis or update. The Association shall provide a copy of the complete reserve analysis or update to any Owner requesting a copy.

**ARTICLE 19:
LEASING AND NON-OWNER OCCUPANCY**

19.1 **Leasing and Non-Owner Occupancy.** Subject to the provisions in this Article, any Dwelling in the Project may be leased for residential housing purposes only. Owners shall not rent Lots or Dwellings in whole or in part as a Short-Term Rental or for any other commercial purpose.

19.2 **Definitions.** For the purpose of this Article 19:

- (a) “Non-Owner Occupied” means:
 - (1) For a Dwelling located on a Lot owned in whole or in part by a natural individual or individuals, the Dwelling is occupied by someone when no individual Owner occupies the Dwelling as the individual Owner’s primary residence, or
 - (2) For a Dwelling located on a Lot owned entirely by one or more entities or trusts, the Dwelling is occupied by anyone other than the person(s) for whom the entity or trust was created or anyone other than the owners of the entity.
- (b) “Non-Owner Occupant” means the Person(s) occupying the Non-Owner Occupied Dwelling.
- (c) “Short-Term Rental” means a Dwelling or any portion of a Dwelling that the Owner or the Non-Owner Occupant lessee of the Dwelling offers for occupancy for fewer than thirty (30) consecutive days or a Dwelling or any portion of a Dwelling that is actually used for accommodations or lodging of guests for payment or other compensation for a period of less than thirty (30) consecutive days.
- (d) “Single Housekeeping Unit” means any household whose members are a non-transient and interactive group of Persons, have established ties and familiarity with each other, jointly occupy a Dwelling through a shared lease or ownership of the Lot, share joint access to and use of all communal areas in the Dwelling such as the living, kitchen, and eating areas within the Dwelling, and share household activities and responsibilities such as maintenance of the Dwelling and expenses associated with the Dwelling.

- 19.3 **Permitted Rules.** The Board of Directors may adopt Rules related to:
- (a) Reporting and procedural requirements related to Non-Owner Occupied Dwellings and the Occupants of those Units including requiring informational forms to be filled out by Owners and/or residents identifying Non-Owner Occupants, the age of Non-Owner Occupants, vehicles, phone numbers, etc.;
 - (b) Reasonable fees related to the administration of leased and Non-Owner Occupied Dwellings, to the extent otherwise allowed by law, but at no time will such fees be more than the actual costs incurred by the Association for such administration;
 - (c) Limitations on notices and advertisements identifying the Lot or Dwelling as available to be leased; and
 - (d) Other reasonable administrative provisions consistent with and as it deems appropriate to enforce the requirements of this Declaration
- 19.4 **Requirements for Leasing and Non-Owner Occupancy.** The Owners of all Non-Owner Occupied Dwellings must comply with the following provisions:
- (a) Owners must comply with all ordinances and requirements imposed by the city of Millcreek for Non-Owner Occupied Dwellings.
 - (b) If required in the Rules or if requested by the Board, the Owners shall deliver a copy of any lease or other agreement between the Owner and the Non-Owner Occupant(s) to the Association within the time period provided for in the Rules or regulations or in the Board's request.
 - (c) Any lease or agreement must be between the Owner and the Non-Owner Occupants consisting of a Single Housekeeping Unit.
 - (d) Any lease or agreement between the Owner and the Non-Owner Occupant must be in writing, must be for an initial term of at least thirty (30) days, and must provide as a term of the agreement that the Non-Owner Occupant(s) of the Dwelling shall comply with the Declaration, the Bylaws, and the Rules, and that any failure to comply will be a default under the lease or agreement. If a lease or agreement between the Owner and the Non-Owner Occupant (whether in writing or not) does not include these provisions, they are nonetheless deemed to be part of the lease or agreement and binding on the Owner and the Non-Owner Occupant of the Dwelling.
 - (e) Short-Term Rentals are prohibited. A Non-Owner Occupant may not occupy any Dwelling or part of any Dwelling, for transient, short-term, hotel, resort, vacation, or seasonal use (whether for pay or not). This prohibition includes Short-Term Rentals through Airbnb, VRBO, and in similar websites and services.
 - (f) Except as a non-paying guest of an Owner, daily and weekly occupancy by a Non-Owner Occupant is prohibited.
 - (g) No Owner may lease separate rooms of a Dwelling or less than the entire Dwelling unless the Owner resides in the Dwelling, the other Occupants and the Owner constitute a Single Housekeeping Unit, and the lease complies with the other Terms and Conditions of the Governing Documents.

(h) Within ten (10) days after the Board delivers to the Lot Owner a written notice of the creation of a nuisance or violation of the Governing Documents by the Occupants of the Lot or Dwelling, the Lot Owner shall proceed promptly to either abate or terminate the nuisance, cure the default, and notify the Board in writing of the Owner's intentions.

19.5 **Joint and Several Liability of Owner and Non-Owner Occupants.** The Owner of a Dwelling is responsible for the Occupant's or any guest's compliance with the Declaration, Bylaws, and Rules. In addition to any other remedy for non-compliance with this Declaration, after reasonable notice, the Association has the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending Non-Owner Occupant. The Association, the Board, and any Manager are not liable for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and any Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph.

19.6 **Demanding Rental Payments from Tenant.** Pursuant to Utah Code § 57-8a-310, the Association has the right to demand and collect rent from any tenant in any dwelling for which an assessment and/or other charges owed to the association is more than sixty (60) days late.

ARTICLE 20: GENERAL PROVISIONS

20.1 **Compliance with Governing Documents.** In accordance with Utah Code Ann. § 57-8a-212.5, subject to reasonable compliance therewith by the Board, each Lot Owner shall reasonably comply with the Governing Documents, as they may be lawfully amended from time to time, and failure to comply shall be grounds for an action to recover the sums due for damages or injunctive relief, or both, maintainable by the Board on behalf of the Lot Owners, or in a proper case, by an aggrieved Lot Owner.

20.2 **Enforcement of Governing Documents.** The Association or any Owner has the right to enforce, by proceedings at law or in equity, all Terms and Conditions including the right to prevent the violation of any such Terms and Conditions and the right to recover damages and other sums for such violation. The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees.

20.3 **No Liability of Officials.** To the fullest extent permitted by applicable law, neither the Board of Directors nor any officer of the Association is liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence.

20.4 **Use of Funds Collected by the Association.** The Association shall hold all funds it collects, including Assessments and contributions to the Association paid by the Owners, if any, in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Association in managing, maintaining, caring for, and preserving the Common Area and for other permitted purposes as set forth in this Declaration. No part of said funds will inure to the benefit of any Owner (other than as a result of the Association managing,

maintaining, caring for, and preserving the Common Area and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

- 20.5 **No Priority Over Lender's Rights.** No provision herein is intended, nor shall it be construed to give any Lot Owner, or any other party, priority over any rights of the first position Lender of a Lot pursuant to its Lender's mortgage or deed of trust in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Areas in relation to a Lot secured by the Lender's mortgage or deed of trust.
- 20.6 **Owner Liability and Indemnification.** Each Owner is liable to the remaining Owners and to the Association for any damage to the Common Area and Facilities that may be sustained by reason of the negligent or intentional act that Owner or any intentional or negligent act of any Occupant of that Owner's Dwelling, to the extent such losses and damages are either under the Deductible of the Association or not covered by the Association's insurance. Each Owner, by acceptance of a deed to a Lot, agrees personally to indemnify each and every other Owner and Occupant in such other Owner's Lot and to hold such other Persons harmless from, and to defend such Persons against, any claim of any Person for personal injury or property damage occurring within the Lot of that particular Owner, except to the extent that: (a) such injury, damage, or claim is covered and defended by the Association's or such other Owner's liability insurance carrier; or (b) the injury or damage occurred by reason of the intentional act of the Association.
- 20.7 **Security.** The Association must in no way be considered an insurer, guarantor, or provider of security from criminal conduct within or relating to the Project, including any Common Area and Facilities that the Association may have an obligation to maintain. The Association shall not be held liable for any loss or damage by reason of criminal conduct arising for any reason including any failure to provide security or any ineffectiveness of security measures undertaken. Each and every Owner or Person entering the Project acknowledges that the Association has no duty to any Owner or Occupant related to security or criminal conduct and expressly acknowledges that no duty is owed to anyone such as that of a landlord or retail business. By purchasing a Lot in this Association and/or residing in this Association, Owners and Occupants agree that the Association and the Board of Directors are not insurers of the safety or well-being of Owners or Occupants or of their personal property as it relates to criminal conduct, and that each Owner or Occupant specifically waives any such claim and assumes all risks for loss or damage to Persons or property resulting from criminal conduct, to the extent any such damages are not covered by insurance.
- 20.8 **Reasonable Accommodations.** Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate a Person with a disability (as defined by Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, the Common Area and Facilities, or the buildings, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this Section is not a waiver of the provisions of the Governing Documents with regard to anyone else.

20.9 **No Representations and Warranties.** Each Owner understands, agrees, and acknowledges through taking title or residing in the project that the association and the board of directors have not made any representations or warranties of any kind related to the project and that each owner 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 project.

IN WITNESS THEREOF, the undersigned officer of the Association hereby certifies that the Board of Directors has obtained the written consent and/or the requisite number of votes of the Owners to satisfy the requirements of the Association's Governing Documents and the Act to approve and adopt this amended Declaration. Owners' written consents are set forth on Exhibit E. A vote of the Owners at a meeting also approved the amended Declaration. The Association further obtained the requisite consents of first mortgagees to approve this Declaration in accordance with Utah Code § 57-8a-210. This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR COVE POINT HOMES ASSOCIATION is executed as of the day and year written below.

DATED as of the 2 day of February, 2021.

**COVE POINT
HOMES ASSOCIATION**

By: Elaine Harris

Name: Elaine Harris

Its: President

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

On this 2, day of February, 2021, personally appeared before me Elaine Harris, whose identity is personally known to me, (proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that Elaine Harris is the President, of Cove Point Homes Association (the "Association"), and that said document was signed by him/her on behalf of the Association with all necessary authority, and acknowledged to me that said Association executed the same.

Margarita V Giraldo
Notary Public

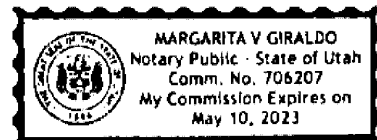


EXHIBIT A
Legal Description

The real property located in Cove Point Homes Association recorded in the Salt Lake County Recorder's office, more particularly described as follows:

Overall Boundary Description

A description on the combined Cove Point Subdivision 1, 2 and 3 located in the Southwest quarter of Section 36, Township 1 South, Range 1 East, Salt Lake Base and Meridian more particularly described as follows:

Beginning at a point North $0^{\circ}13'44''$ East 33.28 feet and South $89^{\circ}46'16''$ East 70.02 feet from a brass cap monument located at the intersection of Wasatch Blvd and 3900 South Street and running;

Thence North $04^{\circ}14'42''$ East 25.07 feet;

Thence East 236.50 feet;

Thence North 140.00 feet to a point of curvature;

Thence 54.38 feet along the arc of a 53.71 foot radius curve to the left through a central angle of $58^{\circ}00'00''$ (Long Chord Bears North $29^{\circ}00'00''$ West 52.08 feet);

Thence North $58^{\circ}00'00''$ West 43.88 feet to a point of curvature;

Thence 95.48 feet along the arc of a 94.32 foot radius curve to the right through a central angle of $58^{\circ}00'10''$ (Long Chord Bears North $28^{\circ}59'55''$ West 91.46 feet);

Thence North 77.00 foot to a point of curvature;

Thence 21.19 feet long the arc of a 57.83 foot radius curve to the right through a central angle of $20^{\circ}59'40''$ (Long Chord Bears North $10^{\circ}29'50''$ East 21.07 feet);

Thence North $69^{\circ}00'00''$ West 114.14 feet;

Thence North $06^{\circ}30'11''$ West 137.90 feet;

Thence East 171.51 feet;

Thence North 6.00 feet;

Thence South $89^{\circ}59'59''$ East 65.00 feet;

Thence South 6.00 feet;

Thence South $89^{\circ}59'59''$ East 77.91 feet;

Thence North $05^{\circ}09'54''$ West 5.03 feet;

Thence South $84^{\circ}15'25''$ East 29.06 feet;

Thence South $82^{\circ}19'27''$ East 36.07 feet;

Thence South $84^{\circ}09'04''$ East 48.78 feet;

Thence South $03^{\circ}05'06''$ East 6.52 feet;

Thence South $80^{\circ}00'00''$ East 261.26 feet;
Thence East 455.00 feet;
Thence South $01^{\circ}48'00''$ East 35.00 feet;
Thence North $87^{\circ}56'10''$ East 139.40 feet;
Thence North $27^{\circ}22'30''$ East 6.77 feet;
Thence East 48.00 feet;
Thence South $23^{\circ}13'00''$ East 264.65 feet;
Thence South $07^{\circ}49'00''$ West 21.83 feet to a point of curvature;
Thence 21.52 feet along the arc of a 15.00 foot radius curve to the right through a central angle of $82^{\circ}11'00''$ (Long Chord Bears South $48^{\circ}54'30''$ West 19.72 feet);
Thence South 32.20 feet to a point of curvature;
Thence 21.41 feet along the arc of a 17.21 foot radius curve to the right through a central angle of $71^{\circ}15'40''$ (Long Chord Bears South $73^{\circ}56'50''$ East 20.05 feet);
Thence South $38^{\circ}19'00''$ East 43.84 feet;
Thence West 201.82 feet;
Thence South $01^{\circ}39'00''$ East 156.04 feet;
Thence West 3.53 feet;
Thence South $01^{\circ}39'00''$ East 144.61 feet;
Thence West 149.49 feet;
Thence North 144.55 feet;
Thence West 1131.30 feet to the point of beginning.

Phase 1

| <u>Parcel Number</u> | <u>Lot</u> |
|-----------------------------|-------------------|
| 16363060010000 | Common |
| 16363060020000 | A18 |
| 16363060030000 | A17 |
| 16363060040000 | A16 |
| 16363060050000 | A15 |
| 16363060060000 | B24 |
| 16363060070000 | B23 |
| 16363060080000 | B22 |
| 16363060090000 | B21 |
| 16363060100000 | B20 |
| 16363060110000 | B19 |
| 16363060120000 | A28 |
| 16363060130000 | A27 |
| 16363060140000 | A26 |
| 16363060150000 | A25 |
| 16363060160000 | B32 |
| 16363060170000 | B31 |
| 16363060180000 | B30 |
| 16363060190000 | B29 |
| 16363060200000 | B1 |
| 16363060210000 | A2 |
| 16363060220000 | B3 |
| 16363060230000 | B4 |
| 16363060240000 | A5 |
| 16363060250000 | B6 |
| 16363060260000 | B7 |
| 16363060270000 | B8 |
| 16363060280000 | B9 |
| 16363060290000 | A10 |
| 16363060300000 | A11 |
| 16363060310000 | B12 |
| 16363060320000 | B13 |
| 16363060330000 | B14 |
| 16363060340000 | A33 |

Phase 2

| <u>Parcel Number</u> | <u>Lot</u> |
|-----------------------------|-------------------|
| 16363070010000 | Common |
| 16363070020000 | C53 |
| 16363070030000 | C52 |
| 16363070040000 | C51 |
| 16363070050000 | C50 |
| 16363070060000 | C49 |
| 16363070070000 | C48 |
| 16363070080000 | C41 |
| 16363070090000 | C42 |
| 16363070100000 | C43 |
| 16363070110000 | C44 |
| 16363070120000 | C45 |
| 16363070130000 | C46 |
| 16363070140000 | C47 |
| 16363070150000 | C78 |
| 16363070160000 | C79 |

Other Common Area Parcels

| | |
|------------|--------|
| 1636304039 | Common |
| 1636303027 | Common |

Phase 3

| <u>Parcel Number</u> | <u>Lot</u> |
|-----------------------------|-------------------|
| 16363040020000 | B54 |
| 16363040030000 | D55 |
| 16363040040000 | D56 |
| 16363040050000 | D57 |
| 16363040060000 | D58 |
| 16363040070000 | D59 |
| 16363040080000 | D60 |
| 16363040090000 | D61 |
| 16363040100000 | D62 |
| 16363040110000 | C63 |
| 16363040120000 | B64 |
| 16363040130000 | B65 |
| 16363040140000 | A66 |
| 16363040150000 | D67 |
| 16363040160000 | D68 |
| 16363040170000 | D69 |
| 16363040180000 | B70 |
| 16363040190000 | C71 |
| 16363040200000 | C72 |
| 16363040210000 | C73 |
| 16363040220000 | C74 |
| 16363040230000 | C75 |
| 16363040240000 | A76 |
| 16363040250000 | A77 |
| 16363040260000 | A34 |
| 16363040270000 | B35 |
| 16363040280000 | B40 |
| 16363040290000 | B39 |
| 16363040300000 | A38 |
| 16363040310000 | A37 |
| 16363040320000 | A36 |
| 16363040360000 | Common |
| 16363040370000 | 3549 E. |
| 16363040380000 | 3553 E. |

EXHIBIT B

BYLAWS
OF
COVE POINT HOMES ASSOCIATION

**BYLAWS
OF
COVE POINT HOMES ASSOCIATION**

These bylaws are hereby adopted and established as the Bylaws of Cove Point Homes Association (“the Association”). These Bylaws and any amendments thereto apply to the Association upon their recording and bind all present and future Owners and Occupants.

**ARTICLE 1:
DEFINITIONS**

- 1.1 **Definitions.** Except as otherwise provided herein or as may be required by the context, all terms defined in the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR COVE POINT HOMES ASSOCIATION (the “Declaration”), as amended, have the same defined meanings when used in these Bylaws.
- 1.2 **Notice.** Notice as required in these Bylaws will be accomplished as provided for in the Declaration.
- 1.3 **Limitation of Board Authority.** Any limitations of the Board’s authority set forth in the Declaration shall apply to the scope of the Board’s authority set forth these Bylaws.

**ARTICLE 2:
OWNERS**

- 2.1 **Annual Meetings.**
- (a) Requirement. The Association shall hold an annual meeting of the Owners no less than once each calendar year.
- (b) Date and Time. Unless changed by the Board of Directors, the annual meeting of Owners will be held prior to March 1st of each year, the specific date and time of which will be set by the Board of Directors. The Board of Directors may from time to time change the date and time for the annual meeting of the Owners.
- (c) Purpose. The Annual Meeting will be held for any, or all of the following purposes:
- (1) Electing Board Members;
 - (2) Voting on the budget for the fiscal year.
 - (3) Discussing the most recent financial report(s) and reserve study; so long as required by law, distributing the most recent reserve study; permitting discussion on reserve funding options; and voting on whether and how to fund the reserve account;
 - (4) Review and discussion of the Rules;
 - (5) Discussing insurance issues and coverage; and

- (6) Transacting such other business as may properly come before the meeting.
- (d) Election of Board Members. If Board Member elections cannot be held on the day designated for the Owners' Annual Meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Owners, to be convened as soon thereafter as may be convenient.
- (e) Minutes of Meetings. The minutes of each Annual Meeting, not previously approved, must be approved by a majority of the Board Members in attendance at the following Annual Meeting.

2.2 Special Meetings.

- (a) Who May Call. Special meetings of the Owners may be called by the Board of Directors, the President, or upon the written request of Owners holding not less than twenty-five percent (25%) of the Allocated Interest of the Association.
- (b) Requirements for Request of Owners. Any written request for a special meeting by the Owners must include the signature of each Owner affirmatively supporting such request along with a statement of the purpose of the meeting. The statement of affirmation and purpose must be on every document containing signatures. Such written request is to state the purpose or purposes of the meeting and must be delivered to the Manager, or the President, who shall then call a special meeting, provide notice of the special meeting, and conduct a special meeting within sixty (60) days of receipt of the request that must address the purpose identified on the request, but no other issues.

2.3 **Place of Meetings.** The Board may designate any place in Salt Lake County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. If no designation is made, the place of the meeting shall be held at the Association's clubhouse located at 3552 Cove Point Dr., Millcreek, UT 84109.

2.4 **Notice of Meetings.** The Board of Directors shall cause written notice of the time and place, and in the case of a special meeting, the purpose, for all meetings of the Owners (whether annual or special) to be delivered, not more than 30 nor less than 10 days prior to the meeting.

2.5 **Owners of Record.** For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, or any adjournment thereof, the Board of Directors may designate a record date, which must not be more than 30 days nor less than 10 days, prior to the meeting. If no record date is designated prior to sending notice of the meeting, the first date on which a notice of the meeting is sent will be deemed to be the record date for determining Owners entitled to notice of or to vote at the meeting. The Persons or entities appearing in the Association's records on such record date as the Owners of record of Lots on the Property will be deemed to be the Owners of record entitled to notice of and to vote at the Owners' meeting.

2.6 **Qualified Voters.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if the Owner has fully paid the Assessments owed to the Association (together with interest or other fees) such that the Association receives the payment on any outstanding Assessments prior to the commencement of the meeting. Notwithstanding the foregoing, the Association must give any delinquent Owner

notice of the delinquency and that the Owner's voting rights will be suspended for any meeting prior to the Association determining that an Owner is not a qualified voter, meaning that the Owner is not in good standing and not entitled to vote. The notice to the Owner must be sent at least 10 days prior to the meeting at which a vote will take place and must inform the Owner that the Owner's voting rights will be suspended and the Owner will be unable to vote at the meeting unless the Association receives payment of the delinquency prior to the commencement of the meeting. Such notice may be delivered to the Owner pursuant to Article 16 of the Declaration.

- 2.7 **Quorum.** At any Owners' meeting, the presence (in person or by some other means allowing for participation) of at least fifty percent (50%) of the Allocated Interest of the Owners at any duly called meeting of the Association will constitute a quorum for the adoption of decisions. If a quorum is not present, the Association may hold an informational workshop session to disseminate information to those Owners who are present but no voting may take place during the workshop session and the meeting to transact business may be postponed to a date of not more than sixty (60) days and not less than fifteen (15) days from the date of the original meeting. At any reconvened meeting, the Owners represented in person, by proxy, or by ballot shall constitute a quorum. In the case of any such postponement, notice of the meeting shall again be provided to all Owners at least ten (10) days before the postponed meeting which shall include the statement: "The meeting will occur without any requirement for a minimum number of Owners present." The vote of the Owners representing a majority of the Allocated Interest of the Owners in attendance (in person or by proxy allowing for participation), will decide any question brought before the meeting. Notwithstanding the foregoing, if the Act, the Nonprofit Act, the Articles of Incorporation, the Declaration, or these Bylaws require a fixed percentage of Owners or Allocated Interest to approve any specific action (i.e., amending Governing Documents, changing voting rights, or transferring Common Area), that percentage will be required to approve such action.
- 2.8 **Proxies.** At each Owners' meeting, each Owner entitled to vote is entitled to vote in person or by proxy (directed or undirected); provided, however, that the right to vote by proxy exists only where the instrument authorizing such proxy to act has been executed by the Owner or by the Owner's attorney when duly authorized in writing. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Lot or that Owners' attorney when duly authorized in writing. Such instrument authorizing a proxy to act must set forth the specific matters or issues upon which the proxy is authorized to act. Such instrument must be delivered either prior to or at the meeting (but no later than any point after the start of the meeting and announced as the final time to deliver proxies) to the Association's Secretary or to such other officer or person who the Association has authorized to accept proxies at the meeting.
- 2.9 **Votes.** With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting has the right to cast, in person or by proxy, the number of votes appertaining to the Lot of such Owner, as shown in the Declaration. The affirmative vote of Owners holding the majority of the Allocated Interests entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present is necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by these Bylaws, the Declaration, Articles of Incorporation,

the Act, or the Nonprofit Act. When more than one Owner holds an interest in a Lot, any Owner may exercise the vote for such Lot on behalf of all co-Owners of the Lot. In the event of two conflicting votes by co-Owners of one Lot, no vote will be counted for that Lot but it will be counted for the purposes of establishing a quorum. In no event will fractional votes be exercised in respect to any Lot.

- 2.10 **Ballots and Written Consent.** The Association may, consistent with the requirements of the Utah Revised Nonprofit Corporation Act, utilize (1) written consents to take action without a meeting; or (2) mailed ballots. Any Owner may deliver written consent by electronic transmission. A written consent delivered by electronic transmission is considered to be written, signed and dated for purposes of action without a meeting if it is delivered with information from which the Association can determine that it was sent by the Owner and the date on which it was transmitted.
- 2.11 **Action Taken Without a Meeting.** Owners have the right to take any action in the absence of a meeting which they could take at a meeting in accordance with the requirements of Utah Code Ann. §§16-6a-707 or -709 and any other applicable section of the Act.
- 2.12 **Minutes of Meetings.** The Secretary shall take minutes of all Owners' meetings. The minutes must include, at a minimum, (1) the identification of the Persons present at the meeting in person (sign-in sheet) and by proxy; (2) the date of the meeting; (3) the identification of any issue that is voted on or decided in the meeting; (4) the number of votes cast for and against any issue decided upon; and (5) the wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this Section does not invalidate any action taken at a meeting.
- 2.13 **Meetings by Telecommunication.** Owners may participate in any annual, regular, or special meeting of the Owners or the Board of Directors by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. An Owner or Board Member participating in a meeting by a means permitted under this section is considered to be present in person at the meeting. The Board may establish procedures and Rules related to this provision as it relates to proxies, verifying attendance, and other aspects of the meeting.
- 2.14 **Electronic and Other Means of Voting.** The Association may utilize online, telephonic, electronic, email, remote, and any other means of Board Member voting and meetings, including those means allowed under Utah's Uniform Electronic Transactions Act, to the extent not prohibited by the Act and the Revised Nonprofit Corporation Act.

ARTICLE 3: BOARD OF DIRECTORS

- 3.1 **Number, Tenure, Qualifications, and Election.**
- (a) Number of Members. The Board of Directors is composed of five Persons meeting the qualifications stated in the Declaration and these Bylaws.

- (b) Board Member Qualifications.
- (1) To be eligible to serve on the Board of Directors, a Person must be an Owner or an Occupant; however, the majority of the Board Members must reside in the Project. A Board Member must be over 18 years old. If an Owner is an entity or trust, an officer, partner, member, manager, trustee, or beneficiary of such Owner may be a Board Member, provided that Person resides at the Dwelling owned by the entity or trust. Any Person shall, upon a request by an Owner, produce sufficient documentation establishing that Person's right to serve on the Board.
 - (2) To be eligible to serve on the Board of Directors and prior to being included as a candidate in any election, the candidate must indicate in a writing delivered to the Secretary before the meeting in which an election is held, or orally in person at the meeting at which the election is held, that the person is willing to serve on the Board of Directors.
 - (3) Any candidate whose election or appointment would contravene the requirements in these Bylaws is ineligible for election or appointment.
- (c) Term. The term of each Board Member will be two years. The terms of the Board Members will overlap so that two Board Members will be elected for two years, three the next year, two the following, and so on. If, at any time, there is uncertainty regarding the remaining time for a Board Member's term (whether that uncertainty is due to a lack of records, prior resignations or removal of Board Members, mid-term appointments, etc.), the Board shall use the best information available to it to determine, in the Board's sole discretion, when the particular Board Member's term will end.
- (d) Election. The election of Board members shall be made by a vote of the Owners attending a meeting in person or by proxy. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The individuals receiving the largest number of votes shall be elected. Cumulative or fractional voting is not permitted. At the time these Bylaws are approved by the Owners, such approval shall further constitute a ratification of prior elections of Board Members.

3.2 **Meetings.**

- (a) Regular Meetings. The Board of Directors shall hold regular meetings at least quarterly, and more often at the discretion of the Board.
- (b) Who is Entitled to Attend. All regular meetings must be open to all Owners. Owners may attend meetings and may be present for all discussion, deliberation, and decisions except when the Board is in executive session.
- (c) Notice to Owners. Any Owner may request notice of Board meetings by requesting such notice from either a Board Member or the Manager and providing a valid email address at which the Board Member will receive notice. Any Owner who has requested notice of Board meetings must be given notice along with the Board Members.

- (d) Owner Comments at Board Meetings. At each special or regular meeting of the Board, the Board shall provide each Owner who wishes to speak a reasonable opportunity to offer comments. The Board may select a specific time period during the meeting and limit Owner comments to such a time period. The Board may set a reasonable length of time that each Owner may speak.
- (e) Attendance by Telephone or Other Electronic Means. The Board may allow attendance and participation at any meeting of the Board by telephone or any other electronic means that allows for the Board Members to communicate orally in real time, including, but not limited to, means such as web conferencing, video conferencing, or telephone conferencing. If the Board meets by electronic communication, the Board must provide information necessary to allow any Owner who has requested notice of Board meetings the ability to participate by the available means of electronic communication. A Person participating by these means is considered to be present in person at the meeting.
- (f) Special Meetings. Special meetings of the Board may be called by or at the request of any three (3) Board Members or the Association President. Notice of any special meeting must be given at least forty-eight (48) hours prior thereto to each Board Member. No notice of special meetings is required to be provided to Owners, although any Owner may attend any special meeting if the Owner appears at the physical location of the meeting in person.
- (g) Quorum and Manner of Acting. Three (3) Board Members constitute a quorum for the transaction of business at any meeting of the Board. The affirmative vote of three or more Board Members present at any meeting at which a quorum is present and for which proper notice was provided to the Board, will be the act of the Board. The Board Members shall act only as a Board, and individual members have no powers as such. If, at any time, there are less than three (3) Board Members serving on the Board, then all Board Members must be present at a meeting to constitute a quorum for the transaction of business, and the Board Members must vote to take any action.
- (h) Place and Notice of Meetings. The Board may designate any place in Salt Lake County as the place of meeting for any regular meeting called by the Board but shall in good faith attempt to hold meetings at the Project or in as close a proximity to the Project as reasonably possible. All Board Members and Owners must be given at least ten (10) days' notice of regular meetings.
- (i) Executive Session.
 - (1) The Board of Directors or a Committee may, by motion and a vote, continue deliberations and discussions in executive session for the reasons allowed in these Bylaws. If they enter executive session, they shall discontinue any executive session by motion and a vote.
 - (2) The discussions in executive session must be confidential and must not be disclosed to anyone outside of the meeting except as authorized by the Board of Directors or the Committee.

- (3) Documents analyzed in executive session may be confidential for other reasons provided for by law or in the Governing Documents, but they are not confidential merely as a result of having been discussed or presented in executive session.
- (4) The minutes of the meeting at which an executive session is held must include:
 - (i) The purpose(s) of the executive session in sufficient detail. For example, the following are sufficient descriptions: “To discuss the terms of a management contract with XYZ Company”; or “To discuss the pending litigation with XYZ.”
 - (ii) Any decisions made during executive session.
- (5) Care must be taken so that attorney-client privileged information is not disclosed in minutes that are made available to anyone outside of members of the Board of Directors or the Committee.
- (6) Executive sessions may be held to discuss and make decisions related to the following matters:
 - (i) Pending or prospective legal proceedings and issues related to the Association, its operations, or its governance, including, but not limited to, meetings with the Association’s counsel;
 - (ii) Contracts and purchases related to the Association, including, but not limited to, the negotiations, potential breaches, reviews of contracts, and the terms of any purchases;
 - (iii) Association employee and personnel issues, including reviews, discipline issues, termination issues, salary issues, and the terms of employment; and
 - (iv) Rule violations by owners, including, but not limited to, the discussion of complaints and whether to impose fines or utilize any particular remedy to address particular violations.

3.3 Informal Action and Action by Board Members without a Meeting.

- (a) Any action required or permitted by law or the governing documents to be taken at a Board meeting may be taken without a meeting if notice is transmitted in writing by letter or electronic transmission to each member of the Board and either:
 - (1) Each Board Member consents in writing (i.e. via letter or electronic transmission); or
 - (2) Each Board Member by the time stated in the notice takes one of the following actions:
 - (i) Signs a writing for such action; or signs a writing against such action, abstains in writing from voting, or fails to respond or vote; or

- (ii) Fails to demand in writing that action be taken at a meeting.
 - (3) The affirmative votes in writing for the action received by the Association, and not revoked, equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the Board Members were present and voted; and
 - (4) The Association has not received a written demand by a Board Member that the action be taken at a meeting.
- (b) Failure to demand that the action not be taken without a meeting by the time in the notice constitutes waiver of the right to demand a meeting.
- (c) The notice for action without a meeting must state: (1) the action to be taken; (2) the time by which a director must respond to the notice; (3) that failure to respond by the time stated in the notice will have the same effect as: (a) abstaining in writing by the time stated in the notice, and (b) failing to demand in writing by the time stated in the notice that action not be taken without a meeting; and (4) any other matters the nonprofit corporation determines to include.
- (d) Action without a meeting, without unanimous consent, will be effective at the time stated in the notice, unless the notice specifies a different time for voting and for the action to occur.
- (e) Action by unanimous consent is taken when the last Board Member to consent signs a writing describing the action taken, unless, before that time, any Board Member revokes a previously given consent by sending a writing signed by that trustee to the secretary or person the Board authorized to receive the revocation. The Board may choose a different effective date and time.
- (f) For purposes of this section:
- (1) “Signed” or “signature” is any indication on the document, whether paper or electronic, that the document is from and consented to by the person who is purported to have sent it. For example, a typed name at the bottom of an email satisfies the requirement for a signature.
 - (2) “Writing” refers to an email, letter, facsimile, or any other physical or other electronic transmission.
 - (3) Communications may be by email, facsimile, hand delivery, mail, or other electronic or physical means.
 - (4) Any response to any electronic communication must be:
 - (i) To the address of the sender using the same address and means of communication as was used to send the request for consent of an action, such as email, facsimile, or hand delivery; or
 - (ii) To any address in regular use, electronic, telephonic, or physical, by the Person sending the request.
- (g) A communication satisfies the requirement to “describe the action taken” if:

- (1) It is in the form of an email and it includes with the email the content of prior emails in the email chain that describe or include the proposed action;
- (2) It is in the form of a facsimile and it includes, either as a separate page or on the page in which a response is given, the request for action or a description of the proposed action; or
- (3) The writing from the Board Member sufficiently describes or restates the proposed action.

3.4 **Compensation.** No Board Member may receive compensation for any services that the Board Member, in the capacity of Board Member, may render to the Association, unless the Board Member also serves as the Secretary or Treasurer and may be compensated as allowed pursuant to Section 4.9. A Board Member may be reimbursed for expenses incurred in the performance of the Board Member's duties to the extent such expenses are approved by the Board of Directors.

3.5 **Resignation and Removal.** A Board Member may resign at any time by delivering a written resignation to either the President or the Board of Directors. Unless otherwise specified therein, such resignation will take effect upon delivery. An oral resignation attempt is not effective. Any Board Member may be removed and replaced at any time, with or without cause, by the affirmative vote of at least a majority of the Allocated Interest of the Association. This vote must be taken at a special meeting of the Owners called for that purpose. Any Board Member whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting and prior to the vote. If the Owners vote to remove all of the members of the Board of Directors, they shall immediately thereafter and at the same meeting elect new members of the Board of Directors using the procedures normally applicable for election of Board Members at an annual meeting. If the Owners vote to remove less than all of the Board Members of the Board of Directors, the Owners may vote to elect replacement Board Members at the special meeting. If the Owners vote to remove less than all of the Board Members and either due to inadvertence or choice do not elect replacements at the special meeting, the remaining Board Members, by majority vote, shall appoint replacement Board Members for the remainder of the term of the Board Members who were removed or until the next Annual Owners meeting, whichever comes first. The appointed Board Member may fully function as a Board Member with all rights and responsibilities.

3.6 **Vacancies Other Than by Removal by Owners.** If vacancies occur in the Board of Directors by reason of the death, resignation, or disqualification of a Board Member, the Board Members then in office shall continue to act, and such vacancies must be filled by a vote of the Board Members then in office, even though less than a quorum may remain. Any vacancy in the Board of Directors occurring by reason of removal of a Board Member by the Owners may be filled by election by the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve until the next Annual meeting.

**ARTICLE 4:
OFFICERS**

- 4.1 **Officers.** The officers of the Association include a President, Vice President, Secretary, and Treasurer. The Secretary and Treasurer need not be a Board Member.
- 4.2 **Election, Tenure and Qualifications.** The Board of Directors shall choose the Association's officers annually at the first meeting of the Board of Directors following the annual meeting and thereafter at any time by the Board of Directors. Each such officer shall hold such office for one year or until a successor has been elected or until such officer's death, resignation, disqualification, or removal, whichever first occurs. No person may hold more than one office unless, in the Board's discretion, the Board votes to have one person serve as both the Secretary and Treasurer.
- 4.3 **Resignation and Removal.** Any officer may resign any officer position at any time by delivering a written resignation to any Board Member. Unless otherwise specified therein, such resignation will take effect upon delivery. At any time, the Board of Directors may appoint new or different officers, with or without cause, upon the affirmative vote of the majority of the Board of Directors.
- 4.4 **Vacancies and Newly Created Offices.** If any vacancy occurs in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office is created, such vacancies or newly created offices may be filled by the Board of Directors at any regular or special meeting. During the time that any office is vacant and no other officer is available to perform the duties of that office as required below, the Board of Directors shall ensure that the duties and responsibilities of the office are performed.
- 4.5 **The President.** The President shall preside at meetings of the Board and at meetings of the Owners. At all meetings, the President has all authority typically granted to the person presiding over a meeting, including, but not limited to: (1) the right to control the order of the meeting; (2) the right to arrange for the removal of any disruptive persons who may include but not be limited to any Person who (a) refuses to abide by rules or requests of the presiding person related to the order of the meeting and when speaking is permitted; or (b) engages in vulgar, threatening, or otherwise inappropriate language or gestures; (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order"; and (4) the right to designate the Manager or any other Person to preside over any meeting at which the President is present. The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board. The President has the general authority to implement decisions of the Board and shall oversee the operations of the Association. The President has authority in case of emergency to take action without Board approval as is necessary and prudent to preserve and protect property. The President shall be responsible for the duties of any other office while that office is vacant.
- 4.6 **The Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's resignation, absence, inability, or refusal to act. The Vice President shall perform such other duties as required by the Board.

- 4.7 **The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, the law, or any resolution of the Board may require such person to keep. The Secretary shall also act in the place and stead of the President in the event of the President and Vice President's resignation, absence, inability, or refusal to act. The Secretary shall perform such other duties as required by the Board.
- 4.8 **The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer has the authority and obligation to generally implement the requirements of governing documents as it relates to the funds of the Association, including any requirement to obtain a review of the Association's financial records by an independent accountant and the preparation and filing of appropriate tax returns. The Treasurer shall perform such other duties as required by the Board.
- 4.9 **Compensation.** Except for the Secretary and Treasurer, no officer may receive compensation for any services rendered to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board of Directors. The Secretary or Treasurer may not be compensated if the Person serving as the officer also serves as a Board Member.

ARTICLE 5: COMMITTEES

- 5.1 **Designation of Committees.** The Board may from time to time designate such committees (each a "Committee") as it deems appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such Committee designated hereunder will include at least one Board Member. A Committee will not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in the minutes. The Board may terminate any Committee at any time.
- 5.2 **Proceedings of Committees.** Each Committee designated hereunder by the Board of Directors may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such Committee may from time to time determine. If required by the Board, each such Committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.
- 5.3 **Quorum and Manner of Acting.** The Board may establish any procedural or quorum requirements for voting by the Committee. The members of any Committee designated by the Board hereunder shall act only as a Committee, and the individual members thereof have no powers, as such. A Committee may exercise the authority granted by the Board.
- 5.4 **Resignation and Removal.** Any Committee member may resign at any time by delivering a written resignation to any member of the Board or any presiding officer of the Committee. Unless otherwise specified therein, such resignation will take effect upon delivery. The Board may at any time, with or without cause, remove any member of any Committee.

- 5.5 **Vacancies.** If any vacancy occurs in any Committee due to disqualification, death, resignation, removal, or otherwise, the remaining members, until the filling of such vacancy by the Board, constitute the then total authorized membership of the Committee and, provided that two (2) or more members are remaining, may continue to act.

**ARTICLE 6:
INDEMNIFICATION**

- 6.1 **Indemnification.** No Board Member, officer, or member of a Committee is personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Board Member, officer, or Committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who serves at any time as a Board Member, officer of the Association, or a member of a duly formed Committee, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons become subject, by reason of that person having heretofore or hereafter been a Board Member, officer of the Association, or member of a Committee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Board Member, officer, or Committee member, and shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Association has the right, in its sole discretion, to defend such person from all suits or claims; provided further, however, that no such person will be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this section do not exclude any other right to which such person may lawfully be entitled, nor does anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted.
- 6.2 **Other Indemnification.** The indemnification herein provided will not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be provided under any statute, agreement, vote of disinterested Board Members, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. The indemnification herein provided will continue as to any person who has ceased to be a Board Member, officer, Committee member, or employee, and will inure to the benefit of the heirs, executors, and administrators of any such person.
- 6.3 **Settlement by Association.** The right of any person to be indemnified will be subject always to the right of the Association by the Board of Directors, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

**ARTICLE 7:
AMENDMENTS**

- 7.1 **Amendments.** Except as otherwise provided herein or by the Act, these Bylaws may be amended by the affirmative vote, or other form of affirmative approval as allowed under the Governing Documents, of Owners holding Allocated Interests totaling not less than fifty percent (50%) of the total Allocated Interest. The approval of any one Owner of a Unit is sufficient if there are multiple Owners of the Unit.
- 7.2 **Execution of Amendments.** Upon obtaining the required vote, an amendment must be signed by the President or Secretary of the Association, who shall certify that the amendment has been properly adopted as required by these Bylaws. An amendment complying with the requirements of these Bylaws and the Declaration will be effective when the amendment has been recorded in the Salt Lake County Recorder's office.

**ARTICLE 8:
WAIVER OF IRREGULARITIES**

- 8.1 **Waiver of Procedural Irregularities.** All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of ascertaining Persons present, in the method of making decisions, or in the method of accepting or counting votes will be deemed waived under the following circumstances:
- (a) If the objecting Person was in attendance at the meeting, they are waived if no objection to the particular procedural issue is made at the meeting.
 - (b) If the objecting Person was not in attendance at the meeting but was entitled to and had proper notice of the meeting, they are waived if no objection to the particular procedural issue is made within 30 days of the date the meeting is held.
 - (c) If the objecting person was not in attendance at a meeting, was entitled to and did not have proper notice of the meeting, but had actual notice of the meeting before it occurred, they are waived if no objection to the particular procedural issue was made within 30 days of the date of the meeting.
 - (d) If the objecting person was not in attendance at the meeting and was entitled to but did not have actual and proper notice of the meeting before it occurred, they are waived if no objection to the particular procedural issue is made within 60 days of receiving actual notice of the occurrence of the meeting or of any decision that was made at the meeting.
 - (e) For any action, vote, or decision that occurred without a meeting or at a meeting to which the objecting person was not entitled to notice, they are waived if no objection to the particular procedural issue is made within 90 days of receiving actual notice of the occurrence of the action, vote, or decision.
- 8.2 **Requirements for Objections.** All objections except those made at a meeting must be in writing. Whenever made, objections must be specific and include identification of the specific provision of the Governing Document or other law that is alleged to have been violated and a brief statement of the facts supporting the claimed violation.

8.3 **Irregularities That Cannot Be Waived.** The following irregularities cannot be waived under the prior subsection:

- (a) Any failure to comply with the provisions of the Declaration;
- (b) Any failure to obtain a proper quorum; and
- (c) Any failure to obtain the proper number of votes, consents, or approvals required to take a particular action.

IN WITNESS WHEREOF, these Bylaws have been adopted and approved this ____ day of Feb 2, 2021.

By: Elaine Harris
President

ATTEST:

Valda E. Tarbet

EXHIBIT C

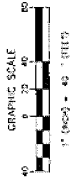
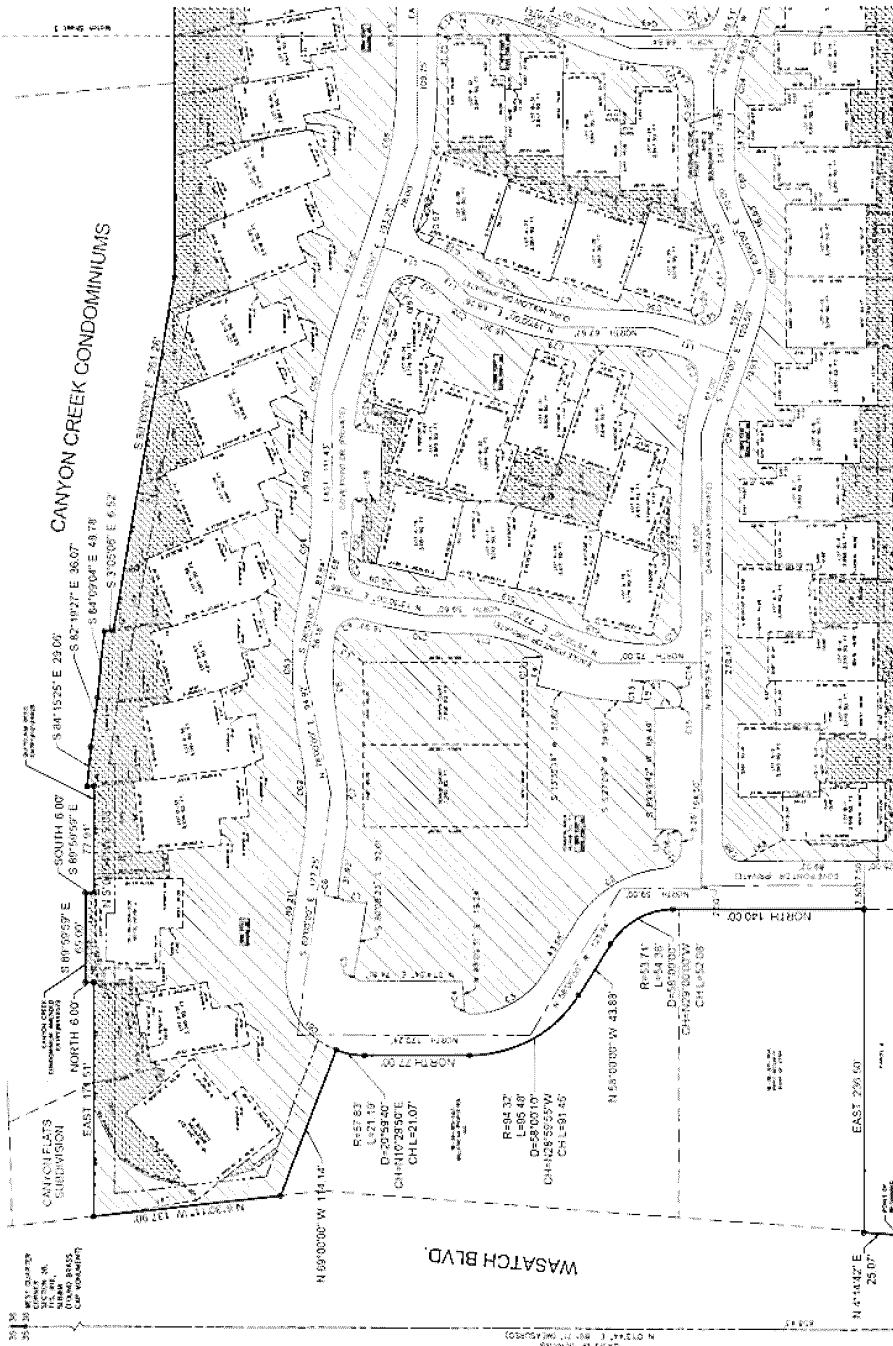
ASSIGNED LIMITED COMMON AREA

| <u>LOT#</u> | <u>LIMITED COMMON AREA</u> | <u>LOT#</u> | <u>LIMITED COMMON AREA</u> |
|-------------|----------------------------|----------------|----------------------------|
| A2 | (LC2) | C42 | (LC42) |
| A5 | (LC5) | C43 | (LC43) |
| A10 | (LC10) | C44 | (LC44) |
| A11 | (LC11) | C46 | (LC46) |
| A15 | ----- | C47 | (LC47) |
| A16 | (LC16) | C48 | (LC48) |
| A17 | (LC17) | C49 | (LC49) |
| A18 | (LC18) | C50 | (LC50) |
| A25 | (LC25) | C51 | (LC51) |
| A26 | (LC26) | C52 | (LC52) |
| A27 | (LC27) | C53 | (LC53) |
| A28 | (LC28) | C63 | (LC63) |
| A33 | (LC33) | C71 | (LC71) |
| A34 | (LC34) | C72 | (LC72) |
| A36 | (LC36) | C73 | (LC73) |
| A37 | (LC37) | C74 | (LC74) |
| A38 | (LC38) | C75 | (LC75) |
| A66 | (LC66) | C78 | (LC78) |
| A76 | (LC76) | C79 | (LC79) |
| A77 | (LC77) | D55 | (LC55) |
| B1 | (LC1) | D56 | (LC56) |
| B3 | (LC3) | D57 | (LC57) |
| B4 | (LC4) | D58 | (LC58) |
| B6 | (LC6) | D59 | (LC59) |
| B7 | (LC7) | D60 | (LC60) |
| B8 | (LC8) | D61 | (LC61) |
| B9 | (LC9) | D62 | (LC62) |
| B12 | (LC12) | D67 | (LC67) |
| B13 | (LC13) | D68 | (LC68) |
| B14 | (LC14) | D69 | (LC69) |
| B19 | ----- | | |
| B20 | (LC20) | <u>PARCEL#</u> | <u>LIMITED COMMON AREA</u> |
| B21 | (LC21) | 16-36-304-037 | (LC80) |
| B22 | ----- | 16-36-304-038 | (LC81) |
| B23 | (LC23) | | |
| B24 | (LC24) | | |
| B29 | (LC29) | | |
| B30 | (LC30) | | |
| B31 | (LC31) | | |
| B32 | (LC32) | | |
| B35 | (LC35) | | |
| B39 | (LC39) | | |
| B40 | (LC40) | | |
| B54 | (LC54) | | |
| B64 | (LC64) | | |
| B65 | (LC65) | | |
| B70 | (LC70) | | |

EXHIBIT D
Amended Plat

D

**COVE POINT, A PLANNED UNIT
DEVELOPMENTS PROJECTS, PHASES 1, 2 AND
3 COMMON AREA AMENDED AND EXTENDED**



LEGEND

- Boundary Line
- Lot Line
- Right-of-Way Line
- Appurtenant Easement
- Street Centerline
- Utility Easement Area
- Right-of-Way Area
- Access Easement Area
- Front Setback Boundary
- Quarter Section Corner



Notwithstanding to whom title for the above described property may be conveyed, the grantor warrants that the grantor has not been and will not be bound by any deed or other instrument which purports to convey any interest in the above described property to any person other than the grantor or the grantor's heirs, assigns, personal representatives, or assigns. The grantor will be responsible for the accuracy of the information provided in this plan and for the accuracy of the records for the same.

2. All lots within Cove Point are private.



DIAMOND LAND SURVEYING, LLC
5750 South Main Street
Salt Lake City, Utah 84119
Phone: (801) 487-7777


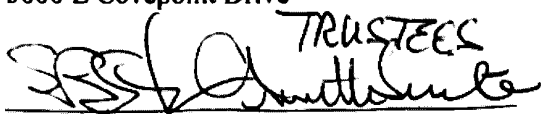
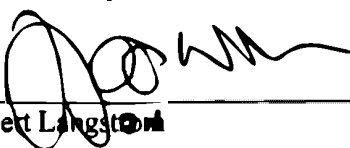
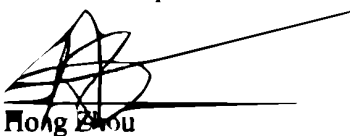
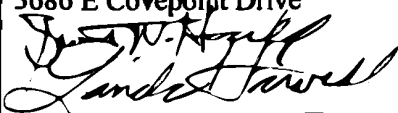

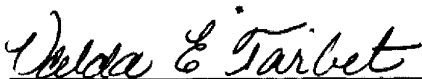
EXHIBIT E

Owners' Written Consents

E-__

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|---|
| <p>Lot C52 3660 E Covepoint Drive</p> <p> MANAGER</p> <p>Thorondor, LLC, by its Authorized Agent</p> | <p>Lot C51 3666 E Covepoint Drive</p> <p> TRUSTEES</p> <p>Steven F. Suite or Annette L. Suite, as Trustees of the Suite Living Trust</p> |
| <p>Lot C50 3672 E Covepoint Drive</p> <p></p> <p>Robert Langston</p> | <p>Lot C49 3678 E Covepoint Drive</p> <p></p> <p>Hong Zhou</p> |
| <p>Lot C48 3686 E Covepoint Drive</p> <p></p> <p>Scott N. Howell or Linda S. Howell</p> | <p>Lot C41 3651 E Oakrim Way</p> <p> Trustee</p> <p>Elaine R. Harris, as Trustee of the Elaine Harris Trust</p> |
| <p>Lot C42 3655 E Oakrim Way</p> <p></p> <p>Valda E. Tarbet</p> | <p>Lot C43 3661 E Oakrim Way</p> <p>_____</p> <p>Gary W. Rodgers or Edith Christina Filtz</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

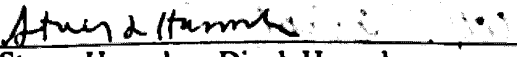
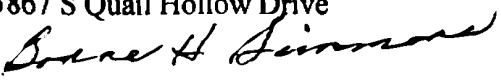
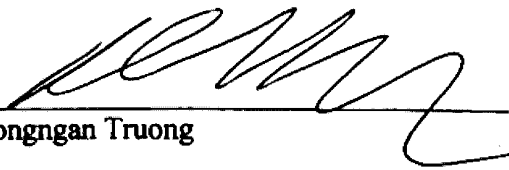
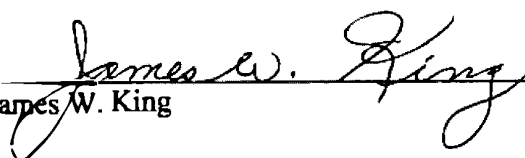

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|--|
| <p>Lot B9 3604 E Oakrim Way</p> <p align="right">Trustee</p> <p><i>Shannon J. Henson</i></p> <hr/> <p>Mercer C. Trevers, as Trustee of the Mercer C. Trevers Trust</p> | <p>Lot A10 3612 E Oakrim Way</p> <p><i>LaVonne L. Francis</i></p> <hr/> <p>LaVonne L. Francis, as Trustee of the LaVonne Lippmann Francis Trust</p> |
| <p>Lot A11 3620 E Oakrim Way</p> <p align="center"><i>Harsk</i></p> <hr/> <p>Douglas R. Douville HARSHAVARDHAN BHASKARAN</p> <p align="center"><i>Han</i></p> | <p>Lot B12 3628 E Oakrim Way</p> <p align="center"><i>Marie B Suchyta Trustee</i></p> <hr/> <p>Marie B. Suchyta, as Trustee of the Suchyta Family Revocable Trust</p> |
| <p>Lot B13 3636 E Oakrim Way</p> <p><i>Daniel R. Merrill</i></p> <hr/> <p>Daniel R. Merrill or Carol D. Merrill</p> | <p>Lot B14 3642 E Oakrim Way</p> <p><i>Carol D. Merrill</i></p> <hr/> <p>V&C Investments, LLC, by its Authorized Agent</p> |
| <p>Lot A33 3648 E Oakrim Way</p> <hr/> <p>Lewis Katz</p> | <p>Lot C53 3654 E Covepoint Drive</p> <p><i>Janet F. Muir</i></p> <hr/> <p>Janet F. Muir</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

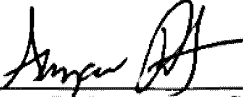
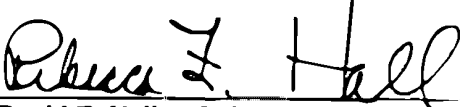
By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|--|
| <p>Lot A26 3861 S Quail Hollow Drive</p> <p> _____ Stacey Hannah or Dinah Hannah</p> | <p>Lot A25 3867 S Quail Hollow Drive</p> <p> _____ Bonnie H. Simmons</p> |
| <p>Lot B32 3848 S Cliff Drive</p> <p> _____ Dongngan Truong</p> | <p>Lot B31 3852 S Cliff Drive</p> <p>_____ Mark G. Danile or April M. Danile</p> |
| <p>Lot B30 3856 S Cliff Drive</p> <p> _____ James W. King</p> | <p>Lot B29 3864 S Cliff Drive</p> <p> Trustee _____ Aniseh Hanania as Trustee of the Aniseh Hanania Trust</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

By Signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|---|
| <p>Lot B1 3558 E Oakrim Way</p> <hr/> <p>Thomas J. Stecki</p> | <p>Lot A2 3564 E Oakrim Way</p>  <hr/> <p>Bret J. Barratt</p> |
| <p>Lot B3 3570 E Oakrim Way</p>  <hr/> <p>Brennan D. Peterson or Suzanne V. Peterson</p> | <p>Lot B4 3567 E Oakrim Way</p>  <hr/> <p>Tiffany Richards and David E. Richards, as Trustees of the Tiffany Richards Living Trust</p> |
| <p>Lot A5 3582 E Oakrim Way</p>  <hr/> <p>Iversen</p> | <p>Lot B6 3588 E Oakrim Way</p>  <hr/> <p>David E. Hall or Rebecca E. Hall</p> |
| <p>Lot B7 3592 E Oakrim Way</p>  <hr/> <p>Dorothy B. Cromer, as Trustee of the Dorothy B. Cromer Trust</p> | <p>Lot B8 3598 E Oakrim Way</p>  <hr/> <p>Janet H. Nelson as Trustee of the Janet H. Nelson Trust</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|---|---|
| <p>Lot B64 3635 E Covepoint Drive</p> <p><i>Jeffrey Soderberg</i>, Trustee</p> <p>Jeffrey Soderberg or Camille Cornaby, as Trustees of the Jeffrey Soderberg Trust</p> | <p>Lot B65 3647 E Covepoint Drive</p> <p><i>Paul H. Vandyke</i></p> <p>Paul H. Vandyke or Robyn L. Vandyke</p> |
| <p>Lot A66 3653 E Covepoint Drive</p> <p><i>Gloria R. Reynolds</i></p> <p>Gloria R. Reynolds or Frederick J. Reynolds or Debra R. Breinholt</p> | <p>Lot D67 3657 E Covepoint Drive</p> <p><i>Joanne V. Udy</i>, Trustee</p> <p>Joanne V. Udy or Lex L. Udy, as Trustees under the Joanne Van Liew Udy Revocable Trust</p> |
| <p>Lot D68 3665 E Covepoint Drive</p> <p><i>Amy Roskelley</i></p> <p><i>Elizabeth Montague</i></p> <p>Elizabeth Montague or Deanne Thomas or Nancy Welti Sanchez or Marianne Ratcliffe</p> <p><i>KATHY TOPOLOVEC</i></p> <p><i>Amy Roskelley</i></p> | <p>Lot D69 3675 E Covepoint Drive</p> <p><i>Robert A. Schumacker</i>, TRUSTEE</p> <p>Robert A. Schumacker, as Trustee of the Robert A. Schumacker Revocable Family Trust</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

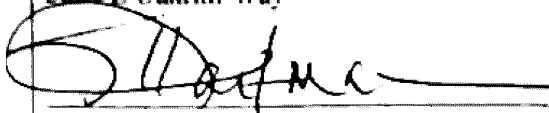

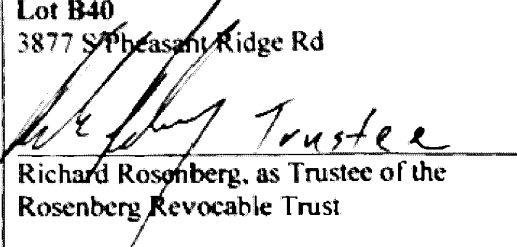
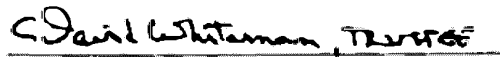
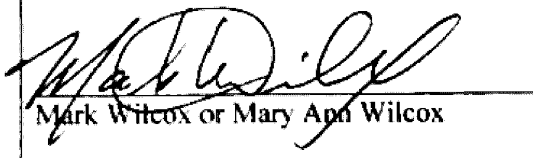

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|---|---|
| <p>Lot B70 3683 E Covepoint Drive</p> <hr/> <p>Francis Blair Malouf, as Trustee of the Francis Blair Malouf Living Trust</p> | <p>Lot C71 3687 E Covepoint Drive</p> <hr/> <p><i>TD Ryan</i> Timothy D. Ryan or Crista J. Ryan The Crista J Ryan Living Trust</p> |
| <p>Lot C72 3693 E Covepoint Drive</p> <hr/> <p>Dianne E. Farr</p> | <p>Lot C73 3695 E Covepoint Drive</p> <hr/> <p><i>Joseph Manager</i> Cove Point One, LLC, by its Authorized Agent</p> |
| <p>Lot C74 3699 E Covepoint Drive</p> <hr/> <p><i>Martha S. Nightingale</i> Martha S. Nightingale</p> | <p>Lot C75 3841 S Covepoint Drive</p> <hr/> <p>Carol Petersen</p> |
| <p>Lot A76 3845 S Covepoint Drive</p> <hr/> <p><i>JC Chatelain</i> Katheryne Dare Chatelain or Jeremy Robert Chatelain</p> | <p>Lot A77 3855 S Covepoint Drive</p> <hr/> <p><i>Mark A. Johnson</i> Mark A. Johnson</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|---|---|
| <p>Lot A34 3664 E Oakrim Way</p>  <p>Elizabeth A Hartman</p> | <p>Lot B35 3674 E Oakrim Way</p>  <p>Eric B. Volker</p> |
| <p>Lot B40 3877 S Pheasant Ridge Rd</p>  <p>Richard Rosonberg, as Trustee of the Rosenberg Revocable Trust</p> | <p>Lot B39 3885 S Pheasant Ridge Rd</p>  <p>Charles David Whiteman and Johanna G. Whiteman, as Trustees of the Whiteman Family Trust <i>C. David Whiteman, TRUSTEE</i></p> |
| <p>Lot A38 3901 S Pheasant Ridge Rd</p>  <p>Mark Wilcox or Mary Ann Wilcox</p> | <p>Lot A37 3915 S Pheasant Ridge Rd</p>  <p>Mahesh B. Chandrasekharan</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.



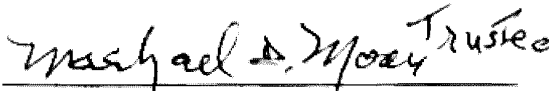
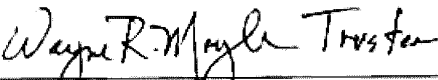
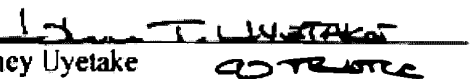

| | |
|---|--|
| <p>Lot A36 3925 S Pheasant Ridge Rd</p> <p><i>Victoria Buker</i> _____ Alfred Nicholi Andersen</p> | <p>Parcel 16-36-304-037 3549 E. Covepoint Dr.</p> <p><i>Eric Anderson</i> _____ Eric Anderson, as successor Trustee of the Anderson Family Trust Portion of the Anderson Family Trust, u/v/d the 4th day of August, 1998</p> |
| <p>Parcel 16-36-304-038 3553 E. Covepoint Dr.</p> <p><i>[Signature]</i> _____ DPH Utah, LLC, by its Authorized Agent</p> | <p>Common Area Parcels</p> <p><i>[Signature]</i> _____ Cove Point Homes Association, by its Authorized Agent</p> |

Trustee

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

OWNERS' SIGNATURES, CONSENT, AND APPROVAL ●
AMENDED GOVERNING DOCUMENTS

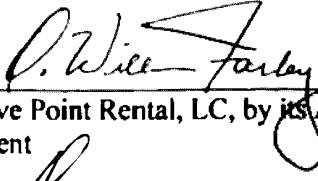


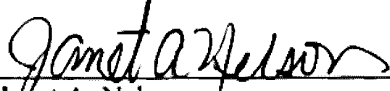
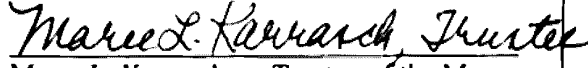
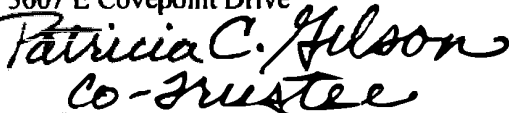
By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|---|
| <p>Lot C44 3667 E Oakrim Way</p>  <hr/> <p>Robert A. Renza or Alison M. Renza, as Trustees of The Robert A. Renza Trust and the Allison M. Renza Trust</p> | <p>Lot C45 3677 E Oakrim Way</p>  <hr/> <p>Robert Myers or Dustin Myers <i>Jared Sorden</i> Larkin</p> |
| <p>Lot C46 3685 E Oakrim Way</p> <hr/> <p>Marta Rice, as Trustee of the Rex Rice Declaration of Trust</p> | <p>Lot C47 3691 E Oakrim Way</p>  <hr/> <p>Michael D. Moore or Kathlyn A. Moore, Trustees of the Michael and Kathlyn Moore Family Trust</p> |
| <p>Lot C78 3850 S Covepoint Drive</p>  <hr/> <p>Wayne R. Moyle or Cheryl M. Moyle, as Trustees of the Moyle Living Trust</p> | <p>Lot C79 3858S Covepoint Drive</p>  <hr/> <p>Sidney Uyetake <i>OTRUSTE</i></p> <p><i>MARY UYETAKE TRUST</i></p> |
| <p>Lot B54 3551 E Covepoint Drive</p> <hr/> <p>Patti R. Kelly as Trustee of the Patricia R. Kelly Family Trust</p> | <p>Lot D55 3557 E Covepoint Drive</p>  <hr/> <p>Jayce R. Shell, manager Cove Point LLC, by its Authorized Agent</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

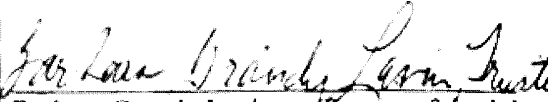






By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|--|
| <p>Lot D56 3563 E Covepoint Drive</p> <p></p> <p>Cove Point Rental, LC, by its Authorized Agent</p> <p></p> | <p>Lot D57 3573 E Covepoint Drive</p> <p></p> <p>Trustee</p> <p>Jeanne H. Thorup, as Trustees of the Thorup Family Living Trust</p> |
| <p>Lot D58 3581 E Covepoint Drive</p> <p></p> <p>Janet A. Nelson</p> | <p>Lot D59 3591 E Covepoint Drive</p> <p></p> <p>Maree L. Karrasch, as Trustee of the Maree Layton Karrasch Living Trust</p> |
| <p>Lot D60 3601 E Covepoint Drive</p> <p>_____</p> <p>Charles F. Hopkins or Pamalyn B. Hopkins</p> | <p>Lot D61 3607 E Covepoint Drive</p> <p></p> <p>Co-Trustee</p> <p>Fawn B. Coltharp, as Trustee of the Fawn B. Coltharp Family Living Trust</p> |
| <p>Lot D62 3615 E Covepoint Drive</p> <p>_____</p> <p>Collette T. Murdock, as Trustee</p> | <p>Lot C63 3625 E Covepoint Drive</p> <p>_____</p> <p>Grant R. Petersen or Gayle C. Petersen</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

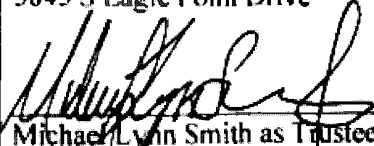
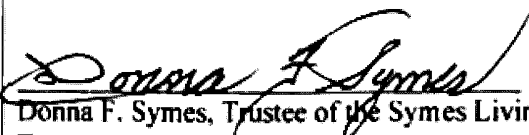
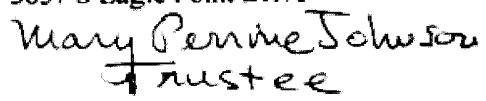

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|--|
| <p>Lot B22 3850 S Quail Hollow Drive</p> <p> Barbara Grandy Lavin, as Trustee of the John Jaynes Lavin and Barbara Grandy Lavin Inter Vivos Trust</p> | <p>Lot B21 3854 S Quail Hollow Drive</p> <p> Juan Carlos Negrette or Maria Isabel Gomez</p> |
| <p>Lot B20 3862 S Quail Hollow Drive</p> <p> Dana Kathryn Lombardi or Larry Gene Reimer</p> <p></p> | <p>Lot B19 3866 S Quail Hollow Drive</p> <p> Marjorie W. Chalmers as Trustee of the Chalmers Family Trust</p> |
| <p>Lot A28 3847 S Quail Hollow Drive</p> <p> Esuardo F. Avalos or Paloma Velilla</p> | <p>Lot A27 3853 S Quail Hollow Drive</p> <p> Elaine Iwasaki or Hiro Iwasaki</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.

**OWNERS' SIGNATURES, CONSENT, AND APPROVAL OF
AMENDED GOVERNING DOCUMENTS**

By signing this document, I hereby certify that I am an owner of the Lot designated next to my signature, and located with the Cove Point planned unit development project, and that I give my consent to and approval of the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Cove Point Homes Association and its exhibits, including the Amended Plat.

| | |
|--|--|
| <p>Lot A18 3843 S Eagle Point Drive</p>  <p>Michael Lynn Smith as Trustee of the Michael Lynn Smith Trust</p> | <p>Lot A17 3851 S Eagle Point Drive</p>  <p>Donna F. Symes, Trustee of the Symes Living Trust</p> |
| <p>Lot A16 3857 S Eagle Point Drive</p>  <p>Marry Perrine Johnson, Perrine Johnson Anderson as Trustees of the Johnson Family Trust</p> | <p>Lot A15 3865 S Eagle Point Drive</p>  <p>Lihong Yu or Qiuqing Zhang</p> |
| <p>Lot B24 3842 S Quail Hollow Drive</p> <hr/> <p>Jillian R. James, R. Kirk Blosch, or Kelly Kirch-Blosch</p> | <p>Lot B23 3846 S Quail Hollow Drive</p> <hr/> <p>Linda R. Cornaby, as Trustee of the Cornaby Family Trust</p> |

* If the Lot Owner is a Trust or other entity, please indicate title (i.e. Trustee, President, Member, etc.) next to signature if it does not already appear.