

13930436 B: 11327 P: 5501 Total Pages: 94
04/12/2022 08:05 AM By: bmeans Fees: \$262.00
DECLAR- DECLARATION
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: JENKINS BAGLEY SPERRY, PLLC
285 W TABERNACLE ST STE 301ST GEORGE, UT 84770

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS

FOR

THE WILLOWBROOK
CONDOMINIUMS

A UTAH CONDOMINIUM PROJECT

IN

SALT LAKE COUNTY, UTAH

Table of Contents

| | |
|--|---|
| RECITALS | 1 |
| ARTICLE 1: DEFINITIONS..... | 2 |
| 1.1 “Act” | 2 |
| 1.2 “Articles” | 2 |
| 1.3 “Assessment” | 2 |
| 1.4 “Association” | 2 |
| 1.5 “Balcony” | 2 |
| 1.6 “Board Member” | 2 |
| 1.7 “Board of Directors,” “Board,” or “Management Committee” | 2 |
| 1.8 “Building” | 2 |
| 1.9 “Bylaws” | 2 |
| 1.10 “Common Area” | 2 |
| 1.11 “Common Expenses” | 3 |
| 1.12 “Declaration” | 3 |
| 1.13 “Electronic Transmission” or “Electronically Transmitted” | 3 |
| 1.14 “Governing Documents” | 4 |
| 1.15 “Lender” | 4 |
| 1.16 “Limited Common Area” | 4 |
| 1.17 “Manager” | 4 |
| 1.18 “Occupant” | 4 |
| 1.19 “Owner” | 4 |
| 1.20 “Patio” | 4 |
| 1.21 “Person” | 4 |
| 1.22 “Plat” | 4 |
| 1.23 “Project” | 4 |
| 1.24 “Property” | 4 |
| 1.25 “Rules” | 5 |
| 1.26 “Terms and Conditions” | 5 |
| 1.27 “Undivided Interest” or “Par Value” | 5 |
| 1.28 “Unit” | 5 |
| ARTICLE 2: THE PROJECT | 5 |
| 2.1 Submission to the Act | 5 |

| | | |
|--|---|----|
| 2.2 | Binding Effect of Governing Documents | 5 |
| 2.3 | Project Name..... | 5 |
| 2.4 | Nature of the Project. | 5 |
| 2.5 | Identification of Units..... | 6 |
| 2.6 | Registered Agent..... | 6 |
| ARTICLE 3: DESCRIPTION OF THE UNITS, LIMITED COMMON AREA, AND UNDIVIDED INTERESTS | | 6 |
| 3.1 | The Unit. | 6 |
| 3.2 | Limited Common Area. | 7 |
| 3.3 | Undivided Interest of Each Unit in the Votes of the Association..... | 8 |
| 3.4 | Plat. | 8 |
| ARTICLE 4: MAINTENANCE, REMODELING, AND UTILITIES | | 8 |
| 4.1 | Owner Responsibility..... | 8 |
| 4.2 | Association Responsibility..... | 10 |
| 4.3 | Remodeling, Maintenance, and Repair of Units..... | 11 |
| 4.4 | Default in Maintenance..... | 13 |
| 4.5 | Utilities..... | 13 |
| ARTICLE 5: ORGANIZATION AND GOVERNANCE OF THE 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 | 14 |
| 5.5 | Availability of Documents..... | 14 |
| 5.6 | Board of Directors..... | 14 |
| 5.7 | Reasonable Ongoing Requirements for Board Members | 15 |
| 5.8 | Limitation on Authority of Owners, Board Members, Officers, and the Board of Directors | 15 |
| 5.9 | No Estoppel or Reliance on Actions or Authorizations Contrary to Governing Documents | 15 |
| 5.10 | Registration with the State | 15 |
| ARTICLE 6: GENERAL RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION..... | | 15 |
| 6.1 | Rights and Responsibilities of the Association..... | 15 |

| | |
|---|----|
| ARTICLE 7: BUDGETS & ASSESSMENTS | 19 |
| 7.1 Purpose of Assessments | 19 |
| 7.2 Budget and Regular Assessments | 19 |
| 7.3 Payment of Regular Assessments | 20 |
| 7.4 Adjustments to Regular Assessments | 20 |
| 7.5 Personal Obligation for Assessment | 20 |
| 7.6 Improvements | 20 |
| 7.7 Allocation of Assessments | 20 |
| 7.8 Rules Regarding Billing and Collection Procedures | 20 |
| 7.9 Statement of Unpaid Assessment..... | 21 |
| 7.10 Account Payoff Information | 21 |
| 7.11 Special Assessments | 21 |
| 7.12 Special Assessments to Individual Units | 21 |
| 7.13 Acceptance of Materials or Services..... | 22 |
| 7.14 Application of Excess Assessments..... | 22 |
| 7.15 No Offsets | 22 |
| 7.16 How Payments Are Applied | 22 |
| 7.17 Loans..... | 22 |
| 7.18 Reinvestment Fee Covenant upon Sale or Transfer of Unit | 22 |
| ARTICLE 8: NONPAYMENT OF ASSESSMENTS & JOINT AND SEVERAL LIABILITY..... | 23 |
| 8.1 Delinquency | 23 |
| 8.2 Collection Charges and Interest | 23 |
| 8.3 Joint and Several Liability of Owner and Future Owners for All Past and Presently Accruing Unpaid Assessments..... | 24 |
| 8.4 Lien | 24 |
| 8.5 Action at Law..... | 24 |
| 8.6 Foreclosure Sale..... | 25 |
| 8.7 Lien Not Subject to Homestead Exemption..... | 25 |
| 8.8 Termination of Delinquent Owner’s Rights | 25 |
| 8.9 Requiring Tenant to Pay Rent to Association..... | 25 |
| 8.10 Attorney Fees Incurred As a Result of a Default..... | 25 |
| 8.11 Association Takes Title to Unit | 25 |
| ARTICLE 9: PROPERTY RIGHTS IN UNITS AND COMMON AREA..... | 26 |
| 9.1 General Easements to Common Area and Units..... | 26 |

| | | |
|--|---|----|
| 9.2 | Public Utilities | 26 |
| 9.3 | Easements for Encroachments | 27 |
| 9.4 | Limitation on Easement—Suspension of Owner’s Rights | 27 |
| 9.5 | Views | 27 |
| ARTICLE 10: USE LIMITATIONS AND CONDITIONS | | 28 |
| 10.1 | Rules | 28 |
| 10.2 | Signs..... | 28 |
| 10.3 | Nuisance..... | 28 |
| 10.4 | Smoking | 28 |
| 10.5 | Temporary Structures..... | 29 |
| 10.6 | Parking | 29 |
| 10.7 | External Fixtures..... | 30 |
| 10.8 | Window Covers | 30 |
| 10.9 | External Laundering..... | 30 |
| 10.10 | Hanging Items on Balcony..... | 31 |
| 10.11 | Front Door to Unit from Hallway | 31 |
| 10.12 | Outside Speakers and Amplifiers..... | 31 |
| 10.13 | Repairs | 31 |
| 10.14 | Unsightly Items | 31 |
| 10.15 | Animals..... | 31 |
| 10.16 | Landscape Maintenance..... | 32 |
| 10.17 | Storage | 32 |
| 10.18 | Barbecue Grills. | 32 |
| 10.19 | Floor Load..... | 32 |
| 10.20 | Residential Occupancy..... | 32 |
| 10.21 | No Subdivision or Timeshare of Units or Recording by Owners of Terms and Conditions..... | 33 |
| 10.22 | Number of Occupants in a Unit. | 33 |
| 10.23 | Architectural Control | 33 |
| 10.24 | Energy Conservation Equipment | 34 |
| 10.25 | Lighting..... | 34 |
| 10.26 | Firearms. | 34 |
| 10.27 | Garage Sales..... | 34 |
| 10.28 | Variances..... | 34 |
| 10.29 | Hazardous Substances..... | 34 |

| | |
|--|----|
| ARTICLE 11: INSURANCE..... | 35 |
| 11.1 Insurance Requirement | 35 |
| 11.2 Annual Insurance Report | 35 |
| 11.3 Property Insurance | 36 |
| 11.4 Comprehensive General Liability (CGL) Insurance..... | 39 |
| 11.5 Directors’ and Officers’ Insurance..... | 39 |
| 11.6 Insurance Coverage for Theft and Embezzlement of Association Funds..... | 39 |
| 11.7 Workers’ Compensation Insurance..... | 39 |
| 11.8 Certificates | 39 |
| 11.9 Named Insured | 39 |
| 11.10 Association’s Right to Negotiate All Claims and Losses and Receive Proceeds | 40 |
| 11.11 Insurance Trustee..... | 40 |
| 11.12 Owner Act Cannot Void Coverage Under Any Policy..... | 40 |
| 11.13 Waiver of Subrogation against Owners and the Association..... | 40 |
| 11.14 Right of Action | 40 |
| 11.15 Applicable Law..... | 40 |
| ARTICLE 12: DESTRUCTION OF IMPROVEMENTS | 41 |
| 12.1 Reconstruction | 41 |
| 12.2 Insurance Proceeds Sufficient for Reconstruction..... | 41 |
| 12.3 Insurance Proceeds Insufficient for Reconstruction | 41 |
| ARTICLE 13: EMINENT DOMAIN | 42 |
| 13.1 Total Taking of a Unit..... | 42 |
| 13.2 Partial Taking of a Unit..... | 42 |
| 13.3 Taking of Limited Common Area..... | 43 |
| 13.4 Taking of Common Area | 43 |
| 13.5 Taking of Entire Project..... | 43 |
| 13.6 Priority and Power of Attorney..... | 43 |
| ARTICLE 14: TERMINATION..... | 43 |
| 14.1 Required Vote..... | 43 |
| 14.2 Termination Agreement..... | 43 |
| 14.3 Sale of Project..... | 43 |
| 14.4 Association Duties | 43 |
| 14.5 Proceeds of Sale..... | 44 |
| 14.6 Allocation upon Termination..... | 44 |

| | |
|---|----|
| ARTICLE 15: AMENDMENTS | 44 |
| 15.1 General Amendment Requirements | 44 |
| 15.2 Scope of Amendments | 44 |
| 15.3 Execution and Effective Date of Amendments | 45 |
| 15.4 Changes to Plat or Boundaries of the Association | 45 |
| 15.5 Amendments to Conform to Law | 45 |
| 15.6 Amendments to Reassign Parking Spaces | 46 |
| 15.7 Altering Undivided Interests | 46 |
| ARTICLE 16: INTERPRETATION, CONSTRUCTION, AND APPLICATION OF DECLARATION | 46 |
| 16.1 No Waiver | 46 |
| 16.2 Conflicting Provisions | 46 |
| 16.3 Interpretation of Declaration and Applicability of the Act | 46 |
| 16.4 Cumulative Remedies | 47 |
| 16.5 Severability | 47 |
| 16.6 Construction | 47 |
| 16.7 Applicable Law | 47 |
| 16.8 Gender and Number | 47 |
| 16.9 Effect of Declaration | 47 |
| ARTICLE 17: NOTICE | 47 |
| 17.1 Notices | 47 |
| ARTICLE 18: ATTORNEY FEES AND COSTS | 50 |
| 18.1 Legal Costs Associated with Disputes with Owners | 50 |
| ARTICLE 19: RESERVES | 51 |
| 19.1 Requirement for Reserves | 51 |
| ARTICLE 20: LEASING AND NON-OWNER OCCUPANCY | 52 |
| 20.1 Declaration and Rules Governing Non-Owner Occupancy | 52 |
| 20.2 Definitions | 52 |
| 20.3 Leasing and Maximum Number of Non-Owner Occupied Units | 52 |
| 20.4 Permissible Non-Owner Occupied Units | 53 |
| 20.5 Permitted Rules | 53 |
| 20.6 Required Rules | 53 |
| 20.7 Requirements for Leasing and Non-Owner Occupancy | 54 |
| 20.8 Exception for Family Members | 55 |
| 20.9 Joint and Several Liability of Owner and Non-Owner Occupants | 55 |

| | |
|---|----|
| ARTICLE 21: GENERAL PROVISIONS | 55 |
| 21.1 Enforcement..... | 55 |
| 21.2 Nonliability of Directors and Officers | 55 |
| 21.3 Use of Funds Collected by the Association..... | 55 |
| 21.4 Owner Liability and Indemnification..... | 56 |
| 21.5 Consent, Power of Attorney, Waiver | 56 |
| 21.6 Security | 56 |
| 21.7 Reasonable Accommodations..... | 56 |
| 21.8 No Representations and Warranties..... | 57 |
| | |
| EXHIBIT A – Legal Description | |
| EXHIBIT B – Undivided Interests | |
| EXHIBIT C – Bylaws | |
| EXHIBIT D – Parking Assignments | |

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
THE WILLOWBROOK CONDOMINIUMS**

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions (this “Declaration”) is recorded by The Willowbrook Homeowners Association, Inc. upon its approval by the Owners, and is effective as of the date it is recorded in the Salt Lake County Recorder’s Office.

RECITALS

1. Capitalized terms in this Declaration are defined in Article 1 or in other sections of this Declaration.
2. The “Declaration of Covenants Conditions and Restrictions of The Willowbrook Condominium” was recorded on June 15, 1979, with the Salt Lake County Recorder’s office beginning at Book 4882, Page 1232, and as Entry No. 3295323 (“the Enabling Declaration”).
3. The Bylaws were recorded as Appendix C to the Enabling Declaration.
4. The Plat was recorded on June 15, 1979, with the Salt Lake County Recorder’s office as Entry No. 3295322.
5. An amendment to the Bylaws was recorded on September 21, 1990, with the Salt Lake County Recorder’s office as Entry No. 4968098.
6. An amendment to the Bylaws was recorded on January 27, 2004, with the Salt Lake County Recorder’s office as Entry No. 8961856.
7. This Declaration affects the real property located in Salt Lake County, State of Utah, described with particularity on **Exhibit A**, which exhibit is attached hereto and incorporated herein by reference.
8. The Association, with the authority and approval of the Owners, hereby adopts this Declaration, which (along with and subject to any future amendments) is the sole Declaration for the Project and which amends and completely replaces the Enabling Declaration and all prior declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
9. This Declaration is adopted to replace and update the terms of the Enabling Declaration and any amendments thereto, to further define the rights of the Association and the Owners, and to provide for a general plan for managing the Project; all in furtherance of the Association’s efforts to efficiently and economically protect and enhance the value of the Units and the Project and to create a superior living environment.
10. All rights of the declarant defined in the Enabling Declaration have expired pursuant to the terms of the Enabling Declaration and Utah Code Ann. § 57-8-16.5. No declarant approval is required for this amendment.

- 11. 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.
- 12. The Board of Directors has obtained the approval of the Owners necessary to adopt and record this Declaration.

NOW, THEREFORE, for the reasons recited above, the Association hereby adopts this Declaration.

ARTICLE 1: DEFINITIONS

As used herein, unless the context otherwise requires:

- 1.1 “**Act**” means the Condominium Ownership Act codified beginning at Section 57-8-1, Utah Code Annotated, and as such may be amended from time to time.
- 1.2 “**Articles**” mean the Articles of Incorporation or the chartering document of any other legal entity, if any are formed for the Association.
- 1.3 “**Assessment**” means any monetary charge imposed or assessed on an Owner by the Association as provided for in this Declaration or the Act.
- 1.4 “**Association**” means The Willowbrook Homeowners Association, Inc., the membership of which shall include each Owner in the Project. The Association may be 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 then “Association” as used in this Declaration shall refer to that entity or group.
- 1.5 “**Balcony**” means any balcony or platform area suspended above ground which is associated with a Unit, including any area exterior to a Unit that is intended for the exclusive use of one Unit Owner not otherwise included in the definition of Patio.
- 1.6 “**Board Member**” means a duly qualified and elected or appointed member of the Board of Directors.
- 1.7 “**Board of Directors,**” “**Board,**” or “**Management Committee**” mean the entity with primary authority to manage the affairs of the Association, including the responsibility and authority to make and enforce all of the reasonable rules covering the operations and maintenance of the Project.
- 1.8 “**Building**” means the building, containing the Units, and comprising a part of the Project.
- 1.9 “**Bylaws**” mean the bylaws of the Association attached as **Exhibit C**, and all valid amendments and supplements thereto. No amendment to the Bylaws will be effective until it is recorded.
- 1.10 “**Common Area**” means, unless otherwise more specifically provided in this Declaration, everything and everywhere in the Project, except to the extent any fixture, structure, or other area is part of a Unit as defined herein. Unless otherwise specifically included or excluded on the Plat or in this Declaration, Common Area includes but is not limited to:
 - (a) All real property included within the Project, including any air space or subsurface rights, whether leasehold or in fee simple;

- (b) All fixtures and equipment related to the provision of electricity, gas, water, television, internet, and electronic services, and the removal of waste water to the extent that such fixtures and equipment serve more than one Unit;
- (c) All apparatus and installations clearly intended and existing for common use, including, if any, elevators, stairways, roofs, tanks, pumps, ducts, fans, compressors, wiring, and central or common installations and equipment to provide power, light, water, heating, air conditioning, and garbage disposal;
- (d) All Limited Common Areas, including each Balcony and Patio;
- (e) All windows and window frames on the exterior of the Building, including those on the exterior of Units;
- (f) All doors of any kind on the exterior boundary of a Unit that leads to a hallway, Patio or Balcony (including sliding doors), and associated thresholds, jams, hinges, doorbells, chimes, handles, and locks and all components therein;
- (g) All yards, gardens, and playground area;
- (h) All roadways and parking areas in the Project that are not otherwise specifically dedicated to a governmental body or by other means specifically excluded from the Project in the Plat or this Declaration; and
- (i) All other parts of the Project necessary or convenient to its existence, maintenance, safe operations, or normally in common use.

The definition of Common Area in this Declaration supersedes the definition of “Common Area and Facilities” in the Act and applies in all instances when the term “Common Areas and Facilities” is used in the Act.

- 1.11 **“Common Expenses”** mean (1) all sums lawfully assessed against all of the Owners; (2) expense of administration, maintenance, repair, or replacement of the Common Areas; and (3) the costs for: (a) maintenance, repair, and replacement of those aspects of the Units which are maintained by the Association as provided for in this Declaration (if any); (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) utilities (other than utilities that are separately metered and charged to the Units directly by a third party), extermination, landscape maintenance, and other related services; (d) insurance and bonds required or allowed by this Declaration; (e) amounts deposited in reserves; (f) other charges incurred by the Association as provided for or allowed in the Act or the Governing Documents; and (g) any other expenses of the Association arising from the operation of the Association and not otherwise excluded from Common Expenses by the Governing Documents or any applicable law.
- 1.12 **“Declaration”** means this Amended and Restated Declaration of Covenants, Conditions, and Restrictions, including all attached exhibits, which, other than the Bylaws, are hereby incorporated by reference into this Declaration and shall be part of this Declaration, and any and all amendments to this Declaration.
- 1.13 **“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.

- 1.14 “**Governing Documents**” refer to this Declaration, the Plat, the Bylaws, the Rules, any Articles, and any other documents or agreements binding upon all of the Owners. This definition is further intended to have the same meaning as that set forth in the Act.
- 1.15 “**Lender**” means a holder of a mortgage or deed of trust on a Unit.
- 1.16 “**Limited Common Area**” means a portion of the Common Area specifically designated in this Declaration or the Plat for the exclusive use of Owners of one or more Units to the exclusion of other Owners. Conveyance of a Unit includes the use of the Limited Common Area designated for the use of the Owner of the Unit.
- 1.17 “**Manager**” means any Person engaged by the Board of Directors to manage the Project.
- 1.18 “**Occupant**” means any Persons, other than an Owner, in possession of, using, entering into, or living in a Unit or the Project, including, without limitation, family members, tenants, guests, and invitees of an Owner or an Occupant. Occupant includes any trespassers or previously lawful Occupants if the Owner fails to secure the Unit against trespass, fails to take action necessary and appropriate to remove trespassers or previously lawful Occupants immediately upon notice of the trespass or occupancy, or fails to take reasonable measures to become aware of any unauthorized Occupants in the Unit or of any unauthorized entry and use of the Unit (which includes the duty to verify the physical condition and occupancy of the Unit at least monthly if it is left unoccupied).
- 1.19 “**Owner**” means the Person or Persons who have record title to a Unit, including those who hold a fee simple interest in the Unit (in whole or in part) according to the records of the County Recorder of Salt Lake County, Utah; however, Owner does not include a trustee for a deed of trust.
- 1.20 “**Patio**” means the exterior ground level hard surface areas (typically concrete) associated with each Unit as identified on the Plat. The definition of Patio excludes the area that falls within the scope of a Balcony.
- 1.21 “**Person**” means a natural individual, corporation, estate, partnership, trustee, association, joint venture, government, governmental subdivision or agency, or any other legal entity.
- 1.22 “**Plat**” means the record of survey map or maps of the Project (the “condominium plat” as used in the Act) recorded with the County Recorder of Salt Lake County, Utah and all amendments and supplements thereto. The Plat for the Project was recorded on June 15, 1979, as Entry No. 3295322.
- 1.23 “**Project**” means the land, whether leasehold or in fee simple, the Buildings, if any, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith; as defined by the Plat and this Declaration and including the Units, the Common Area, and the Limited Common Areas. Project as defined in this Declaration is intended to have the same definition as “Property” as defined in the Act.
- 1.24 “**Property**” means the property legally described in **Exhibit A** and all easements and rights appurtenant thereto.

- 1.25 “**Rules**” means and refers to the rules adopted by the Association.
- 1.26 “**Terms and Conditions**” means any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.
- 1.27 “**Undivided Interest**” or “**Par Value**” means the interest of that Owner (expressed as a percentage in **Exhibit B** to this Declaration) in the Common Areas, which is applicable for the purposes of voting, the payment of Common Expenses, and for other purposes indicated in this Declaration or the Act.
- 1.28 “**Unit**” means and refers to an individual condominium unit, unit, or condominium, (all as defined in the Act), which consists of a separate physical part of the property intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building, and which is identified on the Plat. Except where the context specifically requires otherwise, reference to a Unit includes reference to the Undivided Interest appurtenant to such Unit.

ARTICLE 2: THE PROJECT

- 2.1 **Submission to the Act.** The Association hereby confirms and restates that the Project is a condominium project as defined in the Act.
- 2.2 **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 Units 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, easements, and covenants and conditions running with the land and are binding upon and inure to the benefit of the Association and each Owner, including their respective heirs, executors, administrators, personal representatives, successors, and assigns. By acquiring any interest in a Unit, such Owner consents to, and agrees to be bound by, each and every Term and Condition in the Governing Documents.
- 2.3 **Project Name.** The Project is named “The Willowbrook Condominium” and is located entirely in South Salt Lake City, Salt Lake County.
- 2.4 **Nature of the Project.**
- (a) The Project primarily consists of seven (7) Buildings, a recreation center or clubhouse, a pool area, parking, private roadways, and other open space and small structures. The Buildings are constructed on concrete with reinforcing steel supports. Exterior walls are of stucco and wood frame. Interior walls are of wooden studs, plywood, and drywall or plaster. The floors are concrete or wood. Each Unit is supplied with hot water, heat, and electricity. The roofs are primarily asphalt shingles with some different materials used on the flat sections of roofs.
 - (b) The Project contains Common Areas and one hundred and twenty (120) Units in the Buildings and Common Areas. There are covered and uncovered parking stalls. There are one hundred and twenty (120) covered parking spaces located within the “carports” as identified on the Plat, which carports are of concrete or asphalt and frame construction.

- (c) Little Cottonwood Creek runs through the Property. Owners, Occupants, and other Persons enjoy the creek areas at their own risk and the Association does not assume any liability for any harm caused as a result of any use of the creek areas.

2.5 **Identification of Units.** All of the Units are referenced specifically and identified by location on the Plat.

2.6 **Registered Agent.** The registered agent of the Association is as provided for in entity filings and the HOA registration for the Association on file with the State of Utah. The Board may approve a change in the registered agent of the Association without any need for Owner consent.

ARTICLE 3: DESCRIPTION OF THE UNITS, LIMITED COMMON AREA, AND UNDIVIDED INTERESTS

3.1 The Unit.

- (i) The distinct Unit number that identifies the Unit on the Plat may or may not be consistent with the mailing address of the Unit.
- (ii) Subject to further specification in this Declaration, each Unit consists of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat (to the extent that such planes are shown on the plat) and all interior partitions and other fixtures and improvements within such boundaries. The horizontal boundaries of each Unit shall be the underside of the finished but unpainted or undecorated ceiling of each level of the Unit, and the top of the finished but undecorated floor of each level in the Unit. The vertical boundaries of each Unit shall be the interior of the finished but undecorated walls located on the perimeter lines (boundary) of the respective levels of the Units as shown on the Plat. All framing, concrete, and other structural components in the walls, floors, or ceilings on the vertical and horizontal boundaries of a Unit and all framing, structures, and concrete in any bearing walls are part of the Common Area. Generally, all wallboard, dry wall, concrete, and framing in walls, ceilings, and floors on the boundaries of the Unit are not part of the Unit and are Common Area. All materials constituting any part of the finished surfaces or of the decorating in the Unit are part of the Unit. Generally, all paneling, tile, wallpaper, paint, carpet, hardwood flooring, linoleum, and other materials constituting any part of the finished surfaces or installed on the finished surfaces in a Unit are part of the Unit. All parts of exposed concrete structural components in the Building (including the surface) in or on the boundary of a Unit shall be Common Area. All parts of non-bearing walls and partitions inside the boundaries of a Unit (walls not on the exterior boundary of a Unit) are part of the Unit.
- (iii) All doors on the interior of any Unit and associated thresholds, jams, hinges, doorbells, chimes, handles, and locks and all components therein, are part of the Unit.
- (iv) All pipes, wires, conduits, chutes, flues, ducts, shafts, public utilities, water, power, air, sewer lines, or any other similar fixtures located inside the designated vertical and horizontal boundaries of a Unit and those between the point at which the same enter the Owner's Unit and the closer of the point where the same join

the utility lines serving another Unit or exit the Building, are part of the Unit. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning units and compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit.

- (v) The boundaries of a Building or Unit constructed or reconstructed in substantial accordance with the Plat shall be conclusively presumed to be the actual boundaries rather than the description expressed in the Plat, regardless of the settling or lateral movement of the Building and regardless of minor variances between boundaries shown on the Plat and those of the Building or Unit.
- (vi) Each Unit, together with its Undivided Interest in the Common Areas, shall, for all purposes, constitute real property and may be individually conveyed and encumbered and may be inherited or devised by will. Any Unit may be held and owned by more than one Person as joint tenants, or as tenants in common, or in any other real property tenancy relationship recognized under the laws of the state of Utah.
- (vii) Each Unit shall be assessed separately for taxes, assessments, and other charges of the State of Utah or of any political subdivision or special improvement district or of any other similar authority. The Common Area shall not be subject to separate taxation or assessment.
- (viii) Each Owner may separately convey, encumber, or mortgage the Owner's Unit. No Owner may encumber the Common Areas, except to the extent of the Undivided Interest in the Common Area appurtenant to the Unit. The provisions of this Declaration shall be superior to any such interest and in the event of any foreclosure (judicial or otherwise), the Person taking title shall be subject to this Declaration.

3.2 **Limited Common Area.**

- (a) The Limited Common Area associated with each Unit consists of areas identified on the Plat or in this Declaration as Limited Common Area. The right to the exclusive use of the Limited Common Area is appurtenant to each respective Unit where so identified and may not be severed from the ownership of the Unit.
- (b) Each Unit is assigned one covered parking stall, and such assigned parking stall shall be Limited Common Area associated with the respective Unit. The covered stall assigned to each Unit is designated on **Exhibit D** to this Declaration, which Exhibit may be amended to reassign certain parking stalls pursuant to Section 15.6 of the Declaration. If the Association allows a Unit to lease or use any additional covered parking stall within the Project for a certain period of time, then such additional covered parking stall shall be treated as Limited Common Area for all purposes except that the Owner may not convey such temporary contractual interest in the additional covered parking stall without the Association's express written permission.

- (c) Patios and Balconies set forth on the Plat shall be Limited Common Area of the Unit to which they are associated.
- (d) Any windows, shutters, awnings, doors, porches, Balconies, Patios, or other apparatus intended to serve a single Unit, but located outside the boundaries of the Unit, shall constitute a Limited Common Area pertaining to that Unit exclusively.
- (e) Should it be unclear from the Plat or this Declaration if a particular area is Common Area or Limited Common Area, the Board shall have absolute authority in determining the proper designation of that area. If any area designated as Limited Common Area in the Plat, the Declaration, or (if unclear) by the Management Committee, is not physically associated with a particular Unit and is not identified as pertaining to a particular Unit in the Plat or this Declaration, the Board may determine to which Unit the Limited Common Area pertains based on the following factors: advice of counsel, fairness to all Owners, and any established use, each of which shall have equal weight but none of which shall be individually determinative.

3.3 **Undivided Interest of Each Unit in the Votes of the Association.** The Owner(s) of each Unit are entitled to vote their Undivided Interest for all matters related to the Association that Owners are permitted or required to vote or approve. The Undivided Interests for the Units are set forth on **Exhibit B**. Any difference in square footage, location, size, value, or other aspect of any Unit is not a reason to alter or change any Undivided Interest.

3.4 **Plat.** The Plat and all dimensions, descriptions, and identification of boundaries therein is binding on the Association and the Project. If any conflict exists between the Plat and this Declaration, this Declaration controls.

ARTICLE 4: MAINTENANCE, REMODELING, AND UTILITIES

4.1 **Owner Responsibility.**

- (a) The Owner of a Unit shall furnish and be responsible for, at the Owner's own expense, all of the maintenance, repair, and replacement of all of the following with regard to the Owner's Unit or areas adjacent to the Unit, and ensuring that such elements do not create a health or safety issue in the Project:
 - (1) All doors and doors to the Patio or Balcony, including thresholds, jams, hinges, doorbells, chimes, handles, and locks (regardless of whether they are part of the Common Area, Limited Common Area, or Unit);
 - (2) All windows, skylights, and door glass or equivalent materials, and related frames, sashes, casings, jambs, interior sills, exterior seals and weather-stripping (regardless of whether they are part of the Common Area or Unit) (including the interior and exterior cleaning of such windows and door glass);
 - (3) All paneling, tile, wallpaper, paint, carpet, finished interior flooring, fireplaces, and any other materials constituting the finished interior surfaces of floors, ceilings, or walls;

- (4) All drywall, wallboard, or similarly functioning materials within the Unit and attached to those walls adjacent to (or forming the boundaries of) the Unit (regardless of whether such components are part of the Common Area or Unit);
 - (5) All framing, insulation, and other materials associated with interior nonbearing walls, and all insulation associated with the interior bearing walls and any exterior walls;
 - (6) All fixtures, appliances, and other improvements in the Unit;
 - (7) All non-structural components of the Balcony and Patio, including all carpet, sunshades, awnings, or other coverings installed on the Balcony or Patio associated with the Unit and any railings installed on the Balcony or Patio; and
 - (8) All equipment, lines, pipes, wiring, equipment, and fixtures related to the provision of: sewer and water drainage and removal, hot and cold water, power, natural gas, air conditioning, heating, electricity, internet, television, telephone, and any other utility service, wherever they might be located (inside or outside of the Unit) that serve an Owner's Unit exclusively.
 - (9) The furnace and air conditioning units serving the Unit, which equipment may be located outside of the boundaries of the Unit. Such equipment which is deemed a health and safety risk to the Project or Persons, as determined in the discretion of the Board of Director (which may also be based upon information provided by third parties), must be repaired or replaced by the Owner to remove the health and safety risk.
- (b) Without the prior approval of the Board, an Owner may not make any alterations, repairs, or modifications to any doors from Units to Common Area or to any part of the exterior of a Building, including the Balcony or Patio. The Association may require that such repairs or modifications, if allowed, be made in a particular manner, by a particular person, or that they comply with particular materials or aesthetics requirements or other standards. If the Association approves the installation of a storm door for any Unit, the Association may require that the Owner of the Unit maintain such storm door.
- (c) The Owner is further responsible for keeping the following areas in a clean and sanitary condition and free of pests and rodents:
- (1) The Unit;
 - (2) The Balcony and Patio appurtenant to the Unit, including the repair and replacement of any surface material allowed by the Board to be installed on any Balcony or Patio;
 - (3) The area immediately in front of the entry door to each Unit, and the windows and doors to the Unit.
- (d) Subject to the specific requirements in this Declaration, the Board of Directors may set forth in the Rules complete restrictions on all or some items or specific

restrictions or guidelines on what may or may not be kept, installed, or left on or in any Balcony, Patio, storage area, parking area, or other Limited Common Area.

- (e) Subject to an Owner's obligation to comply with Rules related to parking areas that may include requirements to keep such areas free of clutter, debris, and other items, the Association is responsible for cleaning parking areas, including parking spaces.
- (f) The Association may establish rules, policies, or guidelines to address areas of maintenance, repair, replacement, or cleaning unidentified or unresolved by this Declaration and to establish maintenance, repair, replacement, or cleaning responsibilities and standards for components, fixtures, and areas in between, on, or straddling areas of different maintenance responsibility.

4.2 **Association Responsibility.**

- (a) Except as maintenance and cleaning obligations are otherwise assigned to the Owners or others in this Declaration, the Association shall repair, maintain, replace, and clean the Common Area, which includes but is not limited to the following:
 - (1) All foundations, concrete pillars, and ground-level and suspended concrete slabs and pads of the Buildings;
 - (2) All framing and structural components in ceilings, floors, and exterior and bearing walls of the Buildings (but excluding the drywall, wallboard, insulation and other materials expressly designated as an Owner's responsibility);
 - (3) The exterior surfaces of the Building and all components that are a part of the outside surface of all exterior walls and outside surfaces of the Building;
 - (4) Hallways and stairways located outside of any Unit and any railings associated therewith;
 - (5) The roofs, rain gutters, heat tape (electricity for heat tape may be derived from a Unit served by the heat tape), fascia, soffits, and all related components;
 - (6) All equipment, lines, pipes, wiring, and fixtures related to the provision of: sewer and water drainage and removal, hot and cold water, power, natural gas, internet, television, telephone, and any other utility service, wherever they might be located, to the extent they serve more than one Unit;
 - (7) The swimming pool, clubhouse, and all similar recreational amenities located in the Common Areas
 - (8) Carport structures and sheds or other structures located on the Common Areas;
 - (9) Fences on the exterior boundaries of the Project;

- (10) Components related to the structural integrity of the Balconies and Patios; and
 - (11) All Common Areas and Limited Common Areas (not otherwise assigned to the Owners).
- (b) The Association has the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area (subject only to the obligation to get approval for material alterations to the Project). The Association shall do all such other and further acts that the Board of Directors deems necessary to preserve and protect the Common Area, in accordance with the general purposes specified in this Declaration.
- (c) Improvements are governed by and subject to the following conditions, limitations, and restrictions:
- (1) Any improvement (repair, replacement, modification, or upgrade) to the Project that does not materially alter the Project may be authorized by the Board alone.
 - (2) A material alteration to the Project is the installation of a previously nonexistent and materially significant fixture or permanent removal of a materially significant fixture such as a swimming pool, hot tub, workout room, tennis court, or parking area. Landscaping alterations, general remodeling, the updating of existing fixtures such as boilers, electrical systems, plumbing equipment, and the addition or removal of signs or small structures are not material alterations to the Project.
 - (3) Regardless of its cost and prior to being constructed or started, any improvement that would materially alter the Project must be authorized by the vote of Owners holding at least fifty percent (50%) of the Undivided Interests at a meeting called for that purpose and must be approved by the Board. No material alteration that changes the size, shape, or location of any Unit is permitted without the written consent of all directly affected Owners.
- (d) The Board of Directors shall determine, in its sole discretion, the appropriate maintenance standard for the Common Area and Limited Common Area, so long as those areas are maintained in the best interests of the Owners.
- (e) Subject to the provisions related to insurance responsibility and deductible allocation, if the need for maintenance or repair is caused by the fault or negligence of an Owner or an Occupant, the Association may assess the Owner the actual cost of such maintenance or repair to the extent the repair costs are not paid for by any applicable insurance.

4.3 **Remodeling, Maintenance, and Repair of Units.**

- (a) An Owner may complete any maintenance or upgrades to the interior of a Unit, not otherwise defined as remodeling, without prior approval of the Association.
- (b) Remodeling. For the purpose of this Declaration, remodeling includes but is not limited to: moving or removing walls; altering the walls beyond painting or

adding paneling, such as by adding interior brick; any change to the electrical, mechanical, plumbing, fireplaces, or ventilation system, and any other activity generally referred to as remodeling. Repairing, changing or replacing vent covers, outlet covers, or faucets are not considered remodeling.

- (1) Before beginning any remodeling or deviating from a previously approved remodeling plan, the Owner shall:
 - (i) Notify the Association and provide the following: (1) a written description of the proposed remodeling; (2) a description of how any debris or materials removed will be disposed of; (3) the date the remodeling is expected to begin; (4) the date the remodeling is expected to be completed; (5) the names, contractor's license numbers, proof of current workers' compensation insurance, and proof of current liability insurance for all contractors and other persons expected or required to perform work in the remodeling, if available (all of this information must be provided to the Association before work begins); (6) any expected nuisance that the remodeling may create such as noise or dust; and (7) the Owner's proposal for mitigating any expected nuisance;
 - (ii) Wait to begin the remodeling until the Association gives written approval. If the Association does not respond within thirty (30) days of a notice of remodeling, the Owner may complete the remodeling to the Unit consistent with the information provided in the notice and the requirements of this Declaration. The Association may respond by approving the request, requesting additional information or, if the notice is not complete or if the remodeling plan appears unsafe or inconsistent with the terms of the Governing Documents, by denying the request. If the Association responds and requests further information or denies the request, the Owner shall not begin the remodeling; and
 - (iii) Pay or agree to pay any fees or costs required by the Association associated with reviewing or monitoring the remodeling.
- (3) Without the Board's prior written permission and regardless of whether any response from the Association is timely received or not related to a request for remodeling approval, none of the following is permitted to occur at any time: (i) any use of the Common Area or any roadways for staging, storage, assembly, or construction; (ii) any nuisance as established by law or by the Governing Documents; (iii) any blocking of the Common Area or roadways by vehicles, materials, or persons; (iv) any use of any Association garbage and disposal facilities for the disposal of debris, materials, or other items related to remodeling; (v) any construction work performed outside of the period of time between 8:00 a.m. and 7:00 p.m., or (vi) any modification to any Common Area.
- (4) The Board may adopt additional Rules related to the oversight and approval of the remodeling of Units.

- (5) The Board has no authority to approve any remodeling inconsistent with the Terms and Conditions, that modifies the exterior dimensions of any Unit from the original construction (unless any such modification is otherwise specifically allowed in this Declaration or by law), or that would cause unsafe conditions or a legal nuisance.
- (c) Unless otherwise required by the Rules, Owners are not required to follow the requirements set forth in Subsection 4.3(b)(1) when only changing, removing, or adding flooring such as carpet, linoleum, tile or hardwood floors; however, Owners must still comply with the remaining requirements of Section 4.3.
 - (1) In any Unit where hardwood, laminate, tile, or other floor covering other than carpet is installed and such flooring causes an unreasonable level noise to adjacent Units, as determined in the sole discretion of the Board, then the Owner of the Unit shall be required to take steps to minimize the noise, such as utilizing rugs in the Unit or installing different flooring materials, until the noise level is at an acceptable level as determined by the Board.
- (d) All remodeling and other repairs and modifications to Units must be completed in compliance with all applicable building codes, laws, and the manufacturer's specifications for any materials, equipment, and fixtures. The Association has no obligation to verify that any remodeling or other repairs and modifications to Units are completed as required herein.
- (e) No hot tubs, whirlpools, spas, or similar items may be installed on a Patio or Balcony.

4.4 **Default in Maintenance.** If an Owner or Occupant fails to: (1) clean, maintain, or repair a Unit or equipment serving the Unit, the Limited Common Area assigned to the Unit, or other Common Areas assigned to the Owner as required in Section 4.1 of the Declaration and other provisions of the Governing Documents; or (2) make repairs otherwise required of the Owner in such a manner as may be deemed reasonably necessary in the judgment of the Board of Directors to preserve and protect health and safety in the Project or the structural integrity, attractive appearance, good condition, and value of the Units in the Project; then the Association may take any action allowed for a failure to comply with this Declaration 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 thirty (30) days. If the Owner or Occupant fails to carry out such action within the period specified by the notice, then the Association may cause corrective action to be taken (completing the repairs and replacements, which may also require the entering of the Owner's Unit) and may assess the Owner for all costs associated therewith.

4.5 **Utilities.** All utilities for individual Units (except those utility costs that are paid by the Association as a Common Expense item) will be metered separately to each Unit and such utility charges are the responsibility of the Unit Owner. To the extent that the Association pays a utility as a Common Expense but such utility expense is metered for each Unit, the Association may assess such Unit the cost for the utility as determined by such metered amount along with any cost associated with the meter reading.

ARTICLE 5: ORGANIZATION AND GOVERNANCE OF THE ASSOCIATION

- 5.1 **Organization of Association.** The Association shall serve as the organizational body for all Owners.
- 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 may be 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 this Declaration and the Bylaws. 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 with terms substantially similar to the documents related to the expired or dissolved entity.
- 5.4 **Membership.** Membership in the Association must at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest in a Unit and such membership automatically terminates when the Owner ceases to have an ownership interest in a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit is shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held.
- 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 operations of the Association. The term “available” as used in this section means available for inspection and copying within thirty (30) days, unless a shorter time period is required by law, after receiving a proper request, during normal business hours and under other reasonable conditions. The Association has the right to refuse to disclose information that the Board 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. Subject to any legal requirements to the contrary, the Association may charge a fee for the reasonable cost of producing documents or information.
- 5.6 **Board of Directors.** The governing body of the Association is the Board of Directors elected and removed as provided in the Bylaws. The Board must consist of five (5) members. Except as otherwise provided in this Declaration or the Articles of Incorporation, the Board of Directors shall act, in all instances, on behalf of the Association. 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. Except as may be specifically provided in this Declaration, 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.

- 5.7 **Reasonable Ongoing Requirements for Board Members.** To the extent allowed by law, the Bylaws may place reasonable obligations and requirements on existing Board Members to retain their membership on the Board of Directors, such as a requirement that a Board Member attend a specified number of meetings. 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 of Directors.**
- (a) Except as provided herein or in the Bylaws, the Board, any individual Owner, and any individual Board Member or officer has no authority to and may not act on behalf of the Association or the Board to:
- (1) Amend or terminate any Governing Document;
 - (2) Elect or remove Board Members;
 - (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.
- 5.9 **No Estoppel or Reliance on Actions or Authorizations Contrary to Governing Documents.** No one may rely upon any authorization (from the Board of Directors or otherwise) contrary to the terms of the Governing Documents regardless of the circumstance under which it is given, and no claim or defense of estoppel or 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 Unit in the Project 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 Ann. § 57-8-13.1, the Association shall be registered with the state Department of Commerce and shall update its registration to keep any required information current as required by law.

ARTICLE 6: GENERAL RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

- 6.1 **Rights and Responsibilities of the Association.** The Association has the following rights and responsibilities, in addition to any others set forth in the Governing Documents or provided by law:
- (a) **Paying Expenses.** The Association shall provide for the payment of Association expenses.
 - (b) **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.

- (c) Entering Units. After having given the appropriate notice as provided for in this Declaration, the Association has the right, in the discretion of the Board, at all times upon reasonable notice (and at any time in case of an emergency) to enter into any Unit to abate any infractions, to make repairs or correct any violation of any of the Terms and Conditions, or to abate any condition that threatens the health or property of any Owner or Occupant.
- (d) Adopting and Enforcing Rules. The Association may adopt Rules for the regulation and operation of the Project. If they are adopted, they must be consistently and uniformly enforced. The Rules may address any issues, including those addressed in any other Governing Document. The Rules may supplement, clarify, and add detail to issues addressed in the other Governing Documents so long as they do not contradict the same. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules is 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.
- (e) Hiring Managers and Delegating Responsibilities. The Association may hire a 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 General 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. Any management agreement must be terminable without penalty and with or without cause upon thirty (30) days' notice. Notwithstanding the foregoing, the Board's decision to hire a manager may be overruled by a vote of fifty-one percent (51%) of the Owners. **THE BOARD OF DIRECTORS HAS NO AUTHORITY TO ENTER INTO ANY MANAGEMENT AGREEMENT OR CONTRACT INCONSISTENT WITH THE TERMS AND CONDITIONS OF THESE GOVERNING DOCUMENTS OR THAT PROVIDES FOR ANY TERMINATION FEE OR REQUIREMENT FOR TERMINATION FOR CAUSE.**
- (f) Other Necessary Rights. The Association has any other right that is reasonably necessary to carry out the terms of the Governing Documents.
- (g) 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) terminate Owners' rights to receive utility services paid as a Common Expense; (3) collect rents directly from tenants, in accordance with Utah Code § 57-8-53, if Owners fail to pay Assessments; and (4) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.
- (h) Enforcement. The Board of Directors shall uniformly and consistently enforce and implement the Terms and Conditions in the Governing Documents.

- (i) Reserve Fund. The Association shall establish and fund a reserve fund and obtain and update a Reserve Analysis as required in this Declaration.
- (j) Preventing Conflicts with Service Providers and Vendors. Without specific authorization of the Board as documented in the minutes of the Association and after full disclosure of all aspects of the potential conflict, the Association should not permit any paid services or materials obtained by the Association to be performed or provided by: (1) any relative of any Board Member, Manager, or of any officer, employee, or owner of the Manager; (2) 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 (3) 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. The prohibitions above related to the Manager and relatives of the Manager do not apply to the management company as it relates to providing management services or other directly contracted for services by the Manager. A relative is any Person known to be related by blood or marriage. The provision of services and materials for purposes 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.
- (k) 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. The Board of Directors 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. Any such hearing process must provide, at a minimum for: (1) at least two (2) weeks' notice of the hearing to the Owners; and (2) a reasonable time period under the circumstances for the Owner(s) to present their own testimony, the testimony of others, argument, authority, evidence, and other information the Owner deems relevant to the disputed issue.
- (l) Annual Meeting. The Association shall arrange for and conduct an annual meeting 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.
- (m) Bulk Services Agreements. The Association has the right to enter into agreements, as the Board of Directors deems appropriate, for the provision of cable, television, internet, telephone, or other similar services for all of the Units. Such services must be assessed to the Owners pursuant to the provisions of this Declaration and in any Assessment may be broken out as a separate line item on invoices, statements, or notices of Assessment.

- (n) **Review and Audit of Association Finances.** The Association may have an independent accountant conduct a review of the Association's finances. The Association shall make any such review available to the Owners. Any Owner may have an audit or review conducted of the Association's records by a CPA, at that Owner's expense, and the Association shall cooperate in providing access to any records needed for that audit or review. Upon receipt of a request signed by Owners holding twenty percent (20%) of the Undivided Interests, the Board shall have an audit conducted of the Association's finances by a CPA and shall make the audit available to the Owners.
- (o) **Assigning, Renting, or Leasing Uncovered Parking Spaces.** As further set forth in Section 10.7, the Association has the right to assign, rent, or lease the uncovered parking spaces, or stalls, for use by a particular Unit, visitors, or anyone.
- (p) **Electric Cars and Charging Stations.** The Association may allow and has the right to regulate and impose reasonable requirements on the installation of charging stations and the charging of electric vehicles in the Association. An electric vehicle charging station must meet applicable health and safety standards and requirements imposed by state and local authorities as well as all other applicable zoning, land use or other ordinances, or land use permits. The Association has the power to establish Rules implementing this section and such Rules may include, but are not limited to, the following: (1) requiring the Owner to pay the cost of installation, maintenance, insurance, and power related to any charging station or vehicle charging; (2) requiring the Owner to pay the cost of measuring the power usage; (3) imposing charges to an Owner for reasonable estimates by the Board of power consumption when the Owner is allowed to connect to common area power without a requirement for specific metering; (4) imposing charges to an Owner for reasonable costs of managing and administration of extra billing, power allocation, metering, or other costs associated with electric vehicle charging; (5) establishing standards related to the construction or use of any charging equipment or cables; (6) requiring that Owners pay for any costs associated with the modification to electrical systems necessary to support charging or charging equipment; (7) requiring proper maintenance, certification, inspections, and cleaning of any charging equipment and components; (8) related to the location and storage of any charging equipment; and (9) any other reasonable Rules related to charging and charging stations.
- (q) **Project Air Space, 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.
 - (1) The Association 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 one thousand (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 must not subject the Association to liability for damages to persons or property relating to the operation of such a device.

- (2) 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, if any, 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.
- (3) The Association has the power to establish Rules implementing this section and such Rules 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.

ARTICLE 7: BUDGETS & ASSESSMENTS

7.1 **Purpose of Assessments.** Money collected by the Association must be used for the purposes of promoting the health, safety, and welfare of the Owners; 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 Units; and in the furtherance of carrying out or satisfying any other responsibility or power of the Association.

7.2 **Budget and Regular Assessments.**

- (a) The Board of Directors is authorized and required to prepare a proposed budget for each fiscal year. The proposed budget for the following fiscal year must be prepared and sent to the Owners not later than thirty (30) days prior to the annual meeting.
- (b) The Board of Directors may revise the budget from time to time as it deems appropriate throughout the fiscal year and, if it intends to adjust Assessments, shall provide the revised budget with notice of any revised assessments.
- (c) The Budget must 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 reserves, contingencies, and estimates as the Board of Directors deems appropriate.
- (d) If the proposed budget is modified before adoption and after the mailing required prior to the annual meeting, the Board of Directors shall send a written copy of the final budget to all Owners no later than thirty (30) days after the adoption of the proposed budget or any revised budget.

- (e) The Board of Directors shall determine the amount of the regular Assessments to be paid by the Owners of each Unit by multiplying the total budgeted amount by the Undivided Interest for each Unit.
 - (f) The Board of Directors may only increase the amount of regular Assessments up to ten percent (10%) from the prior year's regular Assessments. If the budget proposed by the Board of Directors includes an increase greater than ten percent (10%) in the regular Assessments, the increased amount over ten percent (10%) must be approved by at least a majority (greater than fifty percent (50%)) of the total Undivided Interest of the Association, which approval may be obtained by vote, ballot, or other written consent as allowed by and consistent with the requirements of the Bylaws. If the Owners do not approve the proposed increase in regular Assessments, then the Board of Directors is limited to increasing the regular Assessments by only ten percent (10%).
- 7.3 **Payment of Regular Assessments.** Unless otherwise established by the Board of Directors and communicated to each Owner, each Owner shall pay to the Association the Owner's regular Assessment in equal monthly installments.
- 7.4 **Adjustments to Regular Assessments.** In the event the Board of Directors determines that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it may then, subject to Section 7.2(f), revise the budget and each Owner's share of the new budget total based on the Owner's Undivided Interest. Upon notice of the adjustment, and unless modified by the Board, each Owner shall thereafter pay to the Association the Owner's adjusted regular Assessment in equal monthly installments.
- 7.5 **Personal Obligation for Assessment.** Each Owner of any Unit, 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, including any Assessments assessed and unpaid prior to the date the Owner became an Owner. Each such Assessment, together with such interest, collection charges, costs and attorney fees, is also the personal obligation of the Owner of such Unit at the time the Assessment becomes due.
- 7.6 **Improvements.** Expenses for improvements may be included in the budget, paid for through Special Assessments, or paid for in any other manner as determined by the Board of Directors.
- 7.7 **Allocation of Assessments.** Except as otherwise provided herein, all Assessments (other than Special Assessments to individual Units) must be allocated to Owners based on the Undivided Interest applicable to the Unit.
- 7.8 **Rules Regarding Billing and Collection Procedures.** The Board of Directors may 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 (other than a Certificate of Payment) does not relieve any Owner of liability for any Assessment or charge under the Governing Documents.

- 7.9 **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.
- 7.10 **Account Payoff Information.** The Association is specifically authorized to establish a fee up to the maximum amount allowed by law to provide payoff information related to the transfer, refinance, or closing of a Unit. Unless otherwise determined by the Association in its Rules, such fee shall be \$50.00. Within five (5) business days of any complete payoff information request, the Association shall provide assessment payoff information needed for the closing. The provided payoff information is conclusive in favor of a Person who relies on the written statement in good faith. 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 the Owner of the Unit for which the payoff information is requested.
- 7.11 **Special Assessments.** Subject to any limitations in this Declaration for the particular type of expense, the Association is expressly authorized to set and collect Special Assessments payable as may be determined by the Association (in lump sums or over a period of time) to pay for any Common Expenses. No Special Assessment may be levied without approval by at least a majority (greater than fifty percent (50%)) of the total Undivided Interest of the Association, which approval may be obtained by vote, ballot, or other written consent as allowed by and consistent with the requirements of the Bylaws. Notwithstanding the wording or terms of any notice of Special Assessment, a Special Assessment will be deemed assessed, for all purposes, on the date that the payment for the Special Assessment is assessed.
- 7.12 **Special Assessments to Individual Units.** Special Assessments may be assessed by the Association against a particular Unit and its Owner for:

- (a) Costs incurred in bringing an Owner or the Owner's Unit into compliance with the provisions of the Governing Documents;
 - (b) Costs associated with the maintenance, repair or replacement of a Limited Common Area assigned to such Unit if such cost is the responsibility of the Owner as provided for in this Declaration;
 - (c) Any other charge designated as pertaining to an individual Unit in the Governing Documents;
 - (d) Fines, late fees, collection charges, and interest; and
 - (e) Attorney fees, costs, and other professional expenses relating to any of the above.
- 7.13 **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 Units, 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 a Special Assessment pertaining to that Unit, at the discretion of the Board of Directors.
- 7.14 **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 of Directors in its discretion may apply the excess to reserves, credit the excess against future Assessments or refund the excess to the Owners in proportion to the Undivided Interest of each Unit in the Common Expenses of the Project. The decision of the Board of Directors 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.
- 7.15 **No Offsets.** All Assessments are payable at the time and in the amount specified by the Association, and no offsets against such amount are permitted for any reason, including, without limitation, a claim that the Board of Directors 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.
- 7.16 **How Payments Are Applied.** Unless otherwise provided for in the Rules, all payments for Assessments must be applied to the earliest 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.
- 7.17 **Loans.** Upon approval of Owners holding forty percent (40%) of the Undivided Interest by vote at a meeting called for that purpose, 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 assess Owners. Notwithstanding anything to the contrary, no Unit is permitted to be security for any loan to the Association without that Unit Owner's consent.
- 7.18 **Reinvestment Fee Covenant upon Sale or Transfer of Unit.** The Board may require the transferor/seller or transferee/buyer to pay a fee related to the transfer of a Unit (a "Reinvestment Fee") as provided for in Utah Code Ann. § 57-1-46, in an amount up to one half of one percent (.5%) of the value of the Unit at the time of the transfer. A

transfer is any change in the ownership of the Unit as reflected in the office of the county recorder, regardless of whether it is pursuant to the sale of a Unit or not. If a fee is required, the amount must be set forth by the Board in the Rules.

- (a) The value of the Unit for purposes of this section is the higher of: (i) the value of the Unit as determined by the property tax assessor on the date of the transfer of title; (ii) the purchase price paid for the Unit related to the transfer; or (iii) the value of the Unit on the date of the transfer of title as determined in an appraisal that may be obtained (in the discretion of the Board) and paid for by the Association, using an appraiser selected by the transferee of the Property from a list of ten (10) appraisers selected by the Association. All or a portion of the reinvestment fee must be used to pay the Association's costs directly related to the transfer of the Unit, not to exceed two hundred fifty dollars (\$250.00).
- (b) The reinvestment fee may not be enforced against: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a bona fide transfer to a family member of the seller within three (3) degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (v) 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).
- (c) 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: (i) requirements for Owners to provide sales and transfer documents; (ii) requirements for the timing of responses to requests such as the selection of the appraiser; (iii) default provisions if no selection is made such as allowing the Association to select the appraiser; and (iv) other procedural requirements and rules as the Board deems appropriate to effectuate the terms of this provision in a prompt and reasonable manner.

ARTICLE 8: NONPAYMENT OF ASSESSMENTS & JOINT AND SEVERAL 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.
- 8.2 **Collection Charges and Interest.** If the Association does not otherwise adopt or establish substitute billing and collection procedures, including the amount of late fees and interest, in the Rules, the following apply:
 - (a) Monthly Assessments are due and payable on the first (1st) of the month and late if not received by the tenth (10th) of that month.
 - (b) Accounts with an unpaid balance after the tenth (10th) of each month shall be charged a late fee of twenty dollars (\$20.00) for each month that an Owner's account has an unpaid balance after the due date.

- (c) In addition to late fees, the Association may levy interest on all unpaid balances, including unpaid prior attorney fees, interest (resulting in compounding of interest), late fees, and Assessments, at the rate of two percent (2%) per month, compounded monthly.
- (d) The Association may also impose and assess to the Owner a collection charge, late fee, and any other reasonable charge imposed by a Manager related to collections. The Association may establish such additional amounts in the Rules; however, for any charge imposed by the Manager to the Association in regard to a delinquent account, then the amount charged by the Manager shall be the amount assessed to the Owner's account.

8.3 **Joint and Several Liability of Owner and Future Owners for All Past and Presently Accruing Unpaid Assessments.** The Owner and any future Owners of a Unit are jointly and severally liable for all Assessments accruing related to that Unit prior to and during the time that an Owner is an Owner. An Owner is not liable for any Assessments accruing after an Owner has lawfully transferred the Unit to another Owner. The recording of a deed to someone or some company that has not agreed to take ownership of the Unit is not considered a legal conveyance of title. The obligation in this Section 8.3 is separate and distinct from any lien rights associated with the Unit.

8.4 **Lien.** The Association has a lien on each Unit for all Assessments, which include but are not limited to, interest, collection charges, late fees, fines, attorney fees, court costs, and other costs of collection (which includes all costs and is not limited by those costs that may be awarded under the Utah Rules of Civil Procedure). This lien arises and is perfected as of the date of the recording of the Enabling Declaration, for any existing liens, and as of the date of the recording of this Declaration, for any future liens, and has 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's lien has priority over each other lien and encumbrance on a Unit except only: (1) a lien or encumbrance recorded before this Declaration is recorded; (2) a first or second security interest on the Unit 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 Unit. The Association may, but need not, record a notice of lien on a Unit.

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 shall 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 Unit, and reasonable attorney fees and court 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 Ann. Sections 57-1-20 and 57-8-44 to -53, an Owner's acceptance of an interest in a Unit constitutes a simultaneous conveyance of the Unit in 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 **Lien Not Subject to Homestead Exemption.** Pursuant to Utah Code § 57-8-44(5), any lien of the Association arising under Section 44 of the Act is not subject to any Owner's homestead exemption, and each Owner hereby waives any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter that relate to the Association's lien arising under the Act and this Declaration.
- 8.8 **Termination of Delinquent Owner's Rights.** The Association has all rights provided for in the Act to terminate a delinquent Owner's: (1) rights to receive a utility service for which the Owner pays a Common Expense; and (2) access to recreational facilities.
- 8.9 **Requiring Tenant to Pay Rent to Association.** Pursuant to Utah Code § 57-8-53, the Association has the right to demand and collect rent from any tenant in any Unit for which an Assessment and/or other fees owed to the Association is more than sixty (60) days late.
- 8.10 **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 plan for the duration of the plan; (7) file relief from stay motions, objections, or other adversary proceedings in bankruptcy and all related activities, including seeking and responding to discovery, taking depositions or examinations, introducing evidence, hiring and paying expert witnesses, filing motions and other pleadings, attending trials, hearings, or other court proceedings, including as necessary 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 provide for any notice of lien. This provision is to be construed broadly to permit an 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.
- 8.11 **Association Takes Title to Unit.** If the Association takes title to a Unit pursuant to a foreclosure (judicial or non-judicial), it is not bound by any of the provisions related to the Unit that are otherwise applicable to any other Owner, including, but not limited to: obligations to pay assessments, taxes, insurance, or to maintain the Unit. By taking a security interest in any Unit governed by this Declaration, Lenders agree not to make any

claim against the Association for nonpayment of taxes, assessments, or other costs and fees associated with any Unit if the Association takes title to a Unit related to any failure to pay assessments.

ARTICLE 9: PROPERTY RIGHTS IN UNITS AND COMMON AREA

9.1 General Easements to Common Area and Units.

- (a) Subject to limitations in the Governing Documents, each Owner has an Undivided Interest in, and easement of use and enjoyment in and to, the Common Areas for the purposes for which they were intended. Such use cannot hinder or encroach upon the lawful rights of the other Owners and may not extend into the Limited Common Area reserved for the use of an Owner of another Unit. Each Owner has an unrestricted and nonexclusive right of ingress or egress to and from the Owner's Unit over and across such Common Area, subject to any other restrictions related to such use. Such rights and easements are appurtenant to and pass with title to each Unit and in no event will such appurtenant rights be separated therefrom. Authorized Occupants have the same access and use rights to the Common Area as an Owner. All such rights are subject to any Rules established by the Board of Directors.
- (b) The Association has nonexclusive easements with the right of access to each Unit, including any Limited Common Areas, to make inspections, to prevent or mitigate damage to Units and to Common Area, and to maintain, repair, replace, or effectuate the restoration of the Common Area and those portions of the Unit that the Association is responsible for maintaining which are accessible from such Unit. Such rights may be exercised only after the Association provides notice in accordance with Article 17 of this Declaration. The Association has a nonexclusive right to grant permits, licenses, and easements upon, across, over, under, and through the Common Area for purposes necessary for the proper operation of the Project.

- 9.2 Public Utilities.** 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 of Directors to be helpful in serving the Project, Units, or Unit Owners in the Project are hereby reserved to the Association, together with the right to grant, alter, and transfer the same; provided, however, such easements and rights-of-way do not unreasonably interfere with the use of the Common Area and the Units 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 or Units 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 and gas lines or pipes and any other public, quasi-public, or private improvements or facilities. Each Owner, in accepting the deed to a Unit, expressly consents to such easements and rights-of-way and

authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. 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 Unit.

- 9.3 **Easements for Encroachments.** If any portion of the Common Area encroaches upon any Unit, or if any Unit encroaches upon any other Unit or the Common Area as a result of the manner in which the buildings are constructed or due to settling, shifting, alteration, replacement, repair or restoration by the Association, a valid easement for encroachment and maintenance of such encroachment exists for the life of the structure.
- 9.4 **Limitation on Easement—Suspension of Owner's Rights.** An Owner's Undivided Interest, right and easement of use and enjoyment concerning the Common Area is subject to any other limitation in the Governing Documents and the following:
- (a) The right of the Association to suspend the Owner's right to the use of any recreational facilities included in the Common Area: (1) for any period during which an assessment on such Owner's Unit remains unpaid; (2) for a period not exceeding sixty (60) days for any infraction by such Owner of the provisions of this Declaration or any Association Rule; and (3) for successive sixty (60)-day periods if any such infraction is not corrected during any prior sixty (60)-day suspension period;
 - (b) The right of the Association to impose reasonable limitations on the number of Occupants per Owner who at any given time are permitted to use the Common Area; and
 - (c) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access and to have rights of ingress and egress over and across any street, parking areas, walkway or open areas contained within the Common Area for purposes of providing police and fire protection, transporting school children and providing other governmental or municipal services.
 - (d) The right of the Association to reasonably limit or restrict Owner's access and use of certain portions of the Common Area set aside for the functioning of the Association (i.e.: roofs of Building, carports, and other structures; being on fences; in areas under maintenance) or for any portion of the Common Area that has been leased or rented to a third-party (i.e.: parking stalls that have been rented by the Association, or an area leased for cellular tower).
- 9.5 **Views.** Views from a Unit and the Project are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Project and each Owner and Occupant in such Owner's Unit acknowledges and agrees that there are no view easements or view rights appurtenant to the Unit or the Project.

ARTICLE 10: USE LIMITATIONS AND CONDITIONS

- 10.1 **Rules.** 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. Pursuant to Utah Code § 57-8-8.1(7), the requirements of § 57-8-8.1, Subsections (1) through (5), except Subsection (1)(b)(ii), are hereby modified to not apply to the Association; thus, enabling the Board to adopt Rules that reflect the specific circumstances for the Association.
- 10.2 **Signs.** The Association may regulate and restrict signs in the Project, to the extent permitted by law, in the Rules. “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 for which signs are typically used, that is placed in, on, or outside of a Unit with the apparent purpose, in whole or in part, of making it visible to people outside of the Unit.
- 10.3 **Nuisance.** No noxious or offensive activity may be carried on upon the Project, nor may any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant may engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state, or federal body.
- 10.4 **Smoking.** Smoking is prohibited within the following areas in the Project: all Units, Balconies, Patios, clubhouse, pool area, in the carports, and within twenty-five (25) feet of any opening to any Building. It shall be a nuisance and prohibited under Section 10.3 of the Declaration to permit or cause any smoke to drift or otherwise enter into any Unit or the Limited Common Area of any Unit. Neither a Unit Owner or Occupant complaining of smoke nor the Association responding to that complaint shall be required to close windows or doors, make repairs, or otherwise make any physical alteration to the Project, any Building, or any Unit to prevent drifting smoke from entering into a Unit or any Balcony or Patio associated with a Unit. It shall be the sole responsibility of the Unit Owner who is causing, or whose Occupant or invitee is causing, the smoke to prevent or stop smoke from entering any other Unit and its Limited Common Area, which may require, if other attempts to stop it are unsuccessful, the termination of smoking. The Board may adopt Rules that further restrict smoking within the Common Areas to certain designated smoking areas. The Association relies upon the definitions of the terms “e-cigarettes” and “smoking” as used in the Utah Indoor Clean Air Act (Utah Code Ann. § 26-38-2 *et seq.*) in defining such terms for this section.
 - (a) The term “e-cigarette”:
 - (1) Means any electronic oral device:
 - (i) that provides an aerosol or a vapor of nicotine or other substance; and
 - (ii) which simulates smoking through its use or through inhalation of the device; and

- (2) includes an oral device that is:
 - (i) composed of a heating element, battery, or electronic circuit; and
 - (ii) marketed, manufactured, distributed, or sold as: an e-cigarette; e-cigar; e-pipe; or any other project name or descriptor, if the function of the project meets the definition of subsection (a)(1).
- (b) The term “smoking” means:
 - (1) the possession of any lighted or heated tobacco product in any form;
 - (2) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains (i) tobacco or any plant product intended for inhalation; (ii) shisha or non-tobacco shisha; (iii) nicotine; (iv) a natural or synthetic tobacco substitute; or (v) a natural or synthetic flavored tobacco product;
 - (3) using an e-cigarette; or
 - (4) using an oral smoking device intended to circumvent the prohibition of smoking in this section.
- (c) The Board may adopt reasonable Rules to address new non-combustible tobacco products that may not otherwise fall into the prohibition against smoking in this section to expressly include such products in this smoking prohibition.

10.5 **Temporary Structures.** No structure or building of a temporary character, including a tent or shack, is permitted to be placed upon the Project or used therein unless it is approved by the Board of Directors.

10.6 **Parking.** Unless otherwise permitted by the Association in the Rules, and except for “customary parking” and “temporary parking,” as permitted by this Section 10.6, no automobiles or other vehicles of any type (including, without limitation, motorcycles, trailers, campers, vans, recreational vehicles, or boats) shall be parked, stored, or located within any portion of the Project, including any Unit or Common Area. “Customary parking” shall mean the parking of operable automobiles, motorcycles, noncommercial trucks and vans within allowed parking spaces. “Temporary parking” shall mean parking of operable vehicles belonging to Owners and Occupants and their visitors, including the parking of delivery trucks, service vehicles, and other commercial vehicles being used in the furnishing of goods and services to the Owners and Occupants. The Association may adopt Rules relating to the parking of vehicles within the Project and for the parking of vehicles within the vicinity of the Project, including, without limitation: (1) Rules allowing or causing to be removed any vehicles that are improperly parked; (2) restrictions on the type and condition of vehicles in any parking stall in the Common Area; (3) restrictions on the time period and duration of temporary parking; and (4) the assessment of fines to Owners who violate the Rules or the assessment of fines to Owners whose Occupants or guests violate such Rules.

- (a) As set forth in Section 3.2(b) and **Exhibit D**, each Unit is assigned one covered parking stall.
- (b) The Board may adopt Rules specific to the uncovered parking stalls to designate such parking stalls as visitor parking, short-term parking, or may assign uncovered parking stalls to a specific Unit. Absent such assignments or Rules concerning the uncovered parking stalls, Owners and Occupants may utilize any uncovered and unassigned parking stall.
- (c) If the Association assigns an uncovered parking stall to a specific Unit, the Association may limit the use of such stall to the Owner and Occupants of the Unit. The Association may establish and charge a rental Assessment fee to any Unit who is assigned extra parking. The Board may require the full payment of that rental Assessment fee as a condition of applying for the extra parking.
- (d) The procedure for selecting the Units to receive the extra parking shall be determined by the Board and may include, at the Board's discretion, the extra parking spaces may be assigned through a yearly lottery or based on a list maintained by the Association using a first-come, first-served basis. The Association may charge a reasonable fee for entering such yearly lottery or being added to the list.
- (e) The Association may adopt Rules setting forth a maximum time period that any Unit may be assigned an extra parking stall. The Association may condition the ongoing assignment of extra parking on full compliance with the Governing Documents and other reasonable conditions in the rules. The Board may provide that if these conditions are not met, the rental Assessment fee is forfeited and the Owner loses the extra parking.
- (f) No Unit may be assigned or rent more than one (1) extra uncovered, parking stall.
- (g) The Association may not assign or rent all of the uncovered parking spaces in the Project.

10.7 **External Fixtures.** The Board of Directors may adopt Rules regarding the construction, installation or erection of external items such as, but not limited to, television and radio antennas, satellite dishes, flag poles, clotheslines, wiring, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, Balconies, Patios, or balcony enclosures, sunshades, lighting fixtures, walls, windows, skylights, landscaping, and plantings, other than those provided in connection with the original construction of the Project.

10.8 **Window Covers.** The Board of Directors may adopt Rules requiring window covers, regulating the type, color, and design of window covers, and requiring prior approval of window coverings before installation. Absent Rules permitting otherwise, only curtains, drapes, shades, shutters, and blinds may be installed as window covers. No window may be covered by paint, foil, sheets, paper, external shades, or similar items.

10.9 **External Laundering.** Except as permitted in the Rules, external laundering and drying of clothing and other items is prohibited.

- 10.10 **Hanging Items on Balcony.** Nothing may be hung from or attached to the railing or support joists of a Balcony without prior written permission of the Board.
- 10.11 **Front Door to Unit from Hallway.** The Board may adopt Rules allowing or not allowing Owners to place small items in the Common Area immediately in front of such Owner's Unit including, but not limited to, vases, flowers, small pictures, other artwork, floor mats, wreaths, or other decorations. Unless and until the Board adopts such Rules, Owners may place such small items in front of their Unit in the Common Area hallway as long as such items are kept neat and tidy and do not block the hallways.
- 10.12 **Outside Speakers and Amplifiers.** Except as permitted in the Rules, and subject to any regulations in the Rules, no radio, stereo, broadcast, loudspeaker, or projection of sound or music on or directed to the outside of any Unit is permitted.
- 10.13 **Repairs.** Except for emergency automobile maintenance, no repairs of any detached machinery, equipment, or fixtures, including, without limitation, motor vehicles, may be made in the Project except as may be permitted by the Board of Directors in the Rules. Unless otherwise prohibited in the Rules, light maintenance to a vehicle is allowed in the resident's assigned parking. "Light maintenance" includes the following work: changing windshield wipers, filling the windshield wiper fluid reservoir, changing or charging a battery, removing, replacing, and/or re-pressuring a flat tire, changing an air cleaner, and such other specific items as may be designated in the Rules by the Board. Heavy maintenance shall include any sort of painting, sanding, or collision repair; any overhaul or replacement of components such as an engine, transmission, rear end, and any other type of repairs designated as heavy maintenance by the Board in the Rules. Heavy maintenance is not permitted in the Project. Absent Rules permitting and designating additional maintenance items, the specific maintenance items identified as allowed in this section shall be all that are permitted in the Project. No washing of motor vehicles in the Project shall be permitted except as may be allowed by the Board in the Rules.
- 10.14 **Unightly Items.** All rubbish, debris, unsightly materials, or similar objects of any kind must be regularly removed from Units and must not be allowed to accumulate therein or thereon. Trash and garbage must be properly and promptly disposed of as provided for in the Rules.
- 10.15 **Animals.** The Board of Directors may adopt provisions in the Rules regulating the type, size, and number of animals that Owners may have within the Project and within a Unit and under what conditions animals may be kept within the Project and Units. Absent the adoption of a Rule allowing otherwise, no animals, livestock, or poultry of any kind are permitted to be raised, bred, or kept in any Unit, except household pets (i.e.: dog, cat, or other animal commonly kept as a household pet) may be kept provided that they are not kept, bred, or maintained for any commercial purpose. Notwithstanding the foregoing, (a) no animals or fowl may be kept on or within the Project or any Unit that result in an annoyance or which are obnoxious, by noise, smell, or otherwise, to Unit Owners; and (b) when it deems it proper the Board of Directors has the authority, on a case by case basis and at its sole discretion, to restrict any Owner or Occupant from keeping or bringing any animal into the Project or any Unit. In an effort to minimize anxiety and fear of the Owners and Occupants generally or as may be otherwise required or beneficial for the Association to obtain insurance coverage, the Association may prohibit dogs of certain

breeds (pure or partial) believed generally to be aggressive, including, but not limited to, the following breeds: Pit Bull, Fila Brasileiro, Presa Canario, Chow, Alaskan Malamute, Doberman Pinscher, and Rottweiler. Dogs must be on a leash at all times when they are in the Common Areas or on a Patio. ALL FECAL MATTER SHALL BE IMMEDIATELY CLEANED UP ON THE PROJECT. All pets and animals in the Project must be registered and inoculated as required by law. 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 a Unit 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. Any pets that Owners have within the Project on the date this Declaration is recorded with the County Recorder are grandfathered, meaning that Owners are allowed to keep such pets within the Project until such pets pass away regardless of the number and type of pets.

- 10.16 **Landscape Maintenance.** Absent the adoption of a Rule allowing otherwise, no one may alter, change, or maintain any landscaping, plants, or other plantings in the Common Area without the Board's written approval.
- 10.17 **Storage.** The Board of Directors may adopt Rules regulating what may be placed and left in the Common Areas and on Balconies and Patios. Except as provided for in the Rules, no items whatsoever may be stored in the stairwells or hallways for any length of time.
- 10.18 **Barbecue Grills.** Only gas barbecue grills and one (1) spare barbecue propane tank may be stored or used on the Patio or Balcony. The use of charcoal or charcoal grills is prohibited in the Project. The Board may adopt additional Rules regarding grills to address any fire and safety hazards, which Rules may include the prohibition of any grills on the Balconies or Patios if the fire department deems them a fire hazard.
- 10.19 **Floor Load.** There may be no floor load in excess of the weight for which the Unit was designed, unless special arrangements are made, and an engineering determination of floor load capacity in the areas of the heavy use is obtained by the Owner and the Board approves the determination in writing. It is the Owner's responsibility to determine if any particular item exceeds the floor load capacity for a Unit.
- 10.20 **Residential Occupancy.** Except as provided in this section, no Unit may be used for any purpose other than a residential purpose.
- (a) No trade or business may be conducted in or from any Unit unless:
- (1) The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell, from outside the residence;
 - (2) The business activity conforms to all zoning and legal requirements for the Project and the business activity;
 - (3) The business activity does not involve Persons coming onto the Project who do not reside in the Project or solicitation of Occupants or Owners of the Project;

- (4) 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 Occupants of the Project;
- (5) The business activity is disclosed to the Board of Directors before business is commenced along with a description of the business activity, a statement of the amount of space required in the Unit for such activity, and a description of any impact on the Project;
- (6) There is no commercial delivery of packages or mail other than deliveries consistent with typical residential use,
- (7) The business activity will not result in the increase of the cost of any of the Association's insurance;
- (8) All Owners of the Unit reside in the Unit in which the business activity is conducted for the entire time any business activity is conducted. (If an entity owns the Unit, all owners of the entity must reside in the Unit. If the Unit is held in the name of a trustee for a trust, the beneficiary must reside in the Unit); and
- (9) The Board of Directors' requests for information related to the business as necessary to determine compliance with this Section 10.21 are responded to timely, fully, and completely as often as the Board determines in its discretion.

(b) No Unit may be used as a time-share property.

10.21 **No Subdivision or Timeshare of Units or Recording by Owners of Terms and Conditions.** No Unit is permitted to be split, subdivided, separated or timeshared into two (2) or more Units or property interests (whether temporally or spatially), and no Owner of a Unit is permitted to sell or lease part of a Unit. No subdivision Plat or covenants, conditions, or restrictions may be recorded by any Owner or other Person with respect to any one (1) Unit. No subdivision Plat or covenants, conditions, or restrictions related to any Unit or the Project may be recorded on the Project unless the Board of Directors 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 10.21 are null, void, and of no legal effect.

10.22 **Number of Occupants in a Unit.** The number of Occupants that may lawfully reside in a single Unit is the amount set forth by the Murray City ordinances.

10.23 **Architectural Control.** The Board of Directors may adopt Rules governing architectural control of the Project. Except as set forth in the Rules, no exterior changes whatsoever may be commenced, erected, maintained, made, or done without the prior written approval of the Board or any Committee established by the Board for that purpose. By way of illustration, but not of limitation, the following are considered exterior changes: painting of the exterior of the Building; landscaping; excavation; Patio or Balcony covers; screens; exterior doors, including those to interior building hallways; the addition of evaporative coolers or air conditioners; vents for fireplaces, stoves, or other exhausts; chimneys; skylights; solar energy collectors; shade screens; awnings; exterior window

coating or tinting; window replacement; decorative alterations; and other work that in any way alters the exterior appearance of the Project. The Board may designate the design, style, model, and manufacturer of any exterior improvement or alteration. Such designations are for the purpose of achieving uniformity of appearance that is hereby deemed and agreed to be necessary to preserve and enhance the value of Units and the Project.

- 10.24 **Energy Conservation Equipment.** No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Building or in Common Areas unless it is an integral and harmonious part of the architectural design of the Project and Unit, as determined in the sole discretion of the Board.
- 10.25 **Lighting.** The Board of Directors may adopt Rules regarding exterior lighting. Except as set forth in the Rules, exterior lighting fixtures are allowed only to the extent approved by the Board.
- 10.26 **Firearms.** The discharge of firearms within the Condominium Project is prohibited. The term “firearms” includes “B-B” guns, pellet guns, paintball guns and other firearms of all types, regardless of size.
- 10.27 **Garage Sales.** Garage sales, rummage sales, or similar sales will not be permitted unless pre-approved by the Board of Directors.
- 10.28 **Variances.** The Board of Directors may, at its option and in extenuating circumstances, grant variances from the Terms and Conditions set forth in this Article 10 if the Board determines in its discretion (by unanimous vote): (1) either (a) that the Term and Condition would create an unreasonable hardship or burden on an Owner or Occupant; or (b) 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 affect or any other substantially 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 Board Member of the then-existing Board of Directors.
- 10.29 **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 possessed, 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 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 Unit or the Project.
 - (b) 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 Substances 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 Substances on the Project. The obligations of each Owner under this Section 10.29 survive any subsequent transfers of the Unit (voluntary or otherwise).

- (c) As used in this Section 10.29, “Hazardous Substances” are those substances defined as a toxic or hazardous substance by Environmental Law and include, but are not limited to, the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde and radioactive materials. As used in this Section 10.29, “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. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies.
- 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: “NO EARTHQUAKE INSURANCE HAS BEEN OBTAINED BY THE ASSOCIATION”; 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: “NO FLOOD INSURANCE HAS BEEN OBTAINED BY THE ASSOCIATION.” The report should 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 protection of the Owners in light of the insurance then available

and the best practices with respect to other similar projects. If obtained, the most recent annual insurance report should be distributed to the Owners in person at the annual meeting of the Association, unless it was previously sent to Owners, and must be provided to any Owner at any other time upon request.

11.3 Property Insurance.

a. Hazard Insurance.

- (1) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Units, fixtures, and building service equipment.
 - (i) 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 the Unit or any Limited Common Areas or otherwise affixed to or made a permanent part of Common Areas, Units, or Limited Common Areas, including, but not limited to, floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.
 - (ii) 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.
 - (iii) The blanket or guaranteed replacement cost policy must be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Units) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property must be determined by using methods generally accepted in the insurance industry.
 - (iv) 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 that must waive or eliminate the requirement for coinsurance.
 - (v) Each property policy that the Association is required to maintain must also contain or provide for the following: (1) Inflation Guard

Endorsement, if available; (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); and (3) Equipment Breakdown, if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installations, which must provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000.00) or the insurable value of the building containing the equipment.

- b. Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:
- (1) the Association's policy provides primary insurance coverage; and
 - (2) notwithstanding Subsection 11.3(b)(1) and subject to Subsection 11.3(b)(3):
 - (i) the Owner is responsible for the Association's policy deductible; and
 - (ii) building property coverage, often referred to as Coverage A, of the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.
 - (3)
 - (i) As used in this Subsection (3):
 - (A) "Covered Loss" means a loss, resulting from a single event or occurrence, which is covered by the Association's property insurance policy.
 - (B) "Unit Damage" means damage to any combination of a Unit or a Limited Common Area appurtenant to a Unit.
 - (C) "Unit Damage Percentage" means the percentage of total damage resulting in a covered loss that is attributable to Unit Damage.
 - (ii) An Owner who owns a Unit that has suffered Unit Damage as part of a Covered Loss is responsible for an amount calculated by applying the Unit Damage Percentage for that Unit to the amount of the deductible under the association's property insurance policy.
 - (iii) If an Owner does not pay the amount required under Subsection (11.3)(b)(3)(ii) within thirty (30) days after substantial completion of the repairs to, as applicable, the Unit or the Limited Common Area appurtenant to the Unit, the Association may levy an assessment against the Owner for that amount.
- c. Flood Insurance.
- (1) If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a policy of

flood insurance must be maintained covering the Project or, at a minimum, that portion of the Project located within the Special Flood Hazard Area. That policy must cover any machinery and equipment that are not part of a building and all Common Area within the Project (“Insurable Property”) in an amount deemed appropriate, but not less than the lesser of: (1) the maximum limit of coverage available under the National Flood Insurance Program for the Insurable Property within any portion of the Project located within a designated flood hazard area; or (2) one hundred percent (100%) of the insurable value of the Insurable Property.

- (2) If the Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board of Directors, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.
- d. Earthquake Insurance. The Association may purchase earthquake insurance as the Board of Directors deems appropriate. If the Board elects not to purchase earthquake insurance, a vote of the Owners present at the annual meeting, with a proper quorum, is required to confirm this decision. If the Owners at the annual meeting do not confirm the decision not to purchase earthquake insurance, the Board shall purchase earthquake insurance within sixty (60) days of the vote.
- e. Association’s Obligation to Segregate Property Insurance Deductible. The Association shall keep in a segregated bank account an amount equal to the Association’s property insurance policy deductible or ten thousand dollars (\$10,000.00), whichever is less. This requirement does not apply to any earthquake or flood insurance deductible.
- f. Association’s Right Not to Tender Claims Valued at Less Than the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a covered loss is likely not to exceed the Association’s property insurance policy deductible and until it becomes apparent the covered loss exceeds the Association’s property insurance deductible and a claim is submitted to the Association’s property insurance insurer: (1) the Owner’s policy is considered the policy for primary coverage for any loss to the Owner’s Unit, to the amount of the Association’s policy deductible; (2) the Association is responsible for any loss to any Common Area; (3) an Owner who does not have a policy to cover the damage to that Owner’s Unit is responsible for that damage and the Association may, as provided in Subsection 11.3(b)(3)(iii), recover any payments the Association makes to remediate that Unit; and (4) the Association need not tender the claim to the Association’s insurer.
- g. Notice Requirement for Deductible. The Association shall provide notice to each Owner of the Owner’s obligation under Subsection 11.3(b) for the Association’s policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it is responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it is responsible for paying any increased amount

that would otherwise have been assessed to the Owner. The failure to provide notice does not invalidate or affect any other provision in this Declaration.

- 11.4 **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Area and the Owner's membership in the Association. The coverage limits under such policy must not be less than two million dollars (\$2,000,000.00) covering all claims for death of or injury to any one Person or property damage in any single occurrence. Such insurance 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.
- 11.5 **Directors' and Officers' Insurance.** The Association shall obtain Directors' and officers' liability insurance protecting the Board, 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). To the extent reasonably possible, the policy should: (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. At the discretion of the Board, 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.
- 11.6 **Insurance Coverage for Theft and Embezzlement of Association Funds.** The Association may obtain insurance covering the theft or embezzlement of funds that must: (1) provide coverage for an amount of not less than the sum of three (3) months' regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and (2) provide coverage for theft or embezzlement of funds by: (a) officers and Board Members of the Association; (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.
- 11.7 **Workers' Compensation Insurance.** The Board of Directors shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and may purchase workers compensation insurance even if the Association has no employees, as the Board of Directors deems appropriate.
- 11.8 **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.
- 11.9 **Named Insured.** The named insured under any policy of insurance must be the Association. Each Owner must also be an insured under all property and CGL insurance policies.

- 11.10 **Association's Right to Negotiate All Claims and Losses and Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy: (1) must be payable to an Insurance Trustee if one is designated, or to the Association; and (2) may not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association, must 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 proceeds remaining after such action as is necessary 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 Units. The cost of repair or replacement of any Unit in excess of insurance proceeds and reserves is a Common Expense to the extent the Association is required under this Declaration or the law to provide insurance coverage for the Unit. The cost of repair or replacement of any Common Area in excess of insurance proceeds and reserves is a Common Expense. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and appropriate disposition of all insurance proceeds, the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power of attorney is coupled with an interest, is irrevocable, and is binding on any heirs, personal representatives, successors, or assigns of an Owner.
- 11.11 **Insurance Trustee.** At the discretion of the Board of Directors or upon written request executed by Owners holding fifty percent (50%) or more of the Undivided 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 taking such action as the Owners or Board of Directors (as the case may be) shall require related to a loss and receipt or potential receipt of insurance proceeds.
- 11.12 **Owner Act Cannot Void Coverage Under Any Policy.** Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association 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.
- 11.13 **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 an Owner if an Owner resides in the Unit, and the Association's agents and employees.
- 11.14 **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 a Person at fault for the loss.
- 11.15 **Applicable Law.** This Declaration is specifically subjecting the Association to the insurance requirements and provisions Utah Code § 57-8-43, 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: DESTRUCTION OF IMPROVEMENTS

- 12.1 **Reconstruction.** In the event of partial or total destruction of a Building or other improvement in the Project, the Board of Directors shall promptly take the following actions:
- (a) Ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain performance and lien payment bonds. If the Board in good faith determines that none of the bids submitted under this section reasonably reflect the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid that it determines reasonably reflects such costs. Such determination must be made by the Board of Directors as soon as possible.
 - (b) The Board of Directors, or any Insurance Trustee, if one is appointed, shall determine and liquidate the amount of insurance proceeds, if any, or establish a procedure by which any insurance proceeds will be available for either a cash payment or for reconstruction.
 - (c) Engage the services of a reputable licensed architect to advise and consult with the Board of Directors or any Insurance Trustee on all actions and decisions necessary under this Article.
 - (d) If an appraisal of any or all Units is required under this Article, the Board of Directors shall select the appraiser, and any appraisal relied upon by the Board of Directors will be final and not subject to challenge by any Owner for purposes of this Article.
- 12.2 **Insurance Proceeds Sufficient for Reconstruction.** In case of fire or any other disaster, and if insurance proceeds are sufficient to reconstruct the Building and all Units suffering damage therein, then the insurance proceeds will be applied to reconstruct the Building and any Units suffering damage. As used herein, reconstructing the Building means restoring the Building and Units to substantially the same condition in which they existed prior to the fire or other disaster, with each Unit and the common elements having the same vertical and horizontal boundaries as before.
- 12.3 **Insurance Proceeds Insufficient for Reconstruction.** If insurance proceeds will be insufficient for reconstruction, the following applies:
- (a) If the cost of reconstruction is equal to or less than twenty-five percent (25%) of the estimated fair market value of all of the Units in the Project (prior to the damage and destruction), then the Association shall proceed forward with reconstruction applying any insurance proceeds as provided for in Section 12.2. The cost of reconstruction in excess of insurance proceeds and reserves is a Common Expense.
 - (b) If the cost of reconstruction is greater than twenty-five percent (25%) of the estimated fair market value of all of the Units in the Project (prior to the damage

and destruction), then the Board shall call a special meeting of the Owners for the purpose of voting on whether or not to reconstruct.

- (c) If the Owners, by a vote at such meeting of not less than seventy-five percent (75%) of the Undivided Interests, decide not to proceed with such reconstruction:
 - (1) the Property is deemed to be owned in common by the Unit Owners;
 - (2) the Undivided Interest in the Property owned in common which appertains to each Owner will be each Owner's Undivided Interest as determined in this Declaration;
 - (3) any liens affecting any of the Units are deemed to be transferred in accordance with the existing priorities to the Undivided Interest of the Owners in the Property;
 - (4) the Property will be subject to an action for partition in the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance, if any, will be considered as one fund and will be divided among all the Owners in a percentage equal to the percentage of the Undivided Interest owned by each Owner in the Property, after first paying out of the respective shares of each Owner, to the extent sufficient, all liens on the Undivided Interest in the Property owned by each Owner.
- (d) If Owners holding less than seventy-five percent (75%) of the Undivided Interests vote not to proceed with reconstruction, the Board of Directors shall proceed with reconstruction as provided for in Subsection 12.3(a).

ARTICLE 13: EMINENT DOMAIN

- 13.1 **Total Taking of a Unit.** If a Unit 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 Unit and Undivided Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Undivided Interest in the Common Area will automatically be reallocated to the remaining Units in proportion to their respective interests immediately before the taking. Upon such a taking, the Association shall prepare, execute, and record an amendment to this Declaration that accomplishes the adjustment required for this section. Any remnant of a Unit remaining after part of a Unit is taken will become part of the Common Area.
- 13.2 **Partial Taking of a Unit.** Except as provided in Section 13.1, if part of a Unit is taken by eminent domain, or sold under threat thereof, so that such Unit 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 Unit and Undivided Interest in the Common Area, regardless of whether any Common Area is taken. Upon such a taking, unless the decree otherwise provides, that Unit's Undivided Interest in the Common Area remains the same, but if the decree provides for a reduction of the Undivided Interest for such Unit, the reduced amount is automatically reallocated to that Unit and the remaining Units in proportion to their respective Undivided Interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Undivided Interest.

- 13.3 **Taking of Limited Common Area.** If the portion of the Project taken by eminent domain, or sold under threat thereof, is comprised of or includes any Limited Common Area or portion thereof, the portion of the award attributable to the Limited Common Area so taken will be divided among the Owners of the Units to which such Limited Common Area was allocated or assigned at the time of the acquisition.
- 13.4 **Taking of Common Area.** If the portion of the Project taken by eminent domain, or sold under threat thereof, is not comprised of or does not include any Unit or Limited Common Area, the Board of Directors 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 will be added to the general funds of the Association.
- 13.5 **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 apply.
- 13.6 **Priority and Power of Attorney.** Nothing contained in this Article 13 entitles an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of any condemnation award allocated to such Unit. 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 Unit or the Common Area or Limited Common Area, the award or proceeds is 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 14: TERMINATION

- 14.1 **Required Vote.** The Project may be terminated only by the approval of Owners holding all of the Undivided Interests or as otherwise provided in Article 13.
- 14.2 **Termination Agreement.** An agreement to terminate is evidenced by the execution or ratification of a termination agreement, in the same manner as a deed, by the requisite number of Owners. 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 County Recorder in Salt Lake County, Utah and is effective only on recordation.
- 14.3 **Sale of Project.** A termination agreement may provide that the entire 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.
- 14.4 **Association Duties.** The Association, on behalf of the Owners, may contract for the sale of real estate in the Project, provided that the contract is conditioned on the termination of the Project. The contract is not binding on the Owners until approved pursuant to Sections 14.1 and 14.2 of this Declaration. If any real estate in the Project is to be sold following termination, title to that real estate on termination vests in the Association as trustee for all Owners. Thereafter, the Association has all powers necessary and

appropriate to affect 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 before termination. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Owner and his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted their Unit in accordance with the terms of this Declaration. During the period of that occupancy right, each Owner and his or her successors in interest remain liable for all Assessments and other obligations imposed on Owners by this Declaration.

- 14.5 **Proceeds of Sale.** Following termination of the Project, the proceeds of any sale of real estate, together with the assets of the Association, must be held by the Association as trustee for Owners and Lenders as their interests may appear. Proceeds of the sale must be distributed to Owners and Lenders as their interests may appear, based on the relative value of each Unit. The interest of any Owner in such proceeds must not be distributed to such Owner 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 Units that were recorded before termination may enforce those liens in the same manner as any lien holder. The value of each Unit for purposes of distributing proceeds shall be determined by an appraisal of each Unit, conducted by an independent appraiser selected by the Board of Directors. If any Owner disputes the appraised amount, the Owner shall notify the Board of the dispute within ten (10) days of receiving notice of the value of that Owner's unit. Upon timely notice of a dispute, the Owner shall select an appraiser who will jointly, with the Association's appraiser, select a third appraiser to appraise the Unit. That appraisal will be final as to the value of the Unit, regardless of whether it is lower or higher than the original appraisal. The Owner shall pay for the final appraisal.
- 14.6 **Allocation upon Termination.** Unless provided otherwise herein, 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 for 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 15: AMENDMENTS

- 15.1 **General Amendment Requirements.** Except as otherwise provided herein, this Declaration may be amended by the affirmative vote of Owners holding Undivided Interests of at least than fifty-one percent (51%) of the total Undivided Interest. The vote of any one (1) Owner of a Unit is sufficient if there are multiple Owners of the Unit; however, if multiple Owners of the same Unit submit conflicting votes for the Unit then neither vote will be counted.
- 15.2 **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 this Declaration.

- 15.3 **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 shall certify that the amendment has been approved and adopted and that the procedures and requirements necessary to amend this Declaration have been complied with. The amendment is effective when it is recorded with the County Recorder of Salt Lake County, Utah.
- 15.4 **Changes to Plat or Boundaries of the Association.** 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 Unit or Units upon the approval by vote of sixty-seven percent (67%) of the total Undivided Interest. Any such Plat may make material changes to the existing or prior Plat, including the addition or removal of amenities, increasing the size of Units, deleting, adding, or modifying Common Area or Limited Common Area, or other changes in the layout of the Project. If any such amendment affects any boundary of a Unit or Limited Common Area, that Unit Owner 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; and (2) hereby grants the Association power of attorney to sign necessary documents on that Owner's behalf as necessary for the agreement, amendment, or correction.
- 15.5 **Amendments to Conform to Law.** The Board of Directors may, without the approval of the Owners, amend this Declaration to conform this Declaration to any applicable legal requirements otherwise applicable to the Association, but only to the extent necessary to eliminate any conflict with the law, to add provisions required by law, or to add provisions that embody rights or obligations otherwise binding on the applicable parties as a matter of law. This procedure may also be used to change this Declaration to add or conform to any requirements necessary for Owners to obtain government insurance or guaranteed financing such as through VA, FHA, FNMA or similar programs or to comply with any directive of any federal, state, or local government agency. The following procedures and requirements must be complied with for any such amendment:
- (a) The Association must obtain from an attorney who has significant experience with and a regular practice in the area of Community Association law and who may be the Association's current counsel, a written opinion explaining in detail and opining that the proposed amendment may be sought pursuant to this section.
 - (b) The Board Members must unanimously agree to the Amendment at the time it is recorded.
 - (c) The Board of Directors must provide to the Owners: (1) the proposed amendment instrument; (2) the language of this section of this Declaration; (3) the law that conflicts with the existing Declaration language or the provisions that must be complied with to permit Owners to obtain financing; (4) the attorney opinion letter required for the amendment; and (5) a notice in which the Association (a) notifies the Owner that it intends to amend this Declaration pursuant to this section; (b) provides the Owner a right to object to the amendment within thirty (30) days; and (c) provides instructions on how, when, and where to properly

make the objection. The Board of Directors may include further explanation, information, and recommendations regarding the proposed amendment in the information provided to the Owners.

- (d) At least forty-five (45) days have expired since the Association provided the information to the Owners required by this section, and no more than thirty percent (30%) of the Undivided Interests of the Owners have returned to the Association an objection to the amendment.
- (e) Having otherwise complied with all of the requirements of this section, the Board Members shall each sign the amendment instrument verifying that this section has been complied with to the best of their knowledge, and that no more than thirty percent (30%) of the Owners objected after having received proper notice. The amendment is effective upon the recording of the instrument with the Salt Lake County Recorder's office.

15.6 **Amendments to Reassign Parking Spaces.** This Declaration may be amended solely to reassign parking spaces assigned on Exhibit D without any vote or meeting of the Owners. However, such amendment must be signed by a representative of the Association and any Owners whose parking spaces are being reassigned. All costs, expenses, and attorney fees incurred by the Association to properly execute and record a new or amended Exhibit D to reassign the parking spaces may be assessed to the Unit Owner(s) requesting the reassignment. The reassignment will be effective when recorded and shall be binding upon future Owners and Occupants of the Units. No other provision of this Declaration may be amended by any such reassignment instrument or procedure without complying with the other amendment procedures in Article 15 of this Declaration.

15.7 **Altering Undivided Interests.** Notwithstanding anything to the contrary herein, the consent of at least two-thirds (2/3) of the Owners is required to alter any Undivided Interest.

ARTICLE 16: INTERPRETATION, CONSTRUCTION, AND APPLICATION OF DECLARATION

16.1 **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.

16.2 **Conflicting Provisions.** In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest is this Declaration, the Articles, the Bylaws, and then the Rules. This Declaration takes priority over the Plat.

16.3 **Interpretation of Declaration and Applicability of the Act.** The Project is governed by the Act, 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 legally 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.

- 16.4 **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. 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.
- 16.5 **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.
- 16.6 **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 must not be 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 or strictly for or against the Association, any Owner, or any other Person subject to their terms.
- 16.7 **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 this Declaration.
- 16.8 **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.
- 16.9 **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 17: NOTICE

- 17.1 **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 is effective upon the satisfaction of any of the following delivery methods:

- (i) By a written notice delivered personally to the Owner, which is 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 Unit. Unless otherwise provided by law, such as provided in Utah Code Ann. § 16-6a-103(4), any notice so deposited in the mail is deemed effective five (5) days after such deposit;
 - (iii) Electronic Transmission to an Owner which includes:
 - (A) an 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 is deemed effective when received or five (5) 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 is deemed effective when received or five (5) 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 is deemed effective when received or five (5) days after it is sent, whichever occurs first; and
 - (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, in writing, 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 Unit, whether electronic or not. In case any two co-

Owners send conflicting notice demands, notice is proper if mailed by first-class mail to the Unit.

- (4) In case posting of a notice on the Unit is permitted, such posting is effective when posted on the front or primary access door to the Unit, and any such posting may be removed by the Association the sooner of either (a) two (2) days after the event or action for which notice was given or (b) ten (10) days after the posting.
- (b) Special Notice Prior to Association Entry into a Unit.
- (1) In case of an emergency involving the potential loss of life, the Association's agent or representative may enter the Unit immediately and without any notice.
 - (2) In case of any emergency involving immediate and substantial damage to the Common Areas or to another Unit, before entering a Unit the Association shall: (1) knock on the door and attempt to obtain permission to enter from an Occupant or Owner in the Unit; (2) if no one answers the knocking, loudly identify who is knocking and state that the Person identified is going to enter the Unit on behalf of the Association, then wait one minute; and (3) where practicable under the circumstances, attempt to call the Owner or any Occupant prior to entry to inform them of the entry.
 - (3) If the Association enters a Unit for any purpose permitted in this Declaration other than those identified in the prior two paragraphs, before entering a Unit the Association shall: (1) give notice to the Owner that an entry is required at least two (2) weeks in advance with such notice stating: (a) that the Association or its authorized Persons will enter the Unit; (b) the date and time of the entry; (c) the purpose of entering the Unit; (d) a statement that the Owner or Occupant can be present during the time the Association is in the Unit; (e) the full names of any Person who will be entering into the Unit and the phone numbers and addresses of the Persons entering the Unit or of the company for whom the Persons entering the Unit are employed for the purpose of entering the Unit; (f) any other information the Association deems appropriate to include; and (2) post the written notice described above on the front or primary access door to the Unit at least seven (7) days prior to entry into the Unit.
- (c) Notice to a Lender. Notice to a Lender must be delivered by first-class United States 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 Unit is deemed an office of the Lender. Any notice so deposited in the mail is deemed effective seventy-two (72) hours after such deposit.
- (d) Notice to Association from an Owner.
- (1) An Owner's notice to the Association is effective upon the satisfaction of any of the following delivery methods:

- (i) By a written notice delivered personally to the Manager, which is effective upon delivery;
- (ii) By a written notice placed in the first-class United States mail, postage prepaid, to the current registered business address of the Association. Any notice so deposited in the mail is deemed effective when received, or five (5) days after such deposit, whichever occurs first.
- (iii) By written email correspondence to the Association: (1) that is sent to an email address provided by the Association in the prior twelve (12) months for the purpose of Association communications; or (2) that is emailed to an email address from which the Manager or 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 is deemed effective when received, or five (5) days after it is sent, which occurs first.
- (v) By facsimile (whether to a machine or to an electronic receiving unit) 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 is deemed effective when received, or five (5) days after it is sent, whichever occurs first.

ARTICLE 18: ATTORNEY FEES AND COSTS

18.1 Legal Costs Associated with Disputes with Owners.

- (a) **Owners Liable for Fees Incurred in Dispute.** If the Association utilizes legal counsel to enforce any Term and Condition after the Association provides notice to the Owner of an alleged violation and the Association's intent 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, regardless of whether a lawsuit is initiated or not.
- (b) **Costs.** The term "costs" as used in this section includes all costs, including 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: (1) the Association could not establish an initial position on without having incurred the

fees and costs; or (2) results in a substantial modification to a prior position taken by the Association; then those fees or costs must not be assessed to any Owner and must be paid by the Association. This exception does not apply if a lawsuit is pending with regard to the Owner and the issues arise as part of and during the lawsuit.

ARTICLE 19: RESERVES

- 19.1 **Requirement for Reserves.** The Association shall obtain a Reserve Analysis and maintain a reserve fund for the maintenance, repair, and replacement of the Common Area and Limited Common Area, in the amount determined by the Owners annually, pursuant to the following provisions:
- (a) **Collection.** Reserve funds may be collected as part of regular or Special Assessments, as determined by the Owners.
 - (b) **Amount.** In formulating the Association's yearly budget, the Association shall include a reserve fund line item in an amount the Committee 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 forty-five (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 Undivided 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) **Surplus Monies Applied to Reserves.** The Association may retain surplus Association money as additional reserves rather than refund it to the Owners or credit it to future Assessments.
 - (e) **Segregation of Reserves.** The Association shall segregate money held for reserves from regular operating and other accounts.
 - (f) **Reserve Analysis.** The Association shall cause a Reserve Analysis with an onsite evaluation to be conducted no less frequently than every six (6) years. The Association shall review and, if necessary, update a previously conducted Reserve Analysis no less frequently than every three (3) years. The Reserve Analysis must, at a minimum, estimate the need for and appropriate amounts for a reserve fund to accumulate money to cover the cost of repairing, replacing, and restoring Common Areas that have a useful life of three (3) years or more. The Reserve Analysis and updates must project a minimum of thirty (30) years into the future.
 - (g) **Qualifications for Person Preparing Reserve Analysis.** The Reserve Analysis report must be prepared by a Person or Persons with (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. Preferably, the Person preparing the reserve study will have the Reserve

Specialist (RS) designation available through the Community Association Institute (CAI), the Professional Reserve Analyst (PRA) 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.

- (h) Disclosure and Approval at Annual Meeting. If required by law, annually, at the special meeting or at the annual meeting of Owners, the Association shall present the most recent Reserve Analysis and any updates to the Reserve Analysis and provide an opportunity for Owners to discuss reserves and to vote on how to fund the reserves and in what amount. The Association shall prepare and keep minutes of each meeting held under this section and indicate in the minutes any decision relating to funding a reserve fund.
- (i) Summary and Copies of Reserve Analysis. 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 an Owner who requests a copy.

ARTICLE 20: LEASING AND NON-OWNER OCCUPANCY

- 20.1 **Declaration and Rules Governing Non-Owner Occupancy.** Notwithstanding anything to the contrary in this Declaration or in the Bylaws, any leasing and non-Owner occupancy of a Unit shall be governed by this section and by Rules and procedures adopted as allowed in this section.
- 20.2 **Definitions.** For the purpose of this section:
 - (a) “Non-Owner Occupied” means:
 - (1) For a Unit owned in whole or in part by an individual or individuals, the Unit is occupied by someone when no individual Owner occupies the Unit as the individual Owner’s primary residence; or
 - (2) For a Unit owned entirely by one (1) or more entities or trusts, the Unit is occupied by anyone other than the person for whom the entity or trust was created or a Family Member of that person.
 - (b) “Non-Owner Occupant” means the Person(s) occupying the Non-Owner Occupied Unit
- 20.3 **Leasing and Maximum Number of Non-Owner Occupied Units.** Subject to the other provisions of the Declaration and specifically this Article 20, the number of Units permitted to be Non-Owner Occupied within the Association at any one time is limited to eighteen (18) Units. So long as there are less than eighteen (18) total Non-Owner Occupied Units within the Project, any Unit may be leased or Non-Owner Occupied as long as such non-Owner occupancy complies with the provisions of this Article 20 and other applicable provisions of the Declaration and Act. The eighteen (18) Unit maximum shall be calculated by including any Units that are permitted to be Non-Owner Occupied pursuant to Section 20.4. Any Units that are Non-Owner Occupied at the time this Declaration is recorded with the Salt Lake County Recorder’s office shall be grandfathered and allowed to remain Non-Owner Occupied, subject to the provisions

herein, until such time as the ownership of the Unit is conveyed or the Unit becomes Owner occupied. All grandfathered Units must conform to the other provisions in this Article 20 and other provisions in the Declaration.

20.4 **Units Exempt from the Limitation on Non-Owner Occupied Units.** The following Unit Owners and Units are exempt from the limitation on Non-Owner Occupied Units in Section 20.3, even if such non-Owner occupancy will result in more than eighteen (18) Units being Non-Owner Occupied:

- (a) A Unit being rented pursuant to the provisions of the Association's governing documents at the time this Declaration is recorded in the Salt Lake County Recorder's office shall be grandfathered and permitted to rent, lease, or allow a non-Owner Occupant to reside in the Unit until: (1) the Unit Owner occupies the Unit, or (2) the ownership of the Unit, as evidenced by the records at the County Recorder, changes in any way. Upon a change of ownership or occupation by an Owner, the Unit's qualification for this exception irrevocably terminates.
- (b) A Unit Owner in the military for the period of the Unit Owner's deployment;
- (c) A Unit occupied by a Unit Owner's parent, child, or sibling;
- (d) A Unit Owner whose employer has relocated the Unit Owner for a period of two (2) years or less;
- (e) A Unit owned by an entity that is occupied by an individual who: (1) has voting rights under the entity's organizing documents; and (2) has a twenty-five percent (25%) or greater share of ownership, control, and right to profits and losses of the entity; or
- (f) A Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of: (1) a current resident of the Unit, or (2) the parent, child, or sibling of the current resident of the Unit.

20.5 **Permitted Rules.** The Board may adopt Rules requiring:

- (a) Reporting and procedural requirements related to Non-Owner Occupied Units and the Occupants of those Units including requiring informational forms to be filled out by Owners and/or residents identifying non-Owner Occupants, vehicles, phone numbers, etc.,
- (b) Reasonable fees related to the administration of leased and Non-Owner Occupied Units, to the extent otherwise allowed by law, and
- (c) Other reasonable administrative provisions consistent with and as it deems appropriate to enforce the requirements of this Declaration.

20.6 **Required Rules.** The Board shall adopt Rules, resolutions, or procedures to: (1) determine and track the number of Non-Owner Occupied Units in the Project, including those which are exempt from the Non-Owner Occupied limitation under Section 20.4; and (2) ensure consistent administration and enforcement of the rental restrictions.

20.7 **Requirements for Leasing and Non-Owner Occupancy.** The Owners of all Units must comply with the following provisions:

- (a) If required in the Rules or requested by the Board, a copy of any lease or other agreement for non-Owner occupancy shall be delivered to the Association within the time period provided for in the Rules or by the Board.
- (b) Any lease or agreement for otherwise allowable non-Owner occupancy must be in writing, must be for an initial term of at least twelve (12) months, and shall provide as a term of the agreement that the resident shall comply with this Declaration, the Bylaws, and the Rules, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for non-Owner occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the Non-Owner Occupant.
- (c) Any Non-Owner Occupant of the Unit who is at least eighteen (18) years old must be a signer on a lease or rental agreement, unless the Unit is exempt under Section 20.4(c), (e), or (f).
- (d) No Owner shall be permitted to lease his Unit for transient, hotel, seasonal, rental pool or corporate/exclusive use purposes (whether for pay or not), which shall be deemed to be any rental with an initial term of less than twelve (12) months. Daily or weekly rentals are prohibited.
- (e) No Owner may lease individual rooms to separate Persons, or lease less than the Owner's entire Unit unless the following are met:
 - (1) The lease or agreement is in writing and any Occupant of the Unit who is at least eighteen (18) years old must be a signer on the lease, unless the Unit is exempt under Section 20.4(c), (e), or (f);
 - (2) The lease or agreement has an initial term of at least twelve (12) months;
 - (3) The leasing of the Unit complies with any ordinances of Murray City; and
 - (4) The lease or agreement shall provide as a term of the agreement that the resident shall comply with this Declaration, the Bylaws, and the Rules, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the Occupant.
- (f) All Occupants of an organizationally owned Unit shall be Non-Owner Occupants except if the Non-Owner Occupants are the sole Owners of the organization that owns the Unit in which they reside, in which case they shall be considered the Owners for the purpose of this section.
- (g) Any Occupant of a Unit who is seen occupying a Unit for at least thirty (30) days in any sixty (60) day period shall be considered a resident of such Unit and will be subject to the leasing requirements set forth herein.

- 20.8 **Exceptions for Exempt Units.** If a Non-Owner Occupied Unit is exempt under Section 20.4(c), (e), or (f) then no written lease or rental agreement between the Owner and the Non-Owner Occupant is required. Any written agreement regarding occupancy, to the extent it exists, may not be requested by the Board until a Non-Owner Occupant has violated a provision of the Governing Documents and, if requested, may only be requested related to remedying or taking action as a result of such a violation.
- 20.9 **Joint and Several Liability of Owner and Non-Owner Occupants.** The Owner of a Unit shall be responsible for the Non-Owner Occupant's or any guest's compliance with the Governing Documents. The Owner and the Non-Owner Occupant, or similarly situated individual, shall be joint and severally liable for any violations of the Governing Documents. In addition to any other remedy for noncompliance with the Governing Documents, failure by an Owner to take legal action, including the institution of a forcible entry and unlawful detainer proceeding against an Owner's non-Owner Occupant who is in violation of the Governing Documents within ten (10) days after receipt of written demand to do so from the Board, then the Association shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing a non-Owner Occupant. The Association, the Board, the Manager, and any agent of the Association shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association (with the Association's choice of counsel), the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this section. Any expenses incurred by the Association related to an eviction, including attorney fees, service fees, storage fees, constable or sheriff fees, and costs of suit, shall be charged as an Assessment to such Owner.

ARTICLE 21: GENERAL PROVISIONS

- 21.1 **Enforcement.** 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.
- 21.2 **Nonliability of Directors and Officers.** 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.
- 21.3 **Use of Funds Collected by the Association.** All funds collected by the Association, including Assessments and contributions to the Association paid by the Owners, if any, must be held by the Association 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).

- 21.4 **Owner Liability and Indemnification.** Each Owner is liable to the remaining Owners and to the Association for any damage to the Common Area that may be sustained by reason of the negligent or intentional act of that Owner or that Owner's guest or Occupant, 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 Unit, agrees personally to indemnify each and every other Owner and Occupant 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 indemnifying Owner's Unit, including Limited Common Area, if any, except to the extent that: (1) such injury, damage, or claim is covered and defended by the Association; or (2) the injury or damage occurred by reason of the intentional act of the Association.
- 21.5 **Consent, Power of Attorney, Waiver.** By acceptance of a deed, lease, or other conveyance of an interest in a Unit, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including, but not limited to, the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements, and to make necessary and appropriate amendments of this Declaration, the Plat and the Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance is deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf; and such appointment, being coupled with an interest, is irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and is not be affected by the disability of any such Owner or Occupant.
- 21.6 **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 that the Association may have an obligation to maintain. The Association must 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 Unit 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.
- 21.7 **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 Unit, the Common Area, the Limited Common Area, or the buildings, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this section are not a waiver of the provisions of the Governing Documents with regard to anyone else.

21.8 **No Representations and Warranties.** EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR ENTERING 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 OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.

IN WITNESS WHEREOF, the undersigned officer or director of the Association hereby certifies that the Association obtained the requisite affirmative approval and consent of the Owners in approving and adopting this Declaration, including all exhibits hereto. The Association further certifies that the necessary approvals for mortgagees were obtained in accordance with Utah Code Ann. § 57-8-41.

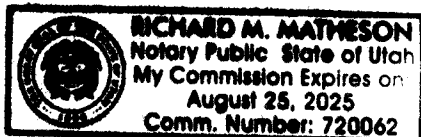
Dated this 17 day of March, 2022.

THE WILLOWBROOK HOMEOWNERS ASSOCIATION, INC.

By: 
Cameron Whitlock, President

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

The foregoing instrument was acknowledged before me this 17th day of MARCH, 2022, by Cameron Whitlock, who by me being duly sworn, did say that he is the President of The Willowbrook Homeowners Association, Inc. and that he/she executed the same.



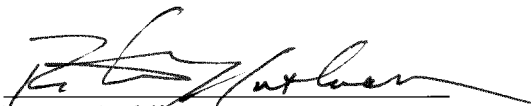

Notary Public

EXHIBIT A

LEGAL DESCRIPTION

Beginning on the West line of 550 East Street at a point which North 331.95 feet and West 886.62 feet from the Southeast corner of Section 7, Township 2 South, Range 1 East Salt Lake Base and Meridian, and running thence North 8°08'02" West along west line of said street 498.10 feet; thence West 68.11 feet more or less to the center of Cottonwood Creek, thence south along center of creek 63.97 feet; thence west 479.14 feet; thence south 21°00' East 322.75 Feet; thence South 45°00" West 99.00 feet; thence South 68°30' East 247.50 feet; thence North 84°30' East 343.37 feet to the point of beginning.

Parcel Numbers:

| | | |
|----------------|----------------|----------------|
| 22074780010000 | 22074780280000 | 22074780550000 |
| 22074780020000 | 22074780290000 | 22074780560000 |
| 22074780030000 | 22074780300000 | 22074780570000 |
| 22074780040000 | 22074780310000 | 22074780580000 |
| 22074780050000 | 22074780320000 | 22074780590000 |
| 22074780060000 | 22074780330000 | 22074780600000 |
| 22074780070000 | 22074780340000 | 22074780610000 |
| 22074780080000 | 22074780350000 | 22074780620000 |
| 22074780090000 | 22074780360000 | 22074780630000 |
| 22074780100000 | 22074780370000 | 22074780640000 |
| 22074780110000 | 22074780380000 | 22074780650000 |
| 22074780120000 | 22074780390000 | 22074780660000 |
| 22074780130000 | 22074780400000 | 22074780670000 |
| 22074780140000 | 22074780410000 | 22074780680000 |
| 22074780150000 | 22074780420000 | 22074780690000 |
| 22074780160000 | 22074780430000 | 22074780700000 |
| 22074780170000 | 22074780440000 | 22074780710000 |
| 22074780180000 | 22074780450000 | 22074780720000 |
| 22074780190000 | 22074780460000 | 22074780730000 |
| 22074780200000 | 22074780470000 | 22074780740000 |
| 22074780210000 | 22074780480000 | 22074780750000 |
| 22074780220000 | 22074780490000 | 22074780760000 |
| 22074780230000 | 22074780500000 | 22074780770000 |
| 22074780240000 | 22074780510000 | 22074780780000 |
| 22074780250000 | 22074780520000 | 22074780790000 |
| 22074780260000 | 22074780530000 | 22074780800000 |
| 22074780270000 | 22074780540000 | 22074780810000 |

| | | |
|----------------|----------------|----------------|
| 22074780820000 | 22074780980000 | 22074781110000 |
| 22074780830000 | 22074780990000 | 22074781120000 |
| 22074780840000 | 22074781000000 | 22074781130000 |
| 22074780850000 | 22074781010000 | 22074781140000 |
| 22074780860000 | 22074781020000 | 22074781150000 |
| 22074780870000 | 22074781030000 | 22074781160000 |
| 22074780880000 | 22074781040000 | 22074781170000 |
| 22074780890000 | 22074781050000 | 22074781180000 |
| 22074780900000 | 22074781060000 | 22074781190000 |
| 22074780910000 | 22074781070000 | 22074781200000 |
| 22074780920000 | 22074781080000 | 22074781210000 |
| 22074780930000 | 22074781090000 | 22074781100000 |
| 22074780940000 | 22074780970000 | 22074781110000 |
| 22074780950000 | 22074780980000 | 22074781120000 |
| 22074780960000 | 22074781100000 | 22074781210000 |
| 22074780970000 | | |

EXHIBIT B

UNDIVIDED INTERESTS

The Willowbrook Condominiums

Unit numbers, unit types, assigned Undivided Interest / Par Value

| <u>Unit Number</u> | <u>Unit Type</u> | <u>Undivided Interest / Par Value</u> |
|--------------------------|------------------------|---------------------------------------|
| <u>Building A</u> | | |
| 475A | 2 Bedroom First Floor | 0.6667% |
| 475B | 2 Bedroom First Floor | 0.6667% |
| 475C | 2 Bedroom Second Floor | 0.6667% |
| 475D | 2 Bedroom Second Floor | 0.6667% |
| 475E | 3 Bedroom Third Floor | 1.1666% |
| 475F | 3 Bedroom Third Floor | 1.1666% |
| 495A | 2 Bedroom First Floor | 0.6667% |
| 495B | 2 Bedroom First Floor | 0.6667% |
| 495C | 2 Bedroom Second Floor | 0.6667% |
| 495D | 2 Bedroom Second Floor | 0.6667% |
| 495E | 3 Bedroom Third Floor | 1.1666% |
| 495F | 3 Bedroom Third Floor | 1.1666% |
| <u>Building B</u> | | |
| 435A | 2 Bedroom First Floor | 0.6667% |
| 435B | 2 Bedroom First Floor | 0.6667% |
| 435C | 2 Bedroom Second Floor | 0.6667% |
| 435D | 2 Bedroom Second Floor | 0.6667% |
| 435E | 3 Bedroom Third Floor | 1.1666% |
| 435F | 3 Bedroom Third Floor | 1.1666% |
| 455A | 2 Bedroom First Floor | 0.6667% |
| 455B | 2 Bedroom First Floor | 0.6667% |
| 455C | 2 Bedroom Second Floor | 0.6667% |
| 455D | 2 Bedroom Second Floor | 0.6667% |
| 455E | 3 Bedroom Third Floor | 1.1666% |
| 455F | 3 Bedroom Third Floor | 1.1666% |

Building C

| | | |
|------|------------------------|---------|
| 405A | 2 Bedroom First Floor | 0.6667% |
| 405B | 2 Bedroom First Floor | 0.6667% |
| 405C | 2 Bedroom Second Floor | 0.6667% |
| 405D | 2 Bedroom Second Floor | 0.6667% |
| 405E | 3 Bedroom Third Floor | 1.1666% |
| 405F | 3 Bedroom Third Floor | 1.1666% |
| | | |
| 415A | 2 Bedroom First Floor | 0.6667% |
| 415B | 2 Bedroom First Floor | 0.6667% |
| 415C | 2 Bedroom Second Floor | 0.6667% |
| 415D | 2 Bedroom Second Floor | 0.6667% |
| 415E | 3 Bedroom Third Floor | 1.1666% |
| 415F | 3 Bedroom Third Floor | 1.1666% |
| | | |
| 425A | 2 Bedroom First Floor | 0.6667% |
| 425B | 2 Bedroom First Floor | 0.6667% |
| 425C | 2 Bedroom Second Floor | 0.6667% |
| 425D | 2 Bedroom Second Floor | 0.6667% |
| 425E | 3 Bedroom Third Floor | 1.1666% |
| 425F | 3 Bedroom Third Floor | 1.1666% |

Building D

| | | |
|------|------------------------|---------|
| 400A | 2 Bedroom First Floor | 0.6667% |
| 400B | 2 Bedroom First Floor | 0.6667% |
| 400C | 2 Bedroom Second Floor | 0.6667% |
| 400D | 2 Bedroom Second Floor | 0.6667% |
| 400E | 3 Bedroom Third Floor | 1.1666% |
| 400F | 3 Bedroom Third Floor | 1.1666% |
| | | |
| 406A | 2 Bedroom First Floor | 0.6667% |
| 406B | 2 Bedroom First Floor | 0.6667% |
| 406C | 2 Bedroom Second Floor | 0.6667% |
| 406D | 2 Bedroom Second Floor | 0.6667% |
| 406E | 3 Bedroom Third Floor | 1.1666% |
| 406F | 3 Bedroom Third Floor | 1.1666% |

Building E

| | | |
|------|------------------------|---------|
| 410A | 2 Bedroom First Floor | 0.6667% |
| 410B | 2 Bedroom First Floor | 0.6667% |
| 410C | 2 Bedroom Second Floor | 0.6667% |
| 410D | 2 Bedroom Second Floor | 0.6667% |
| 410E | 3 Bedroom Third Floor | 1.1666% |
| 410F | 3 Bedroom Third Floor | 1.1666% |
| 416A | 2 Bedroom First Floor | 0.6667% |
| 416B | 2 Bedroom First Floor | 0.6667% |
| 416C | 2 Bedroom Second Floor | 0.6667% |
| 416D | 2 Bedroom Second Floor | 0.6667% |
| 416E | 3 Bedroom Third Floor | 1.1666% |
| 416F | 3 Bedroom Third Floor | 1.1666% |

Building F

| | | |
|------|------------------------|---------|
| 420A | 2 Bedroom First Floor | 0.6667% |
| 420B | 2 Bedroom First Floor | 0.6667% |
| 420C | 2 Bedroom Second Floor | 0.6667% |
| 420D | 2 Bedroom Second Floor | 0.6667% |
| 420E | 3 Bedroom Third Floor | 1.1666% |
| 420F | 3 Bedroom Third Floor | 1.1666% |
| 426A | 2 Bedroom First Floor | 0.6667% |
| 426B | 2 Bedroom First Floor | 0.6667% |
| 426C | 2 Bedroom Second Floor | 0.6667% |
| 426D | 2 Bedroom Second Floor | 0.6667% |
| 426E | 3 Bedroom Third Floor | 1.1666% |
| 426F | 3 Bedroom Third Floor | 1.1666% |
| 430A | 2 Bedroom First Floor | 0.6667% |
| 430B | 2 Bedroom First Floor | 0.6667% |
| 430C | 2 Bedroom Second Floor | 0.6667% |
| 430D | 2 Bedroom Second Floor | 0.6667% |
| 430E | 3 Bedroom Third Floor | 1.1666% |
| 430F | 3 Bedroom Third Floor | 1.1666% |
| 436A | 2 Bedroom First Floor | 0.6667% |
| 436B | 2 Bedroom First Floor | 0.6667% |
| 436C | 2 Bedroom Second Floor | 0.6667% |
| 436D | 2 Bedroom Second Floor | 0.6667% |

| | | |
|------|-----------------------|---------|
| 436E | 3 Bedroom Third Floor | 1.1666% |
| 436F | 3 Bedroom Third Floor | 1.1666% |

Building G

| | | |
|------|------------------------|---------|
| 440A | 2 Bedroom First Floor | 0.6667% |
| 440B | 2 Bedroom First Floor | 0.6667% |
| 440C | 2 Bedroom Second Floor | 0.6667% |
| 440D | 2 Bedroom Second Floor | 0.6667% |
| 440E | 3 Bedroom Third Floor | 1.1666% |
| 440F | 3 Bedroom Third Floor | 1.1666% |

| | | |
|------|------------------------|---------|
| 446A | 2 Bedroom First Floor | 0.6667% |
| 446B | 2 Bedroom First Floor | 0.6667% |
| 446C | 2 Bedroom Second Floor | 0.6667% |
| 446D | 2 Bedroom Second Floor | 0.6667% |
| 446E | 3 Bedroom Third Floor | 1.1666% |
| 446F | 3 Bedroom Third Floor | 1.1666% |

| | | |
|------|------------------------|---------|
| 450A | 2 Bedroom First Floor | 0.6667% |
| 450B | 2 Bedroom First Floor | 0.6667% |
| 450C | 2 Bedroom Second Floor | 0.6667% |
| 450D | 2 Bedroom Second Floor | 0.6667% |
| 450E | 3 Bedroom Third Floor | 1.1666% |
| 450F | 3 Bedroom Third Floor | 1.1666% |

| | | |
|------|------------------------|---------|
| 456A | 2 Bedroom First Floor | 0.6667% |
| 456B | 2 Bedroom First Floor | 0.6667% |
| 456C | 2 Bedroom Second Floor | 0.6667% |
| 456D | 2 Bedroom Second Floor | 0.6667% |
| 456E | 3 Bedroom Third Floor | 1.1666% |
| 456F | 3 Bedroom Third Floor | 1.1666% |

| | | |
|------|------------------------|---------|
| 460A | 2 Bedroom First Floor | 0.6667% |
| 460B | 2 Bedroom First Floor | 0.6667% |
| 460C | 2 Bedroom Second Floor | 0.6667% |
| 460D | 2 Bedroom Second Floor | 0.6667% |
| 460E | 3 Bedroom Third Floor | 1.1666% |
| 460F | 3 Bedroom Third Floor | 1.1666% |

EXHIBIT C

BYLAWS
OF
THE
WILLOWBROOK
HOMEOWNERS
ASSOCIATION, INC.

Table of Contents

| | |
|---|---|
| <u>ARTICLE I: DEFINITIONS</u> | 1 |
| <u>1.1</u> <u>Definitions</u> | 1 |
| <u>1.2</u> <u>Notice</u> | 1 |
| <u>ARTICLE II: OWNERS</u> | 1 |
| <u>2.1</u> <u>Annual Meetings</u> | 1 |
| <u>a.</u> <u>Requirement</u> | 1 |
| <u>b.</u> <u>Date and Time</u> | 1 |
| <u>c.</u> <u>Purpose</u> | 1 |
| <u>d.</u> <u>Approval of Minutes</u> | 2 |
| <u>e.</u> <u>Election of Board Members</u> | 2 |
| <u>f.</u> <u>Minutes of Meetings</u> | 2 |
| <u>2.2</u> <u>Special Meetings</u> | 2 |
| <u>2.3</u> <u>Place of Meetings</u> | 2 |
| <u>2.4</u> <u>Notice of Meetings</u> | 2 |
| <u>2.5</u> <u>Owners of Record</u> | 2 |
| <u>2.6</u> <u>Quorum</u> | 3 |
| <u>2.7</u> <u>Proxies</u> | 3 |
| <u>2.8</u> <u>Votes</u> | 3 |
| <u>2.9</u> <u>Ballots and Written Consent</u> | 4 |
| <u>2.10</u> <u>Minutes of Meetings</u> | 4 |
| <u>2.11</u> <u>Meetings by Telecommunication</u> | 4 |
| <u>2.12</u> <u>Electronic and Other Means of Voting</u> | 4 |
| <u>ARTICLE III: BOARD OF DIRECTORS</u> | 4 |
| <u>3.1</u> <u>Number, Tenure, Qualifications, and Election</u> | 4 |
| <u>3.2</u> <u>Meetings</u> | 5 |
| <u>(a)</u> <u>Regular Meetings</u> | 5 |
| <u>(b)</u> <u>Who is Entitled to Attend</u> | 5 |
| <u>(c)</u> <u>Notice to Owners</u> | 6 |
| <u>(d)</u> <u>Owner Comments at Board Meetings</u> | 6 |
| <u>(e)</u> <u>Attendance by Telephone or Other Electronic Means</u> | 6 |
| <u>(f)</u> <u>Special Meetings</u> | 6 |

| | |
|--|----|
| (g) <u>Quorum and Manner of Acting</u> | 6 |
| (h) <u>Place and Notice of Meetings</u> | 6 |
| (i) <u>Executive Session</u> | 7 |
| 3.3 <u>Informal Action and Action by Board Members without a Meeting</u> | 8 |
| 3.4 <u>Compensation</u> | 9 |
| 3.5 <u>Resignation and Removal</u> | 9 |
| 3.6 <u>Vacancies Other Than by Removal by Owners</u> | 10 |
| <u>ARTICLE IV: OFFICERS</u> | 10 |
| 4.1 <u>Officers</u> | 10 |
| 4.2 <u>Election, Tenure and Qualifications</u> | 10 |
| 4.3 <u>Resignation and Removal</u> | 10 |
| 4.4 <u>Vacancies and Newly Created Offices</u> | 10 |
| 4.5 <u>The President</u> | 11 |
| 4.6 <u>The Vice President</u> | 11 |
| 4.7 <u>The Secretary</u> | 11 |
| 4.8 <u>The Treasurer</u> | 11 |
| 4.9 <u>Compensation</u> | 11 |
| <u>ARTICLE V: COMMITTEES</u> | 12 |
| 5.1 <u>Designation of Committees</u> | 12 |
| 5.2 <u>Proceedings of Committees</u> | 12 |
| 5.3 <u>Quorum and Manner of Acting</u> | 12 |
| 5.4 <u>Resignation and Removal</u> | 12 |
| 5.5 <u>Vacancies</u> | 12 |
| <u>ARTICLE VI: INDEMNIFICATION</u> | 12 |
| 6.1 <u>Indemnification</u> | 12 |
| 6.2 <u>Other Indemnification</u> | 13 |
| 6.3 <u>Settlement by Association</u> | 13 |
| <u>ARTICLE VII: AMENDMENTS</u> | 13 |
| 7.1 <u>Amendments</u> | 13 |
| 7.2 <u>Execution of Amendments</u> | 13 |
| <u>ARTICLE VIII: WAIVER OF IRREGULARITIES</u> | 13 |
| 8.1 <u>Waiver of Procedural Irregularities</u> | 13 |
| 8.2 <u>Requirements for Objections</u> | 14 |
| 8.3 <u>Irregularities That Cannot Be Waived</u> | 14 |

ARTICLE IX: PROHIBITION ON SMOKING14
 9.1 Smoking Prohibited14

**BYLAWS
OF
The Willowbrook Homeowners Association, Inc.**

These Bylaws are hereby adopted and established as the Bylaws of The Willowbrook Homeowners Association, Inc. (“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 I: 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 THE WILLOWBROOK CONDOMINIUMS (the “Declaration”), as amended, have the same defined meanings when used in these Bylaws.
- 1.2 **Notice.** Notice as required in these Bylaws is accomplished as provided for in the Declaration.

ARTICLE II: OWNERS

- 2.1 **Annual Meetings.**
- (a) Requirement. An annual meeting of the Owners must be held 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 in January of each year. The Board may from time to time change the date and time for the annual meeting of the Owners.
 - (c) Purpose. The Annual Meeting must be held for the following purposes:
 - (1) Electing Board Members;
 - (2) So long as required by law, distributing a summary of the recent reserve study, permitting discussion on reserve funding options, and voting on whether and how to fund the reserve account;
 - (3) Reviewing the Association’s budget;
 - (4) Distributing any annual insurance report if a report was prepared and was not distributed before the meeting, announcing the current deductible for the Association’s property insurance and the Owners’ potential responsibility for this deductible, and permitting questions and discussion on insurance issues and coverage;
 - (5) If no earthquake insurance has been obtained, voting to confirm this decision;

- (6) Approving any previously unapproved minutes of the prior annual meeting; and
- (7) Transacting such other business as may properly come before the meeting.
- (d) Approval of Minutes. The minutes of the annual meeting may be approved by the Board within ninety (90) days of the annual meeting.
- (e) Election of Board Members. If the election of the Board Members cannot be held on the day designated for the annual meeting of the Owners, 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.
- (f) Minutes of Meetings. The Board of Directors shall adopt minutes of the annual meeting, which will be the final minutes of the annual meeting, as soon as reasonably possible after the 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 Undivided 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 addresses the purpose identified on the request, but no other issues.

2.3 **Place of Meetings.** The Board may designate any place in the Murray City limits as the place of meeting for any annual or special meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the clubhouse in the Project.

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 thirty (30) nor less than ten (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 shall not be more than thirty (30) days nor less than ten (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 is 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 records of the Association on such record date as the Owners of record of Units in the Property are deemed to be the Owners of record entitled to notice of and to vote at the meeting of the Owners.

- 2.6 **Quorum.** At any meeting of the Owners, those Owners present in person or by proxy at any duly called meeting of the Association constitute a quorum for the adoption of decisions. The vote of the Owners representing thirty-three percent (33%) of the Undivided Interest of the Owners in attendance in person or by proxy, decides any question brought before the meeting. 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." Notwithstanding the foregoing, if the Act, the Articles of Incorporation, the Declaration, or these Bylaws require a fixed percentage of the Owners or Undivided Interest to approve any specific action (i.e., amending Governing Documents or changing voting rights), that percentage is required to approve such action.
- 2.7 **Proxies.** At each meeting of the Owners, each Owner entitled to vote is entitled to vote in person or by proxy; 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 Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Unit or the 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 and may allow the proxy to vote on any issue arising at any particular meeting or meetings. 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 Secretary of the Association or to such other officer or Person who has been authorized by the Association to accept proxies at the meeting.
- 2.8 **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 Unit of such Owner, as shown in the Declaration. The affirmative vote of Owners holding the majority of the Undivided 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, the Act, or the Revised Nonprofit Corporations Act. When more than one (1) Owner holds an interest in a Unit, any Owner may exercise the vote for such Unit on behalf of all co-Owners of the Unit. In the event of two (2) conflicting votes by co-Owners of one (1) Unit, no vote will be counted for that Unit except for the purposes of establishing a quorum. In no event may fractional votes be exercised with respect to any Unit.

- 2.9 **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. An Owner's written consent delivered by Electronic Transmission is considered to be written, signed, and dated for purposes of action without a meeting if the written consent is delivered with information from which the Association can determine that the written consent was sent by the Board Member and the date on which the written consent was transmitted.
- 2.10 **Minutes of Meetings.** The Secretary shall take minutes of all meetings of the Owners. The minutes must include, at a minimum, (1) the number of the Persons present at the meeting in person 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 2.10 does not invalidate any action taken at a meeting.
- 2.11 **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.
- 2.12 **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 III: BOARD OF DIRECTORS

3.1 Number, Tenure, Qualifications, and Election.

- (a) Number of Members. The Board of Directors is composed of five (5) persons.

- (b) Board Member Requirements. To be on the Board, a Person must be an Owner over the age of eighteen (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 in the Unit owned by the entity or trust. Any Person must, upon a request by any Owner, produce sufficient documentation establishing that Person's right to serve on the Board. 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 is two (2) years. The terms of the Board Members must overlap so that two (2) Board Members shall be elected one year, three (3) the next year, and so on.
- (d) Nominations. Not less than sixty (60) days prior to the annual meeting, a request for nominations for open Board positions may be provided to all Owners. An Owner may submit his or her own name or the name of any other Owner to serve on the Board any time prior to or at the beginning of the annual meeting. If an Owner submits the name of another Owner, the nomination is not valid until the Owner being nominated provides written confirmation (oral confirmation is sufficient only if the nomination is made at the annual meeting) that the Owner is willing to serve. Nominations may be accompanied by a short biography or statement. Nominations must be provided to the Association Secretary or Manager. If the Association gives advance notice of any person seeking election to the Board in a notice, ballot, or proxy; it must include the names of every person nominated prior to the preparation and mailing of the notice.
- (e) Disqualification. If any Board Member is alleged not to meet the qualification requirements in the Declaration and these Bylaws and any Board Member is notified of or discovers this alleged lack of qualification, the Board of Directors shall promptly investigate and verify whether the Board Member is qualified or not, and during this period must not make any further decisions. If the Board Member is not qualified, the Board Member's membership on the Board terminates automatically retroactive to the date that written notice of an alleged lack of qualification was provided to the Association, or if no notice was provided, to the date that the Board established that the Board Member was not qualified. If a Board Member becomes unqualified or was not qualified under the Governing Documents, but was nonetheless elected to or permitted to remain on the Board, the decisions and actions of the Board and that Board Member are not subject to challenge on this basis up to the time that the Association is notified in writing as provided for in this section or until the Board Member is disqualified if no such notice is provided.

3.2 **Meetings.**

- (a) Regular Meetings. The Board of Directors shall hold regular meetings at least twice per year, 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 President of the Association. 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 in person at the physical location of the meeting.
- (g) Quorum and Manner of Acting. Three (3) Board Members constitutes a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Board Members present at any meeting at which a quorum is present and for which proper notice was provided to the Board Members is the act of the Board. The Board Members shall act only as a Board, and individual members have no powers as such.
- (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 the Board enters executive session, it must discontinue any executive session by motion and a vote.
 - (2) Executive sessions may be held to discuss and make decisions related to the following matters:
 - (i) Consult with an attorney for the purpose of obtaining legal advice;
 - (ii) Discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings;
 - (iii) Discuss a personnel matter, including reviews, discipline issues, termination issues, salary issues, and the terms of employment for any employee of the Association;
 - (iv) Discuss a matter relating to contract negotiations, including a review of a bid or proposal, potential breaches, reviews of contracts, and the terms of any purchases;
 - (v) Discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; which may include a discussion of Rule violations by Owners or Occupants, including, but not limited to, the discussion of complaints and whether to impose fines or utilize any particular remedy to address particular violations; or
 - (vi) Discuss delinquent assessments or fines.
 - (3) The discussions in executive session are confidential and must not be disclosed to anyone outside of the meeting except as authorized by the Board of Directors.
 - (4) 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.
 - (5) Any minutes of the meeting at which an executive session is held must may 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.

- (6) 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.

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; or
 - (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; or
 - (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 Board determines to include.
- (d) Action without a meeting, without unanimous consent, is 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

director to the secretary or person authorized by the Board 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 is permitted to receive compensation for any services that he/she may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in the performance of his/her duties as a Board Member to the extent such expenses are unanimously 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 takes 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 fifty percent (50%) of the Undivided 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, they shall immediately thereafter and at the same meeting elect new members of the Board 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, 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.

- 3.6 **Vacancies Other Than by Removal by Owners.** If vacancies occur in the Board of Directors by reason of the death, resignation, removal for failure to attend meetings, 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 be available.

ARTICLE IV: OFFICERS

- 4.1 **Officers.** The officers of the Association are a President, Vice President, Secretary, and Treasurer.
- 4.2 **Election, Tenure and Qualifications.** The officers of the Association must be chosen by the Board of Directors annually at the first meeting of the Board following the annual meeting and thereafter at any time by the Board. Each officer shall hold such office 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 (1) office unless, in the Board's discretion, the Board votes to have one (1) person serve as both the Secretary and Treasurer. All officers must be Board Members during the entire term of their respective offices.
- 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 takes 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.
- 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 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 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 is 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 authority and obligation to generally implement the requirements of governing documents as they relate to the Association’s funds, 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 also act in the place and stead of the President in the event of the President, Vice President, and Secretary’s resignation, absence, inability, or refusal to act. The Treasurer shall perform such other duties as required by the Board.
- 4.9 **Compensation.** No officer is permitted to 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.

ARTICLE V: COMMITTEES

- 5.1 **Designation of Committees.** The Board may from time to time designate such committees (each a “Committee”) as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such Committee designated hereunder must include at least one (1) Board Member. A Committee does 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 a 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 takes 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 VI: 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 is not 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 continues as to any Person who has ceased to be a Board Member, officer, Committee member, or employee, and inures 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 is 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 VII: AMENDMENTS

- 7.1 **Amendments.** Except as otherwise provided herein or by the Act, these Bylaws may be amended by the affirmative vote of Owners holding Undivided Interests totaling at least fifty-one percent (51%) of the total Undivided Interest. The vote must occur in a meeting of the Owners held for that purpose. The vote of 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 is effective when the amendment has been recorded with the County Recorder of Salt Lake County, Utah.

ARTICLE VIII: 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 are 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 thirty (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 thirty (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 sixty (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 ninety (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 must 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.

ARTICLE IX: PROHIBITION ON SMOKING

9.1 **Smoking Prohibited.** As set forth in Section 10.4 of the Declaration, which section is incorporated herein by reference, smoking is prohibited within certain areas of the Project.

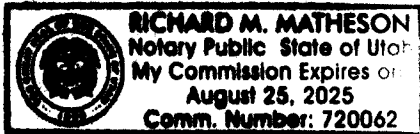
Dated this 17 day of March, 2022.

THE WILLOWBROOK HOMEOWNERS ASSOCIATION, INC

By: [Signature]
Cameron Whitlock, President

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

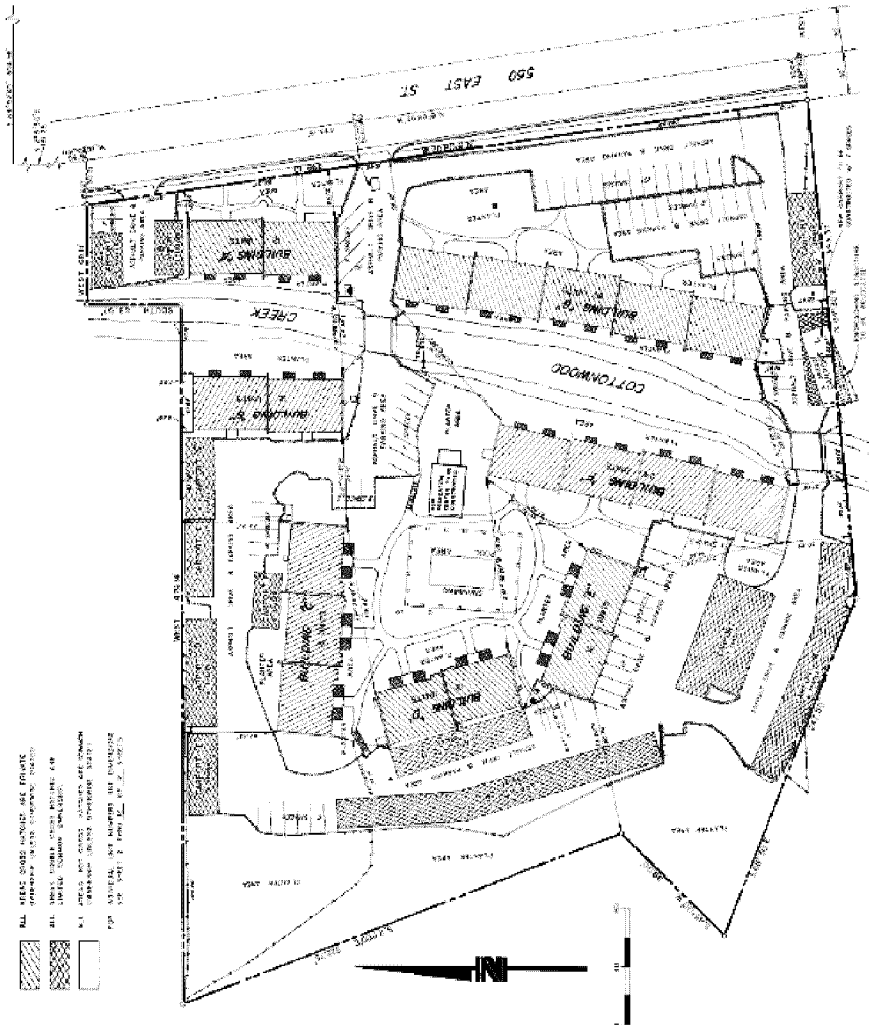
The foregoing instrument was acknowledged before me this 17th day of March, 2022, by Cameron Whitlock, who by me being duly sworn, did say that he is the President of The Willowbrook Homeowners Association, Inc. and that he/she executed the same.



[Signature]
Notary Public

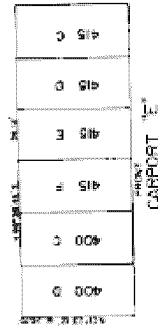
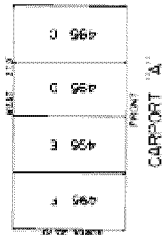
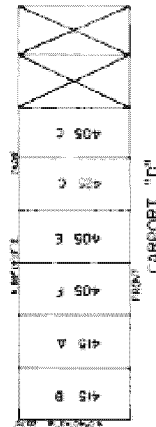
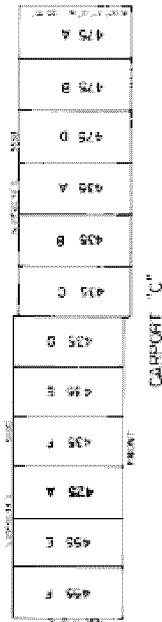
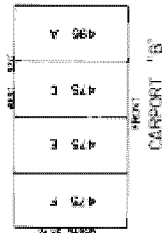
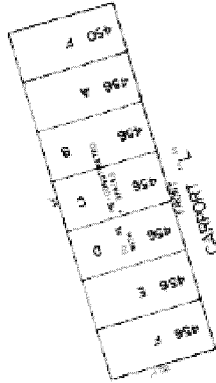
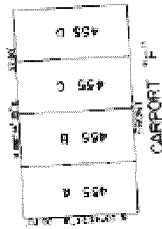
EXHIBIT D

PARKING ASSIGNMENTS



- ALL THESE SYMBOLS INDICATE THE PRIVATE PROPERTY OF THE DEVELOPER. THE DEVELOPER IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREIN.
- 1. ALL STREETS SHOWN ARE PRIVATE UNLESS OTHERWISE NOTED.
 - 2. ALL PAVED AREAS ARE TO BE CONFORMING TO THE CITY OF DENVER SPECIFICATIONS.
 - 3. ALL UTILITIES SHOWN ARE TO BE CONFORMING TO THE CITY OF DENVER SPECIFICATIONS.
 - 4. ALL UTILITIES SHOWN ARE TO BE CONFORMING TO THE CITY OF DENVER SPECIFICATIONS.
 - 5. ALL UTILITIES SHOWN ARE TO BE CONFORMING TO THE CITY OF DENVER SPECIFICATIONS.

- NOTES APPLICABLE TO ALL SHEETS**
1. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DENVER AND THE COLORADO DEPARTMENT OF TRANSPORTATION.
 2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DENVER AND THE COLORADO DEPARTMENT OF TRANSPORTATION.
 3. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DENVER AND THE COLORADO DEPARTMENT OF TRANSPORTATION.
 4. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DENVER AND THE COLORADO DEPARTMENT OF TRANSPORTATION.
 5. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DENVER AND THE COLORADO DEPARTMENT OF TRANSPORTATION.



**THE WILLOWBROOK
CONDOMINIUMS**

NOT TO SCALE
© 2018 WILLOWBROOK CONDOMINIUMS

**THE WILLOWBROOK
CONDOMINIUMS**

NOTE: ALL CONDOMINIUMS ARE CURRENTLY
UNDER CONSTRUCTION

