


WHEN RECORDED, PLEASE RETURN TO:

HOLLADAY HILLS 38, LLC
2900 Adams Street, Suite C25
Riverside, California 92504
Attention: Todd Demarets

14073160 B: 11401 P: 4160 Total Pages: 72
02/16/2023 02:23 PM By: adavis Fees: \$100.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: HOLLADAY HILLS 38, LLC
2900 ADAMS ST, STE C25 ATTN: TODD DEMARETS RIVERSIDE, CA 92504



Space above for County Recorder's Use

Tax Parcel I.D. Nos.:

22-10-151-045; 22-10-151-046; 22-10-151-047;
22-10-151-048; 22-10-151-049; 22-10-151-050;
22-10-151-051; 22-10-151-052; 22-10-151-053;
22-10-151-054; 22-10-151-055; 22-10-151-056;
22-10-151-057; 22-10-151-058; 22-10-151-059;
22-10-151-060; 22-10-151-061; 22-10-151-062;
22-10-151-063; 22-10-151-064; 22-10-151-065;
22-10-151-066; 22-10-151-067; 22-10-151-068;
22-10-151-069; 22-10-151-070; 22-10-151-071;
22-10-151-072; 22-10-151-073; 22-10-151-074;
22-10-151-075; 22-10-151-076; 22-10-151-077;
22-10-151-078; 22-10-151-079; 22-10-151-080;
22-10-151-081; 22-10-151-082; 22-10-151-083.

**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
ELEVATE AT HOLLADAY HILLS**

a Residential Community in Holladay, Utah

February 16, 2023

**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
ELEVATE AT HOLLADAY HILLS**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ELEVATE AT HOLLADAY HILLS ("Declaration") is entered into and executed as of this _____ day of _____, 2023 ("Effective Date"), by **HOLLADAY HILLS 38, LLC**, a Utah limited liability company ("Declarant"), whose address is 2900 Adams Street, Suite C25, Riverside, California 92504. Attention: Todd Demarets.

RECITALS

A. Declarant is the owner of certain real property more particularly described in Exhibit "A" attached hereto (collectively, the "Project"), which Project has recently been subdivided into thirty-eight (38) residential townhome lots (each, a "Lot" and collectively, the "Lots") and two (2) common area lots (each, a "Common Area Lot" and collectively, the "Common Area Lots") in accordance with that certain Royal Holladay Hills Block L Phase 2 – Subdivision Plat, recorded in the Official Records on November 29, 2021, as Entry No. 13834024, in Book 2021P, beginning at Page 317 ("Original Plat"); which Original Plat was thereafter amended, restated, superseded, and replaced in its entirety by that certain Amended and Restated Royal Holladay Hills Block L Phase 2 – Subdivision Plat, recorded in the Official Records on February 16, 2023, as Entry No. 14073158, in Book 11461, at Page 4155 (the "Amended Plat"). The Project, the Lots, and the Common Area Lots are depicted on the Amended Plat attached hereto as Exhibit "B".

B. As of the Effective Date, Declarant is the sole owner of the Project and each of the individual Lots and Common Area Lots. Consequently, Declarant has full right, title, and authority to execute, acknowledge, and record this Declaration in the Official Records.

C. The Project and the Lots are part of a residential community and townhome project commonly referred to as "Elevate at Holladay Hills", which, in addition to and as part of the Common Area Lots, will include certain common areas, private roadways, amenities, and other Improvements (as defined below). As of the Effective Date, Declarant has applied for, submitted, and received (as applicable) preliminary and/or final land use approvals, entitlements, and permits from the City of Holladay, Utah ("City") in connection with the development of the Project, the Lots, and the Common Area Lots.

D. Declarant intends to sell to various purchasers the fee title to each of the individual Lots contained within the Project, and a corresponding membership interest in the Association (which shall own the Common Area Lots and the Common Areas (as defined below) and certain other Improvements, subject to, among other things, the Amended Plat, and the

limitations, restrictions, reservations, rights, easements, conditions, obligations, and covenants contained in this Declaration.

E. Declarant hereby declares, by recording this Declaration and the Amended Plat in the Official Records, that all of the Project and each of the individual Lots and the Common Area Lots are to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, built upon, improved, and/or otherwise used or transferred, whether in whole or in part, subject to the limitations, restrictions, reservations, rights, easements, conditions, obligations, and covenants contained in this Declaration, as may be amended from time-to-time, all of which are declared and agreed to be in furtherance of an overall general plan for the subdivision, protection, maintenance, operation, and improvement of the Project, the Lots, and the Common Area Lots. All of the limitations, restrictions, reservations, rights, easements, conditions, obligations, and covenants of this Declaration are hereby imposed as equitable servitudes upon the Project and each of the individual Lots and Common Area Lots. All of the limitations, restrictions, reservations, rights, easements, conditions, obligations, and covenants of this Declaration shall run with and burden the Project as a whole and each of the individual Lots (burdening all Owners and Persons having any rights, title, or interests in any of same, or any part thereof, and their successive owners and assigns) and each of the Common Area Lots (burdening the Association and any Persons having any rights, title, or interests in any of same, or any part thereof, and their successive owners and assigns).

F. One of the primary purposes of this Declaration is to provide for a general plan of development for the overall Project and each of the Lots and the Common Area Lots, for the efficient operation, maintenance, and improvement of the Project and each of the Lots and the Common Area Lots, for the enhancement and preservation of the values, desirability, and attractiveness of the Project and each of the Lots and the Common Area Lots (including, the protection, maintenance, and operation of the Improvements (as defined below)), and for the protection of the Declarant's and the Owners' rights, benefits, and privileges contemplated in this Declaration.

DECLARATION

IN CONSIDERATION of the mutual benefits to be derived from this Declaration, and for the reasons recited above and subject to the limitations, restrictions, reservations, rights, easements, conditions, obligations, and covenants contained in this Declaration, Declarant declares as follows and hereby makes the following Declaration:

ARTICLE 1 DEFINITIONS

As used in this Declaration, each of the following terms shall have the meaning indicated:

1.1 "Act" means and refers to the Utah Community Association Act, UTAH CODE ANN. § 57-8a-101 *et seq.*, as amended from time-to-time.

1.2 "Additional Charges" means and refers cumulatively to all collection and administrative costs and expenses, including, but not limited to, any attorneys' fees and

expenses, late charges, service fees, filing and recordation fees, accruing interest, fines, and expenditures actually incurred or assessed by the Association and any other amounts that the Association is entitled to recover under the Act or by administrative or judicial decision.

1.3 “Additional Property” means any property identified as “Additional Property” on the Amended Plat, if any, and may also include any real property adjacent and contiguous to or in close proximity to the Project, which is later annexed into the Project in accordance with Article 10.

1.4 “Association” means Holladay Hills Block L Townhomes Association Inc., a Utah non-profit corporation, and its successors or assigns.

1.5 “Articles of Incorporation” means and refers to the Articles of Incorporation of Holladay Hills Block L Townhomes Association Inc., which document was filed with the Utah Department of Commerce, Division of Corporations and Commercial Code on November 21, 2022.

1.6 “Assessments” means and refers to (collectively) any applicable Common Expenses, common area assessments, individual assessments, special assessments, specific assessments, and reinvestment fees that may be assessed by the Board of Directors and payable by an Owner of a Lot pursuant to the terms of this Declaration.

1.7 “Board” or “Board of Directors” means the board of directors of the Association who have been duly appointed or elected to perform their duties, as provided in the Articles, the Bylaws, and in accordance with the provisions of the Utah Revised Nonprofit Corporation Act, UTAH CODE ANN. § 16-6a-101, *et seq.*, as amended from time-to-time (the “Nonprofit Act”).

1.8 “Buildings” means all buildings located on or within the Project at any time that are intended for residential use (including, those buildings which contain one or more particular Lots), including, the basements and areas directly below such buildings, and all projections and extensions of, and additions to, such buildings, including, without limitation, any improvements affixed to the outside of such buildings (*excluding, however*, any minor convenience facilities, as contemplated under Section 2.3.3 below). “Building”, singular, means any of the Buildings located on or within the Project. Notwithstanding anything in this Declaration to the contrary, no representation or warranty is made regarding whether there in fact will be any Buildings located on or occupied within the Project or any Buildings that will in fact contain one or more of the individual Lots at any time.

1.9 “Bylaws” means and refers to the Bylaws of the Association attached to this Declaration as Exhibit “C”.

1.10 “Common Areas” means all of those areas, improvements, and portions of the Project and, in certain cases, may be contained within one or more of the Lots and/or one or more of the Common Area Lots that are installed, improved, and constructed for the common or joint use and benefit of the Owners and their respective Permittees (as defined below), which shall include, but are not limited to, any Roadways (as defined below), Landscaping (as defined below), parking lots, parking spaces, and other parking areas, sidewalks, walkways, trails, paths

(including, any applicable bike paths), stairs, ramps, curbs, gutters, retaining walls, common facilities and structures, open spaces, light poles and fixtures, signs and signage improvements, utilities lines, facilities, systems, and improvements (including, but not limited to, the Storm Water Systems (as defined below), and the underground sewer and water systems that serve the Project), and other exterior common areas and amenities, but only to the extent located within such areas and improvements that have been designated under this Declaration for common or joint use and which serve and benefit more than one Lot. Common Areas shall not include (i) any interior private areas, improvements, or portions of the Lots that are not common or intended for joint use and, instead, are designated and intended for the singular use and benefit of a particular Owner and its Permittees, (ii) any Roadways, Landscaping, streets, sidewalks, walkways, parking lots, parking spaces, and other parking areas that are not common or intended for joint use and, instead, are hereby designated and intended for the singular use and benefit of a particular Owner and its Permittees, and (iii) any utilities, utility facilities, and/or utility systems that are not owned by the Association and are instead owned and maintained directly by the owners or operators of such utilities, utility facilities, and/or utility systems (for example, a water company, gas company, or telecommunications company). As of the Effective Date, the Common Areas that are being and have been established, identified, and designated by the Declarant as being for the common or joint use and benefit of the Owners and their respective Permittees are shown and further identified on the Amended Plat as the Common Area Lots (and include those areas designated and identified as "A Common Area Private Access and P.U.E."). Any areas, improvements, or portions of the Project not designated on the Amended Plat as Common Areas are, by default, hereby designated as part of the individual Lots and intended for the singular use and benefit of a particular Owner and its Permittees. Notwithstanding the foregoing, the intentional or inadvertent designation of any portion of a Common Area Lot as Common Areas shall not prohibit the subsequent development thereon of a Building or combination of Lots so long as all requirements of this Declaration are complied with in connection with such development. Additionally, the improvement or use of any portion of any building area of a Building as Common Areas shall not be construed as a permanent inclusion of such portion within the Common Areas, and such portions may, at any time thereafter, be improved with Buildings and Improvements so long as all requirements of this Declaration are complied with.

1.11 "Common Expense Percentage" means one-thirty-eighth ($1/38^{\text{th}}$) (or 2.632 percent, calculated as $1/38 = 0.02631579$, multiplied by 100, and rounding to 2.632%) attributed to each particular Lot, which percentage has been calculated and determined by dividing a single Lot by the total number of Lots within the Project, and then multiplying the resulting quotient by one hundred (100) and rounding to the third (3^{rd}) decimal place. To the extent the total number of Lots within the Project are amended, expanded, reduced, or adjusted from time-to-time (including, in the event any Additional Property is added to the Project in the future pursuant to Section 12.1.1), the Association shall give written notice to each Owner promptly after the date the total number of Lots within the Project are amended, expanded, reduced, or adjusted and the applicable changes and adjustments to the Common Expense Percentage for each particular Lot.

1.12 “Common Expenses” means the following:

1.12.1 commercially reasonable costs, expenses, fees, charges, and other amounts (including, appropriate reasonable reserves) paid or incurred by the Association in connection with the improvement (*excluding, however,* the initial improvement and development), operation, management, maintenance, repair, and replacement, as necessary and appropriate, of the Common Areas, the Common Area Lots, and the performance of the Association’s rights, interests, duties, and obligations under Article 4 or any other provision of this Declaration, including, without limitation, all reasonable costs, expenses, fees, Additional Charges, and other amounts (including, without limitation, those that are properly capitalized under generally accepted accounting principles) relating to utilities, insurance, Roadways, Landscaping, replacing damaged or worn-out Improvements (including lighting) located on the Common Areas or within the Common Area Lots, personnel (other than managerial personnel) necessary to perform any of the foregoing, and depreciation allowance on any machinery or equipment owned by the Association and used exclusively in connection with such matters;

1.12.2 any public or private assessment for improvements levied against the entire Project (such as a gross assessment against the Project only that is in the nature of an impact fee for the Project as a whole), and no other property, rather than against individual tax parcels (in or outside the Project), including, but not limited to, any common, special, or other assessments arising under the Recorded Documents or charged by the District (as defined below).

1.12.3 any Taxes imposed, assessed, or levied by any governmental, quasi-governmental, service district (including, the District), or other public authority on or against the Common Area Lots;

1.12.4 managerial, clerical, and overhead costs, expenses, fees, and other related amounts; and

1.12.5 Common Expenses due but not paid to the Association, including, by way of example, any applicable Additional Charges, which are determined by the Association not to be legally or practicably recoverable after the Association has exercised its good faith, commercially reasonable efforts to collect the same from the responsible Owner and/or Owners and the Association has determined, in its commercially reasonable discretion, that all reasonable remedies for collection have been exhausted, including, the filing and enforcement of the lien described in Section 5.4, if appropriate, together with all interest on, costs and attorneys’ fees, and other Additional Charges incurred in connection with, such unpaid Common Expenses; *provided, however,* that if such unpaid Common Expenses are later received by the Association from or on behalf of the responsible Owner and/or Owners, any amounts previously paid by any other Owners pursuant to the preceding portion of this sentence shall be refunded pro rata to such other Owners.

1.13 “Common Expense Share” means the product obtained by multiplying the Common Expenses for the relevant period by the Common Expense Percentage for each particular Lot concerned.

1.14 “Completed Building” means a particular Building as of the date either of the following has first occurred: (a) one or more certificates of occupancy have first been issued for all

or a portion of such Building (including, those Lots contained within a particular Building) by the appropriate governmental authority; or (b) all or a portion of such Building is first used or occupied.

1.15 “Declarant” means Holladay Hills 38, LLC, a Utah limited liability company, and its successors or assigns, and any Person to which it shall have assigned and transferred any of its rights, interests, duties, and obligations under this Declaration by an express written assignment and assumption agreement which is recorded in the Official Records. Declarant may assign and transfer all or any portions of its rights, interests, duties, and obligations under this Declaration, or all or any portions of such rights, interests, duties, and obligations in connection with specific portions of the Project. In the event of any partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights, interests, duties, and obligations of the Declarant as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Notwithstanding any such assignment of the Declarant’s rights, interests, duties, and obligations under this Declaration (whether partially or in full), the assignee shall not be deemed to have assumed any of the existing obligations and liabilities of Declarant unless, and only to the extent that, the assignee expressly agrees to do so in writing.

1.16 “Declaration” means this Declaration of Easements, Covenants, Conditions, and Restrictions for Elevate at Holladay Hills, as may be amended or supplemented from time-to-time.

1.17 “Improvements” means all of the Buildings (including, those Lots contained within a particular Building), Shared Components of a Building, and the Completed Buildings, Landscaping, Roadways, any applicable parking lots, parking spaces, and other parking areas, walkways, curbs, gutters, medians, flower boxes, sidewalks, trails, paths (including, any applicable bike paths), exterior lighting (including, without limitation, lights for traffic control or pedestrian safety), fences, walls, signs, utility systems and facilities (including, all culinary water, secondary water, private fire service lines, sewer systems, storm water facilities, and other utility improvements serving and applicable to the Project), and other structures, features, or improvements located on or within the Project or any particular Lots and/or Common Area Lots concerned.

1.18 “Landscaping” means all outdoor areas contained within the Project that have been landscaped with lawn, flowers, ground cover, shrubbery, trees, irrigation systems, sprinkler lines and systems, gardens, berms, or similar improvements.

1.19 “Limited Common Areas” means and refers to those Common Areas within the Project that have been allocated, identified, and designated by the Declarant as being for the exclusive use of one or more Owners. As of the Effective Date, Declarant has not identified any Limited Common Areas within the Project, however, Declarant hereby reserves the right to allocate, identify, and designate Limited Common Areas at a time in the future.

1.20 “Lot” or “Lots” means each legally subdivided residential townhome lot within the Project in accordance with the Amended Plat, or any other residential lot to be legally subdivided or that can be legally subdivided in the future (including, as Additional Property) pursuant to this

Declaration. Each Lot is designated by a specific number on the Amended Plat (i.e. Lots 1 through 38), as the same may be amended pursuant to Article 11.

1.21 “Majority of the Owners” means the Owners holding a majority of the aggregate Common Expense Percentage.

1.22 “Manager” means the Declarant or other manager selected by the Declarant, unless and until the date on which the Declarant transfers all of its interest as the Owner or Owners in the Project, on which date the Manager shall be selected by a Majority of the Owners. As of the Effective Date, the Declarant has selected H.A.R.D., LLC, a Utah limited liability company (doing business as “IAMHOA.COM”) as the Manager under this Declaration. Declarant hereby expressly reserves the right to replace any previously selected Manager and select a new Manager. The Manager’s rights, interests, duties, and obligations under this Declaration may be assigned at any time to the Association at any time, in the Declarant’s and Manager’s sole and absolute discretion, for the purpose of performing the Manager’s functions under this Declaration. Notice of any such assignment shall be recorded in the Official Records and shall, pursuant to Section 12.1.4, be effective as an amendment to this Declaration, with no signature other than the signature of the Declarant, the Manager, and the new Manager being required. For any period during which the Manager is an Owner other than Declarant, the rights, duties, liabilities, and obligations of the Manager under this Declaration shall be an appurtenance to the Lot or Lots owned by such Owner and shall run with such Lot or Lots unless and until assigned in accordance with the foregoing portion of this Section 1.22. Notwithstanding anything in this Declaration to the contrary, no representation or warranty is made regarding who will in fact be the Manager from time-to-time.

1.23 “Member” shall mean any Person holding a Membership in the Association pursuant to this Declaration as an Owner of a particular Lot or Common Area Lot situated upon or within the Project.

1.24 “Membership” shall mean a membership in the Association and the rights granted to the Owners and Declarant pursuant to this Declaration and the Act.

1.25 “Mortgage” means a mortgage, deed of trust, or other security agreement recorded in the Official Records.

1.26 “Mortgagee” means the mortgagee under a mortgage, the beneficiary under a deed of trust, or the secured party under any security agreement recorded in the Official Records.

1.27 “Official Records” means the official land records of the Salt Lake County Recorder, State of Utah.

1.28 “Owner” or “Owners” means the fee owner or owners of record in the Official Records of a particular Lot or Common Area Lot situated upon or within the Project. If any particular Lot or Common Area Lot has more than one Owner, the duties, liabilities, and obligations of each such Owner under this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term “Owner” shall not mean a Mortgagee unless and until such Mortgagee has acquired fee title to the realty concerned pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

1.29 “Person” or “Persons” means any individual, partnership, firm, association, corporation, limited liability company, trust, or any other form of business or legal entity.

1.30 “Project” means the entirety of the Lots, the Common Area Lots, the Improvements, and the Common Areas located on each of the Lots and the Common Area Lots, as applicable, and those other portions of the residential community and townhome project commonly referred to as “Elevate at Holladay Hills”, which, may include, as and if applicable, any Additional Property that may be added to the Project in the future pursuant to an amendment to this Declaration executed and recorded pursuant to Section 12.1.1.

1.31 “Project Documents” means the Amended Plat, this Declaration, the Bylaws, the Articles of Incorporation, and any rules or regulations of the Association adopted from time-to-time by the Declarant and/or the Board of Directors of the Association.

1.32 “Qualified Mortgagee” means a Mortgagee of which the Association and each Owner have been given written notice, including such Mortgagee’s name and address.

1.33 “Roadway” or “Roadways” means those driveways, service drives, entrances, and exits, and private roadways constructed or to-be-constructed and operated within and throughout the Project for the common or joint use and benefit of the Owners and their respective Permittees, which shall provide ingress, egress, and access to, from, and throughout the Project and each particular Lots concerned, as applicable. As of the Effective Date, the Roadways that have been established, identified, and designated by the Declarant as part of the Common Areas are shown and further identified on the Amended Plat as “Beverly Drive”, “Beverly Court”, “Beverly Acres ROW”, “Beverly Park” (as to the portions lying within the Project), “Wilshire Road” (as to the portions lying within the Project), and each of those areas designated and identified as “A Common Area Private Access and P.U.E.”

1.34 “Shared Components of a Building” means any applicable portions of a Building that are shared by or are reasonably necessary for the use and enjoyment of one or more Lots, including, without limitation, party walls, footings and foundations, structural components, roofs, common sanitary sewer laterals, and other shared or common utilities (including, common metering equipment and systems).

1.35 “Taxes” means all taxes, public and private assessments (including, without limitation, assessments of any special improvement district (including, the District) or owners association, including the Association with regard to any Assessments), charges, and fees imposed, assessed, or levied by any governmental or other public authority on or against the Project and/or the Lots concerned.

ARTICLE 2 GRANT OF EASEMENTS

2.1 Initial Construction; Declarant’s Reservations and Rights to Access. Declarant, for itself and its affiliates, successors, assigns, agents, employees, contractors, subcontractors, and other authorized personnel, reserves any and all rights, easements, and interests (and hereby declares that such rights, easements, and interests are created) as are reasonably necessary or

desirable, as determined by Declarant, to enter onto and access all portions of the Project (i) during the course of the initial construction, improvement, and development of the Project (including, the Lots, Buildings, Common Areas, and Improvements), for the broadly construed purposes of constructing, installing, improving, developing, monitoring, and performing (or causing to be performed) the initial construction, improvement, and development of the Project and any subsequent repairs or warranty work, (ii) during the course of Declarant's efforts to sell, lease, manage, and operate, as applicable, any of the individual Lots within the Project and to construct, improve, develop, and/or annex any additional phases or improvements to the Project (including, the rights set forth in Article 11), (iii) during the course of Declarant performing (or causing to be performed), monitoring, or exercising any and all of Declarant's rights, interests, duties, and/or obligations under this Declaration, and (iv) to perform any inspections and make any repairs or replacements deemed necessary under any warranty provided by Declarant, Declarant's contractor or subcontractors for any portion of the Project. The reservations and rights in favor of Declarant to enter onto and access all portions of the Project under this Section 2.1 are intended to be broadly construed and shall include, but not be limited to, all rights, easements, and interests directly associated with and incidental or supplementary to Declarant's ownership, construction, improvement, and development of the Project and Declarant's intentions and objective of selling the individual Lots contained within the Project to various purchasers. Furthermore, the reservations and rights in favor of Declarant under this Section 2.1 may be exercised, utilized, and carried out by Declarant to the fullest extent that Declarant determines are reasonably necessary or desirable, without requiring any prior approval or consent from the Association or any particular Owner.

2.2 Access Easement. Each Lot shall have appurtenant thereto and be benefited by the Roadways and those sidewalks, walkways, trails, paths (including, any applicable bike paths), stairs, ramps, parking lots, parking spaces, and other parking areas located on or comprising a part of the Common Areas that are installed, improved, and constructed for the common or joint use and benefit of the Owners and their respective Permittees and such Roadways and portions of the Common Areas shall be subject to and be burdened by, a perpetual, non-exclusive right-of-way and easement for vehicular, non-vehicular, and pedestrian ingress and egress upon, over, and across those areas of the Common Area Lots and Lots designed for such use. The use of such right-of-way and easement shall be for the benefit of each Lot belonging to the other Owners and for the use of said Owners and their Permittees. The use of such right-of-way and easement for the Roadways and Common Areas shall be limited to residential purposes, which shall include, but not be limited to, reasonable and customary vehicular, non-vehicular, and pedestrian traffic and deliveries and parking (but only on and within those parking lots, parking spaces, and any other designated parking areas comprising a part of the Common Areas) commonly associated with residential uses. Once constructed, the Roadways and portions of the Common Areas intended for common or joint use and benefit of the Owners and their respective Permittees may only be modified, changed, or reconfigured with the prior written consent of the Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project), the Association, and the Owner or those Owners whose Common Area Lots or Lots are affected by such modification, change, or reconfiguration, which consent shall not be unreasonably withheld, conditioned, or delayed. Any such modification, change, or reconfiguration to the Roadways and any portions of the Common Areas intended for common or joint use and benefit of the Owners and their respective Permittees must be performed in accordance with all applicable laws and shall

not eliminate or substantially impair or adversely impact the right-of-way and easement created pursuant to this Section 2.2. The right-of-way and easement provided for in this Section 2.2 shall not benefit and, without the written approval of the Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project) and the Association, may not be assigned or granted to or for the benefit of any non-Owners, non-Permittees, or third-parties or property outside of the Project (*excluding, however, any applicable Additional Property that may be added to the Project in the future*). Except for the temporary parking of delivery and service vehicles (as permitted under Section 2.3.5) and the temporary parking of vehicles on any portions of the Roadways (including, any parking spaces or other designated parking areas comprising a part of the Common Areas) that have been designated by the Declarant or the Association for "short-term" parking, if any, any parking of vehicles on or within the Roadways is prohibited.

2.3 Easements for Common Areas. The Common Areas and the Common Area Lots contained within the Project (and to the extent any Common Areas are applicable to or are located within any of the Buildings and/or the Lots) are specifically designated for and shall be used for the following enumerated purposes related to the ownership and residential uses and activities conducted on the Lots and the Common Area Lots and subject to the limitations and restrictions that any such use shall not (i) be unreasonable or inconsistent with the residential uses and activities commonly found in a residential community and townhome project, (ii) violate any applicable laws, or (iii) adversely impact the ownership, residential uses, operation, and/or activities of any other Owners and their Permittees within the Project:

2.3.1 Ingress and Egress. Ingress and egress by vehicles, non-vehicles, and pedestrians, including, upon, over, and across those areas designated and identified on the Amended Plat as Roadways and "A Common Area Private Access and P.U.E."

2.3.2 Public and Private Utilities. Installation, maintenance, and operation of public and private utilities, utility services, and related facilities for the Common Areas and/or the buildable areas for any particular Buildings or Lots located within the Project and on each individual Lot, including, without limitation, those public or private utility easements depicted, granted by, and described on the Amended Plat. The public and private utilities, utility services, and related facilities applicable to this Section 2.3.2 shall include, without limitation, the installation, maintenance, and operation of vaults, manholes, meters, pipelines, valves, hydrants, sprinkler controls, conduits, sewage facilities, and all related facilities, all of which shall whenever and wherever reasonably feasible be located within those designated public and private utility easement areas created by and shown on the Amended Plat and shall be installed below the surface of the Common Areas, or the surface of any other above-ground improvements located thereon; *provided, however, that in any event, (i) all of the foregoing permitted public and private utilities, utility services, related facilities, and installations which are located above the surface of the Common Areas shall be placed so as not to unreasonably interfere with, restrict, impair, or impede and does not adversely impact other uses of Common Areas or any buildable areas applicable to any Buildings or Lots located within the Project and on each individual Lot, and (ii) no such permitted public and private utilities, utility services, related facilities, and installations which must be located above the surface of the Common Areas shall be placed upon any Lot without the prior written consent of such Lot's Owner, which consent*

shall not be unreasonably withheld, conditioned, or delayed. In addition, use of the public and private utility easements established by or contemplated in this Section 2.3.2 are subject to the terms, conditions, and limitations of the Amended Plat, this Declaration, and any other separate instruments granting or creating certain specific public and private utility easements within the Project, as applicable. All public and private utility easements established by or contemplated in this Section 2.3.2 may be modified, expanded, reconfigured, and/or relocated in accordance with the Amended Plat, this Declaration, or as may otherwise be permitted by any other separate instruments granting or creating such specific utility easements.

2.3.3 Comfort and Convenience. Comfort and convenience of the Owners of each Lot within the Project by installation, maintenance, and operation of those minor convenience facilities, such as lighting, Landscaping, mailboxes, and benches, which each Owner may from time-to-time deem appropriate to construct or permit to be constructed within its individual Lot; *provided, however,* that no such minor convenience facilities shall unreasonably interfere with, restrict, impair, or impede other uses of the Common Areas or the building areas located on any other Lots and such minor convenience facilities shall be maintained, operated, and insured by the Owner of the Lot (at such Owner's sole cost and expense) on which they were installed in a reasonably clean, orderly and usable condition and in a good state of maintenance and repair, consistent with the terms, conditions, and standards of this Declaration.

2.3.4 Temporary Construction Activities. Construction, maintenance, repair, replacement, rearrangement, and remodeling of any particular Buildings (including, any Shared Components of a Building) and Improvements within the Project, including, any of the Landscaping, Roadways, and other improvements in the Common Areas or the Common Area Lots not substantially affecting or changing the Common Areas, except as permitted or required in this Declaration. All such work under this Section 2.3.4 shall be temporary in nature and conducted in the most expeditious manner reasonably possible to minimize the interference with use of Common Areas and any of the Common Area Lots and the ownership and residential use and enjoyment by the Owners on each of their individual Lots and their respective Permittees of the Building or Buildings within the Project and the work under this Section 2.3.4 shall be diligently prosecuted to completion. In connection with all such work or construction performed under this Section 2.3.4 within the Project, incidental encroachment upon the Common Areas or any of the Common Area Lots may occur as a result of the use of ladders, scaffolding, store-front barricades, and similar facilities resulting in the temporary obstruction of portions of the Common Areas or any of the Common Area Lots, all of which are permitted under this Declaration so long as their use is kept within reasonable requirements and good business practices of construction work, is expeditiously pursued, and does not materially and adversely impact the ownership and residential use and enjoyment by the other Owners on each of their individual Lots or their respective Permittees of the Building or Buildings within the Project. The rights to use the Common Areas and any of the Common Area Lots, as provided in this Section 2.3.4, include the rights for ingress and egress of vehicles transporting construction materials and equipment and persons employed in connection with any work provided in this Section 2.3.4 and the temporary storage of materials being utilized in connection with such construction, subject to all of the other terms of this Section 2.3.4 and this Declaration, *provided, however,* no material, equipment, or storage facilities may be located upon the Roadways or

upon any other Common Areas of any Lots without the express written consent of such Lot's Owner, which consent shall not be unreasonably withheld, conditioned, or delayed.

2.3.5 Service and Delivery Vehicles. Ingress, egress, and temporary parking of delivery and service vehicles for the delivery of goods, wares, merchandise, furniture, fixtures, supplies, and equipment, and the rendition of services to any Owner to and from those sidewalks, walkways, paths, stairs, and ramps located within or near the Common Areas and any of the Common Area Lots or in any other areas that exclusively serve any particular Building for loading and unloading, which shall include those areas designated and identified on the Amended Plat as "A Common Area Private Access and P.U.E."

2.3.6 Foundations, Footings, Overhangs, and Canopies. Installation, repair, replacement, and maintenance of: (i) Building foundations and footings located within the Project; (ii) Building canopies and canopy support columns located within the Project; (iii) Shared Components of a Building located within the Project; and (iv) pilasters and other Building columns or pillars, extending from any portion of the Buildings over, onto, under, and into the Common Areas of such Common Area Lot.

2.3.7 Minor Encroachments. Minor encroachments of Building walls, overhangs, support columns, canopies, and eaves from any portion of the Buildings over, onto, under, and into the Common Areas of such Common Area Lot.

2.4 Storm Drainage Easements. Each Lot within the Project shall have appurtenant thereto and be benefited by and each Lot within the Project shall be subject to and be burdened by, a perpetual, non-exclusive right-of-way and easement to discharge surface storm water drainage and/or storm water runoff from each Lot and Building constructed within each Lot over, upon, under, and across the Common Areas, the Common Area Lots, and Roadways located on or adjacent to each Lot, including, but not limited to, those areas designated on the Amended Plat as drainage easements or public or private utility easements, upon the following terms and conditions: (i) the grades and the storm water systems for the overall Project shall remain in strict conformance with the purpose and intent of the original, approved storm water and utility plans adopted by the Declarant (the "Approved Storm Water Plans"), and (ii) no Owner of any Lot may alter or permit to be altered the surface of the applicable Common Areas, the Common Area Lots, and Roadways, or portions thereof, located on such Owner's Lot (if any) or the applicable portions of the Storm Water Systems constructed over, upon, under, and across its Lot if such alteration is not in strict conformance with the Approved Storm Water Plans or would materially and adversely increase the flow of surface storm water drainage, storm water runoff, or surface water onto an adjacent Lot or Building either in the aggregate or by directing the flow of surface storm water drainage, storm water runoff, or surface water in a manner that would materially and adversely impact any Owner's Lot. All surface water collection facilities, storm drainage lines, drains, gutters, downspouts, berms, swells, and other drainage facilities and systems (collectively, the "Storm Water Systems") located over, upon, under, and across each of the Lots, the Common Area Lots, and the Common Areas shall be maintained by the Association in accordance with the terms, conditions, and standards of Article 4 of this Declaration. The Storm Water Systems, as further set forth in the Approved Storm Water Plans, have been designed to serve and benefit all of the Lots and Buildings within the Project. The rights to use, connect to,

and benefit from the Storm Water Systems and those Common Areas, Common Area Lots, and Roadways associated with the Storm Water Systems, as provided in this Section 2.4, include the rights of the Association to maintain, repair, expand, relocate, and replace, as necessary and appropriate, those storm drainage lines and systems from and connecting to each of the Lots, the Buildings, the Common Area Lots, and the Common Areas onto and across those portions of the Lots, the Buildings, and the Common Areas as is necessary to safely and properly use the Storm Water Systems (*provided, however*, such storm drainage lines and systems shall, to the extent possible, be placed in any designated utility areas or utility easements within the Common Areas and Roadways and shall not unreasonably and adversely affect the use and operation of the Lots or the Buildings). No modification, change, or reconfiguration (including, the expansion or relocation of the Storm Water Systems) that materially and adversely affects the grading, orderly discharge, flow, and operation of the Storm Water Systems shall be made to the Storm Water Systems without the prior written consent of the Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project), the Association, and the Owner or those Owners whose Lot or Lots are affected by such modification, change, or reconfiguration, which consent shall not be unreasonably withheld, conditioned, or delayed. Prior to making any such modification, change, or reconfiguration (including, any expansion or relocation of the Storm Water Systems) to the Storm Water Systems, sufficiently detailed plans, specifications, and drawings must be submitted to the Declarant, the Association, and the Owner or those Owners whose Lot or Lots are affected for approval. All costs and expenses associated with any modification, change, or reconfiguration of the Storm Water Systems (including, the expansion or relocation of the Storm Water Systems) will be paid by the Association (as part of the Common Expenses payable by the Owners under Article 5) if such modification, change, or reconfiguration is for the common or joint use and benefit of the Owners and their respective Permittees or paid by the Owner proposing and making such modification, change, or reconfiguration.

2.5 Creation of Easements and Equitable Servitudes. Subject to the restrictions provided for elsewhere in this Declaration, there are hereby created permanent, non-exclusive easements and equitable servitudes appurtenant to, for the benefit of, and over, across, in, under, and through the Common Areas and the Common Area Lots for the uses and purposes set forth in this Article 2. There are hereby also further created non-exclusive easements and equitable servitudes for ingress, egress, and access to the Common Areas located over, along, and under the Common Area and the Common Area Lots for the purpose of effectuating any necessary repairs, maintenance, and replacement of the Common Areas located on the Lots or the Buildings as provided in this Declaration.

2.6 Walls, Fences, or Barriers. Except as part of the initial construction, improvement, and development of any Common Areas and Improvements and any shared or common walls specific to the Buildings and except as contemplated in Section 15.8, no walls, fences, barriers, or other improvements located outside of the Buildings of any sort or kind shall be constructed or erected in the Project, or any portion thereof, which shall prevent, eliminate, or substantially impair or adversely impact the use or exercise of any of the easements granted in this Declaration, or the free access and movement of Owners and their respective Permittees, including, without limitation, vehicular, non-vehicular, and pedestrian traffic over the Common Areas and between the various Lots and Buildings; *provided, however*, that curb stops and other

reasonable traffic controls, including, without limitation, stop signs, directional barriers, parking stops, and traffic medians, as may be necessary or desirable to guide and control the orderly flow of traffic consistent with the Roadways, may be installed by the Declarant and the Association to the extent such controls do not materially and adversely affect the Common Areas or any other Lot, Building, or Owner.

2.7 No Merger. Notwithstanding an Owner's ownership of more than one Lot within the Project, the easements granted under this Article 2 shall burden and benefit each Lot individually, in accordance with the terms of this Declaration, without merger as a result of such common ownership, and upon conveyance of a Lot so that such Lot ceases to be under common ownership, neither the Owner conveying said Lot nor the Owner acquiring said Lot shall need to execute additional documentation to evidence the existence of said easements, and said easements shall relate back to and shall be deemed to have been created as of the date this Declaration is recorded in the Official Records.

ARTICLE 3 DEVELOPMENT AND OPERATION OF PROJECT

3.1 Association Approval. After the initial construction, improvement, and development of any Common Areas and Improvements and except for any subsequent repairs, maintenance, and replacement of any applicable Common Areas located on the Lots in accordance with Article 4 of this Declaration, no excavation, grading, or similar work in the Project shall be commenced, no further Improvements in the Project shall be constructed or installed, and no alteration, refurbishing, or repainting of the exterior of any Improvements shall be performed, unless and until complete plans (including, without limitation, exterior elevations and exterior building materials, colors and signage) have first been submitted to, and approved in writing by, the Association, such approval not to be unreasonably withheld, conditioned, or delayed. The Association may (but is not obligated to) use a committee approach for such review. Such plan submission and approval requirements shall not apply to repairs, maintenance, or alterations of pre-existing Improvements that do not (a) affect the size or the external design or appearance of such Improvements (including, the exterior elevations, exterior building materials, colors, and signage), (b) change the permitted use of such Improvements, or (c) change the then-existing parking lots, parking spaces, parking ratio, and parking areas applicable to any Completed Buildings or Improvements. In determining whether to approve or disapprove plans submitted, the Association shall use its reasonable, good faith judgment to assess and assure that all Improvements are of good quality and sound construction, functionally harmonize with existing surroundings and Improvements, and comply with the other requirements of this Declaration. The Association may, however, approve plans that entail a variance from such requirements so long as in the reasonable, good faith judgment of the Association such variance is necessary or appropriate. The fact that Improvements comply with applicable zoning and other laws shall not necessarily mean that such Improvements will be permissible under this Declaration. Any plans submitted to the Association shall be approved or disapproved by the Association in writing within thirty (30) calendar days after submission. If the Association fails to take any action within such 30-day period, the Association shall be deemed to have approved the plans submitted; *provided, however*, that to the extent that such plans violate any applicable laws or contemplate any variance from the requirements of this

Declaration, the failure of the Association to take action in a timely manner shall be deemed a disapproval of such plans as to any proposed variance and/or violation of any applicable laws. Any disapproval of such plans by the Association shall be in writing and shall be accompanied by a reasonably detailed explanation for such disapproval. Review or approval by the Association of any submitted plans shall be solely for the Association's own benefit, and the Association has not reviewed any submitted plans for compliance with any laws, ordinances, regulations, rules, permits, codes, or governmental requirements and the Association expressly disclaims any responsibility to do so. Review or approval by the Association of any submitted plans shall not be deemed to be or to result in any warranty, representation, or conclusion by the Association relative to the technical adequacy of such plans or the quality, safety, soundness, suitability for a particular purpose, or compliance of the Improvements described by such plans. The Association shall not be liable for any damages by reason of any action, inaction, approval, or disapproval by the Manager with respect to any request made pursuant to this Declaration so long as such action, inaction, approval, or disapproval did not occur as a result of the Association's gross negligence or willful misconduct.

3.2 Use; Nuisances and Offensive, Unsightly, and Unsafe Conditions. No part of the Project may be used or occupied by any Owners or their respective Permittees for any use that violates the Act or any applicable laws, ordinances, regulations, rules, permits, or governmental requirements that are inconsistent with this Declaration. All Lots and Buildings shall be used only for residential purposes that are consistent with the then applicable zoning for the Project. All Buildings and Lots contained within such Buildings shall be:

3.2.1 of a first-class quality construction and nature designed for those residential uses and purposes consistent with the permitted uses and applicable zoning for the Project and of a type and quality typically found in comparable residential townhome projects in the surrounding area of Holladay, Utah;

3.2.2 architecturally and aesthetically compatible with all other then-existing Completed Buildings in the Project;

3.2.3 owned, constructed, occupied, used, and operated in such a manner as will preserve the fire insurance rating on any other then-existing Completed Buildings within the Project; and

3.2.4 constructed in compliance with all applicable state, county, and municipal subdivision, building, zoning, and other laws, ordinances, regulations, rules, permits, codes, or governmental requirements, including, to the extent applicable, the Act.

In addition, no part of the Project or an Owner's Lot may be used or occupied by any Owners or their respective Permittees for any noxious, offensive, unsightly, or unsafe activities (including, the ownership or use of any unlawful or unsafe objects, animals, or conditions). Without limiting the generality of the foregoing, no unreasonable noise or disturbances may be permitted on or within any Owner's Lot. Recreational vehicles, trailers, mobile homes, trucks (other than pickup trucks), boats, tractors, campers not fixed to a pickup truck, and snowmobiles shall not be parked anywhere with the Project, unless the Association has designated one or more specific areas within the Project for the parking of such aforementioned vehicles and other objects and

the parking of such vehicles and other objects are permitted by and compliant with the then applicable zoning for the Project and any applicable Recorded Documents. Any outdoor clothes drying/hanging facilities (or the like) must be approved in advance by the Association. No Owner shall unlawfully use, deposit, store, dispose, transport, or release any hazardous substances, hazardous wastes, pollutants, contaminants, or other unsafe substances on any part of the Project.

3.3 Construction and Maintenance Requirements.

3.3.1 Initial Construction. Prior to or in conjunction with the construction and completion of any Building, any and all Common Areas (including, any applicable Landscaping and Roadways) shall be constructed by the Declarant or the Owner of the Building concerned in accordance with this Declaration. Roadways (including, all areas designated and identified on the Amended Plat as "A Common Area Private Access and P.U.E.") shall be surfaced with asphalt or concrete, shall be adequately striped or otherwise marked and shall be graded and constructed in such a way as to ensure adequate water drainage into those portions of the Storm Water Systems connected to and servicing each Building. After the initial improvement and development of any Common Areas (including, any applicable Landscaping and Roadways), the same shall not be demolished, removed, relocated, or altered in any material respect without the prior written consent of the Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project), the Association, and the Owner or those Owners whose Lot or Lots are affected by such demolition, removal, relocation, or alteration, which consent shall not be unreasonably withheld, conditioned, or delayed. Each Building in the Project shall be of first-class quality construction. No Improvements shall be built in such a manner as to adversely affect the structural integrity or fire rating of any other Improvements in the Project.

3.3.2 No Interference. All work performed in the construction, maintenance, repair, replacement, alteration, or expansion of any Lots by the Owners shall be effected as expeditiously as reasonably possible and in such a commercially reasonable manner as not to unreasonably interfere with, obstruct, diminish, or delay (other than on a temporary basis for the shortest amount of time possible after taking into consideration commercially reasonable circumstances) (i) access to or from the Project and any particular Building or Lot, or any parts thereof, or to or from any Roadways or public or private utility easements benefitting the Project, (ii) vehicular parking in any parking lots, parking spaces, and other designated parking areas within the Project, or (iii) the delivery and receiving of any goods, wares, merchandise, furniture, fixtures, supplies, and equipment or the rendition of any services by a particular Owner and its Permittees in the Project. Staging for the construction, maintenance, repair, replacement, alteration, or expansion of any Lots by the Owners, including, without limitation, the storage of building materials and supplies and the parking of construction vehicles and equipment, shall be on the Lot being improved or on some other location within the Project designated by Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project, and in such event, such location shall be designated by the Association). Unless otherwise specifically stated in this Declaration, the Owner or Permittee contracting for the performance of such work shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all Buildings, Common Areas, or other Improvements damaged, disrupted, or destroyed in the performance of such work. In the event any of the Buildings, Common Areas, or other Improvements are damaged, disrupted, or destroyed in the

performance of any Owner or Permittees work under this Article 3, the Declarant and/or the Association may elect, in their discretion, but shall not have the obligation, to perform or cause to be performed (for example, through contractors or subcontractors selected by Declarant and/or the Association) all repair, restoration, and other work necessary to such Buildings, Common Areas, or other Improvements at the sole cost and expense of the Owner or Permittee originally contracting for such work and causing such damage, disruption, or destruction. In the event that any duty, responsibility, and/or obligation of the Association under this Article 3 or elsewhere in this Declaration arises or is caused by the action or inaction, willful misconduct, omission, or negligent act or acts of any Owner or group of Owners or their respective Permittees, the cost and expenses for such damage, maintenance, repair, and/or replacement may be assessed solely to the responsible Owner or Owners by way of a special assessment.

3.3.3 No Liens. No Owner shall permit any liens to stand against any Lot, any Common Areas or Improvements, or any other portions of the Project other than the Owner's Lot for any work done or materials furnished in connection with the performance of any work by or at the direction or for the benefit of such Owner or its Permittees. Such Owner shall within thirty (30) calendar days cause any such outstanding lien or claim of lien to be released of record or transferred to bond in accordance with applicable laws, failing which the Owner of the Lot or the Common Areas or Improvements (including, the Declarant and the Association, each as to their respective interests) that is encumbered with a lien in violation of this Section 3.3.3 shall have the right, but not the obligation, at the defaulting Owner's expense, to transfer said lien to bond or to remove said lien. Such defaulting Owner shall indemnify, defend (with counsel selected by the indemnified Owner, the Declarant, and/or the Association), and hold harmless the other Owners, the Declarant, the Manager, and the Association from any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorneys' fees and costs), liens, claims of lien, judgments, proceedings, and causes of action, arising out of or in any way connected with the performance of any Owner or Permittees work under this Article 3, unless caused by the negligent or willful act or omission of the indemnified person or its Permittees.

3.3.4 Owner's Maintenance Responsibility. Each Owner shall keep, maintain, repair, and replace all interior spaces and improvements constituting a part of such Owner's Lot in good and attractive order, reasonably clean, orderly and usable condition, and in a good state of maintenance and repair, excluding any Common Areas situated on and within such Owner's Lot (if any) that the Association is responsible for maintaining, repairing, and replacing pursuant to Article 4 of this Declaration. The following items are expressly included within the scope and area of Owner's responsibility: (a) all interior walls, structural and non-structural components, and other interior spaces, features, and components of any Lot (*excluding, however, any Shared Components of a Building*), which shall include those garages, garage doors, and basements applicable to and located within such Owner's Lot, (b) all individual utility services and connections (such as power, light, gas, hot and cold water, individual water metering, heating, refrigeration and air conditioning systems) within or servicing such Owner's Lot, (c) all hardware for exterior doors, garage doors, and all components thereof, (d) all fixtures, minor convenience facilities (as further stated in Section 2.3.3 above), windows, window frames, window casings, doors, patios, balconies, and decks, garage doors, garage casings, and security systems within or applicable to such Owner's Lot, (e) all exterior light fixtures, bulbs, and components thereof, (f) all individual heating, refrigeration and air conditioning systems, ducts,

and equipment within or servicing such Owner's Lot, (g) all individual plumbing systems, pipes, equipment, and components thereof, and (h) all individual electrical systems, conduits, equipment, and components thereof. If an item is not included within the foregoing description of the scope and area of Owner's responsibility and such item is located within a Lot, then the presumption shall be that such item is the responsibility of the Owner to maintain, repair, and replace, unless otherwise expressly stated in this Declaration or otherwise determined in writing by the Board of Directors of the Association. Each Owner shall be responsible for and timely pay all individual utility costs and utility services provided to such Owner's Lot, *excluding, however,* any costs for shared or common utility services that are not separately billed or metered and are provided to the Building or Buildings as a whole. Any shared or common utility services shall be paid by the Association and such costs and expenses shall be included within the definition of "Common Expenses" set forth in Section 1.12. No provision of this Declaration shall be construed to mean that any Building or individual Lot or combination of Lots cannot be razed or removed at any time or must be restored or reconstructed if damaged or destroyed. However, if an Owner or group of Owners raze or remove any Building, individual Lot, or combination of Lots, or if any Building, individual Lot, or combination of Lots are damaged or destroyed, within a reasonable time after such occurrence the Owner or applicable group of Owners of the Lot or Lots on which such Building is or was located shall either cause such Building, individual Lot, and/or combination of Lots to be replaced or restored or cause all debris to be removed and the site of such Building, individual Lot, and/or combination of Lots to be left in a level, clean, safe, and sightly condition pending construction of another Building, individual Lot, or combination of Lots.

3.4 Master Plat and Recorded Documents. The Project is situated within a portion of the Royal Holladay Hills Subdivision #2 – Master Plat, recorded on June 25, 2021, as Entry No. 13700581, in Book 2021P, beginning at Page 171 in the Official Records, together with any amendments thereto (as amended, the "Master Plat") and is subject to the terms, conditions, limitations, restrictions, reservations, rights, easements, obligations, and covenants contained in the Master Plat, as applicable. In addition to the Master Plat and this Declaration, the Project is subject to the provisions of: (a) the adoption of a Community Development Project Area Plan entitled "Cottonwood Mall Community Development Project Area Plan", dated November 8, 2007, together with any amendments, restatements, or renewals thereto, notice of which was recorded on January 8, 2008, as Entry No. 10317647, in Book 9556, beginning at Page 7925 in the Official Records; (b) the adoption of a Cottonwood Mall Urban Renewal Project Area Plan for the Cottonwood Mall Urban Renewal Project Area, dated November 8, 2007, together with any amendments, restatements, or renewals thereto, notice of which was recorded on February 26, 2008, as Entry No. 10356532, in Book 9574, beginning at Page 2166 in the Official Records; (c) the Agreement for Development of Land (ADL), recorded on June 16, 2009, as Entry No. 10730729, in Book 9736, beginning at Page 572 in the Official Records, together with any amendments, restatements, or renewals thereto (including, that certain Second Amended and Restated Agreement for Development of Land, dated August 22, 2019, as amended by that certain Third Amendment to the Agreement for Development of Land, dated December 16, 2020); (d) the Declaration of Easements, Covenants, and Restrictions regarding Common Areas for Royal Holladay Hills Subdivision, recorded on December 3, 2021, as Entry No. 13839649, in Book 11278, beginning at Page 4 in the Official Records; and (e) the Declaration of Covenants regarding Development [Block L], recorded on December 3, 2021, as Entry No. 13839650, in Book 11278, beginning at Page 33 in the Official Records (collectively, the aforementioned

documents are referred to as the "Recorded Documents"). Any terms, conditions, rights, reservations, easements, covenants, conditions, restrictions, obligations, assessments, and other matters applicable to the Project as granted by or established under the Recorded Documents may be amended, modified, or relocated in accordance with the terms and conditions of the Recorded Documents. In addition to the Recorded Documents, all future or ongoing development, use, and operation of the Project is subject to all valid and enforceable ordinances, development codes, and building requirements enacted and enforced by the City, as applicable.

3.5 Sales, Post-Sale Services, and Related Purposes; Display of Signage. Declarant, for itself, its affiliates, successors, assigns, agents, employees, contractors, subcontractors, and other authorized personnel, reserves the exclusive right as reasonably required or desired by Declarant, to: (1) market, advertise, and sell the Lots to the initial Owners; (2) maintain customer relations and provide post-sales services to Owners; (3) display signs on the Buildings and other areas of the Common Areas and the Common Area Lots and to erect, maintain, and operate, for sales and administrative purposes, model units and a customer relations, customer service, and sales office complex on the Common Areas and the Common Area Lots; and (4) show the Lots that have not already been conveyed by an original deed. Declarant's rights to display signs on the Buildings and other areas of the Common Areas and the Common Area Lots pursuant to this Section 3.5 shall include the display of any "for sale", "for lease", or other advertising and marketing signage, flags, banners, displays, billboards, or other advertising devices of any kind of the Declarant and any of its affiliates, successors, assigns, agents, employees, contractors, subcontractors, and other authorized personnel, the Manager, and any of their designees, including, without limitation, any general contractors, subcontractors, materials providers, and/or lenders, during the course of the initial construction, improvement, and development of the Project and during the course of Declarant's efforts to sell, lease, and manage any of the individual Lots within the Project.

ARTICLE 4 ASSOCIATION'S DUTIES REGARDING COMMON AREAS

4.1 Generally. The Association shall timely perform or cause to be performed (for example, through the Manager or contractors or subcontractors hired by the Association or the Manager) the duties, responsibilities, benefits, and obligations set forth in this Article 4, for which the Association shall be reimbursed in accordance with this Declaration. All commercially reasonable costs, expenses, fees, charges (including, Additional Charges), and other amounts (including, appropriate reasonable reserves) incurred, paid by, or payable by the Association in connection with the performance and carrying out of the duties, responsibilities, benefits, and obligations set forth in this Article 4, whether or not such costs, expenses, fees, charges, or other amounts are properly capitalized under generally accepted accounting principles, are part of the Common Expenses payable by the Owners under Article 5. Notwithstanding anything in this Declaration to the contrary, the Association shall have no duty, responsibility, or obligation to perform, and no liability for failure to perform, any duty, responsibility, or obligation set forth in this Declaration to be performed or carried out by the Association, if the funds to pay for such duty, responsibility, or obligation are insufficient or have not been timely received by the Association pursuant to this Declaration.

4.2 Maintenance of Common Areas. After the Common Areas and applicable Improvements are initially constructed, improved, and developed, the Association shall keep or cause to be kept (for example, through the Manager or contractors or subcontractors hired by the Association or the Manager) the Common Areas in a reasonably clean, orderly and usable condition and in a good state of maintenance and repair, consistent with a first-class residential townhome project of a type and quality typically found in comparable residential townhome projects in the surrounding area of Holladay, Utah. The foregoing shall include, without limitation: (i) maintenance, repair, and replacement, as necessary and appropriate, of all Landscaping (including, lawn care and mowing), Roadways, and other Improvements located on or comprising a part of the Common Areas and the Common Area Lots; (ii) except as contained in and governed by the Recorded Documents, maintaining, repairing, restriping, and resurfacing, as necessary, all Roadways (including, each of those areas designated and identified on the Amended Plat as "A Common Area Private Access and P.U.E.") and paved surfaces (which may be paved or surfaced with asphalt or concrete); (iii) keeping the Common Areas adequately lighted (excluding any exterior light fixtures, bulbs, and components thereof that each Owner is responsible for maintaining, repairing, and replacing pursuant to Section 3.3.4 above); and (iv) maintaining, repairing, and replacing, as necessary, all shared or common utilities, utility systems, utility facilities, common water metering equipment, and related improvements on or underneath the Common Areas, the Common Area Lots, and/or the Roadways, including, without limitation, the Storm Water Systems and any other shared or common utilities serving the Common Areas, the Common Area Lots, and/or the Roadways; except to the extent such utilities and utility systems are owned and maintained directly by the owners or operators of such utilities and utility systems. The determination of when it is necessary and appropriate to maintain, repair, and/or replace any portion of the Common Areas shall be made by the Association, in its commercially reasonable discretion. Except to the extent owned by owner(s) or operator(s) of utility facilities, all culinary water, secondary water, private fire service lines, sewer systems (including, sewer laterals, main lines, and other sewer facilities), Storm Water Systems, and other utility improvements and metering systems located on, serving, or comprising a part of the Common Areas, the Common Area Lots, and/or the Roadways as established under any agreements with such owner(s) or operator(s) of the utility facilities or as otherwise established by this Declaration are intended to be privately owned, operated, and maintained. It shall be the responsibility of the Association to ensure that construction, operation, maintenance, repair, and any replacement of such private utility improvements are performed in accordance with all existing agreements with the owner(s) or operator(s) of the utility facilities and all valid and enforceable ordinances, development codes, and building requirements enacted and enforced by the City, as applicable. Any shared or common utility services that are provided to an individual Building, more than one of the Buildings (but not all of the Buildings), or all of the Buildings as a whole shall be paid by the Association and such costs and expenses shall be included within the definition of "Common Expenses" set forth in Section 1.12. If any shared or common utility services are separately metered to an Owner's Lot, then each Owner shall be responsible for and shall timely pay those costs and expenses that are separately billed or metered to such Owner's Lot. The Project is located within the boundaries of the Mt. Olympus Improvement District ("District") and the relevant portions of the private utility improvements located within the Project are subject to (i) that certain Agreement with Respect to Private Sanitary Sewer Lines and Infrastructure, dated October 5, 2020, together with any amendments

thereto, and (ii) all rules, regulations, requirements, fees, assessments, and charges of the District.

4.3 Benefits to Owners. In addition to the Association's rights, interests, duties, and obligations under Section 4.2 regarding the maintenance and repair of the Common Areas, the Association will provide certain benefits to the Owners of the Lots (or cause such benefits to be performed through the Manager or contractors or subcontractors hired by the Association), which benefits shall include:

4.3.1 Building Exteriors. The Association will keep the following portions of the Completed Buildings in a reasonably clean, orderly and usable condition and in a good state of maintenance and repair (replacing such portions, as necessary and appropriate): (a) the exterior finished surfaces of the exterior walls; (b) the soffit and fascia; (c) the roofs; and (d) gutters and downspouts; *provided, however,* the benefits provided by the Association under this Section 4.3.1 will not extend to any fixtures, minor convenience facilities (as further stated in Section 2.3.3 above), windows, window frames, window casings, doors, patios, balconies, and decks, garage doors, garage casings, and security systems that each Owner is responsible for maintaining, repairing, and replacing pursuant to Section 3.3.4 above.

4.3.2 Painting. The Association will paint and repaint, as necessary and appropriate, the exterior surfaces of the Completed Buildings.

4.3.3 Snow Removal. The Association will use commercially reasonable efforts to cause snow and ice to be removed from those portions of the Common Areas where Roadways, parking lots, parking spaces, and other parking areas, sidewalks, walkways, trails, paths (including, any applicable bike paths), stairs, and ramps are located within the Project; *provided, however,* the Owners within the Project agree and acknowledge that ownership within a residential community and townhome project located in mountainous areas involves certain inherent risks and inconveniences. These risks and inconveniences include, but are not limited to: (a) dripping water onto and around the Common Areas and from rooftops of the Buildings from snow melt; (b) snow and ice build-up on, around, and from the Common Areas and sliding from rooftops of the Buildings and other surfaces during winter months; and (c) other risks and inconveniences arising from the sometimes variable weather conditions in or around the Rocky Mountains. In addition, the Owners within the Project agree and acknowledge that the Association's responsibility for snow removal shall not arise until at least two inches (2") of snow has accumulated and each Owner shall be solely responsible for any removal of snow on any private areas falling within or applicable to such Owner's Lot (for example, any patios, balconies, and decks).

The determination of when it is necessary and appropriate to provide the aforementioned benefits to the Owners, including, the level and frequency of service and when certain areas are in need of maintenance, repairs, replacement, painting, and/or snow removal, shall be made by the Association, in its commercially reasonable discretion.

4.4 Insurance on Common Areas. If the Association determines that it is commercially reasonable to do so and to the extent reasonably available, the Association shall maintain (i)

blanket property insurance or guaranteed replacement cost insurance (or some other comparable insurance) in connection with all Common Areas, Common Area Lots, and any applicable Improvements (including, any Shared Components of a Building) owned, used, or maintained by the Association, insuring against those risks of direct physical loss commonly insured against, including fire and extended coverage perils, and (ii) liability insurance (or some other comparable insurance) insuring the Association and any employees, representatives, officers, Board of Directors, and agents of the Association as the Association may designate against all claims for and covering all occurrences commonly insured against bodily injury, death, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas, the Common Area Lots, and applicable Improvements. Such insurance shall be carried with a responsible company authorized to do business in Utah and shall afford at least the coverage provided by a "combined single limit" of not less than Two Million Dollars (\$2,000,000) per occurrence, and not less than Four Million Dollars (\$4,000,000) in the aggregate, for bodily injury, death and property damage, which may be increased by the Association in its commercially reasonable discretion from time-to-time. All insurance costs and expenses shall be part of the Common Expenses payable by the Owners under Article 5. Each Owner shall be deemed an insured person under any liability insurance policy obtained by the Association, but only for and to the extent any liability arises from such Owner's interest in the Common Areas, the Common Area Lots, and any applicable Improvements owned by the Association, the maintenance, repair, or replacement of the Common Areas, the Common Area Lots, and any applicable Improvements owned by the Association, and such Owner's corresponding Membership interest in the Association.

4.5 Damage of Common Areas. If all or any part of the Common Areas, the Common Area Lots, the Improvements (including, any Shared Components of a Building), or the improvements and systems comprising the Common Areas are damaged or destroyed through casualty, the Association shall, subject to the payment obligations set forth below and as soon as reasonably possible, rebuild and restore the same to substantially the same condition as existed prior to the damage or destruction concerned. Prior to such rebuilding and restoration, each Owner shall, within thirty (30) calendar days after notice of the amount due, contribute an amount equal to the product obtained by multiplying the Common Expense Percentage of such Owner by the projected cost of such rebuilding and restoration (net of any insurance proceeds or recoveries from persons causing such damage actually received by the Association). Appropriate additional payments by, or refunds to, each Owner shall be made on completion of such rebuilding or restoration. Alternatively, the Association may collect the actual or projected cost of such rebuilding or restoration following commencement or completion of such rebuilding or restoration. In lieu of collecting the respective Common Expense Percentage from all Owners for rebuilding and restoring the Common Areas, the Common Area Lots, or the Improvements that have been damaged or destroyed, the Association may, in its commercially reasonable discretion, determine that the damaged or destroyed Common Areas, the Common Area Lots, or the Improvements only service or benefit certain Lots or Buildings within the Project and elect to collect the costs to rebuild and restore such damaged or destroyed Common Areas, the Common Area Lots, or the Improvements from the Owners of the benefitted Lots or Buildings.

4.6 Condemnation of Common Areas. If all or any part of the Common Areas, the Common Area Lots, the Improvements (including, any Shared Components of a Building), or the

improvements and systems comprising the Common Areas are taken through condemnation or eminent domain proceedings or are conveyed to a condemning authority under threat of condemnation or eminent domain, the entire condemnation award or proceeds shall be paid to the Association, except for any portion of such award or proceeds directly allocable to the fair market value of the land (as opposed to the Improvements or systems comprising the Common Areas on the land), which portion shall be paid directly to the Owner(s) of such land that was taken through condemnation or eminent domain or otherwise conveyed. The Association shall, as soon as reasonably possible, restore the remaining Common Areas, the Common Area Lots, the Improvements (including, any Shared Components of a Building), or the improvements and systems comprising the Common Areas in compliance with all valid and enforceable ordinances, development codes, and building requirements enacted and enforced by the City, as applicable; *provided, however*, the Association shall have no obligation to perform any restoration, and no liability for failure to perform, any duty, responsibility, or obligation set forth in this Section 4.6 to be performed or carried out by the Association, if the condemnation award and proceeds available to pay for such restoration are insufficient or are not made available to and received by the Association. Any such restoration by the Association shall be of equal or similar quality in materials and workmanship as the original Common Areas and applicable Improvements, and the cost of such restoration, in excess of the condemnation award and proceeds available, shall constitute Common Expenses. Any condemnation award or proceeds for the Common Areas, the Common Area Lots, the Improvements, or the improvements and systems comprising the Common Areas remaining after such restoration has been completed shall be paid to the Owner(s) of the land concerned.

4.7 Default of Association; Self-Help and Takeover. If the Association fails to perform any duty, responsibility, or obligation under this Article 4 and such failure continues for a period of sixty (60) calendar days after written notice of such failure is given to the Association by any Owner that has been materially and adversely impacted, or if the performance of such duty, responsibility, or obligation would reasonably require more than sixty (60) calendar days, if the Association fails to commence such performance within such 60-day period or thereafter diligently prosecute such performance to completion, the Owner giving such notice may, on written notice to the Association and each other Owner throughout the Project, perform such duty, responsibility, or obligation in the stead of the Association; *provided, however*, the scope of any such Owner's self-help and takeover rights to perform any duty, responsibility, or obligation of the Association shall be limited to the performance of those duties, responsibilities, or obligations that are expressly addressed in the Owner's written notice and which directly benefit those Lot or Lots actually owned by such Owner (including, the Building or Buildings which contain such Lots and the Common Areas and applicable Improvements which benefit or service such Lots). Such Owner shall be reimbursed for all commercially reasonable costs, expenses, fees, and other amounts actually incurred in connection with such Owner's self-help, takeover, and performance of the Association's duties, responsibilities, or obligations by all Owners in accordance with each Owner's Common Expense Percentage in the same manner as if such duty, responsibility, or obligation had been performed by the Association.

ARTICLE 5 COMMON EXPENSES

5.1 Budget. At least annually, the Board of Directors of the Association shall prepare (or cause to be prepared) and submit to each Owner within the Project at a meeting of the Association a proposed or adopted budget for the Common Expenses for the following year (which proposed or adopted budget shall include a reserve fund line item and amount to be placed into a reserve fund). In formulating the Association's budget each year, the Association shall include a reserve fund line item in an amount the Board of Directors determines, based on a reserve analysis, to be prudent, in the Board of Directors business judgment or as otherwise required under the Act. Each Owner shall promptly and in good faith review such proposed or adopted budget and any requisite approval shall not be unreasonably withheld, conditioned, or delayed. Each Owner shall have forty-five (45) calendar days after receipt of such proposed or adopted budget to give the Association written notice of its approval or disapproval. If any Owner fails to give notice of its approval or disapproval within such 45-day period, such Owner shall be deemed to have automatically approved such budget. Any disapproval of such budget shall be in writing and accompanied by a sufficiently and reasonably detailed explanation for such disapproval. If a Majority of the Owners approve or are deemed to have approved any budget submitted by the Association, such budget shall be deemed to be approved, acceptable, and adopted by the Association and Owners for that given calendar year. If a Majority of the Owners do not approve or are not deemed to have approved such budget, the Association and all disapproving Owners shall reasonably cooperate to address and resolve the sufficiently and reasonably detailed reasons for such disapproval as soon as reasonably possible so as to arrive at an acceptable budget that is approved or deemed approved by a Majority of the Owners. Until an acceptable budget for the following year has been approved or deemed approved by a Majority of the Owners, the budget that the Board of Directors last adopted will continue as the governing budget. Whenever a budget is materially and substantively revised as a result of any Owner's disapproval, the Association shall submit (or re-submit, as the case may be) such revised budget to each Owner, and the foregoing process (along with any other submittal and adoption processes provided for in the Act) shall be repeated, having the same time periods for approval and disapproval.

5.2 Collection. The Association is expressly authorized by each Owner to incur all costs, expenses, fees, charges (including, Additional Charges), and other amounts included within the definition of "Common Expenses" set forth in Section 1.12 and any other costs and expenses provided for in the Act, and each Owner shall contribute such Owner's Common Expense Share in the manner described in this Section 5.2. The Association shall make reasonable, good faith efforts to collect from each Owner such Owner's Common Expense Share and may, at its option, do either of the following: (a) invoice each Owner for such Owner's Common Expense Share on a monthly, quarterly, or other periodic basis as the actual amount of the Common Expense Share becomes known (in which event the Common Expense Share shall be due and payable within thirty (30) calendar days after the delivery of such invoice); or (b) invoice each Owner in advance based on the Association's reasonable, good faith estimate of the Common Expense Share for the period concerned, which estimate shall be provided to each Owner at least annually. If the Association adopts the second alternative (i.e. invoice in advance), each Owner shall pay such Owner's Common Expense Share in equal installments on the first (1st) day of each month, and within ninety (90) calendar days after the end of each calendar year, the Association shall furnish each

Owner with a reasonably detailed final statement of the actual amount of such Owner's Common Expense Share for such calendar year. If such final statement reveals that the monthly installments actually paid by an Owner aggregate less than such Owner's Common Expense Share for such calendar year, such Owner shall pay the full amount and difference owing to the Association within thirty (30) calendar days after such final statement is furnished. If such final statement reveals that an Owner's monthly installments actually paid aggregate more than such Owner's Common Expense Share for such calendar year, the excess amount shall, at the option of the Association, either be returned to such Owner or be applied by the Association as a credit against the amounts next due from such Owner under this Section 5.2. Any amount required to be paid under this Section 5.2 that is not timely paid shall accrue interest on and after the date due until paid in full, before and after judgment, at the rate of twelve percent (12%) per annum. In addition, a late charge of five percent (5%) of such payment may be charged by the Association for any payment not made within ten (10) calendar days after the date when due. Such late charge is payable not as a penalty, but in order to compensate the Association for the additional expenses and administrative efforts involved in handling the delinquent payment. Acceptance by the Association of any payment from an Owner that is less than the entire amount then due and owing shall be on account only and shall not constitute a waiver of the obligation to pay such entire amount. All records and accounts maintained by the Association that relate to the Common Expenses shall be open to examination and audit by any Owner on at least twenty (20) calendar days prior written notice to the Manager.

5.3 Default. If any Owner fails to perform any duty, responsibility, or obligation under this Declaration (other than the payment of money) and such failure continues for a period of thirty (30) calendar days after written notice of such failure is given to such Owner by the Association, or if the performance of such duty, responsibility, or obligation would reasonably require more than thirty (30) calendar days, if such Owner fails to commence such performance within such 30-day period or thereafter fails to diligently prosecute such performance to completion, the Association may, upon written notice to such Owner, takeover and perform such obligation in the stead of such Owner, or exercise any other right or remedy against such Owner existing under the Act or otherwise available at law or in equity. The Association shall be reimbursed by such Owner, upon demand, for all costs, expenses, fees, and other amounts actually incurred (including, Additional Charges) in connection with the Association's takeover and performance of the defaulting Owner's duties, responsibilities, or obligations and/or the exercise of other rights or remedies against such Owner, together with interest on such costs, expenses, fees, and other applicable amounts, both before and after judgment, at the rate of twelve percent (12%) per annum.

5.4 Lien. If not paid when due, the amounts payable under this Article 5 and any other Assessments or other amounts payable to the Association under this Declaration may be secured by a lien against the delinquent Owner's Lot(s). Such lien shall be enforced pursuant to the Act and evidenced by a notice of lien recorded against the delinquent Owner's Lot(s) by the Association in the Official Records. A copy of such notice of lien shall be given to the delinquent Owner and any then applicable Mortgagee holding a Mortgage covering such Owner's Lot within ten (10) calendar days following recordation of the notice of lien. Such notice of lien shall set forth the unpaid amount, the date such amount was due, the name of such Owner, a description of the property subject to such lien (i.e. the Owner's Lot(s) and any other applicable property, if any), and any other information required to be provided to the delinquent Owner pursuant to the Act, and

shall be signed and acknowledged by an authorized signatory of the Association or the Association's legal counsel. Any such lien may be enforced by the Association by way of a non-judicial foreclosure (as though the lien were a deed of trust) or a judicial foreclosure (as though the lien were a mortgage) in the same manner as is provided under the Act or any other applicable law for the foreclosure of mortgages or trust deeds covering real property, and shall be subject and subordinate to (a) each Mortgage recorded at the time such notice of lien is recorded, (b) this Declaration, (c) each (recorded or unrecorded) utility right-of-way and easement (including, public and private utility easements) existing at the time such notice of lien is recorded, including, those set forth and established under the Amended Plat, (d) the interests of each Permittee under any then applicable lease (whether recorded or unrecorded) existing at the time such notice of lien is recorded, and (e) the lien for general taxes and other governmental assessments, but shall be prior and superior to all other interests, whether recorded or unrecorded at the time such notice of lien is recorded. This Section 5.4 does not prohibit the Association from bringing a legal action against any delinquent Owner to recover any amounts payable under this Article 5 and any other amounts and Assessments payable to the Association under this Declaration. As permitted under the Act, the Board of Directors may terminate a delinquent Owner's rights to receive certain utility service for which the Owner pays as a Common Expense or to access and use certain recreational facilities (if any) associated with the Project.

5.5 Certain Obligations and Rights. The obligations of each Owner under Section 5.2 and all other provisions of this Declaration are the personal obligations of such Owner and may be enforced by the Association. No Owner may avoid or diminish the personal nature of such obligations by waiver of the use and enjoyment of the Common Areas, by abandonment of such Owner's Lot or Lots or any Improvements on such Owner's Lot or Lots, or by waiver of any of the services or amenities provided for in this Declaration. Any legal action to recover one or more monetary judgments for any amount due under this Declaration may be maintained without foreclosing or waiving the lien described in Section 5.4 above. All remedies set forth in this Section 5.5 are cumulative and are in addition to any remedies otherwise available under the Act or otherwise as at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation of this Declaration and to compel by decree specific performance, it being agreed that the remedy at law for any breach may be inadequate.

ARTICLE 6 ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND ENFORCEMENT OF ASSESSMENT LIEN

6.1 Association as Enforcing Body. Except as otherwise set forth in this Declaration (for example, in instances where Declarant has rights to enforce certain provisions of this Declaration), the Association, as the agent and representative of the Owners and Members, shall have the exclusive right to enforce the provisions of this Declaration (or cause this Declaration to be enforced, for example, through the Manager).

6.2 Association's Enforcement Remedies. If any Owner or Member fails to pay the Assessments when due, the Association (or the Manager, if caused to be enforced through the Manager) may enforce the payment of the Assessments and the Assessment lien provided for in Section 5.4 above, by taking one or more of the following actions, concurrently or separately

(and by exercising any of the remedies set forth in this Declaration, the Association does not prejudice or waive its right to exercise any other remedy available under this Declaration or otherwise available at law or in equity):

6.2.1 Bring an action at law and recover judgment against the Owner or Member personally obligated to pay the Assessments;

6.2.2 Foreclose the Assessment lien provided for in Section 5.4 against the Lot or Lots owned by such Owner or Member in accordance with the then prevailing Utah law relating to the foreclosure of realty Mortgage(s) (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with Title 38 of the UTAH CODE, as amended from time-to-time, or any other means permitted by law, and the Lot or Lots may be redeemed after foreclosure sale, if provided by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates Fidelity National Title Agency of Utah, LLC, a Utah limited liability company, as trustee ("Trustee"), and Declarant hereby conveys and warrants pursuant to Sections 57-1-20 of the UTAH CODE and 57-8a-302 of the Act to Trustee, with power of sale, each individual Lot or combination of Lots and all of the improvements therein and thereon for the purpose of securing payment of all of the Assessments under the terms of this Declaration. Each Owner, by virtue of accepting a deed or title to any individual Lot or combination of Lots within the Project (whether from Declarant or another party) and, to the fullest extent permitted by law, also hereby conveys and warrants to Trustee, with power of sale, each individual Lot or combination of Lots acquired by such Owner and all of the improvements therein and thereon for the purpose of securing payment of all of the Assessments under the terms of this Declaration and such Owner's performance of such Owner's obligations set forth in this Declaration. The Board of Directors may, at any time and from time-to-time, designate one or more successors in the place of Trustee, in accordance with the provisions of the Act and/or applicable Utah law for the substitution of Trustee under deeds of trust. Such Trustee, and any successors, shall not have any other right, title, or interest in the individual Lot or combination of Lots beyond those rights and interests necessary and appropriate to foreclose any liens against such Lot or Lots arising pursuant hereto. In any such foreclosure, the Owner or Member of the individual Lot or combination of Lots being foreclosed shall be required to pay the costs and expenses of such proceeding (including, reasonable attorneys' and appraisal fees), and such costs and expenses shall be secured by the Assessment lien being foreclosed. The Association (or the Manager, if the Association has elected for the foreclosure to be carried out through the Manager) shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any and all of the individual or combination of Lots purchased at such sale.

6.2.3 Notwithstanding the subordination of the Assessment lien, as further described and set forth in Section 5.4 above, the delinquent Owner and/or Member shall remain personally liable for the Assessments and all related costs after such Ownership has ceased and/or such Member's Membership is terminated by foreclosure or deed-in-lieu of foreclosure or otherwise.

6.3 Priority of Lien. The Assessment lien provided for throughout this Declaration and further described in Section 5.4 shall be subject and subordinate to each of those items specified in Section 5.4, but shall be prior and superior to any and all other charges, liens, encumbrances, or interests, whether recorded or unrecorded at the time such notice of Assessment lien is recorded, which hereafter in any manner may arise or be imposed upon each individual Lot or combination of Lots being foreclosed. The sale or transfer of any individual Lot or combination of Lots by a delinquent Owner and/or Member shall not affect the Assessment lien provided for in this Declaration.

ARTICLE 7 TAXES, INSURANCE, AND INDEMNIFICATION

7.1 Taxes. Each Owner shall pay, prior to delinquency, any and all Taxes imposed, assessed, or levied by any governmental, quasi-governmental, service district (including, the District), or other public authority on or against such Owner's Lot, unless the collection of such Taxes and any sale or forfeiture of such Lot for non-payment of such Taxes is prevented or suspended through appropriate legal proceedings. If any Lot is not imposed, assessed, levied, or otherwise taxed as an independent parcel for tax purposes, the Taxes allocable to such Lot shall be an equitable proportion of the Taxes for all of the land within the Project and Improvements included within each relevant tax parcel assessed, such proportion to be determined from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. The Association shall pay, prior to delinquency, any and all Taxes imposed, assessed, or levied by any governmental, quasi-governmental, service district (including, the District), or other public authority on or against the Common Area Lots.

7.2 Insurance. Each Owner shall secure and maintain liability insurance providing coverage against bodily injury, death, and property damage occurring, or by reason of activities, on or about each Owner's Lot within the Project. In addition, each Owner may, at its own discretion, secure and maintain any desired insurance covering the personal contents and personal property located within such Owner's Lot. All insurance policies required to be obtained under this Declaration shall be issued by a carrier licensed or otherwise authorized to transact business in the State of Utah and shall be with companies having a rating of not less than A-VIII in Best's Insurance Guide. The liability insurance policies to be secured and maintained by each Owner shall afford at least the coverage provided by a "combined single limit" of not less than One Million Dollars (\$1,000,000) per occurrence, and not less than Two Million Dollars (\$2,000,000) in the aggregate, for bodily injury, death, and property damage, and shall name the Association as an additional insured. Each Owner shall, upon request, furnish the Association with a certificate of insurance issued by its insurer evidencing that insurance is in force that complies with the requirements of this Section 7.2. All insurance policies required to be obtained under this Section 7.2 shall provide that such policies may not be canceled or substantially modified without at least thirty (30) calendar days prior written notice to all of the insureds and the Owner's designated additional insureds (including, the Association). The insurance coverage requirements set forth in this Section 7.2 provide the minimum level of acceptable coverage. The Association and the Owners may obtain additional coverage as such parties may determine necessary or as may be required under other contracts or documents to which they are party (including, by way of example, a Mortgage). The Association makes no representation or warranty that the minimum

amount of insurance required by this Section 7.2 will be sufficient to protect the Owners from any claims or incidences dealing with bodily injury, death, or property damage occurring, or by reason of activities, on or about the Project. In addition, unless otherwise required by law, the insurance secured and maintained by the Association under this Declaration shall not cover any personal contents or personal property of the Owners or their respective Permittees.

7.3 Indemnification. Each Owner shall indemnify, defend (with counsel selected by the Association, the Declarant, and each indemnified Owner, respectively), and hold harmless the Association and the other Owners within the Project, the Declarant, and the Manager from and against any and all losses, damages, claims, causes of action, demands, obligations, suits, controversies, costs, expenses (including, without limitation, litigation expenses and attorneys' fees, whether incurred with or without the filing of a legal action, on appeal or otherwise), liabilities, judgments, and liens, of whatever kind or character, which are caused by the indemnifying Owner, including, without limitation, those caused by the use, deposit, storage, disposal, transportation, or release of any hazardous substances, hazardous wastes, pollutants, or contaminants on any part of the Project by (a) the indemnifying Owner, (b) any Permittees leasing or occupying the Lot owned by the indemnifying Owner, or (c) any agent, employee, contractor, invitee, or licensee of either the indemnifying Owner or any Permittees leasing or occupying the Lot owned by the indemnifying Owner.

ARTICLE 8 PROHIBITED USES

8.1 Prohibited Uses. Unless approved by the Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project) and the Association in advance and in writing, which approval may be given, conditioned, or withheld by the Declarant and the Association in their sole, absolute, and unfettered discretion, any use, occupancy, or operation within the Project that is not consistent, compliant, and/or compatible with (i) the Project as a residential community and townhome project, (ii) the current residential uses and purposes consistent with the permitted uses and applicable zoning for the Project, and/or (iii) Article 3 of this Declaration, is strictly prohibited.

8.2 Antennas; Satellite Dishes. Unless approved by the Declarant (unless the Declarant has already transferred all of its interest as the Owner or Owners in the Project) and the Association in advance and in writing, which approval may be given, conditioned, or withheld by the Declarant and the Association in their sole, absolute, and unfettered discretion, or except to the extent required to be permitted by any applicable laws, no Owner or Permittee other than the Declarant may install, or authorize the installation of, any antenna, satellite dish, or other transmitting or receiving apparatus on any of the Buildings or in or about any other portions of the Project, except to the extent that said apparatus: (a) is located wholly within the physical boundaries of said Owner's Lot; and (b) is not visible from outside the Lot in which it is located. Notwithstanding the foregoing, however, in no event shall any Owner or Permittee other than the Declarant, without having obtained said prior written consent of the Declarant and the Association, have any rights with regard to making any of said installations that exceed the bare minimum rights required to be permitted by any applicable laws.

ARTICLE 9
EFFECT OF BREACH UPON PURCHASERS AND MORTGAGEES

9.1 Title and Mortgagee Protection. The default or breach of this Declaration shall not entitle any Owner or Person to cancel, rescind, or otherwise terminate its duties, liabilities, and obligations under this Declaration. No default or breach of this Declaration shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value, but the limitations, restrictions, reservations, rights, easements, conditions, obligations, and covenants contained in this Declaration shall be binding upon and effective against the Owner of any Lot, or any portion thereof, whose title thereto is acquired by judicial or non-judicial foreclosure, trustee's sale, or otherwise (like an arrangement or proceeding in lieu of foreclosure).

9.2 Mortgagee Protection.

9.2.1 Obligations of Mortgagee. Unless and until it enters into possession of or acquires title to all or any portions of one or more Lots within the Project, as applicable, pursuant to judicial or non-judicial foreclosure, trustee's sale, or any other arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting one or more Lots within the Project shall have no duties, liabilities, and/or obligations to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration (other than those provisions, if any, concerning any consent to be given by a Mortgagee, if a Mortgagee's failure to give such consent is wrongful).

9.2.2 Notices; Right to Cure. Any Owner, on delivering to any other Owner any notice, demand, or other communication pursuant to the provisions of this Declaration, shall at the same time deliver by certified mail, return receipt requested, copies of such notice to each Qualified Mortgagee of such other Owner at the latest address provided to the notifying Owner by such other Owner or such Qualified Mortgagee. Although otherwise effective with respect to the Owner receiving such notice, no notice delivered to any Owner shall affect any rights or remedies of any Qualified Mortgagee unless a copy of such notice has been delivered to such Qualified Mortgagee in accordance with the immediately preceding sentence. Each Qualified Mortgagee shall have the right to remedy a default, or cause the same to be remedied within the time allowed to the defaulting Owner plus, in the case of monetary defaults, an additional ten (10) calendar days and, in the case of non-monetary defaults, an additional thirty (30) calendar days; *provided, however,* that if a non-monetary default reasonably requires more than thirty (30) calendar days to cure, each Qualified Mortgagee shall have the right to remedy such default if such Qualified Mortgagee commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion.

9.2.3 Performance. Each Qualified Mortgagee shall have the right to act for and in the place of the Owner of the Lot or Lots covered by its Mortgage, to the extent encumbered by and permitted by the applicable Mortgage or otherwise agreed to by such Owner in writing. Any Owner shall accept performance by or on behalf of any Qualified Mortgagee as if the same had been performed by the other Owner. Such acceptance shall not create any additional rights as against such Owner in such Qualified Mortgagee, nor shall such Qualified Mortgagee be

subrogated to any interest or right of such Owner. Each Qualified Mortgagee shall have the right, to the extent the Owner of the Lot or Lots covered by the Mortgage concerned agrees in writing, to appear in a legal action or proceeding on behalf of such Owner in connection with such Lot or Lots encumbered by an applicable Mortgage.

9.2.4 Recognition. Upon request, the Association agrees to execute, acknowledge, and deliver to any Qualified Mortgagee a commercially reasonable instrument prepared by the Qualified Mortgagee concerned (*provided, however*, such instrument must be reviewed and approved in advance by the Association), acknowledging that such Qualified Mortgagee is a "Qualified Mortgagee" entitled to the rights and benefits of this Section 9.2.4.

9.2.5 Estoppel. The Association shall, within fifteen (15) calendar days after the request of any Owner, execute and deliver (or cause to be executed and delivered through the Manager) to the requesting Owner a commercially reasonable estoppel certificate in favor of the requesting Owner and such other persons (like third-party purchasers) as the requesting Owner shall designate setting forth the following:

(a) that, to the actual knowledge of the Association (with no duty to discover or investigate), such Owner is not in default under this Declaration or, in the alternative, that such Owner is in default under this Declaration, setting forth in reasonable detail the nature of such default;

(b) that, to the actual knowledge of the Association, this Declaration is in full force and effect and has not been modified or amended, except as may be disclosed in the Official Records or as set forth and disclosed in such estoppel certificate;

(c) any commercially reasonably requested information regarding Common Expenses and liens recorded pursuant to Section 5.4, to the extent that the Common Expenses and such liens relate to such Owner's Lot; and

(d) such other commercially reasonable and relevant information as the requesting Owner may reasonably request.

The requesting Owner's Mortgagees and any such other persons (like third-party purchasers) shall be entitled to rely upon any estoppel certificate executed by the Association or the Manager pursuant to this Section 9.2.5.

ARTICLE 10 COVENANTS TO RUN WITH LAND

Each provision of this Declaration shall constitute a covenant running with the land and shall be binding upon and shall inure to the benefit of the Association and each Owner and their respective successors and assigns, all of which Persons may enforce any duties, liabilities, and obligations created by this Declaration. This Declaration shall be binding on each part of the Project (including, without limitation, the Lots, the Common Area Lots, and Improvements), and all ownership interests and rights in any part of the Project shall be subject to this Declaration. The interests in and rights concerning any portion of the Lots, the Common Area Lots, and the Project

held by or vested in the Owners or any other Persons on or after the Effective Date of this Declaration shall be subject and subordinate to this Declaration, and this Declaration shall be prior and superior to such interests and rights. By in any way coming to have any interest in or occupying any part of the Project (including, without limitation, ownership in the Lots or the Common Area Lots), the Owners, Permittees, or other Persons so coming to have such interest or occupying any part of the Project agrees to be bound by this Declaration; *provided, however*, that no such Owners, Permittees, or other Persons shall have any right, interest, or liability under this Declaration as an Owner until such person becomes an "Owner," as defined in Section 1.26, nor shall such person have any duties, obligations, or liabilities under this Declaration for any acts committed prior to the time such person became an Owner under this Declaration.

ARTICLE 11 ANNEXATION OF ADDITIONAL PROPERTY

As of the Effective Date, Declarant has not designated or identified any Additional Property on the Amended Plat or that is anticipated to be applicable to the Project. However, Declarant hereby reserves the exclusive right to annex all or any portions of any real property that is adjacent and contiguous to or in close proximity to the Project, which is later annexed into the Project in accordance with this Article 11, at any time during the existence of this Declaration, in Declarant's sole and absolute discretion. Such one or more annexations, if made, will subject the Additional Property (or applicable portions thereof) to the terms and conditions of this Declaration. Annexations will become effective upon the recording of an amendment or supplement to this Declaration and any amendment to the Amended Plat (if applicable) in the Official Records, which amendment or supplement need be executed only by the Declarant and, as applicable, the record owner(s) of the Additional Property being annexed. Declarant may, in its sole and absolute discretion, provide for any such Additional Property (or applicable portions thereof) so annexed to become part of the Common Areas and/or the Common Area Lots.

ARTICLE 12 AMENDMENTS TO DECLARATION

12.1 Requisite Parties. This Declaration may be amended only by an instrument recorded in the Official Records, executed by the Association and each Owner, except as follows:

12.1.1 an amendment to annex any Additional Property into the Project and this Declaration shall be made by recording an amendment or supplement to this Declaration executed by Declarant as provided in Article 10 and need not be signed by the Association or any other Owners and shall set forth a metes and bounds description (or other platted legal description) of such Additional Property, and such additional easements, covenants, and restrictions, if any, affecting such Additional Property as may be necessary or appropriate, as determined by the Declarant, in its sole and absolute discretion;

12.1.2 any amendment to this Declaration that subdivides or divides an existing Lot into two or more Lots or any Common Area Lot into two or more Common Area Lots only needs to be executed by the Association and the Owner of the Lot or Common Area Lots

concerned, and shall set forth the metes and bounds descriptions (or other platted legal descriptions) of such new Lots and/or Common Area Lots;

12.1.3 any amendment to this Declaration that changes the metes and bounds or platted legal descriptions of two or more Lots or two or more Common Area Lots (for example, a boundary line adjustment) only needs to be executed by the Association and each Owner of such Lots and/or Common Area Lots, and shall set forth the new metes and bounds or platted legal descriptions of such Lots; and

12.1.4 any instrument effective as an amendment to this Declaration pursuant to which the Association assigns its rights, duties, liabilities, and obligations under this Declaration to another Owner only needs to be executed by the existing Association and the new, assignee Owner or responsible party, and shall set forth a metes and bounds or platted legal description of such new Owner's Lot, as and if applicable.

12.2 No Other Person Required. Unless it is a required party to any amendment or supplement of this Declaration concerned under Section 12.1 above, no other Person (including, without limitation, any Person holding any rights or interest in or occupying any Lot, whether as a Permittee under a lease or otherwise) needs to execute such amendment in order to make such amendment or supplement in all respects effective, valid, binding, and enforceable; *provided, however,* that no amendment or supplement to this Declaration shall affect the rights and interests of any Mortgagee holding a Mortgage that constitutes a lien on the realty directly involved in such amendment (if such lien is recorded prior to the recordation of such amendment) unless such Mortgagee consents to such amendment in writing. All requisite Persons and other parties to an amendment or supplement of this Declaration shall not withhold, condition, or delay the approval or execution of such amendment in a manner that is unreasonable.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Statement of Intent. Prior to purchasing any individual Lot or combination of Lots within the Project, each Owner is capable of obtaining and has been given the right and opportunity to perform an inspection (or to pay a third-party inspector to perform an inspection on its behalf) on such Lot(s) and is capable of obtaining and has been given the right and opportunity to perform its own independent due diligence pertaining to such Lot(s) and has been permitted the opportunity to perform its own independent due diligence (or cause such due diligence to be performed by a third-party inspector or attorney) on such Lot(s) that the Owner has elected to purchase and to conduct an inspection, examination, and due diligence on those Common Areas, Improvements, and other portions of the Project that have been designated for the common or joint use and benefit of the Owners and their respective Permittees. Each Owner, or the Association as applicable, by virtue of accepting a deed or title to any individual Lot or combination of Lots or Common Area within the Project (whether from Declarant or another party) and, to the fullest extent permitted by law, agrees and acknowledges that such Owner has elected to purchase such Lot(s) and take possession of such Lot(s) in the "AS IS" "WHERE IS" condition of any such Lot(s) and the "AS IS" "WHERE IS" condition of the Common Areas, Improvements, and the Project and based upon each Owner's or the Association's own

independent judgment, inspections, examinations, and due diligence and subject to the Project Documents, the Recorded Documents, and any other matters disclosed by Declarant or as otherwise known or discovered by each Owner or the Association in connection with such Owner's or Association's own independent due diligence or as disclosed in such Owner's or Association's inspections and examinations. Moreover, if any written warranty has been provided by the Declarant or its contractors, it identifies the only items that are warranted by the Declarant or its contractors. Having had the ability to inspect prior to purchasing a Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot in the condition it and the Lots and Common Areas are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant and/or any subcontractor performing work in the Project to change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners of Lots within the Project (by purchasing a Lot) and the Builder acknowledge and agree that claims and disputes shall first be asserted and resolved through Pre-Litigation Non-Adversarial Procedures, as set forth in the provisions of this Article 13. Unless otherwise provided in writing (and then only except to the extent of such writing), the Declarant and its contractors specifically disclaim any and all warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law. Each Owner and the Association agree to provide Declarant with written notice of any matters relating to a claim for defect of faulty workmanship or deficiencies as soon as reasonably possible after such Owner or the Association becomes aware of such matters and dispute within one year from the date of close of escrow. The providing of notice and opportunity to cure shall not extend the period of which a dispute must be commenced under any warranty and/or applicable statutes of limitations or repose as provided under Utah law.

13.2 Pre-Litigation Non-Adversarial Procedures for All Disputes. To the fullest extent permitted by law, prior to, and as a condition precedent to, initiating any claims or disputes of any kind against Declarant, and/or any of their respective affiliates, successors, assigns, agents, employees, contractors, subcontractors, architects, engineers, and/or other builder parties involved in the design, construction, and development of the Project (including, filing any claim or action or initiating any binding arbitration) (each, a "Dispute"), any Owner or Association desiring to make a claim or initiate a Dispute shall first attempt to resolve said Dispute in accordance with the Pre-Litigation Non-Adversarial Procedures and satisfy all other requirements in strict accordance with the provisions of this Article 13. Without limiting the generality of the foregoing, the types of Dispute(s) subject to this Article 13 shall include, but not be limited to, the following:

13.2.1 Any dispute, claim, disagreement, or allegation that a condition related to any of the Lots, the Buildings, the Common Areas, the Improvements, or other areas of the Project is, are, or involves any kind of a construction defect or as to whether any alleged construction defect has been corrected;

13.2.2 Any dispute, claim, disagreement, or allegation about whether any warranties, including, any allegation of implied warranties, applicable to any of the Lots, the Buildings, the Common Areas, the Improvements, or other areas of the Project are applicable to the subject matter of a dispute;

13.2.3 Any dispute, claim, disagreement, or allegation as to the enforceability of any warranties alleged to be applicable to any of the Lots, the Buildings, the Common Areas, the Improvements, or other areas of the Project or as to whether any such alleged representation or warranty has been breached;

13.2.4 Any dispute, claim, disagreement, or allegation related to any potential violation of consumer protection, unfair trade practices, or other statutes or laws;

13.2.5 Any dispute, claim, disagreement, or allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, or any other claims that may arise in equity or from common law;

13.2.6 Any dispute, claim, disagreement, or allegation that any condition related to any of the Lots, the Buildings, the Common Areas, the Improvements, or other areas of the Project or caused or created by Declarant or any officers, members, managers, or representatives, agents, or employees of the Declarant (including, any contractors, subcontractors, architects, engineers, and/or builder parties engaged or used by Declarant), including, any construction related noises, dust, and/or traffic, is a nuisance, a defect, or a breach of this Declaration or any alleged breach of any implied warranties of habitability or other implied warranties;

13.2.7 Any dispute, claim, disagreement, or allegation concerning the timeliness of any performance of any act to be performed by Declarant or its contractors;

13.2.8 Any dispute, claim, disagreement, or allegation regarding the various rights, interests, duties, obligations, and/or performance of Declarant under this Declaration, including, matters related to the management and affairs of the Association and the reserve funds, the reserve analysis, or funding of Association expenses; and

13.2.9 Any other dispute, claim, disagreement, or allegation arising out of or relating to the sale, design, planning, development, and/or initial or subsequent construction, maintenance, repair, replacement, and/or remodeling of any of the Lots, the Buildings, the Common Areas, the Improvements, or other areas of the Project, the formation, operation, governance, and/or management of the Association, or other claims regarding the Project.

13.3 Pre-Litigation Non-Adversarial Procedure Requirements.

13.3.1 Generally. Any Owner (including, the Association in connection with its ownership of the Common Area Lots) desiring to make or file a claim or initiate a Dispute of any kind against Declarant, and/or any of its respective affiliates, successors, assigns, agents, employees, contractors, subcontractors, architects, engineers, and/or other builder parties may only do so after all Pre-Litigation Non Adversarial Procedures of this Article 13 have been satisfied.

13.3.2 Notice of Claim. Any Owner or Association seeking to make or file a claim or initiate a Dispute against the Declarant (including, against any of their respective affiliates, successors, assigns, agents, employees, contractors, subcontractors, architects, engineers, and/or other builder parties) must provide a written notice of claim ("Notice of

Claim”) delivered to: 2900 Adams Street, Suite C25, Riverside, California 92504, Attention: Jeff Hack or by email to Buyerservices@vandaele.com. For purposes of this Article 13, “Notice of Claim” shall mean and include **ALL** of the following information: (a) an explanation of the nature of the claim, (b) a specific breakdown and calculation of any alleged damages, (c) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (d) photographs of any alleged defective condition, if applicable, (e) samples of any alleged defective conditions or materials, if reasonably available, (f) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (g) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim. . Each Owner and the Association agree to provide Declarant and its representatives, contractors, and others, as Declarant may request, with prompt, reasonable cooperation, which may, for example include access to all portions of the Project, in order to facilitate any investigation regarding the Dispute, including, without limitation, for purpose of inspecting, testing, repairing, replacing, correcting, or otherwise addressing the matters related to the Dispute. If the Dispute arises out of or related to the planning, surveying, design, engineering, grading, specifications, construction, or other development of the Project, Declarant is hereby granted the irrevocable rights to inspect, repair, and/or replace any and all affected parts at its sole discretion but is under no obligation to do so.

In the event an Owner or the Association provides notice of an alleged defect within one (1) year from the date of close of escrow, Declarant will inspect the Lot, Building, Improvement or Project within fourteen (14) business days of receipt of the Owner or the Association’s written notifications and within fourteen (14) business days of the inspection, Declarant will advise the Owner or the Association in writing whether any repairs or replacements are warranted.

If these contractual pre-litigation right to repair procedures are unsuccessful, each Owner agrees to comply with the mediation procedure set forth below prior to commencement of any legal action.

13.3.3 Mediation. The parties shall make a demonstrable, good faith effort to resolve any Disputes without formal, legal proceedings prior to initiating litigation. Mediation is an express condition precedent to the allowance for litigation. Any commencement of litigation shall be stayed until the conclusion of the mediation process as set forth below in this section. The following shall apply: a) such mediation shall be conducted by a mediator mutually agreed to by the parties. Such mediator shall be a retired judge with experience in deciding disputes concerning such matters which is the subject of the Dispute between the parties; b) The rules and procedures of the designated alternative dispute resolution organization that are in effect at the time of the commencement of the mediation shall be followed by the parties; c) A request for mediation shall be made in writing and delivered to the other party; d) The request may be made concurrently with the filing of a complaint or commencement of arbitration but, in such event, mediation shall proceed and be completed in advance of such litigation. In the event litigation is commenced, such litigation shall be stayed pending mediation for a period of (120) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order; and e) The parties will jointly select an acceptable mediator and share equally in the cost of such mediation.

The parties shall attempt to resolve the dispute through mediation through good faith negotiations until one of the following occurs: (i) the parties reach a written settlement; (ii) the mediator notifies the parties in writing that they have reached an impasse; (iii) the parties agree in writing that they have reached an impasse; or (iv) the parties have not reached a settlement within one hundred and twenty (120) days after the written request for mediation.

Nothing in this section prohibits any party from seeking emergency legal or equitable relief, pending mediation.

13.4 Waiver of Subrogation. The Association and each Owner, by virtue of accepting a deed or title to any individual Lot or combination of Lots within the Project (whether from Declarant or another party), including, the Common Area Lots with respect to the Association, to the fullest extent permitted by law, shall be deemed to have automatically waived any and all rights to subrogation against the Declarant and any contractors, subcontractors, architects, engineers, and builder parties engaged or used by Declarant in connection with the design, construction, and development of the Project. The waiver under this Section 13.4 shall be broadly construed and is intended to apply to waive, among other things, any attempt by any insurer of the Association or any of the Owners from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant and any contractors, subcontractors, architects, engineers, and builder parties engaged or used by Declarant in connection with the Project, and their respective officers, employees, owners, representatives, agents, and consultants. To the full extent permitted by law, the Association and Owners hereby release Declarant and each of the contractors, subcontractors, architects, engineers, and builder parties engaged or used by Declarant in connection with the design, construction, and development of the Project, and their respective officers, employees, owners, contractors, representatives, agents, and consultants, from any and all liability to the Association and all Owners, and anyone claiming by, through, or under them by way of subrogation or otherwise, for any loss, injury, or damage to any individual Lot or combination of Lots, the Common Area Lots, the Common Areas, and the Project, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or one or more of the contractors, subcontractors, architects, engineers, and/or builder parties engaged or used by Declarant in connection with the Project. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify, defend, and hold harmless the Declarant and each of the contractors, subcontractors, architects, engineers, and builder parties engaged or used by Declarant in connection with the Project, and their respective officers, employees, owners, representatives, agents, and consultants from any claims and Dispute(s) barred or released by this Section 13.4, including, but not limited to, any claim or Dispute brought under any right of subrogation.

13.5 Resolution of Disputes Regarding the Project and Association. Understanding that litigation is an undesirable and inefficient method of resolving disputes and conflicts, and that any such litigation involving the Association and an Owner or group of Owners can often

negatively impact the value of Homes within the Project, Declarant has established the dispute resolution provisions set forth herein. By taking title to any Home within the Project, each Owner agrees to be bound by the following provisions with respect to any dispute or claim involving the Association, another Owner, or group of Owners, but not the Declarant, which relates to the Project, the Association, or the Restrictive Covenants applicable to the Project (any such dispute or claim, a "Non-Declarant Claim"). In connection with any Non-Declarant Claim each Owner and the Association agrees to utilize the following procedure as such party's sole and exclusive means of resolving the same.

13.5.1 Notice of Dispute. In the event of a Non-Declarant Claim asserted by any Owner or group of Owners against another Owner, another group of Owners, or the Association, the aggrieved party must first provide the opposing party with written notice ("Notice of Non-Declarant Claim") which contains all of the following information: (i) an explanation of the nature of the Claim; (ii) a specific breakdown and calculation of any alleged damages associated with such Claim; (iii) a specific description of the opinions, information, or factual evidence upon which the Claim is based; (iv) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or dispute or any alleged damages arising from the Non-Declarant Claim; and (v) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the Non-Declarant Claim.

13.5.2 Response to Notice of Non-Declarant Claim. After receipt of the Notice of Non-Declarant Claim, the party to whom the Notice of Non-Declarant Claim is directed ("Recipient") will have thirty (30) days within which to address and resolve the Non-Declarant Claim, or to provide written notice to the aggrieved party that the Recipient disputes the allegations of the Notice of Non-Declarant Claim. The Recipient's failure to respond to a Notice of Non-Declarant Claim shall be deemed notice that the Recipient disputes the allegations of the Notice of Non-Declarant Claim.

13.5.3 Mandatory Mediation. If the Recipient does not resolve the issues raised in the Notice of Non-Declarant Claim within such thirty (30) day period, the aggrieved party and the Recipient must mediate the Non-Declarant Claim in good faith with a neutral, third-party mediator jointly selected by the parties. Neither party shall be entitled to an award of attorney fees in connection with the mediation.

13.5.4 Binding Arbitration. If the claim or dispute is not resolved at mediation, then the parties shall proceed to binding arbitration to address and resolve the same. The arbitration will be conducted by a single arbitrator who is an active or retired judge or a member of the Utah State Bar with at least twenty (20) years of litigation experience. The arbitration will be conducted pursuant to rules promulgated by the American Arbitration Association unless the parties agree otherwise. Each party will bear its own costs and the arbitrator will not award attorney fees to either party.

13.5.5 Acknowledgment and Waiver. Each Owner understands and agrees that the foregoing is the sole source of resolving Non-Declarant Claims. Further, each Owner understands and agrees that the foregoing dispute resolution provisions constitute a WAIVER OF THE RIGHT TO A

JURY TRIAL WITH RESPECT TO SUCH NON-DECLARANT CLAIMS, AS SET FORTH HEREIN. EACH OWNER KNOWINGLY AND VOLUNTARILY WAIVES SUCH RIGHT.

ARTICLE 14
NO REPRESENTATIONS OR WARRANTIES; DISCLAIMERS AND
ACKNOWLEDGEMENTS

14.1 No Representations or Warranties. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY THE DECLARANT, THE MANAGER, THE ASSOCIATION, OR ANY OF THEIR AGENTS, CONTRACTORS, OR EMPLOYEES (INCLUDING, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) IN CONNECTION WITH ANY OF THE LOTS OR ANY OTHER PORTIONS OF THE PROJECT (INCLUDING, WITHOUT LIMITATION, THE COMMON AREAS AND OTHER IMPROVEMENTS WITHIN THE PROJECT), THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, SECURITY (INCLUDING, WITHOUT LIMITATION, FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS OR ANY SECURITY MEASURES UNDERTAKEN WHATSOEVER), FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES, OR REGULATION THEREOF, EXCEPT: (A) AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION, THE PROJECT DOCUMENTS, OR IN ANY OTHER DOCUMENTS WHICH MAY BE FILED BY THE PARTY TO BE CHARGED FROM TIME-TO-TIME WITH APPLICABLE REGULATORY AGENCIES; AND (B) AS OTHERWISE REQUIRED BY LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH OWNER RECOGNIZES AND AGREES THAT WITH BUILDINGS, COMMON AREAS, AND IMPROVEMENTS THE SIZE OF THOSE CONSTRUCTED WITHIN THE PROJECT, IT IS TYPICAL TO EXPECT BOWING AND/OR DEFLECTION OF MATERIALS. ACCORDINGLY, INSTALLATION OF FINISHES MUST TAKE THE SAME INTO ACCOUNT. FURTHER, EACH OWNER RECOGNIZES AND AGREES THAT THE EXTERIOR LIGHTING SCHEME FOR THE BUILDINGS AND WITHIN THE PROJECT (INCLUDING, OTHER ADJACENT OR NEARBY PROPERTIES AND ROADWAYS) MAY CAUSE EXCESSIVE AND/OR UNINTERRUPTED ILLUMINATION. ACCORDINGLY, INSTALLATION OF INTERIOR WINDOW TREATMENTS SHOULD TAKE SAME INTO ACCOUNT. AMONG OTHER ACTS OF GOD AND UNCONTROLLABLE EVENTS, EXCESSIVE HEAT, EXTREME COLD, EXTREME DROUGHT, FLASH FLOODS, AND SEVERE STORMS HAVE OCCURRED IN THE SALT LAKE COUNTY AND HOLLADAY CITY AREAS AND, GIVEN THE FACT THAT THE PROJECT IS IN THE HIGH DESERT AND NEAR THE BIG COTTONWOOD CREEK, THE PROJECT IS EXPOSED TO THE POTENTIAL DAMAGES FROM EXCESSIVE HEAT, EXTREME COLD, EXTREME DROUGHT, FLASH FLOODS, AND EXTREME STORMS, AND DAMAGES FROM THESE OR OTHER EXTRAORDINARY CAUSES SHALL NOT BE THE RESPONSIBILITY OF THE DECLARANT, THE MANAGER, OR THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER

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Declaration of Easements, Covenants, Conditions, and Restrictions
Elevate at Holladay Hills
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PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT).

AS TO ANY WARRANTIES WHICH CANNOT BE DISCLAIMED AS A MATTER OF LAW, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS (INCLUDING, ANY ACTS OF GOD AND UNCONTROLLABLE EVENTS), ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED BY EACH OWNER. ALL OWNERS AND THE ASSOCIATION, BY VIRTUE OF ACCEPTING A DEED OR TITLE TO ANY INDIVIDUAL LOT OR COMBINATION OF LOTS WITHIN THE PROJECT (WHETHER FROM DECLARANT OR ANOTHER PARTY), INCLUDING, THE COMMON AREA LOTS WITH RESPECT TO THE ASSOCIATION, SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

FURTHER, EACH OWNER IS HEREBY ADVISED THAT CERTAIN MOLDS, FUNGI, MILDEW, AND/OR OTHER MYCOTOXINS MAY BE, OR IF ALLOWED TO REMAIN FOR A SUFFICIENT PERIOD MAY BECOME TOXIC AND POTENTIALLY POSE A HEALTH RISK. BY ACQUIRING A DEED OR TITLE TO AN INDIVIDUAL LOT OR COMBINATION OF LOTS OR CONTROL OVER ANY OF SAME, EACH OWNER SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH MOLDS, FUNGI, MILDEW, AND/OR OTHER MYCOTOXINS AND TO HAVE RELEASED THE DECLARANT, THE MANAGER, AND THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) FROM ANY AND ALL LIABILITY RESULTING FROM SAME.

14.2 General Disclaimer. NOTWITHSTANDING ANYTHING CONTAINED IN THIS DECLARATION OR IN THE PROJECT DOCUMENTS OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION, NONE OF THE DECLARANT, THE MANAGER, OR THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY, OR WELFARE OF ANY OWNERS OR THEIR RESPECTIVE PERMITTEES OR ANY OTHER USERS OF ANY PORTION OF THE PROJECT, INCLUDING, WITHOUT LIMITATION, THEIR GUESTS, TENANTS, INVITEES, LICENSEES, AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, OR DESIGNEES, OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

14.2.1 NONE OF THE DECLARANT, THE MANAGER, OR THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY

CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) IS EMPOWERED OR ESTABLISHED TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES COMPLIANCE WITH THE LAWS OF THE UNITED STATES, THE STATE OF UTAH, THE COUNTY OF SALT LAKE, THE CITY, AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES.

14.2.2 ANY PROVISIONS OF THIS DECLARATION SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE RECIPIENT OF SUCH ASSESSMENT FUNDS TO PROTECT OR FURTHER THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

14.2.3 NOTWITHSTANDING ANY DUTY OF THE ASSOCIATION TO MAINTAIN AND/OR REPAIR PORTIONS OF THE PROJECT (INCLUDING, BY WAY OF EXAMPLE, THE COMMON AREAS), NONE OF THE DECLARANT, THE MANAGER, OR THE ASSOCIATION SHALL BE LIABLE TO ANY OWNER OR ITS PERMITTEES (AND/OR SUCH OWNER'S FAMILY), OCCUPANTS, OR USERS OF ANY PORTION OF THE PROJECT, INCLUDING, WITHOUT LIMITATION, THEIR GUESTS, TENANTS, INVITEES, LICENSEES, AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, OR DESIGNEES, RELATIVE TO ANY PROPERTY DAMAGE, PERSONAL INJURY, DEATH OR OTHER LIABILITY CAUSED BY ANY LATENT CONDITION OF THE PROJECT (INCLUDING, WITHOUT LIMITATION, ANY OF THE INDIVIDUAL LOTS, THE COMMON AREAS, AND/OR ANY PORTIONS THEREOF). FURTHERMORE, NONE OF THE DECLARANT, THE MANAGER, OR THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY, DEATH, OR OTHER LIABILITY CAUSED BY DEFECTS IN DESIGN OR WORKMANSHIP, OR ANY OTHER REASON, CONNECTED WITH ANY ADDITIONS, ALTERATIONS, OR IMPROVEMENTS OR OTHER ACTIVITIES DONE BY OR ON BEHALF OF ANY OWNER REGARDLESS OF WHETHER OR NOT ANY SUCH ADDITIONS, ALTERATIONS, IMPROVEMENTS, OR OTHER ACTIVITIES SHALL HAVE BEEN APPROVED BY THE DECLARANT, THE MANAGER, OR THE ASSOCIATION OR ARE OTHERWISE PERMITTED PURSUANT TO THE TERMS OF THIS DECLARATION OR THE PROJECT DOCUMENTS. THE DECLARANT, THE MANAGER, AND THE ASSOCIATION ALSO SHALL NOT BE LIABLE TO ANY OWNER OR ITS PERMITTEES (AND/OR SUCH OWNER'S FAMILY), OCCUPANTS, OR USERS OF ANY PORTION OF THE PROJECT INCLUDING, WITHOUT LIMITATION, THEIR GUESTS, TENANTS, INVITEES, LICENSEES, AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, OR DESIGNEES, RELATIVE TO ANY PROPERTY DAMAGE, PERSONAL INJURY, DEATH OR OTHER LIABILITY ON THE GROUNDS THAT THE DECLARANT, THE

MANAGER, OR THE ASSOCIATION DID NOT OBTAIN OR MAINTAIN INSURANCE (OR CARRY INSURANCE WITH A PARTICULAR DEDUCTIBLE AMOUNT) RELATIVE TO ANY PARTICULAR MATTER WHERE SUCH INSURANCE IS NOT REQUIRED HEREBY OR COULD NOT OBTAIN SUCH INSURANCE AT REASONABLE COSTS OR UPON REASONABLE TERMS. THE DECLARANT, THE MANAGER, AND THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) ALSO SHALL NOT BE LIABLE TO ANY OWNER OR ITS PERMITTEES (AND/OR SUCH OWNER'S FAMILY), OCCUPANTS, OR USERS OF ANY PORTION OF THE PROJECT, INCLUDING, WITHOUT LIMITATION, THEIR GUESTS, TENANTS, INVITEES, LICENSEES, AGENTS, SERVANTS, CONTRACTORS, SUBCONTRACTORS, OR DESIGNEES, RELATIVE TO ANY PROPERTY DAMAGE, PERSONAL INJURY, DEATH OR OTHER LIABILITY RESULTING FROM: SOUND AND/OR VIBRATION TRANSMISSION, INCLUDING, WITHOUT LIMITATION, SOUND AND/OR VIBRATION TRANSMISSION FROM THE COMMON AREAS, ANY BUILDINGS OR IMPROVEMENTS, OR OTHER AREAS OF THE PROJECT OR OTHER ADJACENT OR NEARBY PROPERTIES; LIGHT TRANSMISSION OR LIGHT POLLUTION FROM ANY LIGHTING SCHEME OR LIGHTING IMPROVEMENTS LOCATED ON OR WITHIN THE COMMON AREAS, ANY BUILDINGS OR IMPROVEMENTS, OR OTHER AREAS OF THE PROJECT OR OTHER ADJACENT OR NEARBY PROPERTIES; AND/OR ODOR TRANSMISSION FROM THE COMMON AREAS, ANY BUILDINGS OR IMPROVEMENTS, OR OTHER AREAS OF THE PROJECT OR OTHER ADJACENT OR NEARBY PROPERTIES.

14.2.4 NONE OF THE DECLARANT, THE MANAGER, OR THE ASSOCIATION (INCLUDING, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT) SHALL IN ANY WAY BE CONSIDERED GUARANTORS OF SECURITY (INCLUDING, WITHOUT LIMITATION, FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS OR ANY SECURITY MEASURES UNDERTAKEN WHATSOEVER) WITHIN THE PROJECT AND/OR THE BUILDINGS AND/OR ANY PARTICULAR LOT, NOR SHALL ANY OF THE SAME (NOR ANY SUCCESSOR OR ASSIGN OF ANY OF SAME) BE HELD LIABLE FOR ANY LOSS OR DAMAGE TO ANY PERSON OR PROPERTY BY REASON OF FAILURE TO PROVIDE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, INCLUDING, WITHOUT LIMITATION, FIRE AND/OR BURGLAR ALARM, AND/OR PREVENTION AND/OR MITIGATION SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WHATSOEVER.

14.2.5 EACH OWNER, BY VIRTUE OF ACCEPTING A DEED OR TITLE TO ANY INDIVIDUAL LOT OR COMBINATION OF LOTS WITHIN THE PROJECT (WHETHER FROM DECLARANT OR ANOTHER PARTY) AND/OR CONTROL OVER SAME, AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR

MAKING ANY USE OF, ANY PORTION OF THE PROJECT (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES), SHALL BE BOUND BY THIS ARTICLE 14 AND SHALL BE DEEMED AUTOMATICALLY TO HAVE WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS, AND CAUSES OF ACTION AGAINST THE DECLARANT, THE MANAGER, AND/OR THE ASSOCIATION, THEIR AFFILIATES, AND ALL OF THEIR RESPECTIVE OFFICERS, MANAGERS, AGENTS, EMPLOYEES, SUPPLIERS, AND CONTRACTORS (INCLUDING, ANY CONTRACTORS, SUBCONTRACTORS, ARCHITECTS, ENGINEERS, AND/OR BUILDER PARTIES ENGAGED OR USED BY DECLARANT IN CONNECTION WITH THE DESIGN, CONSTRUCTION, AND DEVELOPMENT OF THE PROJECT), ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE AFOREMENTIONED PARTIES HAS BEEN DISCLAIMED IN THIS DECLARATION.

14.2.6 ALL RELEASES, DISCLAIMERS OF LIABILITY, INDEMNITIES, AND/OR "HOLD HARMLESS" PROVISIONS SET FORTH IN THIS DECLARATION IN FAVOR OF THE DECLARANT, THE MANAGER, AND/OR THE ASSOCIATION SHALL BE DEEMED ALSO TO INCLUDE: (A) THE PARTNERS, MEMBERS, SHAREHOLDERS, DIRECTORS, OFFICERS, MANAGERS, COMMITTEE, AND BOARD OF DIRECTORS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING, ANY SERVICE PROVIDERS), SUBCONTRACTORS, AND BUILDER PARTIES OF THE DECLARANT, THE MANAGER, AND THE ASSOCIATION; AND (B) THE SUCCESSORS, ASSIGNS, AND AFFILIATES OF ALL OF THE FOREGOING.

14.3 Additional Acknowledgements. Each Owner is hereby advised of the following matters affecting the Lots, the Buildings, the Improvements, and the Project, and the Owner's use and enjoyment thereof:

14.3.1 Rules and Regulations, Easements. Certain Roadways within the Project are or may be subject to restricted or gated access limitations, as set forth in the Recorded Documents, and are or may be subject to rules and regulations provided in the Recorded Documents.

14.3.2 Construction. Substantial construction-related activities relating to the development of the Project and other buildings, facilities, and development projects within the Royal Holladay Hills Subdivision or other developments or projects within or near the Project and within the Royal Holladay Hills Subdivision may cause considerable noise, dust, lighting, and other inconveniences to the Owners and its Permittees.

14.3.3 Other Projects. The Project and other development projects within the Royal Holladay Hills Subdivision may be developed pursuant to the Recorded Documents and certain land uses and restrictions set forth in a plan approved by the City and any other applicable governmental authorities with no representations, warranties, assurances, or commitments being made in this Declaration or by Declarant concerning the planned uses of other properties.

14.3.4 Views. There are no protected views in the Project and the Lots are not assured the existence or unobstructed continuation of any particular view, and any construction,

landscaping, or other installation of improvements by Declarant or the Association (including, without limitation, the construction of other Project structures and amenities in the vicinity of any of the Lots), or any owners of other property in the vicinity of the Project or within the Royal Holladay Hills Subdivision, including, without limitation, Owners of other Lots within the Project, may impair the view from any particular Lot and each Owner consents to such view impairment.

14.3.5 Minor Flaws. Residential construction is an industry inherently subject to variations and imperfections, and items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including, but not limited to: reasonable wear, tear, or deterioration; shrinkage, swelling, expansion, or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects. Each Owner hereby acknowledges the potential for such expected minor flaws in connection with the construction, improvement, and development of the Lots, the Common Areas, the Improvements, and all other applicable portions of the Project and each Owner hereby releases Declarant, the Manager, and the Association from any and all claims arising from or relating to such expected minor flaws.

ARTICLE 15 MISCELLANEOUS

15.1 Incorporation of Recitals. The foregoing recitals as contained in this Declaration are true and correct and hereby incorporated by reference as part of this Declaration.

15.2 Release on Transfer. On and after the date an Owner transfers (other than merely for purposes of security) or is otherwise divested of such Owner's ownership interest in any Lot, such Owner shall be relieved of all duties, liabilities, and obligations under this Declaration related to such Lot, except for such duties, liabilities, or obligations as may have accrued as of the date of such transfer or divestiture.

15.3 No Merger. The limitations, restrictions, reservations, rights, easements, conditions, obligations, covenants, and other provisions contained in this Declaration shall remain in full force and effect despite the fact that all or a part of the Project may be owned by the same person from time-to-time, it being the intention of the Declarant, the Association, and the Owners to create a common scheme for the development, use, and operation of the Project that will not be terminated by the doctrine of merger or otherwise, unless this Declaration is terminated in accordance with Section 15.6.

15.4 Force Majeure. The Declarant, the Association, and any Owners or other Persons obligated under this Declaration shall be excused from performing any liabilities, obligations, or covenants set forth in this Declaration and shall not be liable for any delays or failures in the keeping or performance of its liabilities, obligations, or covenants under this Declaration during the time and to the extent that any such delays or failure is due to causes or events beyond the control and without the fault or negligence of the Declarant, the Association, Owners, or Persons affected, which shall include, without limitation, causes or events such as any acts of God, acts of civil or military authority, fire, explosion, epidemics, pandemics, contagions, diseases, or

viruses (including, by way of example, Covid-19 events), floods, earthquakes, unusually adverse weather conditions, riots, wars, terrorism, sabotage, actions or restrictions of governmental authorities, governmental regulation of the sale, production, or use of materials or supplies or the transportation thereof, government shutdowns or postponements of meetings, or other similar or dissimilar causes or events not within such party's reasonable control (each, considered acceptable "Events of Force Majeure"), but not including generalized economic conditions, recession, or depression. Upon the occurrence of any such Events of Force Majeure, the Declarant, the Association, Owners, or Persons affected shall promptly give written notice to the other party or parties (including, any other Owners and Persons) to this Declaration and shall promptly resume the keeping and performance of the affected liabilities, obligations, or covenants under this Declaration after any such Events of Force Majeure have come to an end. The notice of any Events of Force Majeure will set forth in reasonable detail the nature and circumstances of the Events of Force Majeure, the expected effect and delays of the Events of Force Majeure on the affected party's performance under this Declaration, and the expected date (based on the best information available) the affected party will be able to resume performance. As of the date of the Events of Force Majeure, the party asserting force majeure is excused from performing any liability, obligation, or covenant that the party is unable to perform under this Declaration due to the Events of Force Majeure for as long as the Events of Force Majeure continue, and such affected party is relieved of liability for its failure to perform the excused liabilities, obligations, or covenants during the force majeure period. The party asserting an inability to perform shall use commercially reasonable efforts to correct such inability and to resume promptly its performance as required under this Declaration.

15.5 Certain Agreements. In addition to those purposes stated in Recital F, the other primary purposes of this Declaration is to create certain easements, covenants, restrictions, reservations, rights, obligations, and other provisions that are to apply among the Lots and the Common Area Lots and that are to define and govern the rights, benefits, interests, liabilities, and obligations as between those Owners and/or Persons having ownership or an interest in a given Lot (or a given Common Area Lot), on the one hand, and those Owners and/or Persons having ownership or an interest in other Lots (or other Common Area Lots), on the other hand.

15.6 Effective Dates and Duration. This Declaration and any amendment or supplement to this Declaration shall take effect as of the date on which they are recorded in the Official Records. This Declaration shall remain effective until terminated and extinguished by an instrument recorded in the Official Records and executed by each Owner of the Project and the Mortgagee under each Mortgage then affecting the Project, if and as applicable.

15.7 Notices. Any notice or demand to be given by the Declarant, the Manager, or the Association to any Owner or the Owners collectively or by any Owner or Owners to the Declarant, the Manager, or the Association or another Owner or Person under this Declaration shall be given in writing by personal service, fax or electronic transmittal (provided that a hard copy of any such notice has been dispatched by one of the other means for giving notice within twenty-four (24) hours after faxing), express mail, Federal Express, or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, and addressed to such Owner, Declarant, Manager, the Association, or Person at the address set forth for such Owner, Declarant, Manager, the Association, or Person, as applicable, in

the Official Records or in the taxing records or, if different, at another address provided by such Owner, Declarant, Manager, the Association, or Person. Any Owner, Declarant, Manager, and the Association may change the address or addresses at which it desires to receive notice under this Declaration upon written notice of such change to the Declarant, Manager, the Association, and each other Owner or Owners affected. Any notice or demand given under this Declaration shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the Declarant, Manager, the Association, and/or the Owner or Owners to which the notice is directed; *provided, however*, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change that was not properly communicated shall not defeat or delay the giving of a notice.

15.8 Not A Public Dedication. Nothing contained in this Declaration shall be deemed a gift or dedication of any portion of the Project or of any Lot or Common Area Lot or portion thereof (including, but not limited to, the Roadways) to the general public or for any public use or public purpose whatsoever, it being the intention and understanding that this Declaration shall be strictly limited to and for the purposes expressly stated in this Declaration solely for the benefit of the Owners. The Association and/or the Owners may take such action as may be necessary or desirable to prevent any such public dedication or appropriation, including, but not limited to, temporary closure of the Project, any of the Lots and/or Common Area Lots, or any of the Common Areas (including, but not limited to, the Roadways) by barriers at entrance-ways on non-holidays or other appropriate times not materially disruptive to the ownership, use, and occupancy of the Owners and their respective Permittees. In no event shall such closure exceed the minimum reasonable time required to prevent such public dedication or appropriation and such closures shall be carried out so as to minimize (to the greatest extent possible) any adverse impact or disruption on the ownership, use, and occupancy of the Owners and their respective Permittees and the duties and rights of the Association.

15.9 Severability. Whenever possible, each term, provision, covenant, or condition of this Declaration shall be interpreted in such a manner as to be valid under applicable law; *provided, however*, if any term, provision, covenant, or condition of this Declaration, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions of this Declaration and all applications thereof not held invalid, void, or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

15.10 General Provisions. Titles and headings of sections or paragraphs of this Declaration are for convenience of reference only and shall not affect the construction of any provision of this Declaration. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. Except as otherwise provided in this Declaration, no remedy provided in this Declaration shall be exclusive of any other remedy at law or in equity (whether existing on or created after the date of this Declaration), and all remedies under this Declaration may be exercised concurrently, independently, or successively from time-to-time. The failure on the part of any Owner or Person entitled to enforce this Declaration to promptly enforce any right under this Declaration shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

15.11 Tenants and Permittees. The benefits and burdens of this Declaration shall extend to each tenant, licensee, concessionaire, and occupant of each Owner (each, a “Permittee” and, collectively, the “Permittees”). Each Owner shall be solely responsible to ensure that all such Permittees on or using such Owner’s Lot strictly abide by all of the terms, conditions, limitations, restrictions, reservations, obligations, and covenants contained in this Declaration and in the Project Documents. Each Owner shall be solely responsible for the actions (including, any claims for bodily injury or death), any damages caused (including, any property damage), and the obligations and liabilities of all of such Owner’s Permittees.

15.12 Relationship of Parties and No Third-Party Rights. This Declaration does not create any joint venture, partnership, undertaking, or business arrangement between the Declarant, the Manager, the Association, Owners, or any other Persons, nor, unless otherwise stated, create any rights or benefits in favor of any third-parties.

15.13 Non-Liability of Employees, Members, or the Association. No officer, member, manager, or representative, agent, or employee of the Declarant, the Manager, or the Association shall be personally liable to the Owners, Permittees, or any of their successors or assigns in the event of any default or breach by the Declarant, the Manager, or the Association or for any amount which may become due to the Owners or their successors or assigns for any obligation arising out of the terms of this Declaration.

[Intentionally Blank – Signature Page and Acknowledgement to Follow]

DECLARANT'S SIGNATURE AND ACKNOWLEDGEMENT PAGE

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the Effective Date.

DECLARANT:

HOLLADAY HILLS 38, LLC,
a Utah limited liability company

By: [Signature]
Print Name: Todd Demarets
Title: Division President

ACKNOWLEDGMENT OF DECLARANT

STATE OF UTAH)
): ss.
COUNTY OF Salt Lake)

The foregoing Declaration of Easements, Covenants, Conditions, and Restrictions was acknowledged before me this 16 day of February, 2023, by Division President, the Todd Demarets of Holladay Hills 38, LLC, a Utah limited liability company.

[Signature]
NOTARY PUBLIC
Residing at: Salt Lake

My Commission Expires:
11/07/2026



EXHIBIT "A"
TO
DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
ELEVATE AT HOLLADAY HILLS

LEGAL DESCRIPTION OF PROJECT

The real property referenced in the foregoing Declaration as the "Project" is located in the County of Salt Lake, State of Utah and is more particularly described as follows:

LOTS 1 THROUGH 38, LOT A (COMMON AREA), LOT B (COMMON AREA), AMENDED AND RESTATED ROYAL HOLLADAY HILLS BLOCK L PHASE 2 SUBDIVISION PLAT, PREPARED BY JOHANSON SURVEYING; ACCORDING TO THE OFFICIAL PLAT THEREOF, ON FILE AND OF RECORD IN THE OFFICIAL RECORDS OF THE SALT LAKE COUNTY RECORDER'S OFFICE, STATE OF UTAH, AS RECORDED ON February 16, 2023, AS ENTRY NO. 14073158, IN BOOK 11401, AT PAGE 455 (TOTAL OF 1 SHEET).

The Following is Provided for Information Purposes Only:

Project Information: The combined gross area for the Project is approximately 195,972 square feet or 4.50 acres of land.

Tax Parcel Identification Numbers: 22-10-151-083-0000; 22-10-151-045-0000; 22-10-151-046-0000; 22-10-151-047-0000; 22-10-151-048-0000; 22-10-151-049-0000; 22-10-151-050-0000; 22-10-151-051-0000; 22-10-151-052-0000; 22-10-151-053-0000; 22-10-151-054-0000; 22-10-151-055-0000; 22-10-151-056-0000; 22-10-151-057-0000; 22-10-151-058-0000; 22-10-151-059-0000; 22-10-151-060-0000; 22-10-151-061-0000; 22-10-151-062-0000; 22-10-151-063-0000; 22-10-151-064-0000; 22-10-151-065-0000; 22-10-151-066-0000; 22-10-151-067-0000; 22-10-151-068-0000; 22-10-151-069-0000; 22-10-151-070-0000; 22-10-151-071-0000; 22-10-151-072-0000; 22-10-151-073-0000; 22-10-151-074-0000; 22-10-151-075-0000; 22-10-151-076-0000; 22-10-151-077-0000; 22-10-151-078-0000; 22-10-151-079-0000; 22-10-151-080-0000; 22-10-151-081-0000; 22-10-151-082-0000.

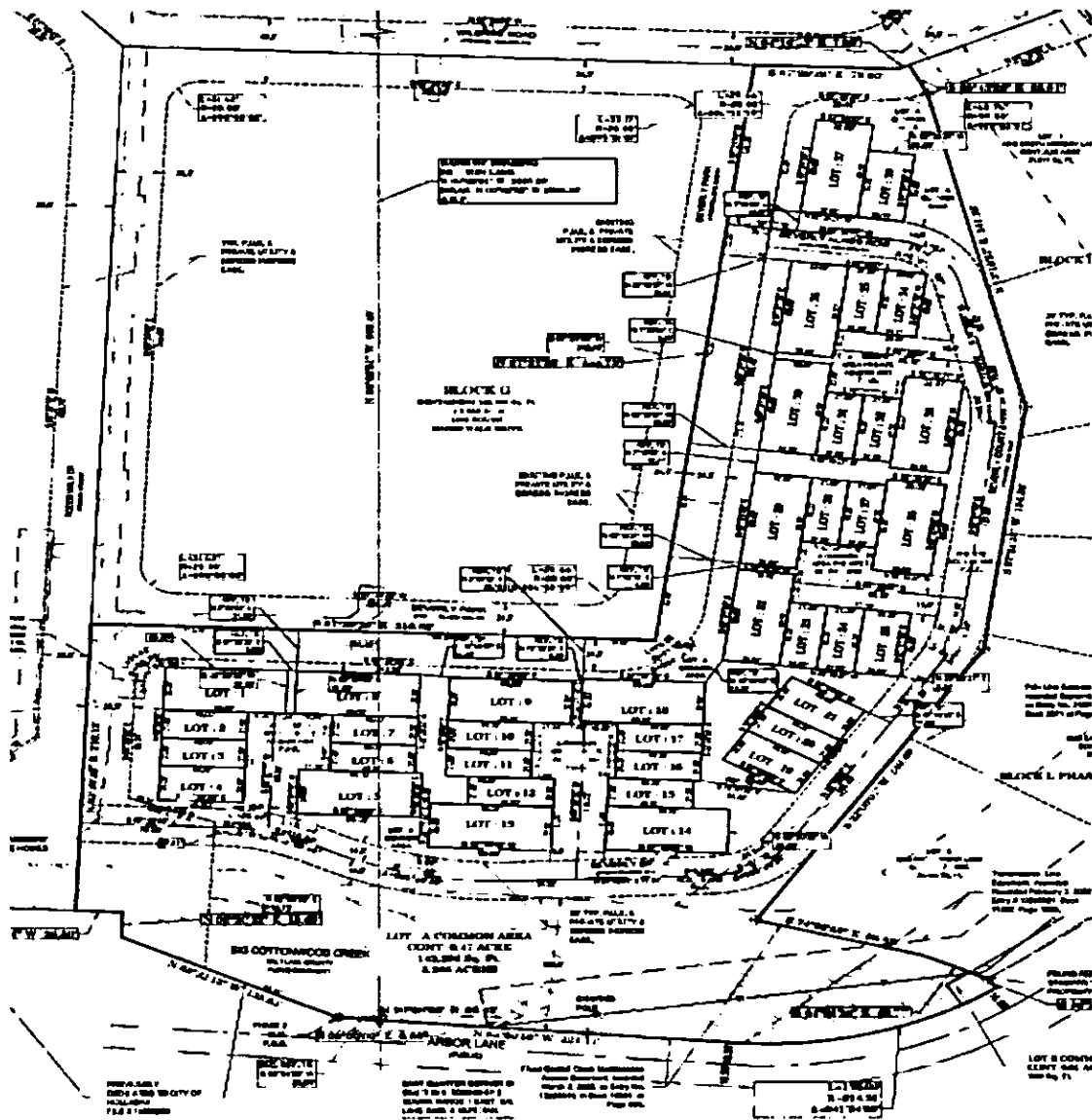
A-1

Declaration of Easements, Covenants, Conditions, and Restrictions
Elevate at Holladay Hills
Error! Unknown document property name.

EXHIBIT "B"
TO
DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
ELEVATE AT HOLLADAY HILLS

DEPICTION OF PROJECT AND LOTS

The real property referenced in the foregoing Declaration as the "Project" and the "Lots" and "Common Area Lots" are depicted on the attached Amended Plat:



B-1

Declaration of Easements, Covenants, Conditions, and Restrictions
 Elevate at Holladay Hills
 Error! Unknown document property name.

EXHIBIT "C"
TO
DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR
ELEVATE AT HOLLADAY HILLS

BYLAWS OF ASSOCIATION

[To Be Finalized and Attached]

C-1

Declaration of Easements, Covenants, Conditions, and Restrictions
Elevate at Holladay Hills
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**BYLAWS
OF
HOLLADAY HILLS BLOCK L TOWNHOMES ASSOCIATION INC.**

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BYLAWS
OF
HOLLADAY HILLS BLOCK L TOWNHOMES ASSOCIATION INC.

The administration of Holladay Hills Block L Townhomes Association Inc., a Utah non-profit corporation ("Association"), shall be governed by the Declaration of Easements, Covenants, Conditions, and Restrictions for Elevate at Holladay Hills, recorded in the official records of the Salt Lake County Recorder's Office ("Declaration"), the Articles of Incorporation of Holladay Hills Block L Townhomes Association Inc., filed with the Utah Department of Commerce, Division of Corporations and Commercial Code on November 21, 2022 ("Articles"), these Bylaws of Holladay Hills Block L Townhomes Association Inc. ("Bylaws"), the Utah Community Association Act (U.C.A. 1953 § 57-8a-101, *et seq.*), as amended and supplemented from time-to-time (the "Act"), and the Utah Revised Nonprofit Corporation Act (U.C.A. 1953 § 16-6a-101, *et seq.*), as amended and supplemented from time-to-time (the "Nonprofit Act"). Terms which are capitalized by these Bylaws and which are not otherwise defined herein shall have the meanings set forth in the Declaration, unless the context clearly indicates otherwise.

1. Application of Bylaws. All present and future Owners of the Lots, Mortgagee(s), and Permittees of any particular Lot(s) and their respective employees, guests, and invitees are subject to the Declaration, these Bylaws, and any applicable rules and regulations adopted and made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance of a Lot, or the occupancy of any particular Lot, shall constitute an acceptance and ratification of and an agreement to comply with the provisions of the Declaration and these Bylaws and any rules and regulations adopted and made pursuant hereto, as they may be amended from time-to-time.

2. Board of Directors.

2.1 Administration of Association. The administration of the affairs of the Association shall be conducted by the Board of Directors consisting of not less than three (3) persons, each of which, except for members appointed by the Declarant, shall be required to be an Owner of a Lot. Upon the expiration of the period of Declarant control in accordance with the Act, a Majority of the Owners of the Lots present in-person or by proxy at any meeting of the Association where a quorum is present may determine by vote or written assent to increase the members of the Board of Directors.

2.2 Declarant's Management Rights. The Act establishes a period of Declarant control, during which time the Declarant or persons designated by it have the authority to appoint and remove the members of the Board of Directors and officers of the Association.

2.3 Initial Board of Directors Members. The initial members of the Board of Directors appointed by Declarant shall be the following persons, who shall also act as the officers of the Association, unless and until Declarant decides otherwise:

Todd Demarets
2900 Adams Street, Suite C25
Riverside, California 92504
Phone: (801) 406-1785

President – Treasurer

Jared Miller
2900 Adams Street, Suite C25
Riverside, California 92504
Phone: (801) 406-1785

Vice President

Brendan Hack
2900 Adams Street, Suite C25
Riverside, California 92504
Phone: (801) 406-1785

Secretary

2.4 Filling of Vacancies after the Initial Board of Directors. The terms of the Board of Directors elected upon expiration of the period of Declarant control shall be staggered as described below. The members of the Board of Directors elected at the first annual meeting following the expiration of the period of Declarant control shall serve for initial terms as follows: one (1) member shall serve for an initial term of one (1) year and two (2) members shall serve for an initial term of two (2) years. Thereafter, at every annual meeting, the Association shall elect the members of the Board of Directors to fill those positions becoming vacant at such meeting, pursuant to the terms of this Section 2.

2.5 Nominating Committee; Nominations. The Board of Directors may elect from the Owners of the Lots a nominating committee of not less than three (3) members at least ninety (90) calendar days prior to the annual meeting of the Association. If elected by the Board of Directors, the nominating committee shall recommend to the Association at least one (1) nominee for each position on the Board of Directors to be filled at that particular annual meeting at least sixty (60) calendar days prior to the annual meeting. The Board of Directors may, but shall not be obligated to, inquire of the Owners of the Lots to identify those having any interest in serving on the Board of Directors. Nominations for positions on the Board of Directors may also be made by petition filed with the President of the Association and the nominating committee at least sixty (60) calendar days prior to the annual meeting of the Association, which petition shall be signed by the nominee named therein indicating his or her willingness to serve as a member of the Board of Directors, if elected.

2.6 Voting for the Board of Directors. Voting for the Board of Directors shall be by secret written ballot. At any meeting of the Association, each Owner of a Lot, either in-person or by proxy, shall be entitled to the number of votes equal to the corresponding Membership interest in the Association applicable to such Owner's Lot multiplied by the number of Board of Director seats to be filled. Each Owner of a Lot may cumulate his or her votes with respect to the

Lots for which he or she is voting and cast all of them in favor of a single candidate or distribute his or her votes among as many candidates as the Owner of such Lot(s) sees fit.

2.7 Term. Members of the Board of Directors shall serve for terms of two (2) years beginning immediately upon their election by the Association; provided, however, that the initial Board of Directors shall serve those terms as outlined in Section 2.4 above. Notwithstanding the foregoing, once the period of Declarant control has expired, the vote of Owners of the Lots holding a majority of the total voting power present in-person or by proxy at a meeting of the Association where a quorum is present may, from time-to-time, change the number and terms of the members of the Board of Directors, provided that in any such event the terms of not less than one-third (1/3) of the Board of Directors shall expire annually. The members of the Board of Directors shall serve until their respective successors are elected, or until death, resignation, or removal.

2.8 Resignation. Any member of the Board of Directors may resign at any time by giving written notice to the President of the Association or to the remaining Board of Directors members. Excepting those members named in the Articles or selected by the Declarant, any member of the Board of Directors who: (a) fails to attend three (3) consecutive Board of Directors meetings (whether special or regular) or fails to attend at least twenty-five percent (25%) of the Board of Directors meetings held during any fiscal year; or (b) fails to meet his or her obligations to pay Assessments under the Declaration shall be deemed to have tendered his or her resignation, and his or her position shall be vacant following confirmation of the failure to attend meetings or meet obligations regarding the Assessments by the affirmative vote of the remaining members of the Board of Directors, notwithstanding such remaining members may be less than a quorum.

2.9 Removal. The Owners of the Lots representing at least two-thirds (2/3rds) of the total voting power present in-person or by proxy at any meeting of the Association may remove any member of the Board of Directors elected by the Owners of the Lots with or without cause. A member of the Board of Directors may only be removed by the Owners of the Lots at a meeting called for the purpose of removing such member and if the meeting notice states that the purpose (or one of the purposes) of the meeting is removal of such member of the Board of Directors.

2.10 Vacancies. If vacancies occur in the Board of Directors by reason of the death or resignation of a Board of Directors member, the Board of Directors members then in office shall continue to be, and any such vacancies shall be filled by a vote of the Board of Directors members then in office, though less than a quorum. Any vacancy in the Board of Directors occurring by reason of a removal of a Board of Directors member by a vote of the Association may be filled at the meeting at which such Board of Directors member is removed or any subsequent regular or special meeting of the Association. A vacancy resulting from a removal shall only be filled by the vote of Owners of the Lots holding a majority of the total voting power present in-person or by proxy at a meeting of the Association where a quorum is present.

2.11 Compensation. The members of the Board of Directors shall receive no compensation for their services unless expressly approved by the vote or written assent of a

majority of the total voting power of the Association; provided, however, that members of the Board of Directors shall be reimbursed by the Association for reasonable costs and expenses actually incurred for attendance at regular and special meetings of the Board of Directors and any other costs and expenses actually incurred on behalf of the Association upon approval of a majority of the other Board of Directors members. Any member of the Board of Directors may be employed by the Association in another capacity and receive compensation for such employment; provided, however, that such employment shall be approved by vote or in writing by all members of the Board of Directors not including the member to be employed.

2.12 Powers. The Board of Directors, for the benefit of the Lots, the Project, and the Association, shall manage the business, property, and affairs of (i) the Lots, (ii) any real property or personal property owned by the Association under the Declaration (including, the Common Area Lots), and (iii) the Association and enforce the provisions of the Declaration, the Articles, these Bylaws, and any rules and regulations established by the Board of Directors pursuant to this Section 2 (collectively, the "Association Governing Instruments"). The Board of Directors is authorized to adopt rules and regulations governing the use and operation of the Lots and any real property or personal property owned by the Association (including, the Common Area Lots), which shall become effective ten (10) calendar days after adoption by the Board of Directors; provided, however, that such rules and regulations shall not be inconsistent with, and shall be subject to, the Declaration and any rules and regulations adopted by the Declarant. The Board of Directors shall have the powers, duties, and responsibilities with respect to the Lots and any real property or personal property owned by the Association (including, the Common Area Lots) as contained in the Association Governing Instruments.

2.13 Board of Directors Meetings. The regular meetings of the Board of Directors shall be held at least annually at such times and places within the general vicinity of the City of Holladay, Utah or some other reasonable and suitable location in the County of Salt Lake, Utah, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to Board of Directors members, as the Board of Directors shall determine. A majority of the Board of Directors shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board of Directors. Members of the Board of Directors may participate in meetings by means of telephonic conference, video conference, or similar communications equipment by which all persons participating in the meeting can hear each other at the same time and by any other means permitted under Utah law. Such participation shall constitute presence in-person at the meeting.

2.14 Special Meetings of the Board of Directors. Special meetings of the Board of Directors may be called by written notice signed by the President of the Association or any two (2) members of the Board of Directors. The notice of a special meeting shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the general vicinity of the City of Holladay, Utah or some other reasonable location in the County of Salt Lake, Utah, unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the members of the Board of Directors.

To the extent permitted by Utah law, special meetings of the Board of Directors may be held by telephonic conference, video conference, or other means as described in Section 2.13 above.

2.15 Notices. Notices of all regular Board of Directors meetings shall be given in writing to each member of the Board of Directors not less than thirty (30) calendar days prior to the meeting, provided that this requirement shall not apply to any member of the Board of Directors who has signed a waiver of notice or a written consent to the holding of a meeting. Special meetings of the Board of Directors must be preceded by two (2) calendar days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting, unless required by the Association Governing Instruments and/or Utah law. The giving of notice of any meeting shall be governed by the rules set forth in §16-6a-103 of the Nonprofit Act.

2.16 Waiver of Notice. A member of the Board of Directors may waive any notice of a meeting before or after the time and date of the meeting stated in the notice. A member's attendance at or participation in a meeting waives any required notice to that member of the meeting, unless such member, at the beginning of the meeting or promptly upon the member's arrival at the meeting, objects to holding the meeting and/or transacting business at the meeting because of lack of notice or defective notice and the objecting member does not vote for or assent to action taken at the meeting.

2.17 Actions and Open Meetings. The Board of Directors members shall act only as a Board of Directors, and individual Board of Directors members shall have no powers as such. Regular and special meetings of the Board of Directors shall be open to all members of the Association and Owners of the Lots; provided, however, that members of the Association and Owners of the Lots who are not on the Board of Directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board of Directors. The Board of Directors may, with the approval of a majority of a quorum of the members of the Association and Owners of the Lots, adjourn the meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and similar orders of business. The nature of any and all business to be considered in executive session shall first be announced in open session.

2.18 Action Without a Meeting. Any action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if one or more consents in writing, setting forth the action so taken, are signed by all of the Board of Directors members and such signed consents are filed with the records of the Association. The consents of the Board of Directors members may be sent by electronically transmitted facsimile, e-mail, or other form of wire or wireless communication providing a complete copy of the document, including a copy of the signature of the Board of Directors member.

2.19 Fiscal Year. The fiscal year shall be set by resolution of the Board of Directors. In the absence of a Board of Directors resolution, the fiscal year shall be as provided in the Declaration.

2.20 Liability of Board of Directors Members. If a member of the Board of Directors is sued for liability for actions undertaken in his or her role as a member of the Board of Directors, the Association shall indemnify him or her for his or her losses or claims, and undertake all costs of defense, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association shall no longer be obligated to indemnify or liable for the costs of any defense and may recover costs already expended from the member of the Board of Directors who so acted. Members of the Board of Directors are not personally liable to any victims of crimes occurring at the Lots and/or any real property or personal property owned by the Association (including, any Common Area Lots). Punitive damages may not be recovered against the Association or the Board of Directors members, but may be recovered from persons whose, activity gave rise to the damages.

2.21 Eligibility for Membership of Board of Directors. An officer, employee, agent, or director of any particular Lot, a trustee or designated beneficiary of a trust that owns a particular Lot, a partner of a partnership that owns a particular Lot, a member of a limited liability company that owns a particular Lot, and/or a fiduciary of an estate that owns any particular Lot may be considered an Owner of a Lot for the purpose of determining eligibility for membership of the Board of Directors. In all events where the person serving or offering to serve as an Owner of a Lot, such person shall file proof of authority in the records of the Association.

2.22 Association Manager. The Board of Directors or the officers appointed thereby may delegate to the Manager (as this term is defined in the Declaration), or such other person or persons as it or they so determine(s), all of the duties and obligations of the Board of Directors set forth in these Bylaws and in the Declaration to the extent such duties and obligations are legally and properly delegable.

2.23 Special Committees. The Board of Directors may designate by resolution such committees and subcommittees as the Board of Directors deems appropriate, from time-to-time. Each committee and subcommittee, as applicable, shall exercise those powers granted to it by an enabling resolution of the Board of Directors; provided, however that no committee or subcommittee shall exercise any powers which, are excluded from the delegation of the powers of the Board of Directors by laws of the State of Utah or the Association Governing Instruments.

3. Membership, Voting, and Meetings of the Association.

3.1 Annual Association Meetings. The first meeting of the Association shall be held within one (1) year after the closing of the sale of the first Lot. Thereafter, there shall be an annual meeting of the Association at the date and time fixed in accordance with a resolution of the Board of Directors at a reasonable place within the general vicinity of the City of Holladay, Utah or some other reasonable location in the County of Salt Lake, Utah that is readily accessible at reasonable cost to the largest possible number of Owners of the Lots, as determined by resolution of the Board of Directors. In the event no date is set, the annual meeting shall be held on the third Monday in January of each year.

3.2 Special Meetings of the Association. Special meetings of the Association may be called by the Declarant, the President of the Association, a majority of the Board of

Directors members, or if the Association receives one (1) or more written demands for a special meeting that: (a) state the purpose for which the special meeting is to be held; and (b) are signed and dated by the Owners of the Lots representing at least twenty-five percent (25%) or more of the total votes of the Association. Special meetings of the Association may be held at a reasonable place within the general vicinity of the City of Holladay, Utah or some other reasonable location in the County of Salt Lake, Utah that is readily accessible at reasonable cost to the largest possible number of Owners of the Lots, as determined by resolution of the Board of Directors. At any special meeting of the Association, only those matters of business, the general nature of which was given in the notice of the special meeting, may be voted upon by the Owners of the Lots.

3.3 Notice of Meetings of the Association. Notice of the annual meeting of the Association and of any special meetings of the Association shall be hand delivered or sent by first-class or certified mail, no fewer than ten (10) calendar days and no more than sixty (60) calendar days prior to the date fixed for said meeting to each Owner of a Lot's address as shown in the records of the Association or to any other mailing address designated in writing by the Owner of a particular Lot. Such notice shall specify the place, date, and hour of the meeting and a sufficiently detailed description of the purposes for which the meeting is called. If any annual or special meeting of the Owners of the Lots is adjourned to a different date, time, and/or place, notice need not be given of the new date, time, and/or place if the new date, time, and/or place are announced at the meeting before adjournment. Notwithstanding the foregoing sentence, if the adjournment is for more than thirty (30) calendar days, or if after the adjournment of a new record date for the adjournment meeting is or must be fixed pursuant to Section 3.5 of these Bylaws or applicable Utah law, notice of the adjourned meeting must be given pursuant to the requirements of this Section 3.3 to the Owners of the Lots entitled to vote at the meeting.

3.4 Meetings by Telecommunication. Any or all of the Owners of the Lots may participate in any annual, regular, or special meeting by, or the meeting may be conducted through the use of, any means of telephonic conference, video conference, or similar communications equipment by which all persons participating in the meeting can hear each other at the same time and by any other means permitted under Utah law. Such participation shall constitute presence in-person at the meeting.

3.5 Quorum. The presence in-person or by proxy of Owners of the Lots holding twenty-five percent (25%) or more of the total voting power of the Association at any meeting of the Association held in response to notice to all Owners of the Lots of record properly given shall constitute a quorum. In the absence of a quorum at an Association meeting, a majority of those present in-person or by proxy may adjourn the meeting to another time and/or place, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) calendar days and not more than thirty (30) calendar days from the original meeting date. The quorum for an adjourned meeting shall also be twenty-five percent (25%) of the total voting power of the Association. If the new time and/or place for an adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and/or place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings of the

Association. Unless otherwise expressly provided in the Nonprofit Act, the Declaration, and/or these Bylaws, any action may be taken at any meeting of the Owners of the Lots upon a majority vote of the Owners of the Lots who are present in-person or by proxy.

3.6 Robert's Rules. Robert's Rules of Order Newly Revised (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Association Governing Instruments, the Nonprofit Act, or any special rules of order the Association may adopt.

3.7 Action by Written Ballot. Any action that may be taken at any annual, regular, or special meeting of the Owners of the Lots may be taken without a meeting if the Association delivers a written ballot to every Owner of the Lots entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote "for" or "against" each proposed action. All solicitations for votes by written ballot shall: (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of members of the Board of Directors; (c) specify the time by which a ballot must be received by the Association in order to be counted; (d) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter. Approval by written ballot pursuant to this Section 3.7 shall be valid only when:

3.7.1 The time by which all ballots must be received by the Association has passed so that a quorum can be determined; and

3.7.2 The number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

3.8 Action by Written Consent. Other than the election of members of the Board of Directors, any action that may be taken at any annual, regular, or special meeting of the Association may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the Owners of the Lots having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all members of the Association entitled to vote on the action were present and voted. Such consents in writing shall be signed, dated, and delivered to the Association within a sixty (60) calendar day period. Notice must be given to those Owners of the Lots who have not consented at least ten (10) calendar days before the action takes effect.

3.9 Proxies. At each meeting of the Owners of the Lots, each Owner entitled to vote shall be entitled to vote in-person or by proxy. The right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the particular Owner of a given Lot or by such Owner's attorney-in-fact duly authorized in writing. The instrument authorizing the proxy to act shall be delivered, at the beginning of the meeting, to the President of the Association, or such other officer or person who may be acting as the Secretary of the Association at the meeting. The Secretary of the Association at the meeting shall enter a record of all such proxies in the minutes of the meeting. A particular Owner of a Lot may revoke a proxy given pursuant to this Section 3.9 only by actual notice of revocation to the President or

Secretary of the Association. A proxy is void if it is not dated or purports to be revocable without notice.

3.10 Exercise of Voting. In the event that a particular Lot is owned by more than one Owner, then by the majority written designation of all Owners of such Lot after the initial conveyance of such Lot, one Owner shall be appointed as the designated member ("Designated Member") for that particular Lot for the purposes of voting on Association matters and for billing and other administrative purposes specific to that particular Lot. The Designated Member may be changed at any time by delivering to the Association written notification of such change signed by all Owners of a particular Lot. In the absence of an appointed Designated Member, if only one of several Owners of a particular Lot is present at a meeting of the Association, that Owner is entitled to cast all of the votes allocated to that particular Lot. If more than one of the Owners of a particular Lot are present at a meeting of the Association, the vote allocated to such Lot must be cast only by the Designated Member. Absent a written designation of the Designated Member, there shall be deemed to be majority agreement if any one of the Owners of a particular Lot cast the votes allocated to such Lot without protest made promptly to the person presiding over the meeting of the Association by any of the other Owners of such Lot.

3.11 Members of Record. For the purpose of determining Owners or members of the Association entitled to notice of or to vote at a meeting of the Association, or in order to make a determination of Owners or members of the Association for any other proper purpose, the Board of Directors shall fix in advance a date as the record date for any such determination of Owners or members. The record date shall not be more than thirty (30) calendar days prior to the date of the particular meeting of the Association or the date on which the particular action requiring such determination of Owners or members is to be taken, as applicable, unless otherwise extended by the Board of Directors. If no record date is fixed, the record date for such determination of Owners or members of the Association entitled to vote shall be 4:00 p.m. (Mountain Time) on the day before the day on which notice of the meeting is mailed or delivered. When a determination of Owners or members of the Association entitled to vote at any meeting of the Association has been made as provided in this Section 3.11, such determination shall apply to any continuation of such meeting following an adjournment.

4. Officers.

4.1 Designation. So long as there are three (3) members of the Board of Directors, the officers shall be a President, Vice President, and Treasurer. The Board of Directors may appoint additional Vice Presidents and/or such other assistant officers as the Board of Directors may deem necessary. No officer shall be required to be an Owner of a Lot. No officer shall receive compensation for serving as an officer of the Association. All officers and employees of the Association shall serve at the will of the Board of Directors. Officers shall be annually elected by the Board of Directors and may be removed and replaced by the Board of Directors.

4.2 Fidelity Bond. The Board of Directors shall require that officers (and other employees of the Association) be subject to fidelity bond coverage.

4.3 President – Treasurer. The President – Treasurer (sometimes referred to in these Bylaws as the “President”) shall be the chief executive of the Board of Directors and shall preside at all meetings of the Association and of the Board of Directors and may exercise the power ordinarily allowable to the presiding officer of an association, including the appointment of committees and subcommittees. The President shall exercise general supervision over any real property or personal property owned by the Association (including, the Common Area Lots). The President shall sign, and either the Vice President or Secretary shall witness, on behalf of the Association, all conveyances, mortgages, easements, contracts, agreements, and other instruments of material importance to the Association’s business. Additionally, the President shall be responsible for the fiscal affairs of the Association but may delegate the daily handling of funds and the keeping of records to the Manager. The President shall do and perform all acts which the Association may request or require.

4.4 Vice President. The Vice President(s) shall perform the functions of the President in his or her absence or inability to serve.

4.5 Secretary. The Secretary shall keep minutes of all proceedings of the Board of Directors and of the meetings of the Association and shall keep such books and records as may be necessary and/or appropriate for the records of the Owners of the Lots and the Board of Directors.

4.6 Execution of Amendments. Any officer of the Association may prepare, execute, certify, deliver, and record amendments to the Declaration on behalf of the Association.

5. Common Expenses; Assessments.

5.1 Assessments. All Common Expenses and Assessments shall be assessed in accordance with the Declaration.

5.2 Common Expenses. The Board of Directors shall approve or disapprove the estimated Common Expenses and capital contributions for the coming fiscal year. Assessments shall be assessed on an annual basis, unless the Board of Directors determines otherwise, to the Owners of the Lots.

5.3 No Exemption. The Owners of the Lots shall not be exempt from liability for Common Expenses or any Assessments by waiver of the use or enjoyment of any portion of the Project or by abandonment of a Lot.

5.4 Assessment Records. The President – Treasurer shall keep (or cause to be kept) detailed records of all receipts and expenditures relating to those real and personal properties owned or controlled by the Association, including, the applicable portions of any real property or personal property owned by the Association (including, the Common Area Lots) and any expenditures affecting the Lots, specifying and itemizing the maintenance, repair, and replacement expenses for those real and personal properties owned or controlled by the Association and any other expenses incurred or to be paid by the Association pursuant to the Association Governing Instruments. Subject to Section 8.4 and any other applicable provisions of these Bylaws and the Association Governing Instruments, such records shall be available for review and examination

by the Owners of the Lots during regular business hours. In accordance with the actions of the Board of Directors in assessing Assessments against Lots, the President – Treasurer shall keep (or cause to be kept) an accurate record of such Assessments and of the payments thereof by each Owner of the Lots.

5.5 Transfer. In the event of any transfer of a fee interest in a particular Lot, either the transferor or the transferee shall furnish evidence reasonably satisfactory or sufficient to the Association establishing that the transfer of a particular Lot has occurred. In the event a particular Owner of a Lot fails to furnish such transfer information, such Owner shall continue to be liable for Assessments and Common Expenses, even after transferring ownership of a particular Lot, until the Association has been put on notice and properly advised of the transfer.

5.6 Personal Obligation. Each of the Assessments shall be a separate, distinct, and personal liability of the applicable Owners of the Lots at the time such Assessment is made. The Board of Directors shall have the rights and remedies contained in the Act and in the Declaration to enforce the collection of Assessments.

5.7 Statements for Purchasers. Any person who enters into a written agreement to purchase a particular Lot, by written request directed to the Board of Directors, shall be entitled to obtain a written statement from the President – Treasurer of the Association setting forth the amount of the monthly, quarterly, annual, and/or other periodic Assessments and the amount of any unpaid Assessments charged against the Lot being sold and its applicable Owner, and if such statement does not reveal the full amount of the unpaid Assessments as of the date it is rendered, neither the purchaser nor the Lot shall be liable for the payment of any amount in excess of the unpaid Assessments shown on such statement, provided that the former Owner of the Lot being sold shall continue to remain liable for any excess amounts owing. Any such excess which cannot be promptly collected from the former Owner of the Lot being sold shall be reassessed by the Board of Directors as part of the Common Expenses to be collected from all Owners of the Lots, including, without limitation, the purchaser of the particular Lot then or being transferred, and such Owner's successors and assigns. The new Owner of the Lot shall, and the former Owner of the Lot shall not, be liable for any Assessments made and incurred after the date of transfer of title, even though the expenses incurred or the advances made by the Board of Directors for which the Assessment are made relate in whole or in part to any period prior to the date of transfer. The Board of Directors is authorized to require a reasonable fee not to exceed Ten Dollars and No/100 (\$10.00), unless otherwise authorized or permitted by the Act, for furnishing such statements.

5.8 Statements for Owners and Mortgagees. In addition to the statements issuable to purchasers pursuant to Section 5.7 above, the Board of Directors shall, upon ten (10) calendar days prior written request therefor, provide any Owner of a Lot and any Mortgagee, upon written request and at reasonable intervals, a current written statement from the President – Treasurer of the Association setting forth the amount of any unpaid Assessments outstanding against a particular Lot. The Board of Directors is authorized to require a reasonable fee not to exceed Ten Dollars and No/100 (\$10.00), unless otherwise authorized or permitted by the Act, for furnishing such statements.

5.9 Collection. In all cases where all or part of any Assessments cannot be promptly collected from the persons or entities liable therefor under the Declaration or these Bylaws, the Board of Directors shall reassess the same as an Assessment without prejudice to its right of collection against such persons or entities, or without prejudice to its lien for such Assessments.

6. Litigation.

6.1 Expenses. If any action is brought by a member of the Board of Directors on behalf of the Association, the expenses of suit, including reasonable attorneys' fees and expenses, shall be part of the Common Expenses. Except as otherwise provided by the Declaration or applicable Utah law, if any action is brought against the Owners of the Lots or against the Board of Directors or the officers, employees, or agents thereof in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners of the Lots, the expenses of suit, including attorneys' fees and expenses, shall be part of the Common Expenses. If any action is brought against one or more, but less than all Owners of the Lots, with the result that the ultimate liability would, if proved, be borne solely by such Owners of the Lots, the expenses of suit, including attorneys' fees and expenses, shall not be charged to or borne by the other Owners of the Lots, as Common Expenses or otherwise.

6.2 Defense. Except as otherwise provided by applicable Utah law, any action brought against the Association, the Board of Directors, or the officers, employees, or agents thereof, in their respective capacities as such, shall be directed to the Board of Directors, and shall be defended by the Board of Directors; and the Owners of the Lots and Mortgagees shall have no right to participate in such defense other than through the Board of Directors. Actions against one or more, but less than all Owners of the Lots, shall be directed to such Owners of the Lots, who shall promptly give written notice thereof to the Board of Directors, and shall be defended by such Owners of the Lots.

7. Enforcement.

7.1 Abatement and Enjoinment of Violations by Owners. The violation of any rules and regulations adopted by the Board of Directors, the breach of any provision contained in these Bylaws, or the breach of any provision of the Declaration shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws:

7.1.1 To enter the Lot in which or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner or Owners, any structure, thing, or condition in the applicable Lot that may exist therein contrary to the intent and meaning of the provisions in these Bylaws, and the Board of Directors or the Association shall not thereby be deemed guilty in any manner of trespass provided that items of construction may not be altered or demolished without proper judicial proceedings; and/or

7.1.2 To enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

7.2 Monetary Fines. The Board of Directors may assess a fine against any Owner of a Lot for any violation of the Association Governing Instruments provided that the Board of Directors shall first give written notice to the Owner of a Lot of the alleged violation and inform such Owner that a fine will be imposed if the violation is not cured within the time designated by the Board of Directors in such notice, which time shall be at least forty-eight (48) hours after the date on which such notice is given. The Board of Directors may levy fines in the amounts that it, in its sole direction, shall determine to be reasonable for each violation of the Association Governing Instruments provided that cumulative fines for a continuing violation may not exceed Five Hundred Dollars and No/100 (\$500.00) per month unless otherwise allowed by Utah law. An Owner of a Lot who is assessed a fine may request an informal hearing with the Board of Directors to protest or dispute the fine within thirty (30) calendar days after the date on which such particular Owner of a Lot receives written notice that such fine has been assessed.

7.3 Temporary Suspension. The Board of Directors may impose a temporary suspension of an Owner's right to use any shared facilities, amenities, or other areas within the Project, to the fullest extent granted to the Board of Directors under the Association Governing Instruments or otherwise granted under the Act, and, in addition, the Board of Directors may impose any other appropriate discipline against an Owner of a Lot who has failed to comply with any provisions of the Association Governing Instruments. Prior to such suspension or other discipline, the Board of Directors shall provide the Owner of a Lot notice of the alleged violation and the opportunity to request an informal hearing with the Board of Directors.

7.4 Remedies Cumulative. These remedies are cumulative to other remedies provided in the Declaration and these Bylaws, any rules and regulations adopted by the Board of Directors, or in any other applicable Utah laws.

8. Accounting.

8.1 Accounting and Recordkeeping. The books and accounts of the Association shall be kept in accordance with generally accepted accounting procedures under the direction of the President – Treasurer of the Association. The Association shall maintain financial records, records of the Assessments as required by Section 5.4 above, and such other records as required by the Declaration, the Act, or by other applicable Utah law. The cost of any audit of such books, accounts, and records shall be considered part of the Common Expenses, unless otherwise provided in the Declaration.

8.2 Financial Statements. At the close of each fiscal year, the books, accounts, and records of the Association shall be prepared by an independent public accountant approved by the Board of Directors, and financial statements for the Association shall be prepared by said accountant and distributed to all Owners of the Lots.

8.3 Budget. An Association budget for each fiscal year shall be adopted by the Board of Directors and distributed to all members of the Association prior to the beginning of the fiscal year to which the budget applies.

8.4 Maintenance and Inspection of Records. The Association membership register, including, mailing address and telephone numbers, books of account and minutes of meetings of the Association, of the Board of Directors, and of committees and subcommittees of the Board of Directors and all other records of the Association, maintained by the Association or Manager, shall be made available for inspection and copying by any member of the Association or his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as an Owner of a Lot, at the office where the records are maintained. Upon receipt of an authenticated written request from an Owner of a Lot, along with the fee prescribed by the Board of Directors to defray the costs of reproduction, the custodian of records of the Association shall prepare and transmit to the requesting Owner of a Lot a copy of any and all records requested. The Association may, as a condition to permitting an Owner of a Lot to inspect the membership register or to its furnishing information from the register, require that the Owner of a Lot agree in writing not to use, or allow the use, of any information from the membership register for commercial or other purposes not reasonably related to the regular business of the Association and the Owner's interest and membership in the Association. The Board of Directors shall establish reasonable rules with respect to:

8.4.1 Notice to be given to the custodian of the Association records by the Owner of a particular Lot desiring to make the inspection or obtain copies;

8.4.2 Hours and days of the week and other time, place, and manner conditions of when such an inspection may be made; and

8.4.3 Payment of the costs and expenses of reproducing copies of documents requested by such Owner of a particular Lot.

Every member of the Board of Directors shall have the absolute right at any time to inspect all books, records, and documents of the Association and to inspect all real and personal properties owned or controlled by the Association. This right of inspection shall include the right to make extracts and copies of records, subject only to the right of the Association to require that the Board of Directors member agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Board of Directors member's interest in such Association.

9. Rental or Lease of Lots by Owners.

9.1 Owner's Responsibility. The provisions of the Association Governing Instruments and these Bylaws shall apply with equal force and effect to all Permittees, tenants, guests, and/or occupants of the Lots and their respective guests and invitees. Any Owner of a Lot who rents, leases, or otherwise permits any other person to utilize such Owner's Lot shall be responsible for the conduct of its tenants, guests, and/or occupants and their respective guests and invitees, and upon written notice from the Board of Directors, said Owner shall be responsible for correcting and curing any violations of the Association Governing Instruments.

9.2 Violations. If an Owner of a Lot fails to correct and cure any violations by any Permittees, tenants, guests, and/or occupants of its Lot, within seventy-two (72) hours of such

notice, the Board of Directors shall be deemed to be the agent of such Owner and will be empowered to take any enforcement action said Owner would be entitled to take with respect to such violations, with the reasonable costs and expenses of such action, including, but not limited to, any fees and costs paid to third-parties, to be assessed to the Owner of a Lot and payable within thirty (30) calendar days of assessment. Such costs and expenses shall be collected and enforced in the same manner as Common Expenses under the Declaration.

9.3 Remedies. The power of the Board of Directors shall include, but not be limited to, any and all legal remedies available under the laws of the State of Utah. Any Owner of a Lot by the act of renting, leasing, or otherwise permitting any other person to utilize such Owner's Lot shall be deemed to have consented to these procedures and shall indemnify and save harmless the Board of Directors from and against any and all liability therefor. It is expressly understood that the remedies available to the Board of Directors shall include, but not be limited to, the right to seek eviction of the Permittees, tenants, guests, and/or occupants of the Lot, without any liability to the Owner.

9.4 Collection and Application of Rents. If an Owner of a Lot at any time leases or sublets its Lot and defaults in the payment of its Assessments, the Board of Directors may, subject to the Declarant's rights and remedies under the Declaration, at its option, so long as such default shall continue, demand and receive directly from any Permittees, tenant, subtenant, or occupant of the Lot the rents due or becoming due, and the payment of such rents to the Board of Directors shall be sufficient payment and discharge of such Permittee, tenant, subtenant, or occupant and said Owner for such Assessments to the extent of the amount so paid. This Section 9.4 shall be incorporated by reference into every lease or other rental or occupancy agreement entered into by and between an Owner of a particular Lot and its Permittee, tenant, subtenant, or occupant, whether or not this Section 9.4 is expressly referenced therein.

10. Amendment of Bylaws. Except as otherwise provided in the Declaration, these Bylaws, or by applicable Utah law, these Bylaws may be amended by the vote or written assent of the Owners of the Lots holding a majority of the total voting power present in-person or by proxy at a meeting duly called for such purpose; provided, however, the percentage of the voting power necessary to amend a specific clause or provision in these Bylaws shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Upon such an affirmative vote, the Board of Directors shall acknowledge the amended Bylaws, setting forth the fact of the required affirmative vote of the Owners of the Lots. Notwithstanding anything to the contrary contained or implied in these Bylaws, during the period of Declarant control, the Declarant shall have the right to unilaterally amend these Bylaws without the vote or consent of the Board of Directors or any Owners of the Lots pursuant to the unilateral amendment procedures reserved to Declarant under the Declaration. These Bylaws and any rules and regulations adopted and made pursuant to these Bylaws are subject to the terms and provisions of the Association Governing Instruments, including, the Declaration and any rules and regulations adopted by the Declarant. No amendment to these Bylaws or any rules and regulations made pursuant to these Bylaws shall be adopted that are inconsistent with the terms and conditions of the Association Governing Instruments, including, the Declaration and any rules and regulations adopted by the

Declarant. In the event of any conflict between these Bylaws or any rules and regulations made pursuant to these Bylaws, on the one hand, and the Declaration or any rules and regulations adopted by the Declarant, on the other hand, the Declaration shall govern and control.

11. Miscellaneous.

11.1 Severability. The provisions of these Bylaws shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion of these Bylaws shall not affect the validity or enforceability of any other provision of these Bylaws.

11.2 Waiver. The failure of the Board of Directors to insist upon strict performance of any provision or provisions of these Bylaws shall not be construed as a waiver for future purposes with respect to any such provision or provisions. No provision of these Bylaws shall be deemed to have been waived unless such waiver is in writing and signed by the Board of Directors.

11.3 Captions. The captions contained in these Bylaws are inserted only as a matter of convenience and for reference and in no way to define, limit, or describe the scope of these Bylaws nor the intent of any provision hereof.

11.4 Effective Date. These Bylaws shall take effect as of the date of the Declaration, having been duly adopted by the Board of Directors.

11.5 Counterparts. These Bylaws may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Intentionally Blank – Certification Page to Follow]

CERTIFICATION

I, the undersigned, do hereby certify the following:

That I am the duly appointed President – Treasurer of the Association; and

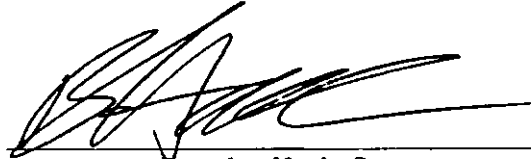
That the Bylaws constitute the original Bylaws of the Association, duly adopted at a meeting of the Board of Directors thereof, held on the 16th day of February, 2023.

IN WITNESS WHEREOF, I have subscribed my name this 16th day of February, 2023.



Todd Demarets, President – Treasurer

Certified to be the Bylaws adopted by the Board of Directors of the Association, dated February 16th, 2023.



Brendan Hack, Secretary