

When Recorded, Please Mail to:

Richmond American Homes of Utah, Inc.  
c/o Matt Scott  
849 West Levoy Dr,  
Salt Lake City, Utah 84123

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**NEIGHBORHOOD DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR ARROWHEAD PARK URBAN HOMEOWNERS ASSOCIATION.**

THIS NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ARROWHEAD PARK URBAN HOMEOWNERS ASSOCIATION (this "Declaration") is made and executed this 6<sup>th</sup> day of October, 2020 by Richmond American Homes of Utah, Inc., a Colorado corporation ("Declarant").

**RECITALS**

A. Arrowhead Partners, LLC ("Master Declarant") is the master developer of that certain real property located in Utah County, Utah, commonly known as Villages at Arrowhead Park (the "Master Project"). The Master Project is divided into several phases. The Master Declarant is selling Plat I of the Master Project (the "Project"), more particularly described in Exhibit A, to Declarant. The Project shall consist of 48 twin homes units.

B. The Project is located in and is a part of the Villages at Arrowhead Park development project, and accordingly, the Project is also subject to the covenants, conditions and restrictions set forth in the Master Declaration of Covenants, Conditions, and Restrictions of Arrowhead Park Master Homeowners' Association, Inc. (the "Master Declaration"), which was recorded in the office of the Utah County Recorder of the State of Utah JANUARY 14<sup>th</sup>, 2019, as Entry No. 3493:2019

C. Pursuant to Section 12.2 of the Master Declaration, and by assignment of the Master Declarant, Declarant has the authority to create a "Neighborhood Declaration" and "Neighborhood Association," or "Sub-Association," that will relate specifically and only to the Project.

D. In order to efficiently manage and to preserve the Common Area located within the Project, it is necessary and desirable to create a nonprofit corporation to own and maintain Common Area in the Project; and to collect assessments and disburse funds as hereinafter set forth for such purpose. ARROWHEAD PARK URBAN HOMEOWNERS ASSOCIATION, a nonprofit corporation, has or will be incorporated for the purpose of exercising the aforementioned powers and functions.

**DECLARATION**

NOW, THEREFORE, it is hereby declared that the Project shall be held, sold, conveyed, leased, rented, encumbered, and used subject to the following easements, rights, liens, charges,

covenants, servitudes, restrictions, limitations, conditions, and uses, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. The Project is not a cooperative. It is intended that this Declaration shall serve as a binding contract between the Association and each Owner (defined in Article I below); however, nothing herein is intended to create a contractual relationship between Declarant and the Association or Declarant and any Owner, or to inure to the benefit of any third-party. Additionally, it is not intended that this Declaration should be read in conjunction with any deed or real estate purchase contract to create privity of contract between Declarant and the Association.

## ARTICLE I

### DEFINITIONS

The following words, phrases, or terms used in this Declaration shall have the following meanings:

(a) "ARC" shall mean and refer to the Architectural Review Committee, established pursuant to the Master Declaration.

(b) "Common Area" shall mean all land within the Project that is designated as Common Area by this Declaration and areas shown or otherwise designated as Common Area on the Plat, including but not limited to the Private Alley identified on the Plat.

(c) "Common Expenses" shall mean all expenses for maintenance, repairs, utilities and taxes incurred on or in connection with Common Area within the Project, all insurance premiums, all expenses incurred in connection with enforcement of this Declaration, all expenses expressly declared to be Common Expenses by this Declaration or the Sub-Association Bylaws, and all other expenses which the Association is entitled to incur pursuant to the provisions of the Master Declaration, this Declaration or its Sub-Association Bylaws. Common Expenses do not include any utility services which are separately billed or metered to individual Lots, which separately billed or metered utility services shall be the sole responsibility of the applicable Lot Owner.

(d) "Community" shall mean the Property and Improvements subject to this Declaration, as may be supplemented from time to time.

(e) "Declarant" shall mean and refer to Richmond American Homes of Utah, Inc., a Colorado corporation, and/or any successor to said company which, either by operation of law or through a voluntary conveyance or transfer, comes to stand in the same relationship to the Project as did its predecessor.

(f) "Development Agreement" shall mean that certain Development Agreement relating to the Project, dated AUGUST 19<sup>th</sup>, 2020, entered into

between Master Declarant and the City of Payson, as may be amended from time to time in accordance with the terms thereof.

(g) "Improvements" shall mean structures now or hereafter located on a Lot or in any Common Areas; exterior improvements or modifications to any such structures; and any other exterior improvements made to a Lot or any Common Areas; and any exterior appurtenances thereto or exterior components thereof, of every type and kind, and all actions taken to develop a Lot or any Common Area.

(h) "Lot" shall mean any of the 48 twin home unit pads, separately numbered and individually described on the Plat and intended for private use and ownership, and any such additional pads platted in future phases of the Project, if any.

(i) "Master Association" means the Association established pursuant to the Master Declaration.

(j) "Master Declaration" has the meaning given to that term in Recital B above. In the event of any conflict between the Master Declaration and this Declaration, the terms of the Master Declaration shall control.

(k) "Member" shall mean any person that is a member of the Sub-Association pursuant to the provisions of Section 4.2.

(l) "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Lot on the Property. If there is more than one record holder of legal title to a Lot, each record holder shall be an "Owner."

(m) "Master Declarant" means Arrowhead Partners, LLC, a Utah limited liability company.

(n) "Master Project" means the Villages at Arrowhead Park development project, which Master Project is subject to the Master Declaration, as the same may be expanded from time to time by the Master Declarant.

(o) "Plat" shall mean the collective reference to the duly approved and recorded plat previously filed in the office of the Utah County Recorder for the Project, and all future plats for future phases of the Project, if any, which may be added to the Project at Declarant's discretion as provided in Section 11.3 below.

(p) "Project" shall mean (i) Plat I of the Plat of the Villages at Arrowhead Park and (ii) all future plats, if any, for Plat I of the Plat of the Villages at Arrowhead Park, if any, which may be added to the Project at Declarant's discretion as provided in Section 11.3 below, as shown on the Plat and governed by this Declaration.

(q) "Property" shall mean and refer to that certain real property located in Payson City, Utah County, State of Utah, and more particularly described on Exhibit A hereof, together with any other real property added to the Project pursuant to Section 11.3.

(a) "Sub-Association" shall mean Arrowhead Park Urban Homeowners association Homeowners Association.

(b) "Sub-Association Annual Assessment" shall mean the charge levied and assessed each year against each Lot pursuant to Section 5.2 hereof.

(c) "Sub-Association Articles" shall mean and refer to the Articles of Incorporation of the Sub-Association.

(d) "Sub-Association Board" shall mean the Board of Trustees of the Sub-Association.

(e) "Sub-Association Bylaws" shall mean and refer to the Bylaws of the Sub-Association, as amended from time to time. A copy of the Sub-Association Bylaws is attached hereto and incorporated herein as Exhibit B.

(f) "Sub-Association Maintenance Charges" shall mean any and all fines, penalties and collection costs incurred in connection with delinquent Sub-Association Annual Assessment or Sub-Association Special Assessment pursuant to Section 5.2.

(g) "Sub-Association Special Assessment" shall mean any assessment levied and assessed pursuant to Section 5.2.

## ARTICLE II

### LAND USE CLASSIFICATION AND DENSITIES

2.1 Land Use Classification. The Project consists of twin home units.

2.2 Density of Project. The Project consists of 48 twin home residential lots.

## ARTICLE III

### MASTER ASSOCIATION

3.1 Master Association. As further set forth in the Master Declaration, every Owner shall be a member of the Master Association. Membership in the Master Association is mandatory and shall be appurtenant to the Lot in which the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and any such transfer shall automatically transfer the membership appurtenant to such Parcel to the new Owner thereof. All of the rights, responsibilities, duties, and obligations of the Owners with respect to their membership in the Master Association are set forth in the Master Declaration.

## ARTICLE IV

### SUB-ASSOCIATION

4.1 Formation of Sub-Association. The Sub-Association shall be a nonprofit Utah corporation or limited liability company charged with the duties and invested with the powers prescribed by law and set forth in its Sub-Association Articles and Sub-Association Bylaws and this Declaration. Neither the Sub-Association Articles nor Sub-Association Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Specifically, the Sub-Association is formed for the limited purpose of owning, operating, and maintaining the Common Area located within the Project, in a manner consistent with the terms of this Declaration, and for the purpose of collecting assessments and disbursing funds for such purpose.

4.2 Membership. In addition to an Owner's membership in the Master Association, every Owner shall also be a Member of the Sub-Association. Membership in the Sub-Association shall be mandatory and shall be appurtenant to the Lot in which the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and any such transfer shall automatically transfer the membership appurtenant to such Lot to the new Owner thereof. Each Member shall have a non-exclusive right and easement for use and enjoyment of all Common Area within the Project. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Notwithstanding the foregoing, a Member's right and easement of use and enjoyment is subject to the following:

- (a) The right of the City of Payson, Utah County and any other governmental or quasi-governmental body having jurisdiction over the Project to access and have ingress and egress to, from, over and across all Common Area;
- (b) The rights of the Sub-Association and the Declarant set forth in this Declaration.

4.3 Voting Rights. The Sub-Association shall have the following-described two (2) classes of voting membership:

(a) Class A. Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Sub-Association is held. Although each of the multiple Owners of a single Lot shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Lot. Which of the multiple Owners of a single Lot shall cast the vote on the basis of that Lot is determined under Section 4.4 of this Article IV.

(b) Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to ONE (1) votes for each Lot in which the interest required for membership in the Sub-Association is held. The Class B

membership shall cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Lots contained in the Project; or (ii) the expiration of fifteen (15) years after the date on which Declarant first conveys to a purchaser fee title to a Lot.

4.4 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Sub-Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

4.5 Lists of Owners. The Sub-Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Lot which is owned by such person. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Sub-Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah. The Sub-Association may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it, or at its option, the Sub-Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Lot owned by such person unless the Sub-Association is otherwise advised.

4.6 Board of Trustees and Officers. The affairs of the Sub-Association shall be conducted by the Sub-Association Board and such officers as the Sub-Association Board may elect or appoint in accordance with the Sub-Association Articles and Sub-Association Bylaws as the same may be amended from time to time. The initial Sub-Association Board shall be composed of three (3) natural persons, who need not be Members of the Sub-Association. The Sub-Association Board may also appoint various committees and may appoint and hire at Sub-Association expense a manager or management company, who shall, subject to the direction of the Sub-Association Board, be responsible for the day-to-day operation of the Sub-Association. The Sub-Association Board shall determine the compensation to be paid to the manager, the management company or any other employee of the Sub-Association.

4.7 Personal Liability. Neither the Declarant, any manager or member of Declarant, nor any member of the Sub-Association Board, officer, manager or other employee or committee member of the Sub-Association shall be personally liable to any Member, or to any other person, including the Sub-Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, negligence, or other matter, of any kind or nature except for acts performed intentionally and with malice.

## ARTICLE V

### ASSESSMENTS

5.1 Master Assessments. The Owners shall be required to pay such assessments as may be required by the Master Association pursuant to the terms of the Master Declaration.

5.2 Purpose of Sub-Association Assessments; Assessment Lien. Without limiting the generality of Section 5.1, all Members of the Sub-Association further hereby covenant and agree, and each Owner, except Declarant, by acceptance of a deed to a Lot is deemed to covenant and agree, to pay to the Sub-Association the following assessments and charges: (a) Sub-Association Annual Assessments, (b) Sub-Association Special Assessments, and (c) Sub-Association Maintenance Charges, all such assessments and charges to be established and collected as hereinafter provided. The Sub-Association Annual Assessments, Sub-Association Special Assessments and Sub-Association Maintenance Charges, together with interest, costs and reasonable attorneys' fees, shall be secured by a lien (the "Assessment Lien") on the Lot to which they relate, in favor of the Sub-Association, which shall be a continuing servitude and lien upon the Lot against which each such assessment or charge is made. The Assessment Lien shall be a charge on the Lot, shall attach from the date when the unpaid assessment or charge shall become due, and shall be a continuing lien upon the Lot against which each assessment is made. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them. The Assessment Lien may be foreclosed by the Sub-Association in substantially the same manner as provided for non-judicial foreclosure of deeds of trust on real property upon the recording of a Notice of Delinquent Assessment or charge as set forth in Section 5.7 hereof. The Sub-Association shall be entitled to purchase the Lot at any foreclosure sale. Notwithstanding anything in this Declaration to the contrary, Declarant shall not be charged, and is exempt from paying, any assessments, whether Sub-Association Annual Assessment, Sub-Association Special Assessment, Sub-Association Maintenance Charges or otherwise, with respect to Lots owned by Declarant. Pursuant to Utah Code Ann. ("U.C.A.") 57-8a-212 (2011), the Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Advanced Title Company, with power of sale, the Lots and all improvements to the Lots for the purpose of securing payment of all Sub-Association Annual Assessments, Sub-Association Special Assessments and Sub-Association Maintenance Charges, together with interest, cost and reasonable attorneys' fees, under the terms of the Declaration.

5.3 Sub-Association Annual Assessments. Sub-Association Annual Assessments for each Owner of a Lot shall include the Owner's pro rata share of Common Expenses associated with the Common Area based on the total amount of Lots in the Project. Commencing on the date on which Declarant first conveys to a purchaser fee title to a Lot, a Sub-Association Annual Assessment shall be made against each Lot, except any Lot owned by Declarant, for the purpose of paying (or creating a reserve for) all Common Expenses.

After the one year anniversary of the date on which Declarant first conveys to a purchaser fee title to a Lot, the Sub-Association Annual Assessment may be increased each year in the

discretion of the Sub-Association Board in an amount to be determined by the Sub-Association Board.

5.4 Sub-Association Special Assessments. In addition to the Sub-Association Annual Assessment authorized above, the Sub-Association may levy, except with respect to Lots owned by Declarant, in any assessment period, a Sub-Association Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Common Area or for the purpose of defraying other extraordinary expenses; *provided, however*, that all Sub-Association Special Assessments must be assented to by a vote of fifty-one percent (51%) of the Members who are voting in person or by proxy, at a meeting duly called for that purpose. Sub-Association Special Assessments for the Common Area shall be paid pro rata by the Owners of all of the Lots based on the total number of Lots in the Project.

5.5 Uniform Rate of Assessment. Sub-Association Annual Assessments for Lots shall be fixed at a uniform rate for all Lots, except Lots owned by Declarant, and may be collected on a yearly basis or more frequently if the Sub-Association Board shall so determine.

5.6 Establishment of Annual Assessment Period. The period for which the Sub-Association Annual Assessment is to be levied (the "Assessment Period") shall be the twelve month period beginning January 1 of each year. The Sub-Association Board, in its sole discretion from time to time, may change the Assessment Period by recording with the County an instrument specifying the new Assessment Period. The Sub-Association Board shall fix the amount of the Sub-Association Annual Assessment against each applicable Lot at least thirty (30) days in advance of the end of each Assessment Period. Written notice of the Sub-Association Annual Assessment shall be sent to each Member of the Sub-Association. Failure of the Sub-Association to send a bill to any Member shall not relieve the Member of liability for payment of any assessment or charge. The due dates shall be established by the Sub-Association Board. The Sub-Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Sub-Association setting forth whether the assessments on a specific Lot have been paid.

5.7 Effect of Nonpayment. Any assessment or charge or installment thereof not paid when due shall be deemed delinquent and in the discretion of the Sub-Association Board may bear interest from thirty (30) days after the due date until paid at the interest rate of eighteen percent (18%) per annum, and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Sub-Association in collecting the same. The Sub-Association Board may also record a Notice of Delinquent Assessment or Charge (the "Notice") against any Lot as to which an assessment or charge is delinquent. The Notice shall be executed by an officer of the Sub-Association or a member of the Sub-Association Board, set forth the amount of the unpaid assessment, the name of the delinquent Owner, and a description of the Lot. The Sub-Association Board may establish a fixed fee to reimburse the Sub-Association for the Sub-Association's cost in recording such Notice, processing the delinquency, and recording a release of such lien, which fixed fee shall be treated as part of the Sub-Association Maintenance Charge of the Sub-Association secured by the Assessment Lien. The Sub-Association may bring an



action at law against the Owner personally obligated to pay the delinquent assessment and/or foreclose the lien against such Owner's Lot. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the benefits derived from assessments or abandonment of his or her Lot. Notwithstanding anything in this Declaration to the contrary, Declarant shall not be charged and is exempt from paying any assessments, whether Sub-Association Annual Assessment, Sub-Association Special Assessment, Sub-Association Maintenance Charges, or otherwise, with respect to Lots owned by Declarant.

5.8 Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with a Lot as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public charges. Except as provided above, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot shall not affect the Assessment Lien.

## ARTICLE VI

### MAINTENANCE

6.1 Common Area. The Sub-Association, or its duly delegated representative, shall maintain and otherwise manage all Common Area in the Project. This maintenance will include the appropriate upkeep and repair of all Common Area, including, without limitation, the landscape maintenance and repair, sweeping, snow removal, repair, replacement and maintenance of private streets, visitor parking areas, walkways, and so forth, and other maintenance and repair activities relating to the Common Area. The Sub-Association shall be further responsible for the maintenance and repair of all utilities, sewer lines, and storm drains located on or below the private roads located within the Project, with the exception of culinary water lines and pressurized irrigation meters, which will be maintained and repaired by Payson City. The Sub-Association Board shall be the sole judge as to the appropriate maintenance of all Common Area. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of such properties shall be taken by the Sub-Association Board or by its duly delegated representative.

6.2 Assessment of Certain Costs. In the event that the need for maintenance or repair of Common Area is caused through the willful or negligent act of any Owner (except Declarant), his or her family, guests or invitees, the cost of such maintenance or repairs shall be added to and become part of the Sub-Association Maintenance Charge to which such Owner's Lot is subject and shall be secured by the Assessment Lien.

## ARTICLE VII

### RIGHTS AND POWERS OF SUB-ASSOCIATION

7.1 Sub-Association's Rights. In addition to the rights and powers of the Sub-Association set forth in this Declaration, the Sub-Association shall have such rights and powers

as are set forth in its Sub-Association Articles and Sub-Association Bylaws. In the event of any conflict between the Sub-Association Articles and Sub-Association Bylaws and this Declaration, the terms of this Declaration shall control.

7.2 Rights of Enforcement. The Sub-Association, as the agent and representative of the Members, and the Declarant shall have the right to enforce the covenants, conditions, restrictions, liens, charges now and hereafter imposed by the provisions set forth in this Declaration by any proceeding at law or in equity. If the Sub-Association or Declarant prevails in any proceeding at law or in equity to enforce the provisions of this Declaration, the Sub-Association or Declarant is entitled to an award of its costs and reasonable attorneys' fees associated with the action. Failure by the Sub-Association or Declarant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

7.3 Insurance. The Sub-Association may obtain in its name and keep in full force and effect at all times, insurance policies for such casualty and public liability and other insurance policies as the Sub-Association Board deems necessary or desirable. The cost of such insurance shall be a Common Expense. The Sub-Association shall have no duty or obligation to procure or maintain insurance of any kind on any particular Lot.

## ARTICLE VIII

### MAINTENANCE

In the event any portion of any Lot or Common Area, except Lots owned by Declarant, is so maintained or used by an Owner or the Sub-Association as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto; or in the event any portion of a Lot, except Lots owned by Declarant, is being used in a manner which violates this Declaration; or in the event any Member, except Declarant, is failing to perform any of its obligations under this Declaration or the architectural guidelines and standards of the ARC, the Master Association may take corrective action with respect to the foregoing as further set forth in the Master Declaration. As further set forth in the Master Declaration, the Master Association shall have the right to assess "Maintenance Charges" (as defined in the Master Declaration) with respect to any such corrective action taken by the Master Association.

## ARTICLE IX

### DESIGN REVIEW

9.1 Purpose. As further set forth in the Master Declaration, in order to create, maintain and improve the Master Project as a pleasant and desirable environment, to establish and preserve a consistent and harmonious design for the Master Project community and to protect and promote the value of the Master Project, all exterior design and changes or alterations to existing use and exterior design and development within the Project shall be subject to design review and approval by the ARC.

9.2 Design Guidelines. As further set forth in the Master Declaration, the Project and all residences constructed thereon shall be subject to the Design Guidelines set forth and/or referenced in the the Development Agreement.

## ARTICLE X

### COVENANTS, CONDITIONS AND RESTRICTIONS

10.1 Land Use and Building Type. No Lot shall be used for other than residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) twin home unit, not to exceed the height limitation for the applicable zone of Payson City as specified at the time of recordation of the Plat. Unless otherwise approved by the ARC, each dwelling must have at least a two-car and no more than a three-car garage, and carports may not be built. All such dwellings shall meet the minimum size requirements of Payson City as specified at the time of the recordation of the Plat. Height shall be measured as per Payson City Ordinance.

10.2 Architectural Control. To maintain a degree of protection to the investment which homeowners in this area may make, homes of superior design are requisite, and designs shall be limited to those approved by the ARC. In the event of any reconstruction of an improvement or a house on a Lot due to a casualty, the design, quality, and appearance of the reconstructed home shall be substantially the same as the structure initially built, unless otherwise approved by the ARC. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the ARC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade on any Lot, shall be subject to the prior written approval of the ARC. Once approved by the ARC, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the ARC. Subsequent to receiving approval of the ARC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from Payson City.

No construction, reconstruction or modification of a home or landscaping may commence without approval by the ARC of the working drawings including, but not limited to, the following:

- (a) Plot plans to scale showing the entire site, building, garages, walks, drives, fences, lights, and retaining walls, with elevations of the existing and finished grades and contours including those at the outside corners of the buildings and at adjacent property line and street fronts and elevations of floors from a designated point on the street.
- (b) Detailed floor plans showing dimensions and measurements.
- (c) Detailed elevations, indicating all materials and colors and showing existing and finished grades.

(d) Detailed sections, cross and longitudinal.

(e) Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc.

Specifications shall give complete descriptions and color samples of materials to be used on the exterior of the residence.

10.3 Construction Quality, Size and Cost. The ARC will base its approval of construction plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines.

10.4 Construction Time. The ARC shall have final control for approval of all color and material plans. There is no time limit for beginning construction; however, upon commencement, the construction time for the exterior portion of any structure shall not exceed twelve (12) months from start to finish. "Start" shall be the instant any foliage is cut or removed in anticipation of the landscaping or construction to be built. All building debris, excavation, dirt, etc. associated with the building process shall be removed within the twelve (12) month period. Such debris and excavation dirt shall not be permitted on any of the streets or sidewalks within the Project.

10.5 Building Location. No building shall be located on any Lot nearer than the minimum building set-back, side street and side lot lines required by the Development Agreement; provided, however, that customary storage sheds may be permitted upon approval of the ARC.

10.6 Landscaping. All landscaping is within the Common Area of the Project and therefore shall be installed and thereafter maintained by the Sub-Association. Landscaping may include a combination of lawns, shrubs, trees or ground cover, so long as it is consistent with the minimum standards required by the Development Agreement. Ground cover may include vegetative vines, low-spreading shrubs, or annual or perennial flowering or foliage plants. Ground cover may also include mineral or non-living organic permeable material. Mineral ground cover may include such materials as rocks, boulders, gravel, or brick over sand.

10.7 Exterior Antennas, Lights, and Power Lines. Exterior antennas are prohibited without the prior written approval of the ARC. Exposed metal flues, vents, ventilator, or other metallic rooftop protrusions shall be coated or painted with a neutral color which will blend harmoniously with the surrounding property. Satellite TV dishes will be allowed, provided they are placed or screened so they are not readily visible to neighboring Lots and streets. All power lines and similar type cables shall be buried underground. No short-wave radio antennas may be constructed on any Lot or attached to any structure thereon without the prior written approval of the ARC.

10.8 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate

upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or its occupants. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber, and other building materials will be piled only in such areas as may be approved by the ARC or the Master Association. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the ARC or the Master Association, which may require screening of the storage areas.

The use of motorcycles and other motorized recreational vehicles which may produce audible annoyance to the Owners shall be limited to ingress and egress of the Project.

No oil or gas drilling, development, operations, refining, storage, quarrying, or mining operations of any kind shall be permitted upon any Lot.

The burning of rubbish, leaves, or trash on the Project is prohibited. Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during collection.

No Owner shall permit anything or condition to exist upon any Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

The Master Association, in its sole discretion, shall have the right to determine the existence of any nuisance.

10.9 Repair of Building. No building or structure on any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Section 10.2 above, such building or structure shall be immediately repaired or rebuilt or shall be demolished.

10.10 Fuel Storage. No tank for storage of fuel may be maintained above the surface of the ground without the prior written consent of the ARC.

10.11 Building Material Storage. Excluding with respect to the initial construction of residences within the Project, no building material of any kind or character shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements, and then the material shall be placed within the property lines of the Lot upon which the improvements are to be erected and shall not be placed in the streets or between the curb and the property line.

10.12 Reservation of Access, Maintenance, and Utility Easements. Declarant reserves easements for access, electrical, gas, communications, cable television and other utility purposes and for sewer, drainage and water facilities, and maintenance of the respective Lots by the Owners or agents authorized to conduct maintenance on behalf of the Owner, (whether servicing the Project or other premises or both) over, under, along, across and through the Project, together with the right to grant to Payson City and Utah County, or any other appropriate governmental agency or to any public utility or other corporation or association, easements for such purposes

over, under, across, along and through the Project upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Project by the Owners and the Sub-Association and those claiming by, through or under the Owners or the Sub-Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Project shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Project immediately prior to the exercise thereof.

10.13 Solar Equipment. Solar panels (if any) are to be integrated into roof design. Panels and frames must be compatible with roof colors, all equipment must be screened from view, and prior written approval must be obtained from the ARC.

10.14 Parking and Storage. No major mechanical work or repairs are to be conducted in streets, alleys or front yards. No inoperative vehicle shall be placed or remain on any Lot or adjoining Common Area adjacent to a street for more than forty-eight (48) hours. No commercial-type vehicles shall be parked or stored on a Lot or adjoining Common Area except while engaged in transportation. Trailers, campers, motor homes, boats and other recreational vehicles shall not be parked or stored within the Project. The Sub-Association shall have the right to adopt a fee schedule parking violating this Section, and further shall have the right to tow or otherwise relocate such improperly parked vehicles in accordance with rules and regulations the Sub-Association may adopt from time to time in accordance with Section 12.3 below. The storage or accumulation of junk, trash, manure, or other offensive or commercial materials is prohibited.

10.15 Additional Easements.

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

(b) Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Project and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of residences on Lots, and (b) construction, installation and maintenance on lands within, adjacent to, or serving the Project other facilities, planned for dedication to appropriate governmental authorities. The reservations contained in this paragraph shall expire twenty-five (25) years after the date on which this Declaration was first filed for record in the Office of the County Recorder of Utah County, Utah.

10.16 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary

structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of this Declaration which prohibit or restrict non-residential use of Lots, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of residences within the Project so long as the location of such model homes and the opening and closing hours are approved by the ARC, and the construction, operation and maintenance of such model homes otherwise complies with all of the provisions of this Declaration. The ARC may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of Payson City and any rules of the ARC. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner thereof is not actively engaged in the construction and sale of residences within the Project, and no home shall be used as a model home for the sale of homes not located within the Master Project.

## ARTICLE XI

### AMENDMENTS

11.1 Term: Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of thirty (30) years from the date of recordation. From and after such date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the Owners of Lots casting sixty-seven percent (67%) of the total votes cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may be terminated at any time if at least ninety-five percent (95%) of the votes cast by all Owners shall be cast in favor of termination at an election held for such purpose. If the necessary votes are obtained, each Sub-Association Board shall cause to be recorded in the office of the Utah County Recorder a "Certificate of Termination," duly signed by the President and attested by the Secretary of the Sub-Association, with their signatures acknowledged. Thereupon, the covenants herein contained shall have no further force and effect, and the Sub-Association shall be dissolved pursuant to the terms set forth in the Sub-Association Articles.

11.2 Amendments. This Declaration may be amended by recording in the office of the Utah County Recorder a "Certificate of Amendment," duly signed and acknowledged as required for a Certificate of Termination. The Certificate of Amendment shall set forth in full the amendment adopted and shall certify that at an election duly called and held pursuant to the provisions of the Sub-Association Articles and Sub-Association Bylaws of the Sub-Association, the Owners casting sixty-seven percent (67%) of the votes at the election voted affirmatively for the adoption of the amendment. Anything in this Article XI or Declaration to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Declaration (a) to such extent and with such language as may be requested by Federal National Mortgage Association, HUD, or similar agencies or entities and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an

amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lots or any portions thereof, and (b) for any other purpose, for so long as (i) Declarant owns at least one (1) Lot within the Project, and (ii) such amendment does not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

11.3 Expansion of Project. Declarant shall have the right in its sole discretion upon recording a Certificate of Amendment signed by Declarant to expand the Project to include additional phases and Lots, and/or to add to the development known as The Villages at Arrowhead Park, all of which additional property shall, upon recording such Certificate of Amendment, be subject to this Declaration.

## ARTICLE XII

### MISCELLANEOUS

12.1 Interpretation of the Covenants. Except for judicial construction, the Master Association, by its Board of Trustees, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Master Association's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

12.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not effect the validity or enforceability of any of the other provisions hereof.

12.3 Rules and Regulations. The Sub-Association shall have the right to adopt rules and regulations with respect to all aspects of the Sub-Association's rights, activities, and duties, including rules and regulations relating to the use of the Common Area, provided such rules and regulations are not inconsistent with the provisions of this Declaration.

12.4 General Reservations. Declarant reserves the right to grant, convey, sell, establish, amend, release, and otherwise deal with easements, reservations, exceptions, and exclusions with respect to the Project which do not materially interfere with the best interests of Owners and/or the Sub-Association including, but not limited to, access and utility easements, road easements, pedestrian and equestrian easements, pedestrian and hiking trails, and drainage easements.

12.5 Run with the Land. Declarant for itself, its successors, and assigns, hereby declares that all of the Project shall be held, used, and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in the Project.



## ARTICLE XIII

### MANDATORY DISPUTE RESOLUTION

13.1 Statement of Clarification. Without modifying or restricting the scope of this ARTICLE and as a statement of clarification only, nothing contained in this ARTICLE is intended to prevent the parties from attempting to resolve any differences between them through the normal course of business and communications. It is only when the parties are unable to resolve their differences and they wish to proceed further through the assertion of a Claim (as defined herein), that the mandatory dispute resolution provisions contained in this ARTICLE are required.

13.2 Alternative Method for Resolving Disputes. Declarant, the Sub-Association, their officers, directors, affiliates, agents, employees and contractors, all Owners, consultants, and any Person not otherwise subject to this Declaration but who agrees to submit to this ARTICLE (including any subcontractors and suppliers), each such entity being referred to individually as a "Bound Party" and collectively as the "Bound Parties," agree to encourage the amicable resolution of disputes involving the Community and all of its improvements without the emotional and financial costs of litigation. Accordingly, except as otherwise agreed to in writing between any Bound Parties, each Bound Party covenants and agrees to submit all Claims to mediation, and if such mediation is not successful, final binding arbitration, as set forth below in this Declaration, and not to otherwise bring legal or equitable action in any court.

13.3 Claims. Except as specifically excluded in this Section 0 or as otherwise agreed to in writing between any Bound Parties, including without limitation any purchase and sale agreement or similar document (each a "Superseding Agreement"), all claims, disputes and other controversies arising out of or relating in any way to the:

- (a) interpretation, application or enforcement of this Declaration;
- (b) design, construction, sale, maintenance, habitability or condition of any improvements within the Community or any alleged defect therein;
- (c) rights, obligations and duties of any Bound Party under this Declaration, and/or any breach or alleged breach thereof;

are hereinafter referred to as a "Claim" or "Claims." All Claims shall be subject to and resolved in accordance with the terms and provisions of this ARTICLE XIII.

Notwithstanding any contrary provision of this ARTICLE XIII, the following shall not be Claims and shall not be subject to the provisions of this ARTICLE XIII:

- (d) any legal action by the Association against any Bound Party to enforce the provisions of ARTICLE V (Assessments);

(e) any legal action by the Association or Declarant to obtain a temporary or permanent restraining order or injunction and such other ancillary relief as the court may deem necessary in order for the Association or Declarant to act under and enforce the provisions of ARTICLE IX (Design Review) or ARTICLE X (Covenants, Conditions, and Restrictions); and

(f) any legal action to enforce a settlement agreement or an arbitration award provided in this ARTICLE XIII.

Any question about whether a matter is a Claim, and/or whether such matter is covered by this ARTICLE, shall be determined by the arbitrator.

13.4 Notice of Claim. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") shall submit all of their Claims by written notification delivered to each Respondent, stating plainly and concisely:

(a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(b) the legal or contractual basis of the Claim (i.e., the specific authority out of which the claim arises); and

(c) the specific relief and/or proposed remedy sought.

13.5 Timely Initiation. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in no event shall a Claim be made after the date when institution of legal or equitable action based on such Claim would be barred by the applicable statute of limitations or repose.

13.6 Right to be Heard. Upon receipt of a Claim and prior to commencing any arbitration proceeding which may fall within the scope of this ARTICLE XIII, the Respondent shall have the right to be heard by the Claimant in an effort to resolve the Claim. The parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Any party may appoint a representative to assist such party in negotiations. With respect to the foregoing, the Claimant and Respondent shall individually (i.e. without the joinder or inclusion of other Owners or such Claimant serving as a class representative for or becoming a class member of other Owners) mediate all Claims prior to proceeding under Section 0 below. The mediation shall be conducted by a single mediator. If such parties are unable to agree upon the selection of a mediator within fifteen (15) days of initiation of the Claim, then a single mediator shall be chosen in accordance with the rules governing the selection of an arbitrator under the Utah Uniform Arbitration Act (the "UUA"). All mediation fees shall be split equally among the Claimant and Respondent. Prior to conducting such mediation, and consistent with Utah law, the parties thereto shall agree in writing to limit the admissibility in arbitration or any court action of anything said, any admission made, and any documents prepared in the course of the mediation. If Claimant or Respondent commences an arbitration or other action based upon a Claim without first attempting to resolve the Claim through mediation, such party shall not be entitled to recover the costs of such action, even if the same would otherwise be available in such arbitration or other action.

13.7 Right to Inspect. If the Claim is asserted against Declarant and/or its officers, directors, affiliates, agents, employees, contractors or consultants and is based on a defect in the design or the construction of any Improvements within the Community, subject to Owner's prior written approval, which shall not be unreasonably withheld, Declarant shall have the right to access the affected area for purposes of inspecting the condition complained of, and the correction thereof, including any necessary redesign. This shall include, but not be limited to, notice prior to conducting any investigative or destructive testing. The Claimant shall meet with Declarant and/or its designees to discuss, in good faith, ways to resolve the Claim. The Association shall have the same right to inspect related to any Claims by an Owner against the Association as set forth above.

In the exercise of the inspection rights contained herein, the inspecting party ("Inspecting Party") shall be careful to avoid any unreasonable intrusion upon, or harm, damage or costs to the other party. The Inspecting Party shall use best efforts to avoid causing any damage to, or interference with, any improvements on the property being inspected ("Inspection Property") and minimize any disruption or inconvenience to any person who occupies the Inspection Property; shall remove all debris placed on the Inspection Property by the Inspecting Party on a timely basis; and in a reasonable and timely manner, at the Inspecting Party's sole cost and expense, promptly remove equipment and materials from the Inspection Property placed on the Inspection Property by the Inspecting Party, and repair, replace and restore the Inspection Property to the condition of the Inspection Property as of the date of entry thereon by the Inspecting Party. The Inspecting Party shall not permit any claim, lien or other encumbrance arising from the use of its rights to accrue against or attach to the Inspection Property. The repair, replacement and restoration work includes, without limitation, the repair or replacement to any structures, driveways, fences, landscaping, utility lines or other Improvements on the Inspection Property that were damaged, removed or destroyed by Inspecting Party.

The Inspecting Party shall indemnify, defend and hold harmless the Owners, tenants, guests, employees and agents, against any and all liability, claims, demands, losses, costs and damages incurred, including court costs and attorneys' fees, resulting from or in performance of this Section 0, or as a result of any Inspecting Party's breach of this Section 13.7.

13.8 Final Binding Arbitration. If the Parties do not reach a settlement of the Claim within 30 days after the mediation was conducted, if the Claimant is the Association making a Claim that is a construction defect action, binding arbitration shall be the sole means for resolving the Claim. For any other Claim, the Claimant shall have 30 additional days after conducting the mediation to submit the Claim to binding arbitration in accordance with the arbitration procedures set forth below:

(a) The parties agree that where any Claim is submitted to arbitration, and any other Bound Party other than another Owner may have liability with respect thereto, all parties to the dispute agree that other Bound Parties (other than another Owner) related to such dispute or any intertwined or connected dispute, may be joined as additional parties in such arbitration, or if separate arbitrations exist or are separately initiated, to the consolidation of all such arbitrations. Notwithstanding anything to the contrary herein, each arbitration shall be conducted on an individual Owner basis to address the applicable Claim (i.e. without the joinder or inclusion of other Owners or such Claimant serving as a class representative for or becoming a class member of other Owners).

(b) If the Claim(s) are not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claims shall be deemed abandoned, and Respondent(s) shall be released and discharged from any and all liability to Claimant arising out of such Claims.

(c) In the absence of an agreement otherwise between the applicable Bound Parties, all Claims subject to arbitration shall be conducted in accordance with the UUAA and be decided by a single private party arbitrator who is a retired Utah state court or federal court judge, or attorney licensed to practice law in Utah.

(d) If the parties are unable to agree upon an arbitrator within thirty (30) days from the date of the demand for arbitration, then the arbitrator shall be chosen in accordance with the rules governing the selection of an arbitrator under the UUAA.

(e) No person shall serve as the arbitrator who may have any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall immediately disclose in writing to all parties any circumstance likely to affect the appearance of impartiality and/or actual impartiality, including any bias or financial or personal interest or relationship in the outcome of the arbitration ("Arbitrator's Disclosure"). If any party objects to the service of any arbitrator within 14 days after receipt of that Arbitrator's Disclosure, such arbitrator shall be replaced in the same manner as provided in Section 0(d) above.

(f) The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in Utah County, Utah unless otherwise agreed by the parties.

(g) Subject to the provisions of these procedures, the arbitration shall be conducted in accordance with rules and procedures determined by the arbitrator.

(h) Subject to the arbitrator's right to establish rules and procedures governing formal discovery in the arbitration, no formal discovery shall be conducted in the absence of an order of the arbitrator or express written agreement of the parties. Notwithstanding the foregoing sentence, any party asserting Claims against the Declarant and/or its officers, directors, affiliates, agents, employees, contractors or consultants shall notify the Declarant prior to retaining any Person as an expert witness for purposes of any arbitration or authorized litigation, and the Declarant shall be entitled to conduct discovery, including depositions, of such expert.

(i) The award rendered by the arbitrator shall be final and binding, may be filed with any court of competent jurisdiction in accordance with applicable law and judgment obtained thereon, and execution may issue. An award in favor of any party shall be limited to actual damages, and the arbitrator shall not have any authority to award exemplary, punitive, special, indirect, consequential or any other damages other than actual damages. All arbitrator and arbitration fees shall be split equally among all Claimants and Respondents. Each party shall be responsible for its own costs and expenses related to the Claim and shall not be entitled to or awarded its attorneys' fees or costs incurred with respect thereto, or the arbitrator's fees or arbitration fees.

(j) Unless directed by the arbitrator, there shall be no post-hearing briefs.

(k) The arbitration award shall address each claim to be resolved in the arbitration, provide a summary of the reasons therefor and the relief granted.


13.9 Amendment: Servitude in Gross. The rights, terms and provision of this ARTICLE XIII are enforceable by Declarant, and shall not be amended without the written consent of Declarant. Further, this ARTICLE XIII and the rights, terms and provisions contained herein constitute a servitude in gross for the benefit of Declarant and its officers, directors, affiliates, agents, employees, contractors and consultants, shall inure to the benefit of the foregoing, and all of the foregoing are third party beneficiaries thereof, regardless of ownership of any portion of the Community.

13.10 Binding Effect. BY TAKING TITLE TO ANY PORTION OF THE COMMUNITY, EACH OWNER THEREOF ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS ARTICLE XIII ARE A SIGNIFICANT INDUCEMENT TO DECLARANT'S WILLINGNESS TO DEVELOP THE COMMUNITY, CONSTRUCT IMPROVEMENTS AND SELL DWELLING UNITS, AND THAT IN THE ABSENCE OF THE PROVISIONS CONTAINED IN THIS ARTICLE XIII, DECLARANT WOULD HAVE BEEN UNABLE AND UNWILLING TO DEVELOP THE COMMUNITY, CONSTRUCT IMPROVEMENTS OR SELL DWELLING UNITS FOR THE PRICES PAID BY THE ORIGINAL PURCHASERS. BY ACCEPTING TITLE TO SUCH PORTION OF THE COMMUNITY, EACH OWNER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS ARTICLE XIII LIMIT HIS OR HER RIGHTS WITH RESPECT TO THE RIGHTS AND REMEDIES THAT MAY BE AVAILABLE IN THE EVENT OF A POTENTIAL OR ACTUAL CONSTRUCTION DEFECT AFFECTING THE IMPROVEMENTS OR ANY PORTION THEREOF, INCLUDING WITHOUT LIMITATION ANY DWELLING UNIT.

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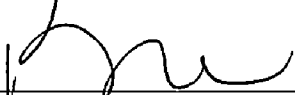
IN WITNESS WHEREOF, Declarant has executed this Declaration this as of the date first set forth above.

RICHMOND AMERICAN HOMES OF UTAH,  
INC., a Colorado corporation.

By:   
Its: DIVISION PRESIDENT

STATE OF UTAH                    )  
  : ss.  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me this 6 day of October, 2020, Paul Peterson, a Division President of Richmond American Homes of Utah, Inc., a Colorado corporation.

  
Notary Public

My Commission Expires: 07-28-2023

1538614



**EXHIBIT A**

**Legal Description of the Project**

All of Plat I of the Villages at Arrowhead Park, according to the Official Plat thereof, on file in the Utah County Recorder's Office, State of Utah.

**EXHIBIT B**  
**(Sub-Association Bylaws)**

*See attached.*



**BYLAWS  
OF  
ARROWHEAD PARK URBAN  
HOMEOWNERS ASSOCIATION**

**ARTICLE 1.  
DEFINITIONS**

1.01 Declaration.

As used herein, "Declaration" means the Neighborhood Declaration of Covenants, Conditions and Restrictions for Arrowhead Park Urban Homeowners association, as recorded in the Official Records of Utah County, Utah on \_\_\_\_\_, 2020, as Entry No. \_\_\_\_\_, and as may be further amended from time to time. The Project is located in and is a part of the Villages at Arrowhead Park development project, and accordingly, the Project is also subject to the covenants, conditions and restrictions set forth in the Declaration of Covenants, Conditions and Restrictions for the Villages at Arrowhead Park (the "Master Declaration"), as recorded in the Official Records of Utah County, Utah, on January 14, 2019, as Entry No. 3493:2019. In the event of any conflict between the Master Declaration and the Declaration, the Articles of Incorporation of the Association (the "Articles"), or these Bylaws, the terms of the Master Declaration shall control.

1.02 Other Definitions.

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

**ARTICLE 2.  
OFFICES**

The Arrowhead Park Urban Homeowners association Homeowners Association (the "Association") is a Utah nonprofit corporation, with its principal office located at 849 West Levoy Drive, Salt Lake City, Utah 84123.

**ARTICLE 3.  
VOTING, QUORUM, AND PROXIES**

3.01 Voting.

As more fully set forth in the Declaration, the Association shall have two classes of membership, Class A and Class B. Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. Although each of the multiple Owners of a single Lot

shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Lot. Which of the multiple Owners of a single Lot shall cast the vote on the basis of that Lot is determined as provided in the Declaration.

The Class B Member shall be the Declarant. The Class B Member shall be entitled to eighteen (18) votes for each Lot in which the interest required for membership in the Association is held. The Class B membership shall cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Lots contained in the Project; or (ii) the expiration of fifteen (15) years after the date on which Declarant first conveys to a purchaser fee title to a Lot.

### 3.02 Quorum.

Subject to and except as otherwise required by law or the Declaration, the presence in person or by proxy of Owners entitled to vote more than thirty-three percent (33%) of the total votes of the Owners shall constitute a quorum; provided however, that for purposes of establishing a quorum in connection with the election of Directors, one or more owners present in person or by proxy at an annual meeting (or duly called special meeting) shall constitute a quorum.

### 3.03 Proxies.

Votes may be cast in person or by proxy, or electronically by email to the Association's email address or by submission to the Association's website, if available.

### 3.04 Majority Vote.

At any meeting of the Owners, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Owners, unless the vote of a greater number is required by law, the Declaration, or these Bylaws.

### 3.05 Qualified Voters.

An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting if he or she has fully paid his or her share of any Assessment (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

## **ARTICLE 4.** **ADMINISTRATION**

### 4.01 Annual Meeting.

The annual meeting of the Owners shall be held at a time designated by the Board in the month of February in each year, or at such other date designated by the Board, for the purpose of electing trustees and for the transaction of such other business as may come before the meeting. If the election of trustees shall not be held on the date designated herein for the annual meeting

of the Owners, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Owners to be convened as soon thereafter as may be convenient. The Board may from time to time by resolution change the date and time for the annual meeting of the Owners. Annual meetings shall not be required until the termination of Declarant's Class B Membership, but the Declarant may hold Annual Meetings at its discretion.

#### 4.02 Special Meetings.

Except as otherwise prescribed by statute or the Declaration, special meetings of the Owners, for any purpose, may be called by the president or by a majority of the trustees and shall be called by the president at the written request of Owners entitled to vote twenty percent (20%) or more of the total votes of all Owners, such written request to state the purpose or purposes of the meeting and to be delivered to the Board or to the president.

#### 4.03 Place of Meetings.

The Board may designate the Association's principal offices or any place within Utah County, Utah, as the place for any annual meeting or for any special meeting called by the Board.

4.04 Notice of Meeting. Written or printed notice of any meeting of the Owners, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally, by mail, or by electronic means (i.e. e-mail, text messaging or another similar manner) to each Owner entitled to vote at such meeting not less than thirty (30) nor more than sixty (60) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Owner at such Owner's address as it appears in the office of the Association, with postage thereon prepaid. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may set a record date for such determination of Owners, in accordance with the laws of the State of Utah. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

#### 4.05 Informal Action by Owners.

Any action required or permitted to be taken at a meeting of the Owners may be taken with or without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted.

### **ARTICLE 5. BOARD OF TRUSTEES**

#### 5.01 Number and Election of Trustees.

The Board of Trustees (the "Board") shall consist of no less than three (3) and no more than five (5) trustees. The initial trustees shall remain as trustees until the termination of Declarant's Class B Membership, as outlined in Section 3.01 above. The initial trustees shall

designate an Owner to take his or her place on the Board. Thereafter, subject to the terms and conditions of Sections 5.02 and 5.03 below, each trustee will hold office for a term of two (2) years, and the Owners entitled to vote shall elect the trustees at the annual meetings; provided, however that the terms of the trustees will be staggered so that the terms of approximately one-half of the trustees will expire each year. The Board will make appropriate arrangements to accomplish the staggering of terms by providing for the initial election of certain trustees for one or two year terms.

5.02 Removal of Trustees. Each trustee may be removed, with or without cause, by a majority vote of all Owners of the Lots entitled to vote.

5.03 Replacement of Trustees.

i. A vacancy on the Board created by the removal, resignation, or death of a trustee appointed or elected by the Owners shall be filled by a trustee elected by the Owners entitled to vote.

ii. Any trustee elected or appointed pursuant to this Section 5.03 shall hold office for the remainder of the unexpired term of the trustee who was replaced.

5.04 Resignations.

Any trustee may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.05 Regular Meetings.

Regular meetings of the Board may be held without call or formal notice at such places within or outside the State of Utah, and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of Owners, or any special meeting of Owners at which a Board is elected.

5.06 Special Meetings.

Special meetings of the Board may be held at any place within the State of Utah or by telephone, provided that each trustee can hear each other trustee, at any time when called by the president, or by two or more trustees, upon the giving of at least three (3) days' prior notice of the time and place thereof to each trustee by leaving such notice with such trustee or at such trustee's residence or usual place of business, or by mailing it prepaid and addressed to such trustee at such trustee's address as it appears on the books of the Association, or by telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the trustees shall be required.

#### 5.07 Quorum.

A majority of the number of trustees fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the trustees in attendance shall, except where a larger number is required by law, by the Articles, by the Declaration, or by these Bylaws, decide any question brought before such meeting.

#### 5.08 Waiver of Notice.

Before, at, or after any meeting of the Board, any trustee may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a trustee at any meeting of the Board shall be a waiver of notice by such trustee except when such trustee attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

#### 5.09 Informal Action by Trustees.

Any action required or permitted to be taken at a meeting of the trustees may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the trustees entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the trustees.

### ARTICLE 6. OFFICERS AND AGENTS

#### 6.01 General.

The officers of the Association shall be a president, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

#### 6.02 Removal of Officers.

The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

#### 6.03 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

#### 6.04 President.

The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents, and employees. The president of the Association is designated as the officer with the power to prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

#### 6.05 Secretary.

The secretary shall:

- i. keep the minutes of the proceedings of the Owners meetings and of the Board meetings;
- ii. see that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration, and as required by law;
- iii. be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board;
- iv. maintain at the Association's principal offices a record containing the names and registered addresses of all Owners, the designation of the Lot owned by each Owner, and, if such Lot is mortgaged, the name and address of each mortgagee; and
- v. in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

#### 6.06 Treasurer.

The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his/her duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Association. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

**ARTICLE 7.**  
**EVIDENCE OF OWNERSHIP, REGISTRATION OF**  
**MAILING ADDRESS, AND LIEN HOLDERS**

**7.01 Proof of Ownership.**

Any person on becoming an Owner shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in the Lot. Such copy shall remain in the files of the Association.

**7.02 Registration of Mailing Address.**

If a Lot is owned by two or more Owners, such Owners shall designate one address as the registered address. The registered address of an Owner or Owners shall be furnished to the secretary of the Association within ten (10) days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Lot or by such persons as are authorized to represent the interests of all Owners of the Lot. If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Lot.

**7.03 Liens.**

Any Owner who mortgages or grants a deed of trust covering such Owner's Lot shall give the Association written notice of the name and address of the holder of such mortgage or deed of trust and shall file true, correct, and complete copies of the note and security instrument with the Association.

**7.04 Address of the Association.**

The address of the Association shall be 1099 West South Jordan Parkway, South Jordan, Utah 84095. Such address may be changed by the Board from time to time upon written notice to all Owners and all listed mortgagees.

**ARTICLE 8.**  
**SECURITY INTEREST IN MEMBERSHIP**

Owners shall have the right irrevocably to constitute and appoint a holder of a mortgage or deed of trust their true and lawful attorney-in-fact to vote their membership in the Association at any and all meetings of the Association in which such Owner is entitled to vote and to vest in such holder any and all rights, privileges, and powers that they have as Owners under the Articles and these Bylaws or by virtue of the Declaration. Unless otherwise expressly provided in such proxy, such proxy shall become effective upon the filing of notice by such holder with the secretary of the Association. A release of the mortgage or deed of trust covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve Owners, as mortgagors or grantors of a deed of trust, of their duties and obligations as Owners or to impose upon the holder of a mortgage or deed of trust the duties and obligations of an Owner.

## **ARTICLE 9. AMENDMENTS**

### 9.01 By Trustees.

Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the trustees shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action. Notwithstanding the foregoing, unanimous approval of the trustees shall be required to amend or repeal Sections 5.02 through 5.04 hereof.

### 9.02 Owners.

Subject to any rights conferred upon holders of a security interest in the Declaration, the Owners may, by the vote of the holders of at least sixty-seven percent (67%) of the votes of the Owners entitled to vote, unless a greater percentage is expressly required by law, the Articles, the Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented. Notwithstanding the foregoing, unanimous approval of the Owners shall be required to amend or repeal Sections 5.02 through 5.04 hereof.

## **ARTICLE 10. MISCELLANEOUS**

### 10.01 Fiscal Year.

The fiscal year of the Association shall be such as may from time to time be established by the Board.

### 10.02 Other Provisions.

The Declaration contains certain other provisions relating to the administration of the Project, which provisions are hereby incorporated herein by reference.

### 10.03 Officer/Trustee Qualifications.

No individual may serve as an officer or trustee of the Association if that individual, or if such individual is associated with a Lot Owner, the Lot Owner associated with that individual, is delinquent in the payment of any dues, fees, assessments, or the like arising out of the Declaration, these Bylaws, or the Association's Articles of Incorporation. Provided, that nothing in the previous sentence shall require an officer or trustee of the Association to also be an Owner of a Lot within the Project.

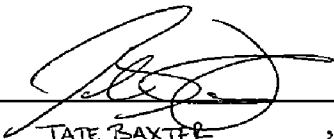
[SECRETARY'S CERTIFICATE APPEARS ON THE NEXT PAGE]



SECRETARY'S CERTIFICATE

I, the undersigned and duly elected Secretary of Arrowhead Park Urban Homeowners association Homeowners Association, a Utah nonprofit corporation (the "Association"), do hereby certify that the foregoing Bylaws were adopted as the Bylaws of the Association effective as of October 13<sup>th</sup>, 2020, and that the same do now constitute the Bylaws of the Association.

IN WITNESS WHEREOF, I have hereunto subscribed my name as the Secretary of the Association effective as of October 13<sup>th</sup>, 2020.

  
 \_\_\_\_\_, Secretary  
 TATE BAXTER