



PARTY WALL DECLARATION AND AGREEMENT  
FOR  
DUPLEX BUILDING  
(Lots 101 and 102)

ENT 168661:2020 PG 1 of 12  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2020 Oct 27 1:57 pm FEE 40.00 BY MA  
RECORDED FOR MERIDIAN TITLE COMPANY

THIS PARTY WALL DECLARATION AND AGREEMENT (this "Declaration") is made this 19<sup>th</sup> day of October, 2020, by RICHMOND AMERICAN HOMES OF UTAH, INC., a Colorado corporation ("Declarant").

RECITALS

A. Declarant is the owner of the real property (the "Property"), situated in Utah County, Utah, described as follows:

**Lots 101 and 102, Villages at Arrowhead Park Subdivision, Plat "I," according to the official plat thereof on file in the office of the Utah County Recorder, State of Utah.**

**~~Tax Id~~ - 54-395-0101 - 54-395-0102**

B. There has been or will be constructed on the Property a Duplex Building (as defined below).

C. The Duplex Building contains two (2) attached Dwelling Units separated by a Party Wall and covered by a common Roof.

D. Declarant desires to establish certain covenants pertaining to the Property, including but not limited to provisions addressing the parties' rights and responsibilities with respect to the Party Wall.

DECLARATION AND AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals which are deemed a substantive part hereof, for and in consideration of the covenants and promises herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Declarant declares, covenants and agrees that each Lot within the Property shall be held, sold, transferred and conveyed subject to the following easements, reservations, restrictions, liens, charges, covenants and conditions which are for the purpose of protecting the value and desirability of the Property and which shall run with the Property and be binding on all parties having any rights, title or interest in the Property or any part thereof, and their heirs, personal representatives, successors and assigns.

CERTAIN DEFINITIONS

A. "Declarant" means Richmond American Homes of Utah, Inc., a Colorado corporation, its successors and assigns.

B. "Declaration" means this Declaration which shall be recorded in the real property records of Utah County, Utah.

C. "Duplex Building" means the residential building constructed on the Property containing attached Dwelling Units joined by a Party Wall and covered by a common Roof.

D. "Dwelling Unit" means either of the single-family attached residences within a Duplex Building on the Property.

E. "Lot" means a lot within the Property as set forth on the Plat.

F. "Owner" means the owner of the fee simple interest to any Lot within the Property other than Declarant, as reflected in the real property records of Utah County, Utah, whether a person, persons, firm, corporation, limited liability company, partnership, trust, association or other legal entity. Declarant is not an Owner for purposes of this Declaration.

G. "Party Wall" means the common devising wall between Dwelling Units within the Duplex Building on the Property.

H. "Plat" means the final plat of The Villages at Arrowhead Park Subdivision Plat "I," recorded in the records of the Office of the Clerk and Recorder of Utah County, Utah on August 31, 2020, as Entry No. 131327:2020.

I. "Project" means the Duplex Building built on the Property.

J. "Property" means the real property legally described above.

K. "Related Users" means an Owner's family members, guests, invitees, licensees, design professionals, contractors, subcontractors, agents or employees.

L. "Roof" means the common roof over the Duplex Building.

**ARTICLE ONE**  
**Party Wall Declaration**

1.1. **Creation of Party Wall.** A common wall in a Duplex Building, located substantially along the property line between Lots which separates two Dwelling Units constitutes a Party Wall. The rights and obligations of the Owners and Declarant (so long as the Owner(s) or Declarant own(s) one or more Dwelling Units) with regard to the Party Wall shall be governed by the provisions of this Declaration.

1.2. **Easement for Encroachment.** Mutual reciprocal easements are hereby established, declared and granted for any encroachment of the Party Wall onto any adjoining Lot(s), which reciprocal easements shall be governed by this Declaration. Every deed to a Lot, whether or not expressly so stating, shall be deemed to convey and be subject to such reciprocal easements.

1.3. **Right of Use of Party Wall.** The owner of each Dwelling Unit separated by a Party Wall (including Declarant so long as it owns a Dwelling Unit) shall have the right to use the Party Wall attached to his or its Dwelling Unit, provided that such use does not interfere with the use and enjoyment thereof of the Party Wall by the Owner of the adjoining Dwelling Unit (whether Declarant or an Owner).

1.4. **Maintenance and Repair.** No Owner shall do or permit any act that would cause damage to or impair the structural integrity of the Party Wall. Subject to the provisions of Section 3.3, below, the cost of repairs to maintain the structural integrity of the Party Wall shall be shared equally by the Owners. If an Owner fails to repair or maintain the structural integrity of his or her portion of the Party

Wall, the other Owner shall notify such defaulting Owner of the failure and provide such Owner a reasonable period of time not exceeding five days in which to cure such default. If the defaulting Owner fails to cure the default within such time period the non-defaulting Owner may undertake such repair and for such purpose may enter upon the defaulting Owner's Lot, including the defaulting Owner's Dwelling Unit, without liability therefor except for damage resulting from willful misconduct of such Owner or his Related Users. The non-defaulting Owner shall have a Lien (hereinafter defined) against the defaulting Owner's Lot and Dwelling Unit in accordance with the provisions of Section 8.10 of this Declaration for the cost and expense incurred in making or causing such repairs to be made.

1.5. Damage by Fire or Casualty. If the Party Wall or any portion thereof is destroyed or damaged by fire or other casualty, the Owners shall restore it and they shall contribute equally to the cost of restoration thereof without prejudice, subject however, to the right of each Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner hereunder shall run with and be appurtenant to the land and shall pass to such Owner's successors in title. Notwithstanding anything to the contrary, an Owner who by his or her negligent or willful act causes the Party Wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.

1.6. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Party Wall and to the interpretation of the Declaration.

## ARTICLE TWO

### Insurance

2.1. Insurance Required. Each Owner shall obtain and continuously maintain in effect:

2.1.1. Insurance against loss or damage by fire and such other hazards as are normally covered under "standard" coverage in an amount not less than the full insurable replacement cost (with appropriate coverage for the costs of inflation and code compliance), for the Dwelling Unit and other improvements located on the Owner's Lot and/or Dwelling Unit, such insurance to provide coverage for at least each of the following: loss or damage by fire and other hazards covered by the standard, extended coverage endorsement, and for debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage.

2.1.2. General liability insurance insuring against liability due to bodily injury and property damage, written on an occurrence basis, with policy limits of not less than Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per occurrence, covering all claims for bodily injury and/or property damage, including contractual coverage for the Owner's agreement to indemnify the other Owner and the other Owner's Related Users as set forth in this Article Two. Each Owner shall cause each Owner of the other Dwelling Unit in the Duplex Building to be named as an additional insured on the Owner's liability insurance policy.

2.1.3. Each Owner, within thirty (30) days of request by another Owner, shall provide evidence of the insurance required to be carried by the Owner under this Section. Each Owner shall

obtain a provision in their respective insurance policies to provide for thirty (30) days' prior notice to the other Owners before cancellation or modification of such policy.

2.2. Indemnification; Waiver of Subrogation.

2.2.1. Except as provided for herein, each Owner shall defend and indemnify Declarant, each other Owner and the Owner's Related Users from and against any and all claims, liability, loss, damage, judgments, fines, penalties, losses, costs and expenses ("Claims"), including attorney's fees and costs, due to personal and/or bodily injury to any person or persons, and damage to real and/or personal property, arising out of or in any way connected with any act or omission by the indemnifying Owner or any of such indemnifying Owner's Related Users, excepting and excluding the negligence or willful misconduct of the other Owner or the other Owner's Related Users.

2.2.2. To the fullest extent permitted without voiding any insurance required to be carried by any Owner, each Owner waives any and all rights to recover against the other Owner or the other Owner's Related Users, for any loss or damage to such waiving Owner arising from any cause covered by any insurance required to be carried by such waiving Owner pursuant to this Declaration or any other insurance actually carried by such waiving Owner. Each Owner, from time to time, will cause the Owner's insurers to issue appropriate endorsements to all policies of insurance carried in connection with the Owner's Lot in which the Owner's insurers waive their subrogation rights for any such loss or damage.

**ARTICLE THREE**  
Covenants and Conditions Regarding the Exterior Areas

3.1. Obligation to Maintain Exterior of Dwelling Unit. Each Owner agrees to maintain the exterior of the Dwelling Unit on the Owner's Lot, including but not limited to the exterior building surfaces, patios, garage, walls, fences, electric gates, downspouts, walks, driveways, stairways, (collectively the "Exterior Areas") in a first class manner and in good working order, structural soundness and repair so as to maintain their attractive appearance.

3.2. Roof. Each Owner shall, at his own expense, maintain the portion of the Roof over the Dwelling Unit on the Owner's Lot in good condition and repair and in the original materials and colors. If the Owners of both Dwelling Units jointly repair or replace the entire Roof over both Dwelling Units, the Owners of the Dwelling Units shall share the cost equally. If the Owners of both Dwelling Units jointly repair or replace a portion of the entire Roof covering portions of the Roof on both Dwelling Units, then the cost of such repair shall be apportioned according to the square footage of the Roof over each Dwelling Unit being repaired or replaced, unless agreed to otherwise by the Owners. In the event of any repair to the Roof, any sum received from insurance against such injury or damage shall be first applied to such repair or replacement. Each Owner must ensure that any penetrations of the Roof are performed such that the roof system manufacturer's warranty is not voided. To the extent required by the roof system manufacturer's warranty, all penetrations of the Roof must be performed by contractors and in a manner approved by the roof system manufacturer.

3.3. Maintenance Responsibility for Exterior Areas. Maintenance, repair and replacement of the Exterior Areas on the Owner's Lot shall be the individual Owner's obligation and responsibility. Additionally, repairs of damage to the Property (including, without limitation, all or any portion of a Lot,

Duplex Building, or Party Wall) caused by an Owner or his/her Related Users, whether negligently or intentionally, shall be repaired by such Owner at his expense.

3.4. Owner Responsibility for Certain Acts. (a) If the exterior of a Duplex Building is damaged through the willful or negligent act of an Owner or his/her Related Users, which damage is not promptly repaired by that Owner; or (b) if an Owner fails to replace damaged glass surfaces; or (c) if an Owner fails to pay his/her share of any repair maintenance work which is the joint obligation of the Owners as provided in this Article Three; or (d) if any applicable governmental authority gives an Owner notice of a zoning violation which the Owner does not timely correct; then in each such event the other Owner may give the nonperforming Owner a written notice and demand to cure the matter. In the event that the matter has not been corrected or the sums due paid within 10 (ten) days thereafter, the non-defaulting Owner may undertake such repair and for such purpose may enter upon the defaulting Owner's Lot, including the defaulting Owner's Dwelling Unit, without liability therefor except for damage resulting from the willful misconduct of such Owner or his/her Related Users. The non-defaulting Owner shall have a Lien against the defaulting Owner's Lot and Dwelling Unit in accordance with the provisions of Section 8.10 of this Declaration for the cost and expense incurred in making or causing such repairs to be made.

#### ARTICLE FOUR (Reserved)

#### ARTICLE FIVE Utilities

5.1. Each Lot shall have separate water, electric and natural gas taps, service lines and meters. Each Owner shall be separately responsible for and shall pay before delinquency any water and utility charges separately metered to the Owner's Lot.

#### ARTICLE SIX Easements

6.1. Reciprocal Easements. There is hereby created a perpetual, non-exclusive easement for the installation and continued operation, maintenance, repair, alteration, inspection and replacement of utility lines, including, but not limited to, water lines, sewer lines, gas lines, telephone lines, television cable lines and such other utility lines and incidental equipment as such lines are located over, under and across the Property and the street adjacent thereto. Perpetual reciprocal easements for the continuance, maintenance and relocation of utility lines shall exist for the benefit and burden of both of the Owners of the Lots which constitute the Property.

6.2. Utility Easements. If any utility lines referred to in this Article are destroyed or damaged, the Owner whose Lot or Dwelling Unit is serviced by those lines shall cause the same to be restored forthwith. Notwithstanding any other provision in this Declaration, an Owner who by negligent or willful act causes damage to the utility line or lines of any other Owner shall bear the cost of restoration thereof and any other damages allowed by law. In the event that such damage has not been corrected within 24 hours, subject to the applicable utility company being able to make the repairs within such period of time, the Owner whose Lot or Dwelling Unit has been damaged may undertake such repair or cause the repairs to be made and for such purpose may enter upon the defaulting Owner's Lot,

including the defaulting Owner's Dwelling Unit, without liability therefor except for damages resulting from the willful misconduct of such Owner or his/her Related Users. The Owner whose Lot or Dwelling Unit has been so damaged shall have a Lien against the defaulting Owner's Lot and Dwelling Unit in accordance with the provisions of Section 8.10 of this Declaration for the cost and expense incurred in making or causing such repairs to be made.

6.3. Easements for Encroachments. If any portion of a Dwelling Unit or other improvements constructed as part of the initial construction on a Lot encroaches upon another Lot, a valid easement therefor shall exist for the encroachment and for the maintenance, repair and replacement thereof.

6.4. Easements for Maintenance. Each Lot shall be subject to an easement in favor of the Owners and their Related Users for providing the maintenance, repairs, operation and replacement described in this Declaration.

## ARTICLE SEVEN

### Damage or Destruction

#### 7.1. Damage or Destruction of the improvements on a Lot

7.1.1. In the event of damage or destruction to a Dwelling Unit due to fire or other disaster, the Owner of the damaged Dwelling Unit shall promptly commence the repair and reconstruction work necessary to restore the improvements to substantially the same condition as they existed prior to the damage. The cost of all such repairs and restoration work shall be paid by the Owner of the damaged Dwelling Unit from the proceeds of insurance or otherwise.

## ARTICLE EIGHT

### General Conditions

8.1. Covenants Run With the Land. The covenants and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owner of each Lot, his/her legal representatives, heirs, successors and assigns, in perpetuity from the date this Declaration is recorded.

#### 8.2. Amendments

8.2.1. This Declaration may only be amended by an instrument executed by all of the then-current owners of the Property. An amendment shall be effective upon recording in the records of the Office of the Clerk and Recorder of Utah County, Utah.

8.2.2. Notwithstanding anything to the contrary in this Declaration, no amendment to this Declaration that modifies or removes Section 8.12 (Dispute Resolution) or imposes any new or alters any existing obligation on Declarant or any Related Party will be effective or enforceable without the written consent of Declarant.

8.3. Enforcement. Each Owner shall have the right to enforce the covenants, restrictions and other provisions of this Declaration by any proceeding at law or in equity against the other Owner, a Related User or any other person or persons violating or attempting to violate any covenant or restriction, either for injunctive relief or damages or both, and against the Property to enforce any Lien created by this Declaration. The omission or failure of any Owner to enforce any covenant, restriction or

other provision set forth in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Except as provided in Section 8.12 with respect to Disputes involving Declarant or a Related Party, in the event of any litigation or arbitration between Owners arising out of this Declaration, in addition to any other relief awarded, the prevailing party shall be entitled to recover his reasonable costs and attorney's fees.

8.4. Partial Invalidity. If any provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of the remaining provisions, paragraphs, sentences, clauses, phrases and words shall remain in full force and effect.

8.5. Certain Terms Interchangeable. Whenever used herein, unless the context shall otherwise provide the singular number shall include the plural and the singular, and the use of any gender shall include all genders.

8.6. Waiver of Homestead. By accepting a deed or other instrument of conveyance thereto, any person having an interest in a Lot or Dwelling Unit waives the homestead exemption and any other exemption of the laws of the State of Utah or any federal law relating to any Lien filed by any Owner pursuant to this Declaration; otherwise, such exemptions are not hereby waived.

8.7. Address for Notices. Each Owner shall register his/her mailing address with the other Owner (if different from the street address of his Dwelling Unit) and all notices or demands intended to be served upon an Owner shall be in writing addressed to such Owner at such address and either (i) sent by certified mail, postage prepaid, return receipt requested (in which case such notice or demand will be deemed delivered three (3) business days following the deposit of same with the U.S. Postal Service), (ii) sent by a nationally-recognized overnight carrier such as FedEx (in which case such notice or demand will be deemed delivered one (1) business day following the deposit of same with such carrier), or (iii) personally delivered with written confirmation of delivery or refusal of delivery (in which case such notice or demand shall be deemed delivered on the date personally delivered, the date such delivery is refused, or the date set forth on the written confirmation, whichever is earlier).

8.8. Evidence of Compliance with this Declaration. Each Owner shall provide, within fifteen (15) days after delivery of a written request by the other Owner, a mortgagee, prospective purchaser or prospective mortgagee, a statement indicating the amount of any unpaid charges or amounts due from the requesting Owner under the terms of this Declaration, any existing defaults under this Declaration and any other information deemed proper by the responding Owner. In the event the Owner requested to provide the statement fails to do so within such fifteen (15) days, such failure shall be deemed conclusive evidence that no amounts due under this Declaration are unpaid by the requesting Owner and no defaults by the requesting Owner exist under this Declaration.

8.9. Payments by Third Parties. Any mortgagee holding a first mortgage on any Lot may jointly or separately pay any taxes, Liens or other charges which are in default and which may or may not have become a charge against the Property and may pay overdue premiums for hazard insurance policies or secure new hazard insurance coverage in the lapse of such policy and any first mortgagee upon the making of such a payment shall be immediately owed reimbursement therefor from the Owner of such Lot.

8.10. Lien. All sums and amounts due and payable by one Owner to the other Owner under this Declaration which are not paid when due shall be a personal obligation of the Owner and, in

addition, shall constitute a lien on such Owner's Lot in favor of the other Owner (the "Lien"). To evidence the Lien, the Owner entitled to the Lien may, but shall not be required to, prepare a written Notice of Lien setting forth the nature and amount of the unpaid indebtedness, the date the indebtedness first became due, and the name of the Owner and legal description of the Lot subject to the Lien. The Notice of Lien may be recorded in the records of the Office of the Clerk and Recorder of Utah County, Utah, at any time more than ten (10) days after demand by the Owner entitled to the Lien to the other Owner for such payments and the failure to pay of such non-paying Owner. Once a Notice of Lien is duly recorded, the Lien may be foreclosed by judicial foreclosure in the same manner as foreclosure of a mortgage on real property. In any proceeding to foreclose a Lien or to recover amounts due from an Owner, the prevailing party in such proceeding, in addition to any other relief awarded, shall be awarded his/her costs, expenses and reasonable attorneys' fees incurred in connection with the recording and enforcement of the Lien, including but not limited to reasonable attorney's fees and costs incurred in any proceeding to enforce the Lien. If the non-paying Owner satisfies the indebtedness before a Lien foreclosure action is commenced, the holder of the Lien shall promptly execute and cause to be recorded an appropriate instrument releasing and discharging the Lien.

8.11. Mutual Cooperation. Each Owner shall reasonably cooperate with the other Owner's request for cooperation in obtaining a building permit or such other license as may be required from a governmental agency for the purpose of repairing, replacing or remodeling the improvements on the requesting Owner's Lot.

8.12. Dispute Resolution.

8.12.1. All claims, disputes, controversies, grievances, suits, actions, or causes of action (collectively hereinafter referred to as "Dispute") between any Owners and/or Related Users (each individually an "Owner Party" and collectively, "Owner Parties"), on the one hand, and Declarant and/or its respective design professionals, contractors, subcontractors, managers, members, officers, directors, shareholders, parents, subsidiaries, affiliates, agents and/or employees (individually a "Related Party" and collectively, "Related Parties"), whether sounding in contract, tort, statute or otherwise, arising out of, related to or in any way connected with the Property, any Lot, any Dwelling Unit, the Duplex Building, the development, construction, marketing, sale, warranty and/or repair of any Lot and/or Dwelling Unit, any Duplex Building, any portion of the Property, the Project, this Declaration, or any resulting transaction shall be submitted to non-binding mediation before resorting to arbitration.

8.12.2. Mediation is a process in which parties attempt to resolve a dispute by submitting to an impartial neutral mediator who is authorized to facilitate the resolution of the dispute but who is not empowered to impose a settlement on the parties.

8.12.3. In any mediation involving Declarant, Declarant shall be responsible for the mediator's fees and any filing or administration fees for a one-day mediation. Mediation fees for any further mediation shall be divided equally among the parties involved.

8.12.4. Before mediation begins, the parties shall sign a document acknowledging and agreeing consistent with Utah law that no statements or admissions made, or documents prepared or furnished, in the course of the mediation, shall be admissible in any subsequent mediation or civil action.

8.12.5. If any Dispute is asserted against Declarant or any of Declarant's Related Parties and is based on a defect in the design or construction of any improvements related to the Project,

subject to the applicable Owner's prior written approval, which shall not be unreasonably withheld, Declarant shall have the right to access the affected area for the 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 applicable Owner shall meet with the Declarant and/or its designees to discuss, in good faith, ways to resolve the Dispute. The inspecting party shall indemnify, defend and hold harmless the Owners, tenants, guests, employees and agents thereof, 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 provision, or as a result any inspecting party's breach of this provision.

8.12.6. If any party commences an arbitration or court action based on a Dispute to which this Section applies without first attempting to resolve the matter through mediation, that party shall not be entitled to recover costs even if they would otherwise be available to that party in any such arbitration or court action.

8.12.7. Any Dispute not resolved through mediation shall be decided by neutral, binding arbitration and not by court action. By accepting a deed to his Lot, each Owner, on behalf of himself and his Related Users, agrees that (i) any Dispute involving any of Declarant or any of Declarant's Related Parties will be resolved by arbitration as set forth herein and not in a court of law; and (ii) Declarant will have the option to include any of its Related Parties in the arbitration. **By accepting a deed to his/her Lot, the Owner also agrees that the provisions of this Section shall be a covenant running with the Property, and binding upon the Owner, his/her Related Users, heirs, personal and legal representatives, successors and assigns.** By accepting a deed to his/her Lot, the Owner further agrees that any action brought by an Owner Party against Declarant or any Related Party shall be brought by independent action and that no Owner Party shall serve as a class representative or become a class member to pursue such action, and Owner expressly waives any and all rights to any other means of pursuing a cause of action against Declarant or any Related Party, including without limitation a court action, and agrees that binding arbitration pursuant to this Section is the Owner Party's sole remedy to solve any Dispute with Declarant or any Related Party. The waiver or invalidity of any portion of this Section will not affect the validity or enforceability of the remaining portions of this Section. Except as otherwise expressly stated herein, the arbitration shall be conducted in accordance with the Utah Uniform Arbitration Act ("UUAA"), and the arbitration proceeding shall be subject to each of the following:

8.12.7.1. The arbitration shall be conducted by a single arbitrator who shall be a retired Utah state court or Federal judge or attorney licensed to practice law in Utah. 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.

8.12.7.2. 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 8.12.7.1 above.

8.12.7.3. The arbitration shall not be open to the public. The decision shall not be published. The arbitrator's decision shall not establish a precedent.

8.12.7.4. The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in the county in which the Property is located, unless otherwise agreed by the parties.

8.12.7.5. If Declarant is a party to a Dispute, Declarant shall have the right to join any Related Party or Related Parties in the arbitration.

8.12.7.6. The arbitrator shall apply the substantive law of Utah to all claims and defenses. The Utah Rules of Civil Procedure shall govern disclosure, discovery and all other pre-hearing, hearing and post-hearing proceedings in the arbitration. The Utah Rules of Evidence shall govern the admissibility of evidence at the hearing.

8.12.7.7. The arbitrator shall issue an award within 30 days of the completion of the arbitration hearing or, if post-hearing briefs are submitted, within 30 days of receipt of the briefs. If the parties file post-hearing briefs, they shall submit such briefs within 20 days of the completion of the hearing. No extensions of time will be permitted.

8.12.7.8. In the event the arbitrator requires any advance fees to be paid, the parties will divide those equally. All arbitrator and arbitrator fees shall be split equally among the parties to the arbitration. If the arbitration award requires any party to pay more than one-half of the fees, the parties shall adjust credit for payment of the advance fee to accurately reflect payment required under the award.

8.12.7.9. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

8.12.7.10. The arbitrator shall have no authority to award attorney's fees. The arbitrator shall have no authority to award punitive, statutory damages, consequential damages or any damages other than actual damages.

8.12.7.11. Except as may be required by law, for confirmation of an arbitration award, or by another provision of this Declaration, neither a party nor an arbitrator may disclose the existence of an arbitration or any matters regarding an arbitration, including contents or result, without the prior, written, discretionary consent of all parties to such arbitration.

For any Dispute described by this Section 8.12, in the event that a court declines to enforce the alternative dispute resolutions in this Section 8.12, Declarant, on behalf of itself and its Related Parties, and by the acceptance of a Deed to a Lot, each Owner, on behalf of himself, his/her Related Users, heirs, personal representatives, successors and assigns, waives the right to a jury trial in any action or proceeding between any one or more Owner Parties on the one hand and Declarant or any Related Party on the other hand.

8.12.8. Each party shall be responsible for its own attorney's fees in any mediation and/or arbitration proceeding conducted pursuant to Section 8.12. Notwithstanding the foregoing, if a party refuses to comply with the alternative dispute resolution provisions in this Section 8.12, and Declarant, a Related Party or an Owner Party institutes a court proceeding to enforce compliance with the

alternative dispute provisions of this Section 8.12, such instituting party shall be entitled to recover its attorney's fees, costs and expenses incurred in connection with the proceeding to enforce compliance with the alternative dispute resolution provisions of this Section 8.12.

In witness whereof, the undersigned Declarant has executed this Declaration as of the day and year first above written.

## DECLARANT:

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

BY:



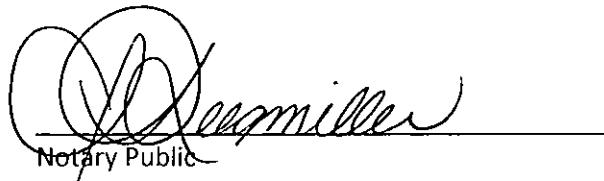
Paul Peterson, Division President

STATE OF UTAH )  
                    )  
                    ) ss.  
COUNTY OF UTAH )

The above and foregoing Party Wall Declaration and Agreement was acknowledged before me on October 20, 2020, by Paul Peterson, President of Richmond American Homes of Utah, Inc., a Colorado corporation, on behalf of such corporation.

My commission expires: October 1, 2022

Witness my hand and official seal.



Seegmiller

Notary Public

