

RETURNED

MAY 21 2018

E 3094511 B 7019 P 1184-1214
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
05/21/2018 03:53 PM
FEE \$111.00 Pgs: 31
DEP RTT REC'D FOR SMITH KNOWLES PC

After Recording Return to:
Smith Knowles, P.C.
2225 Washington Blvd., #200
Ogden, Utah 84401

**SECOND AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS**

For
Rice Farms Estates, Phases 2 and 3, a Planned Unit Development
Davis County, Utah

THIS SECOND AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RICE FARMS ESTATES PHASES 2 AND 3, A PLANNED UNIT DEVELOPMENT (this "Declaration") is hereby adopted by Rice Farms Estates Phases 2 and 3 Homeowners Association ("Association"), for and on behalf of its Members, and made effective as of the date recorded in the Davis County Recorder's Office.

RECITALS:

(A) This Declaration affects and concerns the real property located in Davis County, Utah and more particularly described as follows:

Rice Farms Estates Phase 2 P.U.D. 07-258-0201 – 0215
Rice Farms Estates Phase 3 P.U.D. 07-273-0301 – 0328

("Property", "Subdivision" or "Project")

(B) On February 20, 2007, a Plat Map depicting Phase 2 of Rice Farm Estates was recorded in the Davis County Recorder's Office, as Entry No. 2245806.

(C) On February 20, 2007, a Declaration of Protective Covenants, Agreements, Conditions, and Restrictions Affecting the Real Property of Rice Farms Estates Phases 2 and 3, a Planned Unit Development, Farmington City, Davis County, State of Utah ("Enabling Declaration"), was recorded in the Davis County Recorder's Office as Entry No. 2245807.

(D) On August 13, 2007, a Plat Map depicting Phase 3 of Rice Farm Estates was recorded in the Davis County Recorder's Office, as Entry No. 2296873, which was amended on November 23, 2009 and recorded in the Davis County Recorder's Office, as Entry No. 2495383.

(E) On or about March 8, 2010, an Amended and Restated Declaration of Protective Covenants, Agreements, Conditions and Restrictions Affecting the Real Property of Rice Farms

Estates, Phases 2 and 3, a Planned Unit Development, Farmington City, Davis County, State of Utah ("Amended & Restated Declaration") was recorded in the Davis County Recorder's Office, as Entry No. 2515481.

(F) On or about March 19, 2007, a Declaration of Restrictions was recorded in the Davis County Recorder's Office, as Entry Nos. 2253432 and 2253433, concerning certain open space being treated as a preserve area.

(G) On or about February 7, 2007, the U.S. Army Corp of Engineers entered into certain agreements with the Association for management of wetland areas, including the Final Wetland Mitigation and Monitoring Plan for the Rice Farms Estates Residential Development.

(H) On January 22, 2014, a Notice of Reinvestment Fee was recorded in the Davis County Recorder's Office, as Entry No. 2786515.

(I) On December 12, 2014, a Notice of Rental Restriction was recorded in the Davis County Recorder's Office, as Entry No. 2838687.

(J) The Association and its Members, consistent with the Amended & Restated Declaration and any subsequent amendments (including any not referenced herein), hereby adopt this Declaration. This Declaration hereby amends, replaces and supersedes all prior declarations and amendments, rendering the prior declarations and amendments of no further force and effect. This Declaration, along with any future amendment(s), shall be the sole Declaration for the Property.

(K) The Property is subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Project. Common Areas are those areas that are depicted as Common Areas in the recorded Plat Map(s), as well as any future recorded Plat Map(s), or as described in this Declaration. The Plat Maps for Phase 2 and Phase 3 Amended are attached hereto as **Exhibit A**.

(L) The Association and its Members desire that the Board amend the existing Articles of Incorporation with the Utah Department of Commerce contemporaneously with the recording of this Declaration. The Association and its Members hereby authorize and approve filing the Amended & Restated Articles of Incorporation of Rice Farms Estates Phases 2 and 3 Homeowners Association ("Articles") with the State of Utah, a copy of which has been previously provided to and approved by the Owners.

(M) The Association and its Members desire that the Board amend the Bylaws for the Association and hereby authorize and approve the recording of the Amended & Restated Bylaws of Rice Farms Estates Phases 2 and 3 Homeowners Association, a copy of which is attached hereto as **Exhibit B** ("Bylaws"), which shall be recorded in the Davis County Recorder's Office contemporaneously with the recording of this Declaration. The Association and its Members,

consistent with any prior, existing bylaws and any subsequent amendments thereto (including any not referenced herein), hereby adopt the Bylaws attached hereto as **Exhibit B**. These Bylaws hereby amend, replace and supersede all prior bylaws and amendments, rendering the prior bylaws and amendments of no further force and effect. These Bylaws, along with any future amendment(s), shall be the sole Bylaws for the Property.

(N) Pursuant to the Utah Community Association Act, Owners of record, holding not less than sixty-seven percent (67%) of the total voting power of the Association, provided their written consent approving and consenting to the recording of this Declaration, the attached Bylaws, and filing of the Articles.

CERTIFICATION

By signing below, the Board hereby certifies that the Association has obtained the approval or written consent of Owners holding at least sixty-seven percent (67%) of the total votes of the Association, as required by the Utah Community Association Act, approving and consenting to the recording of this Declaration and Bylaws and the recording of the Articles.

(O) The Association and its Members desire to subject the Property to the terms and conditions of this Declaration, the Utah Community Association Act, Utah Code Ann. § 57-8a-101 *et. seq.*, and the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 *et. seq.* The Property does not constitute a cooperative.

(P) The Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, improvement and sale of the Property or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Lot located on the Property, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon the Association and its members, and its successors in interest; and may be enforced by the Association, any Member, and their successors in interest.

(Q) These Recitals are made a part of this Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I
DEFINITIONS

1.0 Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Declaration, shall have the following meanings:

(A) "Act" means the Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*

(B) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by this Declaration, the Bylaws, and/or Articles.

(C) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Member by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee or other charge.

(D) "Articles" shall mean the Amended & Restated Articles of Incorporation for the Association, as amended from time to time.

(E) "Association" shall mean RICE FARMS ESTATES PHASES 2 AND 3 HOMEOWNERS ASSOCIATION, and as the context requires, the officers or directors of that Association.

(F) "Board" or "Board of Directors" shall mean the duly elected and acting Board of Directors of the Association.

(G) "Bylaws" shall mean the Amended & Restated Bylaws of the Association, as amended from time to time, a copy of which is attached hereto as **Exhibit B**. No amendment to the Bylaws shall be effective until it is duly approved and recorded.

(H) "City" shall mean Farmington City, Utah and its appropriate departments, officials and committees.

(I) "County" shall mean Davis County, Utah and its appropriate departments, officials and committees.

(J) "Common Area(s)" shall mean all property designated on the recorded Plat(s) as Common Area(s) or described within this Declaration as Common Area(s), being owned or intended ultimately to be owned by the Association for the common use and enjoyment of all Owners, together with all improvements or structures thereon and all of the easements appurtenant thereto including, but not limited to: private roadways, detention basins, visitor parking space,

and open space. The Association shall maintain the Common Area(s).

(K) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas and Limited Common Areas that are the responsibility of the Association (if any); (B) providing facilities, services and other benefits to Owners as set forth in this Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Declaration or the Act.

(L) "Declaration" shall mean this Second Amended & Restated Declaration of Covenants, Conditions and Restrictions for Rice Farms Estates, together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(M) "Dwelling" shall mean a structure which is designed and intended for use and occupancy as a single family residence, whether attached or detached from other residences, including both townhome and patio homes, together with all improvements located on the same Lot and used in conjunction with such residence.

(N) "Governing Documents" shall mean this Declaration, Bylaws, Articles, Rules, and any other documents or agreements binding upon an Owner.

(O) "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, single family homes, Dwellings, residences, garages, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

(P) "Limited Common Areas" shall mean all property designated on the recorded Plat Map(s), or as described in this Declaration as Limited Common Area, being intended ultimately to be owned by the Association but for the exclusive use and enjoyment of one or more appurtenant Lots but fewer than all of the Lots including, but not limited to, private driveways.

(Q) "Lot" shall mean any numbered building lot shown on any official and recorded Plat(s) of all or a portion of the Project, including any Dwelling or Improvement constructed thereon. If the Project contains Dwellings that share a Party Wall, Lot may also refer to each individually, owned Dwelling.

(R) "Manager" shall mean any entity or person engaged by the Board of Directors to manage the Project.

(S) "Owner" shall mean and refer to the Person or Persons who are vested with record

title to a Lot, and whose interest in the Lot is held (in whole or in part) in fee simple, according to the records of the Davis County Recorder's Office, including buyers under any contract for deed. However, Owner shall exclude any person or entity holding title solely for purposes of securing performance of any obligations, including the trustee and/or beneficiary under a deed of trust or mortgagee under a mortgage. Membership in the Association is appurtenant to each Lot and an Owner shall be deemed a "Member" of the Association.

(T) "Party Wall" shall have the meaning set forth in the Declaration.

(U) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

(V) "Plat(s)" or "Plat Map(s)" shall mean an official and recorded Plats for Phase 2 and 3 of Rice Farms Estates in the Davis County Recorder's Office, as they may be amended from time to time.

(W) "Project" shall mean all phases of Rice Farms Estates and all Lots, Common Areas, and other property within the subdivision, as shown on the Plat(s).

(X) "Property" shall have the meaning set forth in the recitals.

(Y) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

(Z) "Wetlands" means areas within the Property designated as wetlands by U.S. Corps of Engineers' documents, subject to any maintenance requirements and/or agreements with the U.S. Army Corp of Engineers, including that certain Final Wetland Mitigation and Monitoring Plan for the Rice Farms Estates Residential Development, date February 7, 2007.

ARTICLE II EASEMENTS

2.1 Easement Concerning Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom, or encumbered, pledged, assigned or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

2.2 Easement for Private Areas. The Association shall have a nonexclusive right and easement to private front yard, rear yard and backyard areas and also such privately fenced

common areas as currently exist behind certain homes for any landscaping maintenance that may provided by the Association.

2.3 Easement Concerning Limited Common Area. The Association shall have a non-exclusive drainage and public utility easement, as well as any easement for any related snow removal that may be performed by the Association. With the exception of the rights and easements granted to the Association, the Owner(s) of a Lot shall have the exclusive use of all Limited Common Area appurtenant to their Lot, including corresponding rights of adjacent Owners of the same Limited Common Areas.

2.4 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;

(b) The right of the Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

(c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, transporting school children, utility access/installation, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association, provided that such dedication or transfer must first be assented to in writing by the Owners of at least sixty-seven percent (67%) of the Lots. No such dedication or transfer, however, may take place without the Association first receiving written approval from City and/or County pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer.

2.5 Reservation of Access and Utility Easements. The Association hereby reserves an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such

purposes over, under, across, along and through the Property 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 Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. Each Owner in accepting the deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

2.6 Easements for Encroachments. If any part of the Common Areas now existing upon any Lot or hereinafter constructed by Association encroaches upon a Lot, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any Common Area improvement 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 a Lot or upon any portion of the Common Area due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

2.7 Easement in Favor of Association. The Lots, Common Area and Limited Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

- (a) For inspection during reasonable hours of the Lots, Common Area, and Limited Common Area in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair and replacement of portions of the Common Area and Limited Common Area;
- (c) For correction of emergency conditions on one or more Lots or on portions of the Common Area and Limited Common Area;
- (d) For the purpose of enabling the Association, the Architectural Control Committee or any other committees appointed by the Association to exercise and discharge during reasonable hours their respective rights, powers and duties;
- (e) For inspection during reasonable hours of the Lots, Common Area, and Limited Common Area in order to verify that the Owners and occupants, and their guests, tenants and invitees, are complying with the provisions of the Governing Documents.

ARTICLE III
COMMON AREAS

3.1 The Common Areas shall be and are hereby conveyed to the Association, a Utah non-profit corporation, subject to this Declaration and subject to all easements as set forth in this Declaration, including any structures related to the operation or maintenance of the Common Areas, together with any rights or way and utilities.

3.2 Owners and the Association shall follow any procedures required by valid maintenance agreements with regard to areas designated at Wetlands.

ARTICLE IV
LIMITED COMMON AREAS

4.1 The Limited Common Areas shall be and are hereby conveyed to the Association, a Utah non-profit corporation, subject to this Declaration and subject to all easements as set forth in this Declaration.

4.2 The Limited Common Areas consists of certain private driveways, as designated on the recorded Plats. Owners shall be responsible for the maintenance, repair, and replacement of Limited Common Areas appurtenant to their Lots.

ARTICLE V
MAINTENANCE OF COMMON AREAS, LIMITED COMMON AREAS, AND LOTS

5.1 Maintenance by the Association. The Association shall furnish and be responsible for, at the Association's expense, the maintenance, repair and replacement of the Common Area, which includes the following:

(a) Asphalt repair, maintenance and replacement of private roads and visitor parking areas within the Project;

(b) The Association shall perform general landscaping maintenance in the Project for areas outside of Owner installed fencing and Private Areas surrounding the Dwelling, which will generally include mowing, edging, blowing of grass, raking and disposal of leaves. The Association shall maintain the original sprinkler system, as originally installed. Owner is responsible for any approved changes in sprinkler system, or other modifications to the landscaping from the original installation. The Association may adopt Rules to add further detail with regard specific landscape maintenance provided by the Association and those responsibilities of Owners concerning such items including, but not limited to: gardens, flowerbeds, bushes, trees, and other landscaping elements. Landscaping for any Dwelling shall be maintained in good condition by the Owner. Prior written permission must be obtained by the ACC to materially modify exterior landscaping

on any Unit.

(c) Repair, maintenance and replacement of any perimeter fencing, in the Project;

(d) The Association shall make reasonable and prudent efforts to contract with a third party for the removal of snow from roads and other relevant Common Areas within the Project. Owners shall be responsible for removing snow from sidewalks, driveways, entryways, porches, patio areas, and other applicable areas on their Lot. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow will be delegated to a third party, who will utilize its discretion in the frequency of the snow removal and the amount of accumulation meriting removal. The Association shall not be responsible or liable for said third party's discretion and removal of snow.

(e) Light Poles;

(f) Community mailboxes (if any);

(g) Walkways and sidewalks that serve more than one Lot; and

(h) Private utility lines/infrastructure that serves more than one Lot that are not maintained by the City or County.

5.2 Limited Common Area. Owners shall be responsible for the maintenance, repair and replacement of Limited Common Areas appurtenant to their Lots.

5.3 Lots, Dwellings & Private Areas. Owners are solely responsible for the repair, maintenance and replacement of all elements and Improvements association with an owner's Lot and Dwelling.

5.4 Maintain in Clean Condition. The Owner shall be responsible for keeping the Dwelling and Improvements thereon in a clean and sanitary condition, free of pests and rodents, and uncluttered. The Board of Directors may set forth in the Rules any limits, restrictions, or guidelines on what may or may not be left, stored, or installed in any Dwelling, which may include a prohibition on leaving, installing or storing any items in such places.

5.5 Repairs by Association. In the event that an Owner permits his Dwelling or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 30 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement shall be

charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

5.6 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the ACC. No subsequent exterior alterations, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the ACC.

5.7 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the ACC, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage, before re-construction begins. Such temporary measures may be taken without the consent or approval of the ACC, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

ARTICLE VI PARTY WALLS

6.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Townhouse Dwelling within the Project and placed on the dividing line between two Townhouse Dwellings shall constitute a Party Wall; and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Generally speaking, Owners shall provide common support and care on each side of the Party Wall and owe reciprocal rights and responsibilities to one another for maintenance of the Party Wall.

6.2 Owners shall be solely responsible to insure their Dwellings and Lots.

ARTICLE VII MEMBERSHIP

7.1 Membership in the Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Association so long as such Owner has an ownership interest

in a Lot and such membership shall automatically terminate when the Owner ceases to have an ownership interest in the Lot. Upon the transfer of an ownership interest in a Lot, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Lot is held.

ARTICLE VIII
VOTING

8.1 Only an Owner that is current on all assessments and charges due and owing at least thirty (30) days prior a duly noticed meeting shall be deemed in good standing and eligible vote. With regard to any approval that requires a specified percentage of total membership, the total membership shall be calculated from the total number of Owners eligible to vote at the time such approval is sought.

8.2 The Association shall have one class of voting membership, and each Owner shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Since an Owner may be more than one person, if only one of such person(s) is present at the meeting of the Association that person shall be entitled to cast all votes appertaining to that Lot. But if more than one of such person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

8.3 The Association shall honor the vote of a trustee or successor trustee of any trust that is an Owner and shall honor the vote of an individual that is a holder of a Limited or General Durable Power of Attorney with respect to an Owner who is disabled or unavailable as though such vote were the vote of the Owner.

ARTICLE IX
HOMEOWNER ASSOCIATION

9.1 Organization. The Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation.

9.2 Enforcement Powers. The Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against

an Owner and their Lot; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense (with the exception of water, sewer, power and natural gas); (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Subdivision at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Association shall have the authority to initiate and compromise claims and litigation on behalf of the Association resulting from the enforcement of the Governing Documents. In the event that the Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action; otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

9.3 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Association. The Association has the power to levy assessments against each Lot as necessary to carry out its functions. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Lot, be deemed to covenant and agree to pay to the Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) Regular Assessment. The Association shall have the power to levy

assessments equally against all Lots for certain Common Expenses and shall be vested with the assessment powers granted to the Association by this Declaration and the Act.

(c) **Special Assessment.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas.

(d) **Individual Assessment.** The Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Subdivision or otherwise causes the Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

(e) **Reserve Assessment.** The Association may levy a reserve fund assessment, as set forth in this article.

(f) The Association may levy other assessments or fees, as authorized by the Governing Documents.

9.4 **Budget.** The Board is authorized and required to adopt a budget annually, which shall be presented to the Owners at least annually. The Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget. The budget shall estimate and include the total amount for any common expenses, shall contain an appropriate amount for reserves, and may include an amount for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories.

9.5 **Association Rules.** The Board from time to time and subject to the provisions of the Governing Documents and the Act, may adopt, amend, repeal and enforce Rules.

9.6 **Statement of Account & Payoff Information.** Upon a written request from an Owner that the Association provide the Owner with a statement of his/her account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of an Owner's sale of his/her Lot, the Association may charge a fee not to exceed \$50.

9.7 Indemnity of Association Board and Officers. The Association will indemnify the officers, agents and Board of the Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under the Governing Documents.

9.8 Elections. Election procedures and notice of any meeting shall be conducted as set forth in the Bylaws. The appointment, election and term of the Owners of the Board are set forth in the Bylaws.

9.9 Fines. Following notice as required by the Act, the Association shall have the power to assess a fine against an Owner and/or their Lot for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

9.10 Hearing Process. The Board shall have authority to create a reasonable hearing process applicable when the Association takes an adverse action related to any particular Owner(s) in accordance with the Act.

9.11 Availability of Documents. The Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to govern its record retention procedures.

9.12 Reinvestment Fee. The Board shall have power to levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the amount of one half of one percent (1/2%) of the sales price, not to exceed a maximum of \$500, unless a lesser amount is determined by the Board.

ARTICLE X

NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

10.1 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by: suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

10.2 Due Date, Charges & Interest. Unless otherwise established by the Board, monthly assessments shall be due and payable on the first of each month and late if not received by the 10th of each month. The Board may charge a late fee in an amount set by the Board, but not to exceed \$50.00 for each unpaid or late assessment. In addition to late fees, interest shall accrue on all unpaid balances, including prior, unpaid interest and attorney fees (resulting in compounding interest), late fees, and assessments at 18% per annum or 1.5% per month. The Board may also impose other reasonable charges imposed by a Manager or attorney related to collections.

10.3 Lien. Upon recording of a notice of lien on any Lot, there shall exist a perfected

lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.

10.4 Foreclosure. The Association shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

10.5 Other Remedies. All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

10.6 Payment by Tenant. The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

10.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents.

10.8 Appointment of Trustee. The Association hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, *Esq.*, a licensed member of the Utah State Bar, with power of sale, the Lot and all Improvements to the Lot or Unit for the purpose of securing payment of assessments under the terms of this Declaration. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

ARTICLE XI
SUBORDINATION OF LIEN TO INSTITUTIONAL
FIRST AND SECOND MORTGAGES

11.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the lien of any institutional first or second mortgage of record made in good faith and for value, recorded prior to a recorded notice of lien by the Association. No foreclosure, sale or transfer shall

relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer.

ARTICLE XII
USE LIMITATIONS & RESTRICTIONS

12.1 Single Family. All Lots shall be used only for single-family residential purposes, and no more than one Dwelling shall be constructed on any Lot. "Single Family" shall mean and refer to a group of natural persons residing in the same residential structure and maintaining a common household related to each other by blood, adoption or marriage, or a group of unrelated individuals of not more than two persons per bedroom.

12.2 Zoning Regulations. The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Project. No Lot may be occupied in a manner that is in violation of any statute, law or ordinance.

12.3 Licensed Contractor. Unless the Architectural Control Committee gives a written waiver of approval to an Owner, no Improvement may be constructed, remodeled or altered on any Lot except by a licensed contractor, duly qualified and licensed by the appropriate governmental authorities.

12.4 No Mining Uses. The property within the Project shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted.

12.5 No Business or Commercial Uses. No portion of the Project may be used for any commercial business use, provided, however, that nothing in this provision is intended to prevent the use by any Owner of his Lot for a home occupation pursuant to City or County ordinance. Businesses, professions or trades may not require heavy equipment or create a nuisance within the Project, and may not noticeably increase the traffic flow to the Project.

12.6 Restriction on Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than one square foot for identification (numbering) purposes. One sign of not more than six square feet may be used for advertising the Lot for sale or identifying the home during construction.

12.7 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the City and/or County.

12.8 Dwelling to be Constructed First. No garage, out building or other Improvement may be constructed prior to the construction of Dwelling on the Lot.

12.9 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Project are to be underground, including lines within any Lot which service

installations entirely within that Lot. No above-ground propane tanks may be installed on any Lot.

12.10 Sewer Connection Required. All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwellings must be connected to the sanitary sewer system.

12.11 Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy.

12.12 No Re-Subdivision. No Lot may be re-subdivided.

12.13 Combination of Lots. No Lot may be combined with another Lot without the consent of the Architectural Control Committee.

12.14 Construction. No Improvement shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction, re-construction or remodeling unless any delays are approved in writing by the ACC.

12.14 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot or the Project, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots. No Owner or occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. Quiet hours shall be from 10:00 pm to 7:00 a.m. Notwithstanding, it is not the intent of this provision to restrict children at play, portable basketball standards, sports nets, outdoor games, BBQs or other social gatherings that comply with the quiet hours.

12.15 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners' insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those reasonable and customary for household uses, the discharge of firearms and setting open fires (other than property supervised and contained).

12.16 No Unsightliness. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during construction of an Improvement); open storage or parking of construction equipment; open storage or parking of vehicles, trailers or other pieces of equipment that are unusable, in poor condition or unsightly; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; and the storage or accumulation of any other material that is unsightly.

12.17 Garbage. The Board may adopt policies and procedures for the maintenance of garbage and refuse in the Project.

12.18 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and reasonably limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the City and/or County. Holiday or seasonal decorative lights, that otherwise comply with the terms of the Governing Documents, are permitted.

12.19 No Annoying Sounds. No speakers, windbells, windchimes, or other noise making devices may be used or maintained on any Lot which creates noise that might reasonably be expected to be unreasonably or annoyingly loud to adjoining Lots, except for security or fire alarms.

12.20 Livestock, Poultry and Pets. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets (maximum of two) may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's control. "Control" for the above purposes shall only mean on a leash or lead, within a vehicle, within the Dwelling of the Owner, or within confines on the premises of the Owner. Pet owners shall promptly remove and dispose of all excrement emitted by their pets. Fierce, dangerous or vicious animals or animals that cause a nuisance by barking or other offensive activity shall not be permitted. Failure to abide by these conditions shall result in fines and further enforcement action, as authorized by the Board. The Association may adopt policies and procedures with regard to applications for service and assistance animals. Further, service and assistance animals shall count toward an Owner's total number of pets.

12.21 Fencing. Once approved, the maintenance, repair and replacement of any fencing installed by an owner shall be the responsibility of the owner.

12.22 Vehicles & Parking. As per the plat, no vehicle parking along the roads within the Property is allowed. The Association reserves the right to adopt Rules relating to the parking of vehicles within the Project including, without limitation: (1) the right to immediately remove or cause to be removed any vehicles that are improperly parked, (2) restrictions on the time period and duration that any guest or visitor parking may be utilized; (3) restrictions or bans on vehicles without Department of Transportation compliant mufflers and exhaust systems, (4) restrictions with regard to visitor parking; and (5) the assessment of fines to Owners and occupants who violate such Rules, as well as towing and other enforcement actions.

12.23 Exterior Antennas and Satellite Dishes. An Owner is first required to utilize existing cables, satellite dishes, antennas and related structures before installing any new hardware to the exterior of the Dwelling or Lot. Prior, written approval from the ACC as to the location of any new satellite dishes, antennas, cables and related hardware is required.

12.25 Temporary Structures. No Owner or resident shall place upon any part of the Project any temporary structures including, but not limited to tents, trailers, or sheds, without the prior written consent of the Board of Directors.

12.26 Swamp Coolers or Evaporative Coolers. No Owner shall place upon any part of

the Project, Lot or Common Area any swamp cooler or evaporative cooler.

12.27 Outdoor Clothes, Washing and Drying. No exterior clotheslines shall be erected or maintained, and there shall be no outside drying or laundering of clothes.

12.28 Energy Conservation Equipment. No solar energy device, solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed within the Project without the prior written consent of the Board of Directors. The Board may adopt policies and procedures for the application and approval of energy conservation equipment consistent with the Act.

ARTICLE XIII
RENTAL/LEASE RESTRICTIONS

13.1 Rental/Lease Restrictions.

- (a) Daily, nightly, weekly or monthly occupation by non-owner occupants is prohibited (whether pay or not), and Dwellings shall not be advertised or listed for short term rental on such sites as Airbnb, VRBO, HomeAway, Flipkey, Wimdu, House Trip and similar international, national or local providers.
- (b) An Owner must reside in the Dwelling for one year prior to being able to lease an otherwise qualifying Dwelling.
- (c) An Owner may not lease less than the entire Dwelling for an otherwise qualifying Dwelling.
- (d) Any lease or agreement for non-owner occupancy must be in writing, must be for an initial term of at least one year, and shall provide as a term of the agreement that the resident shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for non-owner occupancy (whether in writing or not) does not include these provisions, these provisions shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the resident.
- (e) A copy of any lease or other agreement for non-owner occupancy shall be delivered to the Association at least ten (10) days prior to occupation of the Dwelling by the non-owner occupant.
- (f) The Owner(s) of a Dwelling shall be responsible for the occupant's or any guest's compliance with the Governing Documents. In addition to any other remedy for noncompliance with this Declaration, the Association, following notice to the Owner, shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association, Board, and the Manger shall not have any liability for any action taken

pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph. For purposes of this subparagraph, each Owner in accepting the deed to a Unit expressly consents to such authority and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments and pursue any and all remedies available to remove the offending non-owner occupant.

- (g) As of the date of this recording, there is one (1) non-owner-occupied Dwellings: Lot No. 718 (collectively "Existing Rental Dwellings"). With the exception of those Dwellings that are exempt pursuant to paragraph (j) below, only the Existing Rental Dwellings and six (6) additional Dwellings in the Subdivision may be rented or non-Owner occupied at any one time for a maximum of 20% of the total Dwelling in the community. The ability to lease a Dwelling expires upon the sale or transfer of ownership of said Dwelling, or if an Owner re-occupies the Dwelling. The Association may develop and maintain an application and waiting list for those Owners that desire to lease their Dwelling.
- (h) Violations of the provisions of this Article shall result in the imposition of a fines, as allowed by the Utah Community Association Act.
- (i) The Board of Directors may adopt Rules requiring:
 - (i) Reporting and procedural requirement related to non-owner-occupied Dwellings and the occupants of those dwelling, including requiring informational forms to be filled out by Owners and/or residents identifying non-owner occupants, vehicles, phone numbers, etc.; and
 - (ii) Other reasonable administrative provisions consistent with, and as it deems appropriate to enforce, the requirements of this Declaration.
- (j) Exempt Non-Owner-Occupied Dwellings. The following Dwellings may be exempt from certain rental restrictions:
 - (i) An Owner in the military for the period of the Owner's deployment.
 - (ii) A Dwelling occupied by an Owner's parent, child, or sibling.
 - (iii) An Owner whose employer has relocated the Owner for no less than two years.
 - (iv) A Dwelling owned by a trust or entity that is occupied by an individual who:
 - a. Has voting rights under the organizing documents and has 25%

or greater share of ownership, control and right to profits and losses of the entity; or

A trust or other entity created for the estate planning purposes if the trust or other estate planning entity was created for:

- a. The estate of a current resident of the Dwelling; or
- b. The parent, child, or sibling of the current resident of the Dwelling.

ARTICLE XIV
ARCHITECTURAL CONTROL COMMITTEE

14.1 Architectural Control Committee (ACC). An Architectural Control Committee may be appointed by the Board in accordance with the Bylaws and Articles of the Association to oversee any construction, re-construction, remodeling or altering of exterior Improvements. If no ACC is appointed, the Board will assume the duties and responsibilities of the ACC. No dwelling, building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, which may disapprove, approve and/or conditionally approve the drawings and specifications upon grounds deemed appropriate, including (but not limited to) aesthetic grounds.

14.2 Approval by Board or ACC Required. No exterior Improvement of any kind will be constructed or commenced on any Lot(s) without the prior, written approval of the ACC. Approval of the Committee will be sought in the following manner:

(a) Plans Submitted. A written rendering, prepared by a licensed architect or engineer, of the proposed remodeling or construction must be submitted. The Plans shall also include: (1) a description of how debris will be removed; (2) name, address and phone number of contractor(s) performing the work; (3) when construction or remodeling will begin and conclude; and (4) proposal to mitigate any nuisance to other Owner(s).

(b) Review. Within 30 days from receipt of the submitted plans, the ACC will review the plans and respond in writing to the Owner determining whether or not the plans comply with the conditions imposed by the Declaration and are consistent with and in architectural harmony with other Improvements within the Project. The Board or ACC may: (1) approve the plans; (2) reject the plans; (3) request additional information; or (4) require that certain conditions be met.

(c) Failure to Act. If the ACC fails to respond, the Owner may complete the construction in accordance with the submitted plans. Notwithstanding the Improvement(s)

shall not violate the terms and condition of the Declaration and shall be in architectural harmony with the other Improvements in the Project.

14.3 Variances. The ACC cannot grant any variance that has the effect of modifying applicable zoning or building code regulations or directly violates the Governing Documents. The burden of obtaining a variance is entirely on the applicant.

14.4 Board and ACC Not Liable. The Board, ACC and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Project for their actions, inactions, or approval or disapproval of any set of plans submitted for review. The Owners' shall have no claim against the Board or ACC as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has an equal duty and right to enforce these covenants against every other Owner, and may seek independent redress if it believes the Board or ACC has acted improperly.

14.5 Limitations on Review. The ACC's review is limited to those matters expressly granted in this Declaration. The ACC shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the ACC prior to construction.

ARTICLE XV INSURANCE

15.1 Insurance Requirement. EACH OWNER SHALL BE SOLELY RESPONSIBLE TO INSURE THE OWNER'S LOT AND DWELLING. The Enabling Declaration for the Project was recorded before January 1, 2012; the Project includes attached dwellings; and this Declaration maintains the requirement for Owners to solely insure their own Lots and Dwellings. At a minimum, the Owner shall insure Lot and all Improvements in an amount equal to the maximum insurable replacement value thereof, as determined annually by the insurance company affording such coverage. Such coverage shall afford such common protections as: fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft, and all perils normally covered by "special form" property coverage.

15.2 Property Insurance.

(a) Hazard Insurance.

(i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas and Limited Common Areas.

(1) At a minimum, any required blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles,

vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

(2) Any blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

- (b) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.
- (c) Earthquake Insurance. The Association may nonetheless, in the discretion of the Board, purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.
- (d) Associations Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible. If the amount held in this account is used to pay any deductible, it shall be replenished within (12) months.
- (e) Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association's property insurance policy deductible the Association need not tender the claim to the Association's insurer.

15.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, against liability incident to the use, ownership or maintenance of the Common Area, Limited Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.

15.4 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract

(if available). The policy shall:

- (a) Include coverage for volunteers and employees;
- (b) Include coverage for monetary and non-monetary claims;
- (c) Provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and
- (d) Provide coverage for defamation. In the discretion of the Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

15.5 Insurance Coverage for Theft and Embezzlement of Association Funds. The Association may obtain insurance covering the theft or embezzlement of funds that shall:

- (a) Provide coverage for an amount of not less than the sum of three months regular assessment in addition to the prior calendar year's highest monthly balance on all operating and reserve funds; and
- (b) Provide coverage for theft or embezzlement of funds by:
 - (i) Officers and Board of Directors member of the Association;
 - (ii) Employees and volunteers of the Association;
 - (iii) Any manager of the Association; and
 - (iv) Officers, directors and employees of any manager of the Association.

15.6 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association; and shall not be payable to a holder of a security interest. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Dwellings. Each Owner hereby appoints the Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

15.7 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

15.8 Waiver of Subrogation against Owners and Association. All property and CGL

policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

ARTICLE XVI
DAMAGE & DESTRUCTION

16.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

16.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

16.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association in a neat and attractive condition.

ARTICLE XVII
DISBURSEMENT OF PROCEEDS

17.1 If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner(s) shall be retained by and for the benefit of the Association and placed in a capital improvements and/or reserve account.

ARTICLE XVIII
REPAIR AND RECONSTRUCTION

18.1 If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

ARTICLE XIX
CONDEMNATION

19.1 Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total Association vote by any authority having the power of condemnation or eminent domain), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Owners representing at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If the taking does not involve any improvements of the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XX
MISCELLANEOUS PROVISIONS

20.1 Violation Deemed a Nuisance. Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance and is subject to abatement by the Association or by any other Owner.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by an Owner or by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally

are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

20.2 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

20.3 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Dwelling, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

20.4 No Representations and Warranties. EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE PROJECT THAT THE ASSOCIATION AND THE BOARD OF DIRECTORS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE PROJECT AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.

20.5 Conflicting Provisions. In the case of any conflict between the Governing Documents, the order of priority from the highest to the lowest shall be the Declaration, the Plat, the Articles, Bylaws, and then the Rules.

20.6 Amendment. At any time while this Declaration is in effect, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes of the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

20.7 Constructive Notice. Every person who owns, occupies or acquires any right, title or interest in any Lot in the Project is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of

this Declaration against his/her Lot, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Lot.

20.8 Notices. All notices under this Declaration are provided as set forth in the Bylaws.

20.9 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Headings are inserted for convenience only and shall not be considered an interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

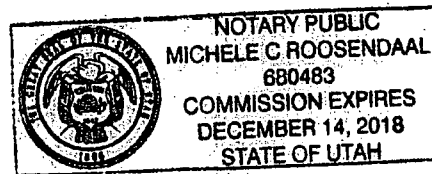
Rice Farms Estates Phases 2 and 3 Homeowners Association

Christina Kourbelas
By: Kourbelas
Its: Board Member

STATE OF UTAH)
 : ss
COUNTY OF Davis)

On this 17 day of May, 2018,
Christina Kourbelas personally appeared before me and did say that he is a Board Member of Rice Farms Estates Phases 2 and 3 Homeowners Association, and that the within and foregoing instrument was signed on behalf of said corporation by authority and said individual duly acknowledged to me that said corporation approved the same.

Michele C. Roosendaal
Notary Public



Rice Farms Estates Phases 2 and 3 Homeowners Association

Theodore P Hyatt
By: Theodore P Hyatt
Its: Board Member

STATE OF UTAH)
 : SS
COUNTY OF DAVIS)

On this 17 day of May, 2018,
Theodore Hyatt personally appeared before me and did say that he is a Board
Member of Rice Farms Estates Phases 2 and 3 Homeowners Association, and that the within and
foregoing instrument was signed on behalf of said corporation by authority and said individual
duly acknowledged to me that said corporation approved the same.

Michele C. Rosendaal
Notary Public

