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When recorded return to:

The Peaks Owners Association, Inc.
P.O. Box 1169
Eden, UT 84310

W3291530

DECLARATION

OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

THE PEAKS

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FOR
THE PEAKS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE PEAKS ("**Declaration**") dated July 11, 2023, is made by The Peaks Owners Association, Inc., a Utah nonprofit corporation (the "**Association**").

RECITALS

A. On or about February 22, 2002, the Articles of Incorporation of The Village at Wolf Creek Homeowners Association, Inc. (the "**Original Village Articles**") were filed with the Utah Division of Corporations.

B. The Original Village Articles formed The Village at Wolf Creek Homeowners Association, Inc. (the "**Village Association**") for the purpose of governing the residential subdivision known as The Village at Wolf Creek (the "**Original Village Project**") pursuant to the Original Declaration and Original Bylaws (as defined below).

C. On or about April 16, 2002, Triple D Land Development, LLC, a Utah limited liability company, for itself and on behalf of its wholly-owned subsidiary, Triple D Villages LLC, a Utah limited liability company (collectively, the "**Original Declarant**") executed that certain plat map entitled "The Village at Wolf Creek, a Planned Residential Unit Development," which was recorded in the Weber County Recorder's Office on April 16, 2002 in Book 55 beginning at Page 68 as Entry No. 1641069 (the "**Village Plat Map**").

D. The Village Plat Map created and subdivided the Original Village Project into sixty-two (62) lots. The Original Declarant intended to develop the thirty-nine (39) lots numbered 1 through 39 on the Village Plat Map as single-family detached homes, and develop the remaining twenty-three (23) lots, numbered 40 through 62 on the Village Plat Map, as townhomes.

E. On or about April 16, 2002, the Original Declarant executed that certain "Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek," which was recorded in the Weber County Recorder's Office on April 16, 2002 in Book 2224 at Page 2106 et. seq. as Entry No. 1641070 (the "**Original Village Declaration**").

F. On or about April 16, 2002, David W. Steffensen, as President of the Village Association, executed the "Bylaws of The Village at Wolf Creek Homeowners Association, Inc.," which were recorded in the Weber County Recorder's Office on April 16, 2002 in Book 2224 at Page 2174 et. seq. as Entry No. 1641071 (the "**Original Village Bylaws**").

G. Between July of 2007 and May of 2016, several undeveloped lots located within the Original Village Project ("**Declarant Lots**") were collectively transferred among a series of various developer-declarant parties, including The Villages at Wolf Creek, LLC ("**VWC**"), which acquired title to the Declarant Lots, and assumed the rights and duties of "**Successor Declarant**," on or about May 23, 2016.

H. On or about July 16, 2016, VWC executed that certain "Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek," which was recorded in the Weber County Recorder's Office on July 26, 2018, as Entry No. 2932712 (the "**Amended Village Declaration**"), as may have been subsequently amended.

I. The Amended Village Declaration included amended Bylaws of The Village at Wolf Creek Homeowners Association, Inc. (the "**Amended Village Bylaws**")

J. The Amended Village Declaration completely replaced and superseded the Original Village Declaration, while the Amended Village Bylaws completely replaced and superseded the Original Village Bylaws.

K. Because the Village Association was administratively dissolved by the Utah Division of Corporations in June of 2008, updated Articles of Incorporation of The Village at Wolf Creek Homeowners Association, Inc. were filed with the Utah Division of Corporations on August 15, 2016 (the "**Updated Village Articles**").

L. The Updated Village Articles completely replaced and superseded the Original Village Articles.

M. On July, 15, 2019, VWC executed that certain plat map entitled "The Village at Wolf Creek, 1st Amendment," which was recorded in the Weber County Recorder's Office on July 17, 2019, in Book 85 at Page 92, as Entry No. 2991526 (the "**Village Plat Map Amendment**").

N. The purpose of the Village Plat Map Amendment was to, among other matters, cause the twenty-seven (27) lots that were numbered 36 through 62 on the Village Plat Map to be designated as townhome lots ("**Townhome Lots**"). The Village Plat Map Amendment also caused the Townhome Lots to be renumbered 63 through 89. The remaining thirty-five (35) lots, numbered 1 through 35 on the Village Plat Map, continued to be designated as single-family detached home lots ("**Single-Family Home Lots**").

O. On April 19, 2023, the Articles of Incorporation for The Peaks Owners Association, Inc. (the "**Peaks Association**") were filed with the Utah Division of Corporations for the purpose of governing the Townhome Lots.

P. On or about July 5, 2023, the members of the Village Association voted to allow the 27 Townhome Lots to be governed by a newly-formed homeowners association, while the 35 Single-Family Home Lots would continue to be governed by the Village Association.

Q. On July 20, 2023, the Peaks Association and the Village Association recorded that certain "Declaration of De-annexation from Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek" in the Weber County Recorder's Office as Entry No. 3291528 (the "**De-annexation Declaration**").

R. Immediately upon such recording of the De-annexation Declaration, the Amended Village Declaration no longer governed the Townhome Lots in any manner whatsoever.

S. This Declaration is being recorded by the Peaks Association in order to establish covenants, conditions, restrictions and easements that will solely govern the Townhome Lots, which, upon such recording, will be named and known as "**The Peaks**."

T. Immediately following the recordation of this Declaration, the Peaks Association and the Village Association will execute and record, in the Weber County Recorder's Office, a "**Common Area Maintenance Agreement,**" which will describe which portion of the areas identified on the Village Plat Map as 'NEW COMMON AREA" will be maintained and controlled by the Peaks Association, and which portion of such areas will be maintained and controlled by the Village Association.

U. At any time following the Peaks Association's recordation of this Declaration, the Village Association may choose to record, in the Weber County Recorder's Office, a document entitled "Second Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek," which will solely govern the Single-Family Home Lots, which will be named and known as "**The Village**."

V. The Peaks Association, on behalf of its Members desires to adopt and record this Declaration to, among other matters: (i) declare and confirm that the Amended Village Declaration, including any amendments thereto, no longer govern or apply to the Townhome Lots in any manner whatsoever; (ii) declare and confirm that neither VWC, nor any other entity or party, has any authority whatsoever over the Townhome Lots, whether as a Declarant, Successor Declarant or any similar designation; and (iii) establish, for the Townhome Lots, a uniform set of covenants, conditions, restrictions and easements that are consistent with applicable laws, rules and regulations regarding residential communities that are governed by homeowner associations.

W. This Declaration, including the attached Bylaws of The Peaks Owners Association, Inc., shall completely replace and supersede: (i) the Amended Village Declaration, including any amendments thereto; (ii) the Amended Village Bylaws, (iii) any other declarations or bylaws, and any amendments or supplements to any such declarations or bylaws that may have been previously recorded or enforced against the Townhome Lots, or any common area or improvements associated with the Townhome Lots, (iv) any rules or regulations, and any amendments or supplements thereto, that may have been previously recorded or enforced against the Townhome Lots, or any common area or improvements associated with the Townhome Lots, and (v) any similar recorded or unrecorded documents that may have been previously enforced against the Townhome Lots, or any common area or improvements associated with the Townhome Lots.

X. As required under the Utah Community Association Act, and in accordance with the terms and conditions of this Declaration, upon giving proper notice and holding a vote on the matter, this Declaration has been approved by no less than sixty-seven percent (67%) of the Owners of the Townhome Lots who are eligible to vote on the approval of this Declaration.

DECLARATION

It is agreed by acceptance of a conveyance, contract for sale, lease, rental agreement, or any form of security agreement or instrument, or any privileges of use or enjoyment respecting the Project or any Lot that the Governing Documents together with the Village Plat Map Amendment referred to herein, sets forth covenants, conditions, restrictions, and reservations effecting a common plan for a planned residential unit development that is mutually beneficial to the owners of each of the described Lots, and that the covenants, conditions, restrictions, reservations and plan are binding upon the entire Project and upon each Lot as a parcel of realty, and upon such Lot's owners or possessors, and their respective heirs, personal representatives, successors and assigns, through all successive transfers of all or part of the property or any security interests therein without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of Lots under security instruments.

ARTICLE 1 - DEFINITIONS

Each of the Recitals A through X are incorporated into and made a part of this Declaration for all purposes. Unless the context clearly indicates otherwise, the following capitalized words, phrases or terms used in this Declaration shall have the meanings set forth in this Article 1. Certain terms not defined herein are defined elsewhere in this Declaration.

1.1 "**Acts**" collectively means and refers to the Community Act and the Nonprofit Corporation Act, as such Acts may be supplemented or amended from time to time.

1.2 "**Additional Charges**" cumulatively means and refers to all collection and administrative costs, including but not limited to all attorney's fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.

1.3 "**Annual Meeting**" means and refers to the annual meeting of the Owners/Members which shall be held at the Project as more particularly described under Section 2.3 of the Bylaws.

1.4 "**Annual Assessments**" means and refers to Assessments that are used to pay Common Expenses. Annual Assessments shall be equally imposed against all Lots based upon the Percentage Interest of each Lot.

1.5 "**Articles**" means the Articles of Incorporation of The Peaks Owners Association, Inc. as such Articles have been filed with the Utah Division of Corporations, as such Articles may be amended.

1.6 "**Assessment**" means any charge imposed or levied by the Association on or against Owners and/or Lots pursuant to the provisions of the Governing Documents or any applicable law. The term "Assessments" includes Annual Assessments, Special Assessments, Reimbursement Assessments and any other assessments the Association may impose against all or any Owners and/or Lots, as more set forth under the Governing Documents.

1.7 "**Association**" or "**Peaks Association**" means and refers to The Peaks Owners Association, Inc., or any other entity as the Association may be known and identified by the business entity records of the Utah Division of Corporations and Commercial Code of the Utah Department of Commerce.

1.8 "**Association Sprinkler System**" means and refers to any secondary water irrigation/sprinkler systems, located within the Project, that may be used to irrigate Front Yard Landscaping, Lot Edge Landscaping, Common Area Landscaping or any other portion of the Common Area. The term "Association Sprinkler System" includes any Irrigation System Control Devices or other components that may be connected to any such secondary water irrigation/sprinkler systems.

1.9 "**Board of Directors**" or "**Board**" shall mean and refer to the governing board of the Association vested with the authority to manage and maintain the Project and to enforce the Governing Documents.

1.10 "**Building**" means and refers to any structure that contains Townhomes.

1.11 "**Bylaws**" means the Bylaws of the Association, as they may be amended from time to time, which are attached to and made part of this Declaration as Exhibit "B".

1.12 "**Common Area(s)**" means and refers to (a) any portion of the Project that is not a Lot as shown on the Village Plat Map Amendment, which includes the Private Drives, as defined under Section 1.45; (b) the areas upon which the Parking Spaces and any Common Walkways are located; and (c) any area that is identified, described and/or depicted as the "Peaks Common Area" under the Common Area Maintenance Agreement.

1.13 "**Common Area Landscaping**" means and refers to any Landscaping located on any Common Area.

1.14 "**Common Area Maintenance Agreement**" means and refers to that certain "Common Area Maintenance Agreement" referenced and briefly described under Recital U. The primary purpose of the Common Area Maintenance Agreement is to describe which portions of the areas identified on the Village Plat Map as 'NEW COMMON AREA" will be maintained and controlled by the Peaks Association, and which portions of such areas will be maintained and controlled by the Village Association.

1.15 "**Common Expenses**" means and refers to any costs incurred by the Association in order to exercise any of the powers provided for in the Governing Documents, including, for example, but without limitation:

(a) Expenditures made or incurred by or on behalf of the Association for the administration, maintenance, repair, or replacement of the Common Areas (including any Common Improvements located on such Common Areas);

(b) Expenditures made or incurred by or on behalf of the Association for the administration, maintenance, repair, or replacement of any Private Drives located within the Project;

(c) Any sums that may be required by the Board and/or the Manager to perform or exercise their functions, duties, or rights under the Acts and/or the Governing Documents;

(d) Expenditures lawfully made or incurred by or on behalf of the Association for the operation, management and regulation of the Project; and

(e) Any other expenses that are identified or defined as Common Expenses under the Community Act and/or the Governing Documents.

1.16 "**Common Expense Fund**" means and refers to that certain fund more particularly described under Section 4.3, which is to be used to cover basic expenses related to administration, maintenance, and management of the Association and Project including, without limitation, the Common Expenses and those expenditures more particularly described under Section 14.2 of this Declaration.

1.17 "**Common Improvements**" means, refers to and includes any Improvements located within the Project that: (a) the Association intends to be used or enjoyed by all Owners or more than one Owner; and (b) have been recognized and identified as a Common Improvement by either: (x) this Declaration; (y) a majority of the Board; or (z) a Majority of the Owners. Common Improvements do not include any Improvements that may have been placed, installed or constructed on any portion of the Project by any Owner.

As used in this Declaration, the term "**Common Improvements**" shall include the following Improvements: (i) Project signage or monuments, (ii) mailbox banks, (iii) streetlights, (iv) any fencing that may be installed and/or maintained by the Association, (v) the Association Sprinkler System, (vi) Common Area Landscaping, (vii) Front Yard Landscaping, (viii) Lot Edge Landscaping, (ix) Front Door Improvements, (x) any asphalt, concrete or other pavement, as well as any curbs, gutters or similar Improvements, that comprise the Common Walkways, the Private Drives and/or the Parking Spaces, and (xi) any facilities, amenities or Improvements located on any Common Area intended to be used or enjoyed by all Owners or more than one Owner.

1.18 "**Common Walkway**" means and refers to any sidewalk or other walkway that is located, constructed or installed across any portion of the Common Area. The term "Common Walkway" also includes any portion of any sidewalks or other walkways that serve the Project but are not located on any area identified as Common Area, including certain portions of the Project located outside the boundaries of that portion of the Project depicted on the Village Plat Map Amendment

1.19 "**Community Act**" means and refers to the Utah Community Association Act (Utah Code Section 57-8a-101 *et. seq.*) as may be supplemented or amended from time to time.

1.20 "**County**" means and refers to Weber County, located in the State of Utah.

1.21 "**Declaration**" means and refers to this Declaration of Covenants, Conditions, and Restrictions for the Peaks, as may be amended or supplemented from time to time.

1.22 "**Driveway**" means and refers to the entire area of any driveway that may be located between any Private Drive and the garage of any Townhome. The term "Driveway" does not mean or refer to any portion of any Private Drive.

1.23 "**Eligible Mortgagee**" means and refers to a Mortgage which has requested notice of certain matters from the Association in accordance with this Declaration.

1.24 "**Front Door Gable Roof**" means and refers to the entirety of any gable roof that is connected to, and extends from, any Building that has been constructed and installed over the front door/steps to any given Townhome, including any posts, beams, rafters, underlayments, flashing, shingles, soffit, fascia, and any other materials that comprises the gable roof. Certain Front Door Gable Roofs are constructed and installed over the front doors/steps to adjacent Townhomes.

1.25 "**Front Door Improvements**" means and refers to certain Improvements located at the front door of any given Townhome, including the Townhome Walkway, and any handrails or railings that are attached to, or part of, any portion of the Townhome Walkway. The "Front Door Improvements" also include the Front Door Gable Roof constructed and installed over front door to any given Townhome.

1.26 "**Front Yard Area**" means and refers to the unpaved portion of any given Lot located between the front of the Townhome located on such Lot and any part of any Private Drive that adjoins such Lot.

1.27 "**Front Yard Landscaping**" means and refers to any Landscaping located on the Front Yard Area of any Lot.

1.28 "**Gabion Wall**" means and refers to any wall constructed of wire mesh cages filled with stone that separates and/or divides any Townhome balcony, deck or patio from the balcony, deck or patio of any adjacent Townhome.

1.29 "**Governing Documents**" means and refers to this Declaration, the Bylaws, the Rules and Regulations, and the Design Guidelines, as such documents may be amended or supplemented from time to time.

1.30 "**Improvements**" generally means and refers to all components of any Townhomes, Buildings, Common Improvements, or any other structures or improvements that may be constructed or installed on any part of the Project, including any items, equipment or devices that may be installed, attached or constructed on, to or as part of any such Townhomes, Buildings, Common Improvements, or any such other structures or improvements.

1.31 "**Landscaping**" means and refers to any vegetation or flora (*e.g.* grass, flowers, plants, hedges, shrubs, bushes, trees, or any similar vegetation or flora) that is maintained by the Association, including Common Area Landscaping, Front Yard Landscaping and Lot Edge Landscaping, as more particularly described or referenced under the Governing Documents. As set forth under Subsection 5.4.4.4, the Association may utilize "xeriscape" Landscaping by installing and maintaining native or drought-tolerant plants, as well as rocks and rock structures. The term "Landscaping" also refers to any rock features, including any rock walls located on any portion of the Common Area.

1.32 "**Lot(s)**" or "**Townhome Lot(s)**" means and refers to any portion(s) of the Project intended for independent ownership and designated on the Village Plat Map Amendment as a numbered Lot. Where the context indicates or requires, the term "Lot" shall include any Townhome situated on such Lot.

1.33 "**Lot Edge Area**" means and refers to any area(s) along the edge of any Lot on which HVAC equipment (*e.g.* condenser units) that serves the Townhomes may be situated.

1.34 "**Lot Edge Landscaping**" means and refers to any Landscaping located on any Lot Edge Area.

1.35 "**Majority of the Owners**" shall mean and refer to more at least 51% of the Owners of all Lots that comprise the Project. As set forth under Section 3.4.3, the vote for each Lot must be cast as a single vote. Accordingly, if a Lot is owned by more than one Owner, the co-Owners of such Lot will be deemed as one Owner for the purpose of determining whether a "Majority of the Owners" have approved or disapproved a particular matter.

1.36 "**Manager**" shall mean and refer to any person and/or entity that may be retained by the Association to manage, operate and/or maintain the Project by, among other matters, enforcing the Governing Documents. The obligations, duties and authority of the Manager shall be set forth in a written agreement that has been adopted and signed by the Manager and by the Board on behalf of the Association. The term "Manager" shall not refer to any person and/or entity (*i.e.* property manager, rental management company, etc.) that may be retained by any Owner(s) to manage and/or maintain that Owner's Townhome/Lot.

1.37 "**Member**" shall mean and refer to the Owner of a Lot (whether or not the Townhome located on such Lot serves as the Owner's primary residence). Each Member is entitled to participate in decisions made by the Association. Each Owner shall be a Member of the Association and shall be entitled to one membership for each Lot so owned. The term "Owner" and "Member" shall be deemed as synonymous under the Governing Documents.

1.38 "**Mortgage**" means any mortgage, deed of trust or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligations, provided an instrument evidencing any such mortgage, deed of trust or other document has been recorded with the Recorder's Office. The term "Mortgage" shall not mean or refer to an executory contract of sale.

1.39 "**Mortgagee**" means the beneficiary of a Mortgage as well as a named Mortgagee. The term "Mortgagee" shall not mean or refer to a seller under an executory contract of sale.

1.40 "**Nonprofit Corporation Act**" means and refers to the Utah Revised Nonprofit Corporation Act (Utah Code Section 16-6a *et seq.*) as may be supplemented or amended from time to time.

1.41 "**Occupant**" shall mean and refer to any tenant, guest, invitee or other occupant of any Townhome, including the family members of any Owner or tenant.

1.42 "**Owner**" shall mean and refer to the owner(s) of record of any Lot according to the Recorder's Office. As used in this Declaration, the term "Owner" does not include a mortgagee, a beneficiary or trustee under a deed of trust, or any other person or entity holding a security interest in any Lot unless and until such party has acquired title to the Lot pursuant to foreclosure or any arrangement or proceeding in lieu thereof. The term "Owner" and "Member" shall be deemed as synonymous under the Governing Documents.

1.43 "**Parking Spaces**" collectively means and refers to the eight (8) parking spaces located along the north side of the Project that are accessed from Wolf Lodge Drive, including the four parking spaces located adjacent to Lot 73 and the four parking spaces located adjacent to Lot 74. Although the Parking Spaces are not identified on the Village Plat Map Amendment or any other recorded plat map, the Association has determined that all or a portion of the Parking Spaces are located outside the boundaries of that portion of the Project depicted on the Village Plat Map Amendment. Nonetheless, for the purposes of this Declaration, the Parking Spaces shall be deemed part of the Project's Common Area, and the pavement, curbs, gutters or any similar Improvements that comprise the Parking Spaces shall be deemed part of the Project's Common Improvements.

1.44 "**Percentage Interest**" means and refers to the percentage of undivided ownership interest of each Lot Owner in the Common Area. The Percentage Interest of each Lot Owner shall be calculated by dividing the number "1" by the total number of Lots in the Project. The Project includes a total of 27 Lots. Accordingly, the Percentage Interest of each Lot is 1/27 or 3.704%.

1.45 "**Private Drives**" means and refers to each portion of the Project identified on the Village Plat Map Amendment as a "PRIVATE DRIVE," including Lakeview Court (4925 East), Creekside Way (4900 East), and Village Way (4875 East). The area upon which each Private Drive is located is Common Area, while the pavement, curbs and gutters or similar Improvements that comprise each of the Private Drives are Common Improvements. Notwithstanding certain inaccurate language in the Owner's Dedication paragraph of the Village Plat Map Amendment, none of the Private Drives serve as public thoroughfare. As such, the Association is solely responsible for maintaining, repairing and replacing the entirety of the Private Drives as more particularly set forth in this Declaration.

1.46 "**Project**" means and refers to that certain residential townhomes project commonly known as "The Peaks," including the Lots and Private Drives depicted on the Village Plat Map Amendment, as well as the Townhomes constructed on such Lots, and certain Common Improvements that have been constructed or installed on such Lots, as more particularly described in this Declaration. The "Project" also includes the Common Area and any Common Improvements located outside the boundaries of that portion of the Project depicted on the Village Plat Map Amendment, such as the Parking Spaces and certain Common Walkways. The term "Project" also includes any easements, rights, restrictions and servitudes related or appurtenant to such Lots, Townhomes, Private Drives, Common Areas, and Common Improvements.

1.47 "**Recorder's Office**" means the Recorder's Office of Weber County, State of Utah.

1.48 "**Recording Date**" means the date this Declaration is recorded in the Recorder's Office.

1.49 "**Reimbursement Assessment**" means and refers to any Assessment that may be imposed against one or more Owner (but less than all Owners), as more particularly described under Section 15.4.

1.50 "**Reserve Fund**" means and refers to that certain fund more particularly identified and described under Section 14.3, which may be used to cover the cost of repairing, replacing and/or restoring Common Areas and/or Common Improvements that have a useful life of three (3) calendar years or more and a remaining useful life of less than thirty (30) years, but excluding any cost that can reasonably be funded from the Common Expense Fund or other funds of the Association. The Reserve Fund may also be used for other purposes as may be specified in this Declaration.

1.51 "**Rules and Regulations**" means and refers to any rules and/or regulations that may, from time to time, be adopted, approved, amended, revised, updated and/or enforced by the Board regarding the Owners' use and enjoyment of the Project. Prior to adopting, approving, amending, revising, updating and/or enforcing any Rules and Regulations, the Board must first comply with the requirements of the Community Act regarding such Board action by, for example, giving the Owners notice of the Board's proposed action, along with the date and time of a meeting for the purpose of allowing the Owners an opportunity to be heard regarding any such proposed Board action.

1.52 "**Townhome(s)**" means and refers to any Townhome unit, including, but not limited to, all exterior elements of a Townhome, such as exterior doorways, windows, façade, rain gutters and downspouts, shingles, balconies, patios, decks, address signs and all other similar exterior Improvements on the Townhome situated upon a Lot, and each unit is separated from any adjacent unit by a Party Wall, designed and intended for separate, independent use and occupancy as a townhouse residence. The boundaries and components of each Townhome are more particularly described under Article 6 of this Declaration. Where context indicates or requires, the term "Townhome" shall include the Lot upon which the Townhome is situated.

1.53 "**Townhome Walkway**" means and refers to the entire walkway that provides access between any Private Drive and the front door of any given Townhome, including the entirety of any paved or concrete sidewalks, slabs, steps, landings or other portions of the Townhome Walkway.

1.54 "**Village Plat Map Amendment**" means and refers to that certain plat map entitled "The Village at Wolf Creek, 1st Amendment," which was recorded in the Weber County Recorder's Office on July 17, 2019, in Book 85 at Page 92, as Entry No. 2991526.

ARTICLE 2 – DESCRIPTION OF PROJECT

The purpose of this Article 2 is to provide certain information required under Section 57-8a-214 of the Community Act.

2.1 Project

The name of the Project is "The Peaks." The Project includes of Twenty-Seven (27) Lots and three (3) Private Drives, including Lakeview Court (4925 East), Creekside Way (4900 East), and Village Way (4875 East). An individual Townhome has been constructed on each Lot. The Townhomes are wood frame structures with concrete foundations, exterior walls of various materials over interior studding and sheeting, asphalt shingle roofs, and double-pane windows.

The Project includes Common Area, which includes the Private Drives and those areas identified as "Peaks Common Area" under the Common Area Maintenance Agreement. The Project also includes Common Walkways and the Parking Spaces, as more particularly described under this Declaration. Certain elements of the Project, such as the Lots, Private Drives, and public utility easements are identified and/or depicted on the Village Plat Map Amendment.

2.2 Association

The name of the Association is "The Peaks Owners Association, Inc." which shall manage, govern and administer the Project.

2.3 Legal Description and Location

A legal description of the Lots that comprise the Project is set forth under Exhibit "A," which is attached to and made part of this Declaration. The Project is located within Weber County in the State of Utah.

2.4 Lots

Each Lot is identified, depicted and numbered on the Village Plat Map Amendment. Each Lot may be independently owned, encumbered, and conveyed. As used on this Declaration, where the context indicates or requires, the term "Lot" shall include the Townhome situated on such Lot.

2.5 Common Area

The Common Areas of the Project include the Private Drives and also include the area that is identified, described and/or depicted as "Peaks Common Area" under the Common Area Maintenance Agreement.

2.6 Common Improvements

The Common Improvements of the Project include certain Improvements that have been or may be constructed, installed or situated on certain portions of the Project, such as Association Sprinkler Systems, Front Door Improvements, Common Area Landscaping, Front Yard Landscaping, Lot Edge Landscaping, and any pavement, curbs, gutters or similar Improvements that comprise the Private Drives, Common Walkways and the Parking Spaces.

2.7 No Cooperative or Condominiums

The Project is not a cooperative, and no portion of the Project contains or will contain any condominiums. The Project shall be governed by the Utah Community Association Act, Utah Code §§ 57-8a-101 *et. seq.*) as may be supplemented or amended from time to time. No portion of the Project shall be submitted to, or governed by, any provisions of the Utah Condominium Ownership Act, Utah Code §§ 57-8-1, *et seq.*

2.8 No Right to Expand Project

There is no option or right to expand the Project.

2.9 No Restrictions on Alienation

Except as otherwise provided under the Governing Documents, there shall be no restriction or restraint on alienation of any Townhome/Lot.

2.10 Appointment of Trustee

Metro National Title ("**Metro**") located at 1566 South Legend Hills Drive, Suite #140, Clearfield, UT 84015 is hereby appointed and designated as the trustee for purposes of enforcing and securing payment of Assessments pursuant to Utah Code Sections 57-1-20 and 57-8a-302.

ARTICLE 3 - HOMEOWNERS' ASSOCIATION

3.1 Form of Association

The Association is a Utah nonprofit corporation organized under the laws of the State of Utah, with the duties, and vested with the powers, prescribed under the Acts, and any other applicable laws, and as set forth in the Governing Documents.

3.2 Membership

3.2.1 Qualification. Each Owner shall be a Member of the Association and shall be entitled to one membership for each Lot so owned. Ownership of a Lot shall be the sole qualification for membership in the Association.

3.2.2 Transfer of Membership. Each Owner's Association membership shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Lot and then

only to the transferee of title to such Lot. Any attempt to make a prohibited transfer of any Association membership shall be void. Any transfer of ownership of any Lot shall automatically transfer to the Lot's new Owner the membership in the Association that is appurtenant to such Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law.

3.2.3 Mandatory Membership. The Owner of each Lot is required to be a Member of the Association. Likewise, each purchaser of a Lot, by virtue of accepting a deed or other document of conveyance thereto, shall automatically become a Member of the Association. Membership may not be partitioned from the ownership of any Lot.

3.2.4 No Membership for Tenants or Lessees. Limited membership rights and privileges may be extended to tenants and lessees of Townhomes as provided for in the Governing Documents, but tenants and lessees shall not be Members nor shall they have the right to vote.

3.3 Change of Ownership

In the event a Townhome/Lot is conveyed, sold or otherwise transferred, as more particularly set forth under Section 15.5, below, the purchaser of a Townhome/Lot shall, immediately upon the closing of such purchase transaction, deliver to the Association a Reinvestment Fee. As set forth under Section 24.3, each new Owner shall provide the Secretary of the Association with an email address and mailing address where the Association may deliver notices as set forth under the Governing Documents.

3.4 Voting

3.4.1 Number of Votes. The collective voting power of the Owners shall be equal to the total number of Lots (27) that comprise the Project. The Owner(s) of any one Lot shall be entitled to one (1) vote.

3.4.2 Voting Owner. There shall be one "voting representative" for each Lot. If a person owns more than one Lot, that person shall have the votes for each Lot owned. For any Lot held in trust, the Owner shall be the acting trustee of the trust at the time.

3.4.3 Joint Owner Disputes. The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. In the event the joint Owners of any Lot are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

3.4.4 Pledged Votes. In the event the record Owner or Owners of any Lot have pledged their vote regarding special matters to a mortgagee or beneficiary of a deed of trust under a duly recorded mortgage or deed of trust, or to the vendor under a duly recorded real estate contract, only the vote of such mortgagee, beneficiary, or vendor will be recognized in regard to the special matters upon which the vote is so pledged, if a copy of the instrument with such a pledge has been filed with the Board.

3.4.5 Notice of Owners' Vote. The Association may provide all Owners with notice of any matter upon which the Owners must vote, or have been invited to vote, in any manner permitted under Section 24.3 of this Declaration.

3.4.6 Mail-In Ballots. In any instance where voting on a matter is permitted or required herein, such vote may be carried out without a meeting by mail-in ballot sent to all Owners entitled to vote on the matter pursuant to the applicable procedure set forth in the Bylaws, and the approval of a majority of the votes actually cast shall be sufficient to approve such matter, except where a different threshold is specifically required herein.

3.4.7 Online/Electronic Mail Voting. Unless otherwise prohibited by the Acts, with regard to any matter upon which the Owners must vote, or have been invited to vote, the Association may utilize online balloting as provided and administered through a reputable third party online/website service. The Association may not send an email to Owners requesting that Owners vote merely by replying to the email. The Association may, however, email a scanned copy of a ballot to Owners and permit the Owners to either deliver the completed ballot back to the Association via regular mail, or email a scanned copy of the completed ballot to the Association. Notwithstanding any other provision of this Declaration, the Association must receive from the Owners a hardcopy (paper) ballot for any vote related to an amendment to this Declaration. Any such vote related to any amendment of this Declaration may not be administered via email or an online/website service. All other matters, including for example and without limitation, the election of Board members or the approval of a Special Assessment may be electronically administered (*e.g.* via email or an online/website service).

3.5 Bylaws of Association

3.5.1 Adoption of Bylaws

Bylaws for administration of the Association and the Project and for other purposes not inconsistent with the Acts or with the intent of this Declaration, have been adopted by the Association and a copy of such Bylaws is attached to and made part of this Declaration as Exhibit "B".

3.5.2 Bylaws Provisions

The Bylaws may contain supplementary provisions, not inconsistent with this Declaration, regarding the operation, management and administration of the Project.

3.6 Attorney in Fact

Each Owner, by the mere act of becoming an Owner or contract purchaser of a Lot, irrevocably appoints the Association as such Owner's attorney-in-fact, with full power of substitution, to take such action as reasonably necessary to promptly perform the duties of the Association, including but not limited to the duties to manage, operate, maintain, repair and improve the Project, to negotiate with insurance carriers upon damage or destruction to certain portions of the Project, and to secure insurance proceeds.

ARTICLE 4 – BOARD OF DIRECTORS

4.1 Board Purpose

Administrative, management, and enforcement authority of the Association is vested in the Board, which shall be elected by the Owners pursuant to the Bylaws. The Board, for the benefit of the Association and the Owners, shall administer, manage and enforce the provisions of the Governing Documents and shall have all powers and authority permitted to the Board under the Acts and the Governing Documents. The Board shall elect officers from among the Board members pursuant to the Bylaws. The Board may delegate all or any portion of the Board's authority to a Manager, or in such other manner as may be permitted under the Governing Documents.

4.2 Board Approvals

Any actions requiring Board approval under the Governing Documents including, without limitation, any actions the Board is permitted to take or approve without prior approval of the Owners (such as, for example, the imposition of certain Special Assessments per Section 15.3 of this Declaration) must be adopted and approved by a majority vote of the Board.

4.3 Board Authority

4.3.1 The Board shall acquire, and shall pay for out of the Common Expense Fund, any goods and services required for the proper functioning of the Association and the Project, including but not limited to the following:

(a) Utilities. Water, sewer, garbage collection, electrical, telephone, gas and any other utility service as may be necessary for the operation or maintenance of the Project, including the Common Areas or any Common Improvement.

(b) Insurance. Policies of insurance or bonds providing coverage for fire and other hazard, liability for personal injury and property damage, fidelity of Association officers and Association agents or employees, and director's and officer's liability or errors and omissions, as such policies are more fully described and required in this Declaration and in the Bylaws.

(c) Management Services. The services of persons or firms as required to properly manage and operate the affairs of the Association and the Project to the extent deemed advisable by the Board as well as such other personnel as the Board shall determine are necessary or proper for the operation, maintenance, repair and/or replacement of the Common Area and any Common Improvements, whether or not such personnel are hired directly by the Board or are furnished or hired by the Manager.

(d) Professional Services. Legal and accounting services as the Board deems necessary or proper in the management and operation of the Association's affairs, administration of the Project, or the interpretation, modification, or enforcement of the Governing Documents.

(e) Maintenance of Common Area /Common Improvements. Maintenance, repair and/or replacement of any portion of the Common Areas, or any Common Improvements, as the Board shall determine as necessary and proper.

(f) Snow Removal. Contracting for, scheduling, arranging, and paying for the removal of snow from certain portions of the Project as may be permitted or required under the Governing Documents.

(g) Materials, Supplies. Materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is required to secure by law, or which, in the Board's reasonable opinion, shall be necessary or proper for the operation of the Project and/or enforcement of the Governing Documents; provided that if for any reason such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes, or assessments are provided for particular Lots or their Owners, the cost thereof shall be charged to the Owner(s) of such Lots via Reimbursement Assessment.

(h) Personal & Real Property. Acquire and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interest therein, and dispose of the same by sale or otherwise; and such property shall be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct. The Board shall not, however, in any case acquire real property personal property or equipment (other than for purposes of restoring, repairing or replacing portions of the Common Area or any Common Improvements) valued in excess of Five Percent (5%) of the total Annual Budget (excluding the amount of the Reserve Fund Line Item) by lease or purchase without the approval of a Majority of the Owners.

(i) Lien Discharge. Pay any amount necessary to discharge any lien or encumbrance levied against the Project or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against the Project or against the Common Areas or any Common Improvement, rather than merely against the interest therein of any particular Owner(s). Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs and expenses incurred by the Board by reason of such lien or liens shall be assessed against the Owners and the Lot responsible to the extent of their responsibility.

4.3.2 Not for Profit. Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all or any of the Owners.

4.3.3 Right to Contract. The Board shall have the right to contract for all goods and services on behalf of the Association, payment of which is to be made from the Common Expense Fund. The Board may delegate such powers to a Manager subject to the terms and conditions of the Governing Documents.

4.3.4 Common Area Entry by Board. The Board and its agents or designees (including the Manager, if any) may enter any portion of the Common Area from time to time in order to perform and discharge the responsibilities, duties and obligations of the Association pursuant to the Governing Documents.

ARTICLE 5 – COMMON AREAS AND COMMON IMPROVEMENTS

5.1 Identification of Common Areas

The Common Areas of the Project include the Private Drives, the areas upon which the Parking Spaces and any Common Walkways are located, and any area that is identified, described and/or depicted as "Peaks Common Area" under the Common Area Maintenance Agreement.

5.2 Identification of Common Improvements

The Common Improvements of the Project include certain Improvements that have been or may be constructed, installed or situated on certain portions of the Project, such as Association Sprinkler Systems, Front Yard Landscaping, Lot Edge Landscaping, and any pavement, curbs, gutters or similar Improvements that comprise the Private Drives.

All or a portion of certain Common Improvements, such as Association Sprinkler Systems, Front Yard Landscaping, Lot Edge Landscaping and Common Walkways, may be located within the boundaries of certain Lots.

The Common Improvements of the Project also include certain Improvements that have been or may be constructed, installed or situated on areas that are outside the boundaries of that portion of the Project depicted on the Village Plat Map Amendment, including Common Area Landscaping, and any pavement, curbs, gutters or similar Improvements that comprise Common Walkways and the Parking Spaces.

5.3 Use, Conditions and Appearance of Common Areas / Common Improvements

The use, condition and appearance of all Common Area and Common Improvements must comply with the Governing Documents. The Board may adopt and revise Rules and Regulations in order to establish and enforce further requirements or restrictions regarding the use, condition and appearance of such Common Areas and Common Improvements.

5.4 Maintenance, Repair and Replacement of Common Area / Common Improvements

5.4.1 Association Sprinkler Systems. In order to maintain control over the consumption and cost of secondary water, the Association shall, at all times, retain sole and complete control over any and all Association Sprinkler Systems located throughout the entire Project, including any portion of such Association Sprinkler Systems that may be located on any Lots. Owners are strictly prohibited from altering, tapping into or otherwise utilizing any part of the Association Sprinkler System.

The Association shall be solely responsible for maintaining, repairing and replacing any and all Association Sprinkler Systems located anywhere within the Project, including upon or across any Lots. No Owner shall be responsible for maintaining, repairing and/or replacing any portion of any such Association Sprinkler Systems unless such maintenance, repair or replacement is required due to damage or destruction of any part of any Association Sprinkler System caused by an Owner or such Owner's family members, tenant, guest or invitee, in which case the cost of maintenance, repair or replacement will be charged to the Owner as a Reimbursement Assessment.

The Association may supply any portion of the Association Sprinkler System located anywhere in the Project with power by permanently connecting electrical components of the Association Sprinkler System (*e.g.* valve stations, timers, repeaters, Bluetooth and other electronic devices, etc.) to the electrical service of any Townhome/Lot. Since the Association Sprinkler System will consume a minimal amount of electricity and cannot be separately metered, the Association will not reimburse the Owner of any such Townhome/Lot for the electricity used to operate the Association Sprinkler System.

The Association is hereby granted a permanent and irrevocable easement over, across and under the entire Project, including all Common Areas and any Lots in order to access, operate, maintain, repair and/or replace any and all portions or components of the Association Sprinkler System, including on or across any Lots and including any wiring that may be connected to the electrical service of any Townhome/Lot, provided the Association accesses, operates, maintains, repairs and/or replaces any such portion of the Association Sprinkler System at a time and in a manner that does not unreasonably disturb the Owner or such Owner's family members, tenants, guests or invitees.

5.4.2 Private Drives. The Association shall reasonably maintain the pavement, curbs and gutters and any other Improvements that comprise the Private Drives. The Association's maintenance of the Private Drives will include reasonable snow removal, as more particularly described under Subsection 5.5.1, below.

5.4.2.1 Village Lot 31 Vehicular Access – Village Way (4875 East). As shown on the Village Plat Map Amendment, the Private Drive identified as Village Way (4875 East) provides vehicular access to and from Lots 67 through 73 of the Project, as well as Lot 31 of The Village. Because Lot 31 is part of The Village, the owner of such Lot (the "**Lot 31 Owner**") must pay Village Association certain assessments that will be used to pay the cost of maintaining, repairing and/or replacing the private roads that serve The Village. Consequently, the Peaks Association will not collect from the Lot 31 Owner any Annual Assessments, Special Assessments, or any other charges or fees, for the cost of maintaining, repairing and/or replacing any of the Private Drives, including Village Way. Notwithstanding the previous sentence, if any portion of Village Way is damaged, destroyed, or requires repair or replacement due to the negligent or willful acts or omissions of the Lot 31 Owner (or his, her or its tenants, family members, guests, or invitees) the Board may choose to pursue legal action against the Lot 31 Owner for the cost of repairing or replacing such damage or destruction.

5.4.3 Common Walkways. The Association shall reasonably maintain the pavement, curbs and gutters and any other Improvements that comprise the Common Walkways. The Association's maintenance of the Common Walkways will include reasonable snow removal, as more particularly described under Subsection 5.5.1, below.

5.4.4 Landscaping. The Association shall reasonably maintain the Project's Landscaping, as required by the Governing Documents.

5.4.4.1 Common Area Landscaping. The Association may choose to install, and reasonably maintain, any Common Area Landscaping. Any such Common Area Landscaping shall be deemed a Common Improvement.

5.4.4.2 Front Yard Landscaping / Lot Edge Landscaping. The Association shall install, and reasonably maintain, any Front Yard Landscaping and Lot Edge Landscaping. Any such Front Yard Landscaping and Lot Edge Landscaping shall be deemed a Common Improvement. Aside from Front Yard Landscaping and Lot Edge Landscaping, the Association shall have no responsibility to maintain any other landscaping located on any other portion of any Lot. The Association shall have no responsibility to maintain any Townhome Improvements (e.g. HVAC systems) that may be located on any Lot Edge Areas.

5.4.4.3 Xeriscape Landscaping. In order to minimize water usage, the Association may employ "xeriscaping" practices by installing and maintaining Landscaping that includes native or drought-tolerant plants that grow and sustain themselves with low water requirements, tolerate heat and drought conditions, and are compatible with existing natural environmental conditions. Xeriscaping plant species may be recommended by the Utah Native Plant Society or similar organizations. The Association's "xeriscaping" may include natural, non-living materials including, for example, rocks and rock structures.

5.4.5 Maintenance, Repair or Replacement by Association. Except as otherwise provided in the Governing Documents, the Association shall be solely responsible for any and all maintenance, repair and/or replacement of any portion or components of the Common Area, as well as any and all Common Improvements.

5.4.6 Negligent or Willful Acts or Omissions by Owner. Notwithstanding the language of Subsection 5.4.5, if any portion of the Common Areas and/or any Common Improvements are damaged, destroyed, or require any maintenance, repair or replacement, due to the negligent or willful acts or omissions of any Owner (or such Owner's tenants, family members, guests, or invitees) that Owner shall be responsible for the cost of the maintenance, repair or replacement of such Common Areas and/or Common Improvements, and such costs shall automatically and immediately be a Reimbursement Assessment against such Owner. Likewise, each Owner will be personally liable, will be financially liable to the Association, and may (in addition to any Assessments for the cost of maintenance, repair or replacement of the Common Areas or Common Improvements) be assessed and/or fined by the Association for any damage (beyond normal or reasonable wear and tear) caused to any Common Areas or Common Improvements due to the actions or inactions of such Owner or his or her tenants, family members, guests, or invitees in connection with such Common Areas or Common Improvements.

5.4.7 Property Damage / Personal Injury. Each Owner shall also be held liable for any damage or injury caused to any personal or real property, or to any individual, as a result of such damage to the Common Areas or Common Improvements caused by such Owner (or such Owner's tenants, family members, guests, or invitees).

5.5 Snow Removal

5.5.1 Association Responsibilities. The Association shall contract, arrange and pay for the reasonable removal of snow from the following portions of the Project: (a) Private Drives, (b) Driveways, (c) Townhome Walkways, (d) the Parking Spaces, and (e) certain Common Walkways that, as reasonably determined by the Board, are intended for wintertime usage. The cost of snow removal from these areas of the Project shall be paid as a Common Expense.

The Association may, but shall not be obligated to, remove snow from certain additional portions of the Project, including the removal of excessive amounts of snow from Townhome roofs, including the removal of ice dams that may form on any Townhome roof. The Board shall determine whether the removal of excessive snow and/or ice dams from any Townhome roofs is necessary. If the costs of removing excessive snow and/or ice dams from Townhome roofs cannot be paid using the amount of the Annual Budget allocated toward snow removal costs, the Association may impose against the Owners a Special Assessment to cover any or all such costs that may be incurred by the Association in order to remove excessive snow and/or ice dams from Townhome roofs.

The Association also may, but shall not be obligated to, remove snow from Townhome patios, decks and/or balconies if the Owner(s) of such Townhome(s) fail to timely remove snow from those area as required under Subsection 5.5.2, below. The Board shall determine whether the removal of snow from any Townhome patios, decks and/or balconies is necessary. The cost of removing snow from the patio, deck and/or balcony of any given Townhome shall be paid by the Owner of such Townhome, provided the Board delivered to such Owner written notice of the Association's intent to remove the snow no later than seven (7) calendar days prior to initiating any such snow removal. The Board shall have the burden of proving that such written notice was properly delivered to the Owner. The cost of removing snow from the patio, deck and/or balcony of any given Townhome may be imposed against the Owner of that Townhome as a Special Assessment.

This Subsection 5.5.1 shall not be construed to impose upon the Association or the Manager any particular or elevated duty or standard of care regarding the removal of snow from any portion of the Project. If the Association and/or Manager fails, for any reason or no reason, to cause the removal of snow from any particular portion of the Project, neither the Association nor the Manager shall be held responsible or liable for any bodily injury, damage to any personal or real property, or any other damages that may be directly or indirectly caused or allegedly caused by such snow.

5.5.2 Owner Responsibilities. Each Owner shall be solely responsible for the removal of snow from his, her or its Townhome patios, decks and/or balconies. Each Owner must at all times keep his, her or its patio, courtyard, deck and/or balcony clear of ice and snow. Such snow must be removed in a safe and prudent manner so as to avoid injury to any individuals, or damage to any personal or real property. An Owner will be held responsible and liable for injury to any individuals, or damage to any personal or real property, caused by the snow removal activities of any third party (*i.e.* the Owner's tenant or guest, or any ice or snow removal contractor or service). If the Association and/or Manager determines that an Owner has failed to properly keep his, her or its patio, deck and/or balcony clear of snow, the Association and/or Manager may (but shall not be obligated to) cause the removal of such snow, and the Association shall collect from such Owner a Reimbursement Assessment to cover the entire cost of such removal.

If the Association and/or Manager fails, for any reason or no reason, to cause the removal of snow from any Townhome patios, decks and/or balconies, neither the Association nor the Manager shall be held responsible or liable for any bodily injury, damage to any personal or real property, or any other damages that may be directly or indirectly caused or allegedly caused by such snow.

The Board may adopt and enforce Rules and Regulations regarding snow removal, provided such Rules and Regulations are consistent with this Section 5.5.

5.6 Association Easements

The Association is hereby granted a nonexclusive, perpetual easement over, across and upon all Common Areas, any portion(s) of any Lots upon which Front Yard Landscaping and/or Lot Edge Landscaping are or may be located, and any other portions of the Project on which Common Improvements are or may be located, as necessary or appropriate to accommodate the Association's perform of any maintenance, repair or replacement of Common Improvements as described under the Governing Documents.

ARTICLE 6 – TOWNHOMES

6.1 Lot Identification

Each Townhome is identified by a distinct Lot number on the Village Plat Map Amendment.

6.2 Townhome Boundaries and Components

Subject to further specification herein, each Townhome generally consists of and includes all portions of such Townhome that is located upon and within the boundary of each Lot as shown on the Village Plat Map Amendment, including but not limited to:

6.2.1 Roof. Any portion of the Building roof that covers the Townhome, including, for example and without limitation, beams, rafters, underlayments, flashing, shingles, soffit, fascia, corbels, gables, eaves, roof vents, and any rain gutter system components, including downspouts.

6.2.2 Walls. Any and all interior and exterior, structural, load-bearing, non-structural or non load-bearing walls and wall surfaces, including, for example and without limitation, studs, underlayments, drywall, wallpaper, paint, trim, natural or cultured stone, and any other finished interior or exterior wall material. Any Townhome wall, or any portion thereof, that is built as part of the original construction of the Building and divides any two Townhomes shall constitute a "Party Wall." The boundary of any Townhome that shares a Party Wall with another Townhome (which includes any Gabion Wall) shall extend to the center of such Party Wall, which forms the boundary between those two Townhomes. The ownership, maintenance, repair and replacement of such Party Wall is governed by Article 7, below.

6.2.3 Ceilings. Any and all portions of any ceiling located within the Townhome, including, for example and without limitation, any ceiling joists, studs, beams, rafters, drywall, paint, trim and any other finished ceiling material.

6.2.4 Floors. Any and all portions of any floors located within the Townhome, including, for example and without limitation, any floor joists, subfloor materials, finished flooring materials, radiant heating system components, etc.

6.2.5 Windows/Doors. Any and all exterior or interior window systems and door systems, including, for example and without limitation, frames, glass, screens, and garage doors.

6.2.6 Window Wells. Any window well that accommodates the window of any room that is part of the Townhome. The boundaries of any such window well shall be defined by the stone, concrete, metal or other building material that comprises the original design and construction of the window well.

6.2.7 Front Door Improvements. Any Front Door Improvements located at the front door of the Townhome, which includes the Front Door Gable Roof constructed and installed over the front door of the Townhome, as well as any portion of the Townhome Walkway that provides access to the front door of the Townhome, including any handrails or railings that are attached to, or part of, any portion of such Townhome Walkway. The boundaries of the Townhome Walkway shall be the edges of the paved area of such Townhome Walkway as originally constructed. Such paved area may not be enlarged or extended beyond the size of the Townhome Walkway as originally constructed.

6.2.8 Garage. Any garage attached to the Townhome.

6.2.9 Driveway. Any Driveway that serves the garage attached to the Townhome, with the boundaries of the Driveway being determined by the edges of the paved area of such Driveway as originally constructed. Such paved area may not be enlarged or extended beyond the size of the Driveway as originally constructed.

6.2.10 Balconies/Decks/Patios. Any balcony, deck or patio area attached to the Townhome. The boundaries of any such balcony, deck or patio shall be defined by any walls, railings or fences enclosing or surrounding said balcony, deck or patio areas as originally constructed. Any such balcony, deck or patio may not be enlarged, expanded or altered beyond its original construction. With regard to any ground-level patio areas that are not enclosed or surrounded by railings or fences, the boundaries of such ground-level patio areas shall be determined by the edge of the paved area of such patio as originally constructed. Such paved areas may not be enlarged or extended beyond the size of the ground-level patio as originally constructed.

6.2.12 Mechanical Equipment / Appurtenances. Any mechanical equipment and appurtenances located within the Townhome or located outside of the Townhome but designated and designed to serve only that Townhome, such as appliances, fixtures, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like. Likewise, any and all pipes, wires, conduits or other public utility lines or installations that only serve the Townhome are also part of that Townhome.

6.3 Variances / Encroachments

The original construction of any Townhome shall be the controlling dimensions for such Townhome. As used in this Declaration, the term "original construction" generally refers to the original installation of foundations, framing, and wallboard. Any structure, including any part of any Townhome, that extends beyond the vertical plane of the ground level boundary of the Lot upon which the Townhomes is located shall be deemed a part of that Townhome if it: (1) is attached to or part of such Townhome, and (2) was constructed as part of the original construction of the Townhome.

None of the rights and obligations of the Owners created herein, or by the deeds conveying any Lots, shall be altered in any way due to any encroachments that may result from engineering errors, errors in original construction, errors in the Village Plat Map Amendment, settling, rising or shifting of the earth, settlement or shifting of structures, changes in position caused by repair or reconstruction of any Townhome or any part thereof, or any other similar cause. Accordingly, each Townhome is hereby declared to have a perpetual and irrevocable easement over all immediately adjacent portions of the Common Areas and/or immediately adjacent Lots for the purpose of accommodating any such encroachments, including any encroachment that may cause any portion of a Townhome to overhang or project into or onto an immediately adjacent portion of the Common Areas and/or an adjacent Lot.

There shall be permanent and valid easements for any such encroachment and for the use, maintenance, repair and/or replacement of any such encroaching Townhome so long as the encroachment shall exist, provided, however, that in no event shall a valid easement for encroachment be created in favor on an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners. In the event a Townhome is partially or totally destroyed, and then repaired or rebuilt, the Owners agree that minor encroachments over immediately adjacent portions of the Common Areas and/or immediately adjacent Lots shall be permitted, and that there shall be valid easements for the use, maintenance, repair and/or replacement of said encroachments so long as they shall exist. The foregoing encroachments shall not be construed as encumbrances affecting the marketability of title to any Lot. Such encroachments shall not be considered to be encumbrances either to any Common Areas or to the Lots.

6.4 Building Overhang/Extension Encroachment Easement

Each Townhome Lot is hereby granted a perpetual, irrevocable and appurtenant easement over, across and upon any and all adjacent portions of Common Area for any balconies, decks, patios, steps, eaves or any other projections that may overhang or extend from any Building located on such Townhome Lot, provided the design and construction of any such projections shall be consistent with all applicable building codes, and further provided that any eaves shall not extend beyond the eave line of said Building.

6.5 Disputes Regarding Certain Townhome Boundaries

In the event of any dispute regarding the boundaries of any balcony, deck, patio, Townhome Walkway, Driveway or window well, the Board shall have the authority to resolve such dispute and determine such boundaries by reasonably applying and interpreting the descriptions and definitions of such areas as set forth in this Declaration. This Section 6.5 shall only apply to the boundaries of balconies, decks, patios, Townhome Walkways, Driveways or window wells, and shall not apply to any disputes regarding any other boundaries of any Townhome.

ARTICLE 7 – TOWNHOME PARTY WALLS

7.1 Definitions

Any Townhome wall, or any portion thereof, that is built as part of the original construction of such Townhome, and divides the Townhome from any adjacent Townhome, shall constitute a "**Party Wall**". As used in this Declaration, the term "Party Wall" includes (A) any interior wall that divides any Townhome from any adjacent Townhome, and (B) any exterior wall that divides any portion of any Townhome from any portion of any adjacent Townhome, including any Gabion Wall.

7.2 Townhome Boundaries

The boundary of any Townhome that shares a Party Wall with another Townhome shall extend to the center of such Party Wall, which shall form the boundary between those two Townhomes.

7.3 Ownership

The Owner of any Townhome that adjoins any Party Wall shall be deemed the "Owner" of such Party Wall for the purposes of this Declaration. The Owners of any Townhomes that adjoin such Party Wall may be referred to as the "Owners" or "Co-Owners" of such Party Wall for the purposes of this Declaration.

7.4 General Rules of Law

In the event of any damage to, destruction of, or dispute regarding a Party Wall, the provisions of this Article 7 shall apply. Any matters concerning Party Walls that are not covered by the provisions of this Article 7 shall be governed by the general rules of law, including liability for damage due to negligence or willful acts or omissions concerning Party Walls.

7.5 Sharing of Maintenance and Repair

In the event of damage or destruction to any Party Wall from any cause, other than the negligence or willful misconduct of either Co-Owner of such Party Wall, the Co-Owners of the Party Wall shall repair or rebuild such Party Wall. Except as otherwise set forth in this Article 7, the cost of repairing or rebuilding any portion of any Party Wall (including, for example and without limitation, the framing, structural components, and insulation of such Party Wall) shall be borne equally by the Co-Owners of such Party Wall.

Any mechanical equipment and appurtenances located within any one Townhome, or located outside such Townhome, but designed and designated to serve only that Townhome; including, for example and without limitation, electrical receptacles and outlets, air conditioning, heating and other ventilation apparatus, fixtures and the like, pipes, wires, conduits, or other utility lines or installations, shall be considered part of that Townhome; and to the extent any such mechanical equipment and appurtenances penetrate, are attached to, or are located between or within a Party Wall, the Owner of that Townhome shall be responsible for the maintenance, repair and replacement of such mechanical equipment and appurtenances. In the event any such mechanical equipment and appurtenances service both Townhomes that are separated by the Party Wall, the cost for maintaining, repairing and/or replacing such mechanical equipment and appurtenances shall be equally shared by the Owners of the Party Wall.

Notwithstanding the above paragraph, if an Owner's negligence or willful misconduct is the cause of damage to or destruction of any Party Wall or to any mechanical equipment and appurtenances that penetrate, are attached to, or are located between or within such Party Wall, such Owner shall bear the entire cost of repair or reconstruction of the Party Wall and said mechanical equipment and appurtenances.

7.6 Failure to Contribute

If any Owner shall fail or refuse to pay his or her share of the cost of repair or reconstruction of a Party Wall, or any Owner fails or refuses to pay all of such costs in the case of his or her negligence or willful misconduct, the other Owner(s) of the Party Wall may have such Party Wall repaired or restored and shall be entitled to record a mechanic's lien on the Townhome of the Owner(s) who fail or refuse to pay for the amount of such defaulting Owners' share of the repair or replacement costs together with interest at the maximum rate allowable. The Owner having such Party Wall repaired shall, in addition to the mechanic's lien, be entitled to recover reasonable attorney's fees and shall be entitled to all other remedies provided herein or by law. The mechanic's lien granted herein is effective only if properly and timely filed in the Recorder's Office by an affidavit declaring under oath the claim of the mechanic's lien.

7.7 Destruction by Fire or Other Casualty

If a Party Wall is damaged or destroyed by fire or other casualty, any Owner thereof may restore the Party Wall, and the other Owner(s) thereof shall equally contribute to the cost of restoration thereof, subject, however, to the right of any such Owner(s) to demand a larger contribution from the other Owner(s) under any applicable rule of law regarding liability for negligent or willful acts or omissions.

7.8 Arbitration

In the event any dispute arises concerning a Party Wall, the Co-Owners of the Party Wall shall attempt to resolve the matter through mediation as conducted by the President of the Association. If any Owner involved in the dispute objects to such attempted mediation, the Co-Owners shall submit the matter to arbitration. The Co-Owners may (but shall not be required to) mutually agree that the outcome of such arbitration shall be final and binding. If the Co-Owners are unable to mutually agree to such binding arbitration, the arbitration shall be non-binding. The arbitration (whether binding or non-binding) shall be conducted on a confidential basis pursuant to the then applicable Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by an arbitrator experienced in real property litigation and shall include a written record of the arbitration hearing. The parties to the dispute shall have the right to object to the arbitrator. If the parties are unable to agree upon a single arbitrator, each party to the dispute shall choose one arbitrator, and such arbitrators shall select one additional arbitrator, and a final and binding decision regarding the outcome of the dispute shall be made by a majority of the arbitrators. Should either party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board shall select an arbitrator for such refusing party. Any award or decision resulting from such arbitration may be confirmed in a court of competent jurisdiction.

7.9 Right to Contribution Runs With Land

The right of any Owner(s) of a Party Wall to receive contribution from the other Owner(s) of a Party Wall under this Article 7 shall be appurtenant to the land and shall pass to such Owner's successor in title.

7.10 Encroachments

If any portion of any Party Wall now or hereafter constructed encroaches upon any part of the Common Area or upon any Lot, an easement for the encroachment and for the use, maintenance, repair and/or replacement of such Party Wall is hereby granted and reserved and shall exist and be binding upon the Association and all present and future Owners of any part of said Party Wall for the benefit of the present and future Owners of such encroaching Party Wall. In the event a Party Wall becomes partially or totally destroyed or in need of repair or replacement, mutual and reciprocal easements for the benefit of all present and future Owners of such Party Wall are hereby granted and reserved upon adjacent or impacted Common Area and/or Lot(s) to the extent reasonably necessary or advisable in order to maintain, repair and/or replace such Party Wall. The easements for encroachment herein granted and reserved shall run with the land.

7.11 Alteration/ Removal Prohibited

Except for non-structural interior decorations, Party Walls shall not be altered, moved or removed under any circumstances or in any manner whatsoever. No doorway, hatch, stairway, elevator or similar alteration that permits passage between two Townhomes may be created in or through any Party Wall.

7.12 Gabion Walls

As set forth under Section 7.1, above, each Gabion Wall is a Party Wall that is co-owned by the Owners of any portion of any Townhomes that are separated by such Gabion Wall. Accordingly, no portion of any Gabion Wall shall be deemed a Common Improvement for any reason or for any purpose whatsoever. As set forth under Section 8.2, the Association shall maintain, repair and/or replace the Gabion Walls, as an Association-Maintained Townhome Component, including any components of any rain gutter system (*e.g.* rain downspouts) that may be located within any portion of such Gabion Walls.

Any costs incurred by the Association in order to maintain, repair or replace any given Gabion Wall, including any components of any rain gutter system (*e.g.* rain downspouts) located within such Gabion Wall, shall be charged against the Co-Owners of that Gabion Wall as a Reimbursement Assessment. The cost of maintaining, repairing or replacing certain Gabion Walls may be higher or lower than the cost of maintaining, repairing or replacing other Gabion Walls located in the Project. Accordingly, the resulting Reimbursement Assessments imposed against the Co-Owners of Gabion Walls may vary.

The Co-Owners of any Gabion Wall are strictly prohibited from making any additions, alterations or modifications whatsoever to such Gabion Wall. The Co-Owners of any Gabion Wall are also strictly prohibited from adding, installing, inserting or attaching any items, equipment or devices whatsoever within any portion of such Gabion Wall. The Co-Owners of any Gabion Wall are also prohibited from adding, installing, inserting or attaching any items, equipment or devices whatsoever on or upon any portion of such Gabion Wall without the Board's prior written permission, which the Board may grant or deny in the Board's sole discretion.

The Association shall remove any items, equipment or devices that have been added, installed, inserted and/or attached to, on or within any portion of any Gabion Wall in violation of this Section 7.12, or any other provision of the Governing Documents.

ARTICLE 8 – MAINTENANCE, REPAIR AND REPLACEMENT OF TOWNHOMES / LOTS

8.1 Owner Maintenance, Repair or Replacement of Townhomes

The provisions of this Section 8.1 shall apply to each Townhome as well as the Lot upon which such Townhome has been constructed. Except as otherwise specifically set forth in this Declaration, each Owner shall, at such Owner's sole expense, have the duty to maintain, repair and replace any and all portions of his or her Townhome and Lot in compliance with the Governing Documents, including any damage not covered by insurance.

8.1.1 Maintenance. The Owner of each Lot shall, at such Owner's sole expense, maintain, repair and replace the following parts and components of his or her Townhome (including any damage to such items not covered by an insurance claim):

(a) all interior and exterior doors, including garage doors, including any thresholds and door jams (as provided under Subsection 8.1.4, The Association shall solely maintain the exterior surface of Townhome Entry Doors).

(b) all paneling, tiles, wallpaper, paint, carpet, finished interior flooring, and any other materials constituting the finished interior surfaces of floors, ceilings, or walls;

(c) all drywall, wallboard, or similarly functioning materials located within the Townhome;

(d) all framing, insulation, and other materials associated with interior walls;

(e) all windows, window sills, window frames, and skylights, including the interior and exterior cleaning of such windows and any door glass (the Association may elect to arrange and pay for the cleaning of exterior windows as a Common Expense or may require the Owners to pay a particular person or company to clean on a schedule determined by the Association);

(f) all sewer and drainage pipes, water, power, and other utility lines, and any wiring related to the provision of television, telephone, or Internet services, to the extent that they are located within the Townhome or serve only that Townhome;

(g) all plywood decking and similar materials on interior floors;

(h) any of the following located wherever they might be located (inside or outside of the Townhome) that exclusively serve a Townhome: lighting fixtures (including lighting particular to that Townhome's patio, balcony or deck, but not including exterior lighting attached to a Townhome for the purpose of lighting Common Area), fans, plumbing fixtures (other than pipes located outside of a Townhome), stoves, refrigerators, hot water heaters, air conditioning units (including compressors, condensers, ducting, and forced air units), intercoms, security systems, and such other appliances, fixtures, and decorations as an Owner may install as permitted in this Declaration;

(i) any decorative or non-structural elements or components (e.g. insulation, drywall or paint) of any interior wall of any Townhome

(j) any framing or structural components of any Townhome ceilings or floors

(k) any framing, joists, beams, rafters, or any other structural elements or components of any Townhome (except for the structural portion or components of the Townhome's exterior walls, which are to be maintained by the Association per Section 8.2, below; and

(l) foundations, concrete pads and any subsurface Improvements that comprise the Townhome.

Each Owner shall also be responsible for keeping the Townhome, including any patio, balcony, deck, Townhome Walkway, Driveway or window well that is part of such Townhome in a clean, sanitary and uncluttered condition, free of pests and rodents. The Board may set forth in the Rules and Regulations any limits, restrictions, or guidelines on what may or may not be left, stored, or installed on any patio, balcony, deck, Townhome Walkway, which may include a prohibition on leaving, installing, or storing certain items or any items in such places.

8.1.2 Maintenance of Townhome Interior Surfaces and Fixtures. Without limiting the scope of Subsection 8.1.1, above, each Owner shall have the right and the duty at his or her sole cost and expense to maintain, repair, paint, paper, panel, plaster, tile, and finish the interior surfaces of the ceilings, walls, floors, window frames, door frames, and trim located within his or her Townhome and shall not permit or commit waste of such Townhome. Each Owner and his or her agent has the right to maintain, repair, paint, finish, alter, substitute, add or remove any fixtures attached to said ceilings, floors or walls. However, no Owner shall interfere with or cause damage to the structural integrity of any Townhome or Building or interfere with the use and enjoyment of any part of the Common Areas or any other Townhomes. This Subsection 8.1.2 shall not be construed to limit the powers or obligations of the Board hereunder. Except as otherwise specifically provided under this Declaration, or required by law, all costs associated with the maintenance and repair of any Townhome, whether performed by or at the direction of the Association or the Board or the Owner shall be the sole responsibility of the Owner(s) of such Townhome.

8.1.3 Major Townhome Interior Modifications – Approval & Deposit. An Owner may not make any improvements or alterations to his or her Townhome that: (a) constitutes a structural change to the Townhome or the Building, such as moving, removing, adding, or altering any walls, doorways, and the like, or (b) affects any Common Area or any other Townhome, without first submitting detailed plans therefor to the Board and obtaining the Board's written approval of such plans and changes, which approval may be granted or denied in the Board's sole discretion. In the event such plans and changes are approved by the Board, the Owner shall, in advance of such work,

deliver to the Association a security deposit in an amount to be reasonably determined by the Board. All local codes shall be adhered to and all applicable permits must be obtained by the Owner prior to commencement of any such work. All construction activities, including cleanup, access by workers, acceptable work hours, etc., must be performed in accordance with standards and regulations set forth by the Association.

8.1.4 Townhome Entry Door – Association Responsibilities. The Association shall be responsible for maintaining the exterior surface of the exterior front walkway entry door and door frame of each Townhome (collectively, the "**Townhome Entry Door**"). The Association shall not be responsible for maintaining any other exterior Townhome doors, including, without limitation, any garage doors. Such maintenance of each Townhome Entry Door shall be solely limited to painting such exterior surfaces of such Townhome Entry Door, as needed to remedy normal wear and tear. The Association shall determine whether such painting is required. The Association shall have no responsibility for repairing any damage to any part of any Townhome Entry Door or replacing any such Townhome Entry Door, unless such repair or replacement is required solely due to the actions or inactions of the Association or the Manager (or their agents or employees) as solely determined by the Board.

8.1.5 Patio, Balcony, or Deck Shelters/Enclosures. Owners are prohibited from placing, erecting or constructing any temporary or permanent shelters or enclosures on, in or around any patio, balcony, deck, Driveway or Townhome Walkway.

8.1.6 Installation of Improvements, Mechanical Systems or Fixtures. An Owner may not, without the prior written consent of the Board, install or erect any Improvement, mechanical system or fixture that either: (a) protrudes beyond the boundaries of his or her Townhome; or (b) is located outside his or her Townhome.

8.1.7 Front Yard Landscaping. As provided under Subsection 5.4.4.2, the Association will install and maintain Front Yard Landscaping. Consequently, Owners shall not install any landscaping (*e.g.* grass, flowers, plants, hedges, shrubs, bushes, trees, or any other similar vegetation or flora) on any portion of the Front Yard Area without the Board's prior written permission.

8.1.8 Window Well Monitoring/Maintenance. Each Owner shall be solely responsible for monitoring, maintaining and remediating the condition of any window wells that are part of such Owner's Townhome, including, for example but without limitation, any water that may flow into or collect in such window wells. Because each window well is part of the Townhome to which the window well is attached, the Association shall have no responsibility or liability whatsoever to monitor, maintain or remediate the condition of any window well, including, for example but without limitation, any flooding of any Townhome that may occur through such window well.

The Project may be subject to underground seeps, springs and other sources of water. Accordingly, Owners may install one or more sump pumps in order to prevent flooding from such sources of water or any other fluids. The Association shall have no responsibility or liability whatsoever regarding the installation, operation, monitoring, maintenance, repair or replacement of any such sump pumps.

8.1.9 Project Exterior Appearance. Notwithstanding any other provisions of the Governing Documents, in order to preserve the uniform exterior quality and appearance of the Project, no changes whatsoever shall be commenced, erected, maintained, made or done by any Owner to the exterior elements of any Townhome, including any patio, balcony, deck, Townhome Walkway, Driveway or window well that is a part of such Townhome without the Board's prior written approval. The Board shall have sole discretion to establish, regulate and determine the exterior appearance of the Townhomes. The Board may also restrict, prescribe or regulate the screen or glass exterior doors of each Townhome including, for example and without limitation, the type, color and hardware of any such screen or glass exterior doors and the maintenance thereof. Awnings or sunshades are not allowed on the exterior of any Townhome, unless the color, style, construction material, installation method, and uniformity of appearance have been approved by the Board in advance and in writing.

Each Townhome shall be maintained so as not to detract from the health, safety or uniform appearance of any Townhome as well as the overall Project and so as not to adversely impact the value or use of any other Townhome. Each Owner shall keep his or her Townhome clean, safe, and in a sanitary condition. The Board may, by rule, adopt, promulgate and enforce further requirements for the repair and maintenance of a Townhome required for each Owner, in accordance with the terms of this Declaration and/or the Bylaws.

Owners are strictly prohibited from performing any repair, replacement or maintenance of any portion of his or her Townhome that may, in any manner whatsoever, impact or alter the exterior appearance of any portion of any Townhome without obtaining the prior written permission of the Board, which permission may be granted or denied in the Board's sole discretion. The replacement, repair or maintenance referenced in the prior sentence includes, by example and without limitation, the maintenance, repair and/or replacement of any exterior walls, roofs, doors, windows, or any other exterior portion or surface of any Townhome.

8.1.10 Certain Work Prohibited. Notwithstanding any other provisions of the Governing Documents, no Owner shall do any work or make any alterations or changes that would jeopardize the soundness or safety of any portion of the Project, reduce its value or impair any easement or hereditament.

8.1.11 Snow Removal. Each Owner is obligated to keep his or her patio, balcony, and deck clear of snow, as more particularly provided under Subsection 5.5.2.

8.2 Association-Maintained Townhome Components

In order to preserve the uniform exterior quality and appearance of the Project, as well as the soundness and safety of each Building, the Association shall, at the Association's expense, be responsible for maintaining, repairing and/or replacing the following portions or components of each Townhome (which are collectively referred to in this Declaration as the "**Association Maintained Townhome Components**"):

(a) The entirety of the Townhome's roof, including any components thereof, such as shingles, underlayments, flashing, roof vents, soffit, fascia, corbels, gables, eaves, and any rain gutter system components, including downspouts, etc. (not including, however, the drywall or any wallpaper, paint, trim, or other finished ceiling materials that may be part of any portion of the Townhome's ceiling that is attached to or located immediately below the Townhome's roof);

(b) The exterior surface and construction of the Townhome's exterior walls (*i.e.* any walls that face outside), and all components that are part of such exterior surface and construction (such as, for example and without limitation, underlayments, siding, paint, trim, natural or cultured stone, and any other finished exterior wall material) except as otherwise specifically assigned by this Declaration to the Owner of the Townhome for maintenance and repair;

(c) The Front Door Improvements, including (i) the Townhome Walkway that provides access to the front door of the Townhome, (ii) any handrails or railings attached to, or part of, such Townhome Walkway, and the Front Door Gable Roof constructed and installed over the front door/steps to the Townhome;

(d) Any portion of any Driveway located between the Townhome garage and the Private Drive that provides vehicular access to the Townhome; and

(d) Any portion of any Gabion Wall that is part of such Townhome, including any components of any rain gutter system (*e.g.* rain downspouts) within any portion of such Gabion Walls.

If any of the above Association Maintained Townhome Components are damaged, destroyed, or require maintenance, repair or replacement due to the negligent or willful acts or omissions of any Owner (or such Owner's tenants, family members, guests or invitees) the Owner shall be responsible for any costs incurred by the Association in connection with the maintenance, repair or replacement of any such Association Maintained Townhome Components, and such costs shall automatically and immediately be a Reimbursement Assessment against such Owner.

Aside from the maintenance, repair or replacement of the Association Maintained Townhome Components specified under this Section 8.2, the Association shall not be responsible for the maintenance, repair or replacement of any other feature, portion or component of any Townhome.

The Townhomes comprise the entirety of each Building. As such, the Buildings do not contain any structural components or foundations that are separate and apart from any Townhomes. Accordingly, the Association shall have no liabilities, responsibilities or obligations whatsoever regarding any framing, joists, beams, rafters, or any other structural elements or components contained inside any Building. Likewise, the Association shall have no liabilities, responsibilities or obligations whatsoever regarding any foundations, concrete pads, slabs or any similar or related portions of any Building.

8.3 Disputes Regarding Maintenance, Repair or Replacement of Townhomes/Lots

In the event of any dispute regarding the extent to which the Owner(s) or the Association are responsible for maintaining, repairing and/or replacing any portion or component of any Townhome or Lot, or to the extent such maintenance, repair and/or replacement responsibilities are not clearly addressed in this Declaration, the Association may, pursuant to a majority vote of the Board, make such a determination. Such determination shall be set forth in a Board resolution which shall be distributed and delivered to all Owners and will be binding against all Owners.

The Association may assume an Owner's maintenance, repair and/or replacement responsibilities as to any Townhome or Lot if, in the opinion of a majority of the Board: (A) such Owner is unwilling or unable to adequately perform such maintenance, repair and/or replacement and (B) the Owner's unwillingness or inability to perform such maintenance, repair and/or replacement poses a threat of damage to another part of the Project to other Owners or Occupants. Prior to assuming any such maintenance, repair and/or replacement, the Board shall provide written notice to the Owner of the Association's intention to perform such maintenance, repair and/or replacement, and if, in the Board's opinion, such Owner has not commenced and diligently pursued remedial action within fourteen (14) days after such written notice has been received by the Owner, the Association may proceed with such maintenance, repair and/or replacement.

Notwithstanding the preceding paragraph, the Board may authorize the Association to immediately commence such maintenance, repair and/or replacement if the Board determines that such immediate remediation is necessary in order to mitigate or prevent any new or further damage to any other portion of the Project and/or to prevent personal injury or death. The Owner shall immediately reimburse the Association for any and all expenses incurred by the Association in connection with such maintenance, repair and/or replacement, and such expenses shall automatically and immediately be a Reimbursement Assessment against such Owner.

ARTICLE 9 – [RESERVED]

ARTICLE 10 – AESTHETICS AND ARCHITECTURAL STANDARDS

10.1 Generally

It is the intent and purpose of this Declaration to impose aesthetic and architectural standards that result in a Project with Townhomes, Buildings, Lots, Common Areas, Common Improvements and any other Improvements that are constructed, installed and maintained in an attractive and aesthetically pleasing manner, including exterior Townhome and Building materials, color schemes and general appearance.

10.2 Design Guidelines

The appearance of all Improvements located within the Project must comply with building, design and landscaping guidelines (collectively, "**Design Guidelines**") that are consistent with the appearance of the Project as of the Recording Date. The Design Guidelines must at all times remain consistent with any provisions of this Declaration that directly or indirectly impact the aesthetic and architectural standards of the Project. The Board may periodically propose amendments, updates, clarifications and/or supplements to the Design Guidelines, which must be approved by a Majority of the Owners. The Board must, at all times, maintain a current version of the Design Guidelines in writing, and must furnish or make available to the Owners a complete copy of the current version of such Design Guidelines.

10.3 Improvements

The Design Guidelines shall address the aesthetics and appearance of any Improvements that comprise the Project. Owners shall not construct, install, remove, add, alter, repair, change, de-vegetate, excavate, grade, plant, revegetate, or other do any work, or cause any work to be done,

which in any way alters the appearance (including but without limitation, the exterior color scheme) of any such Improvements without the Board's prior written approval, which may be withheld for any reason in the Board's sole and exclusive discretion. Likewise, in order to preserve the Project's appearance, no exterior changes whatsoever to any Townhome/Lot, and no changes to any Improvement, shall be attempted, commenced, performed constructed, maintained, made or done without the Board's prior written approval, which may be withheld for any reason in the Board's sole and exclusive discretion. This authority of the Board extends to, for example but without limitation, any roofing, siding, exterior screens, entryway or garage doors, windows, awnings, railings or any other exterior portion of any Townhome, as well as any other portion of any Townhome, or any Improvement that may be attached to or otherwise made part of such Townhome, that is visible from any other portion of the Project as solely and reasonably determined by the Board.

10.4 Common Area / Common Improvements

The Design Guidelines shall also address the aesthetics and appearance of the Common Areas and Common Improvements (including any and all Landscaping located throughout the Project). In order to establish and maintain the Project's uniform appearance, no changes may be made to any portion of the Common Areas or any Common Improvements (including any Landscaping) without the Board's prior written approval. Any requests for permission to alter any Common Area, or to alter, construct, install or remove any Common Improvements (including any Landscaping) shall be delivered to the Board in writing and shall include plans and specifications detailing the nature and extent of such alteration, construction, installation or removal. The Board may, in the Board's sole discretion, approve or deny any such alterations to any Common Area, as well as any Common Improvements, including any Landscaping.

10.5 Townhome Exterior Appearance

In order to preserve a uniform exterior appearance of the Project, no changes whatsoever shall be commenced, erected, maintained, made or done by any Owner to the exterior of any Townhome, including patios, decks or balconies, without the Board's prior written approval. The Board shall regulate the exterior appearance of the Townhomes in a manner that is consistent with the aesthetics and appearance of the Project as of the Recording Date of this Declaration. The Board may require and otherwise regulate painting and other decorative finishing of the Townhomes, and determine the type and color of such decorative finishes, and may prohibit, require or regulate any modification or decoration of such Townhomes that may be undertaken or proposed by any Owner. This authority of the Board extends to screens, doors, windows, awnings, railings, decorations, or any other visible portions of each Townhome. Accordingly, the Board may restrict, determine or regulate the exterior color of the exterior doors of each Townhome as well as any items that may be attached to the outside of such exterior doors. The Board may also restrict, prescribe or regulate the screen or glass exterior doors of each Townhome including, for example, the type, color and hardware of any such screen or glass exterior doors and the maintenance thereof. No aluminum foil, newspapers, or any other similar materials may be used to cover the interior or exterior side of any windows of any Townhome. Awnings or sunshades are not allowed on the exterior of any Townhome, unless the color, style, construction material, installation method, and uniformity of appearance have been approved by the Board in advance and in writing.

10.6 Penetration, Alteration or Removal of Roofs or Exterior Walls

Owners are strictly prohibited from drilling through, penetrating, altering or removing any portion of the exterior walls or roofs of any Townhome including, for example and without limitation, any Party Walls, without obtaining the Board's prior written permission. The Board may grant or deny such permission in the Board's sole and absolute discretion, regardless of whether similar or identical drilling, penetration, alteration or removal of any exterior portion of any Townhome walls or roofs has previously occurred within the Project, including prior to or after the Recording Date of this Declaration. Without limiting the generality of the foregoing, the restrictions of this Section 10.6 shall apply to any drilling, penetration, alteration or removal of any exterior portion of any Townhome walls or roofs for the purpose of temporarily or permanently installing any items, equipment or devices whatsoever, including, for example but without limitation any Communications Devices, any personal security cameras ("**PSCs**"), any Internet or Wi-Fi systems, or any HVAC equipment. Notwithstanding any other language in this Declaration or any other Governing Document, the construction or installation of any vents, or any indoor or exterior fireplaces or permanent barbeques, following the Recording Date of this Declaration is prohibited.

As a condition of approving any Owner's request to drill through, penetrate, alter or remove any portion of any exterior wall or roof, the Board shall require that the manner in which such work is performed or completed and/or the purpose for such work (*e.g.* the installation, location and/or color of any items, equipment or devices, including any pipes, wires or conduits related to such items, equipment or devices) meets the Board's requirements regarding aesthetics, safety and quality of workmanship. The Board may adopt Rules and Regulations and/or procedures that further clarify and enforce the restrictions and requirements of this Section 10.6.

With regard to any drilling through, penetration, alteration or removal of any portion of any exterior wall or roof of any Townhome (or the installation of any items, equipment or devices, pipes, wires or conduits related thereto) that may have occurred prior to the Recording Date of this Declaration, or prior to the Board's adoption of Rules and Regulations and/or procedures regarding such work and/or Improvements, the Board may, at any time, require that the aesthetics, safety and/or workmanship of such work and/or Improvements be modified and/or remediated if the Board deems such modification and/or remediation is reasonably necessary in order to address any safety or other concerns (*e.g.* fire or safety code or insurance requirements), or in order to comply with the requirements of this Declaration or any Rules that may be adopted by the Board.

10.7 Nonconforming Improvements

Any Improvement that may have been installed on any portion of the Project by any Owner (whether a prior or current Owner) prior to the Recording Date of this Declaration that fails to comply with any provision of this Declaration, but was previously approved by the Board in writing, may be retained by the present Owner, and all subsequent Owners, of such Improvement as a "**Nonconforming Improvement**." The Owner of such Nonconforming Improvement must present the Board with proof of such prior written Board approval. Any proposed changes or additions to a Nonconforming Improvement must be submitted to the Board, and the Board may require that such changes or additions incorporate any modifications necessary to bring the Nonconforming Improvement into compliance with this Declaration or any other Governing Document. The Board reserves the right to review, inspect and/or demand the immediate removal of any Improvement that was not previously approved by the Board in writing and/or fails to comply with the requirements of

this Declaration. If an Owner fails or refuses to move or remove any Nonconforming Improvement within thirty (30) days of receiving written notification from the Board, the Board may, in the sole Board's discretion, move or remove the Nonconforming Improvement and impose all costs related to such work against the Owner (and his or her Townhome/Lot) as a Reimbursement Assessment.

10.8 Enforcement/Fines

The Design Guidelines shall be solely enforced by the Board. As more particularly set forth under Article 13 of this Declaration, the Board may adopt Rules and Regulations that impose fines for any violation of the Design Guidelines or any provisions of this Declaration that directly or indirectly impact the aesthetic and architectural standards of the Project. The Board must impose any such fines in a manner that is consistent with Article 13 of this Declaration.

ARTICLE 11 – EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

11.1 Association Functions

There is hereby reserved to the Association, or the Association's duly authorized agents and representatives, such nonexclusive easements upon, across, over and under the entire Project as are necessary to perform the duties and obligations of the Association as set forth in the Governing Documents. Without in any way limiting the previous sentence, the Association is also hereby granted a nonexclusive easement to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to the Governing Documents.

11.2 Easement of Enjoyment

Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Areas subject to the right of the Association to impose reasonable rules and regulations regarding the operation, use and maintenance of such Common Areas. Pursuant to Section 57-8a-216 of the Community Act, such rules and regulations may, for example but without limitation, reasonably limit the number of individuals who may use the Common Areas and Common Improvements as guests of any Owner or the tenant of any Owner. Such right and easement of use and enjoyment in and to the Common Areas shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom.

11.3 Governmental Public Services

In addition to the nonexclusive easements reserved to the Association pursuant to this Declaration, there shall also be granted, for the benefit of all Owners, a nonexclusive easement for county and federal public services, including but not limited to, the right of the police to enter upon any part of the Common Area for the purpose of enforcing the law and other purposes incident thereto. Weber County shall also have the easement and right of way over and on the Common Area for the purpose of repairing and replacing facilities or Improvements therein and thereon at its option, in the event the Association fails and neglects to do so, and to have a lien therefor to guarantee replacement of the costs thereof against each of the Townhomes or Lots within the Project.

11.4 Easements for Utilities

There is hereby created an easement upon, across, over and under the Common Areas for reasonable ingress, egress, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity, provided that any utility company who wishes to install and/or maintain infrastructure and/or equipment within such utility easements must obtain the Board's prior written approval, which shall not be unreasonably withheld.

11.5 Easements for Ingress and Egress

There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across the Private Drives and parking areas located throughout the Project. Such easements shall run in favor of and before the benefit of the Owners of the Lots and their Occupants. Further, certain pathways or trails around and or through the Project may be developed and maintained from time to time as part of hiking and for bicycling trail systems serving the public in addition to Owners and Occupants; in such instances, members of the public shall also have the right to use such trails for the purposes for which they are developed and maintained, subject to reasonable, not discriminatory Rules and Regulations as the Board may adopt from time to time and subject to applicable requirements and regulations of the County or any other governmental body or agency having jurisdiction over such matters. There is also hereby created an easement upon, across and over the Common Area and all Private Drives and parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and or reconfigure any and all such easements from time to time as it sees fit without the consent of any owners (but subject to any necessary approvals of the County or any other governmental body or agency having jurisdiction thereof over including in particular, but without limitation, the easements granted herein for police, fire, medical and other emergency vehicles and personnel).

11.6 Delegation of Use

Each Member shall, in accordance with this Declaration and the Rules and Regulations and the limitations therein contained, be deemed to have delegated his or her rights of enjoyment in the Common Areas to the members of his or her family, his or her tenants or lessees, his or her guests or invitees or to his or her tenants family, guests or invitees.

ARTICLE 12 – PERMITTED USES AND RESTRICTIONS

This Article 12 applies to the entire Project, including all Townhomes, Lots, Common Area and Common Improvements.

12.1 Occupancy and Use

Townhomes shall be occupied and used for single-family residential purposes only, including on a rental or lease basis as permitted by the Governing Documents and applicable County zoning and ordinances. Townhomes may be used for common social, recreational or other reasonable uses

normally incident to such single-family residential purposes. Such occupation and use as a single-family residence shall be deemed to include accessory use as a professional office to the extent permitted by applicable County zoning and ordinances, and to the extent customarily incidental to primary use as a residence. The Townhomes and Common Area shall be further occupied and used pursuant to the terms and conditions of the Governing Documents.

12.2 Commercial / Retail Activities

Retail or commercial activities of any size, kind or nature whatsoever are prohibited on any portion of the Common Area. Retail or commercial activities are likewise prohibited in any Townhome; provided, however, that this restriction generally does not apply to using a portion of the Townhome as a professional office.

Townhomes may be used for certain activities normally associated with maintaining a professional office or conducting certain small businesses from home such as, for example, record-keeping, telephone calls, reception of mail, and computer or Internet activity. Any home-based business that involves employees (outside of the Owner's immediate family or household) working from the Townhome is prohibited.

The overall purpose of the restrictions set forth under this Section 12.2 is to preserve the right of Owners and Occupants to enjoy a community that is free from business-related employee, client or customer interaction, potential Association liability due to business being conducted within the Project, and the nuisance or annoyance often associated with increased or excessive vehicular or pedestrian traffic. The restrictions of this Section 12.2 do not apply to the leasing or renting of any Townhome.

12.3 Animals

12.3.1 Limits. No more than two (2) domestic animals shall be kept in any Townhome, although this limitation shall not apply to certain animals that are maintained continually in appropriate small enclosures, such as fish in a small tank or encaged birds, are permitted. In no event shall any Owner be permitted to raise, breed, keep or maintain any animals for any commercial purposes upon any portion of the Project. No livestock or poultry of any kind shall be raised, bred or kept upon any portion of the Project.

12.3.2 Animals in Common Area. All animal waste shall be promptly removed from the Common Area (including any Common Area that is contiguous and/or immediately adjacent to any Townhome) and be picked up and properly disposed of by the animal's owner.

12.3.3 Removal of Animal. The Project is located within an unincorporated portion of Weber County and is therefore (a) subject to Title 6 of the Weber County Code of Ordinances (Comprehensive Animal Control) and (b) within the jurisdiction of Weber County animal control authorities. As such, any animals located within the Project are subject to removal and impoundment pursuant to Chapter 5 (Impoundment) of Title 6 of the Weber County Code of Ordinances. Any questions regarding animal control, including the removal of animals from the Project, should direct such inquiries to the proper Weber County animal control authorities. Serious issues regarding pets (*e.g.* any animal acting aggressively toward other animals or people) should be immediately reported to the appropriate Weber County authorities such as Weber County Sheriff and/or Animal Control. Written documentation of such incidents should be delivered to the Board.

12.3.4 Indemnification. Each Owner who keeps an animal shall, to the fullest extent of the law, indemnify, defend and hold the Association, including its officers, directors, managers, and other Owners, employees and agents harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such animal in the Project.

12.3.5 Additional Board Rules. The Board may adopt additional rules restricting the maintenance and keeping of animals within the Project and their enforcement, including, without limitation, the assessment of fines to Owners who violate such rules.

12.4 Signs

Except as otherwise provided in this Declaration, no signs whatsoever (including, but not limited to, commercial, political and similar signs) shall be erected or maintained on any Lot except:

(a) Signs required by legal proceedings;

(b) No more than two (2) identification signs for individual Townhomes, each with a face area of seventy-two (72) square inches or less, provided such identification sign has been approved by the Board in advance and in writing; and/or

(c) Signs for the sale or lease of a Townhome or the sale of a Lot, provided the nature, size, number and location of such sign has been approved in advance and in writing by the Board and which comply with signage rules or guidelines adopted by the Board. All such "for sale" or "for lease" signs must be removed within 48 hours of the closing of the sale or lease of the Townhome, or the sale of the Lot, or the expiration of the real estate listing.

12.5 Lighting / "Dark Sky" Compliance

Any lighting located within the Project should be "dark sky" compliant and is subject to Board approval. No outdoor lighting is permitted unless such lighting is designed and installed so as to aim downwards and limit the field of light to the confines of the Townhome, Building or Lot upon which such lighting has been installed. Exterior lighting fixtures shall not direct excessive lighting or glare into any other Townhomes, Buildings or Lots located outside of the Project. Whenever possible, efforts should be made to ensure that both indoor and outdoor lighting is not unreasonably offensive to surrounding property owners. No excessively bright indoor lighting, such as industrial lights, floodlights, workroom lights, or fluorescent lights are permitted. In order to ensure compliance with this Section 12.5 throughout the entire Project, the Board may require the removal and/or replacement of any noncompliant or nonconforming lighting that may have been installed prior to or after the Recording Date of this Declaration.

Exterior lighting throughout the Project is also subject to any rules, regulations and ordinances that may be implemented or enforced by governmental agencies with authority regarding such matters. In particular, the Project is subject to the Weber County Lighting Ordinance which, as of the Recording Date, includes more restrictive lighting requirements for multi-unit structures such as the Buildings.

12.6 Trucks, Trailers, Campers and Boats

Any motor vehicles with a manufacturer rating exceeding 3/4-ton, as well as recreational vehicles, mobile homes, travel trailers, tent trailers, trailers, camper shells, detached campers, boats, boat trailers, commercial vehicles or other similar equipment or vehicle must be parked and maintained in garages only.

12.7 Motor Vehicles

No automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed or repaired upon any Lot, Private Drive or Common Area within the Project. Any such activity must be conducted in garages only. Likewise, inoperable vehicles may only be stored or parked in garages.

12.8 Parking

Because the Private Drives within the Project are relatively narrow, the parking of vehicles along any Private Drive is prohibited. Vehicles may be parked in garages and Driveways and in other designated parking areas as the Board may establish in the Project. No vehicle (including any trailer connected to such vehicle) may extend into any Private Drive or other thoroughfare. No vehicle, equipment or item may be parked on any portion of the Common Area that has not been clearly designated as a parking space or parking area. Parking within the Project may be further regulated by Rules and Regulations adopted by the Board from time to time.

12.9 Outdoor Recreational Equipment

Temporary or permanent outdoor recreational equipment, such as, for example and without limitation, playground sets, swing sets, jungle gyms, trampolines, skateboard ramps, volleyball nets, basketball backboard and/or pole systems are strictly permitted in any portion of the Project including, for example but without limitation, Private Drives or any other portion of the Project's Common Area.

12.10 No Trash in Common Areas

Each Owner must take reasonable measures to prevent any damage, destruction or degradation to any portion of the Common Areas by, for example, refraining from depositing or keeping any trash, debris or unsightly personal property or belongings on any portion of the Common Area.

12.11 Poles

No poles, including but not limited to any flagpole, shall be placed, constructed, or maintained on any portion of the Project without the Board's prior written permission, which the Board may grant or deny in the Board's sole and absolute discretion.

12.12 Clotheslines

Clotheslines are strictly prohibited on any Lot.

12.13 Window Coverings

The color of any such window coverings or treatments must be in harmony with the exterior of the Townhome. No window may be temporarily or permanently covered using paint, aluminum foil, reflective tint, paper, newspapers, cardboard, bedsheets, blankets or any other permanent or temporary materials or coverings not intended for such purpose. No interior or exterior reflective material shall be used as a window covering unless such material has been approved by the Board

12.14 Garage Openings

All garages shall be fully enclosed. No carports shall be permitted. No garage door shall be open except when necessary for access to and from the garage.

12.15 Tree Removal

No trees shall be removed except for (a) diseased or dead trees; and (b) trees which must be removed to promote the growth of other trees or for safety reasons, unless otherwise approved by the Board in writing.

12.16 Solar Systems Prohibited

Pursuant to Section 701 of the Community Act, Owners are prohibited from installing any solar energy systems, or any similar systems, components or equipment, on any portion of the Project, including any Townhomes.

12.17 Storage Sheds Prohibited

Owners are prohibited from temporarily or permanently installing or placing any storage shed on any portion of the Project including, for example and without limitation, any Townhome patio, deck or balcony. As used in this Section 12.17, the term "storage shed" specifically and solely refers to any freestanding structure designed for the purpose of storing personal property. Any question or dispute regarding whether or not a particular structure meets the definition of a "storage shed" shall be answered or resolved by a majority vote of the Board.

12.18 Nuisances; Offensive Activity; Construction Activities

No noxious, dangerous or offensive activity (including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of the Project) shall be carried out on any Lot, in any Townhome, or on any other portion of the Project, nor shall anything be done on any Lot, in any Townhome, or on any other portion of the Project that may be or may become an annoyance or nuisance to other Owners or Occupants. Due to the close proximity of Townhomes, Owners and all Occupants must be aware of and respect the Owners and Occupants of nearby Townhomes when burning wood or charcoal outdoors by preventing excessive amounts of smoke and/or odors from entering neighboring Townhomes.

Certain recreational vehicles such as snowmobiles, off-road motor vehicles such as dirt bikes or ATVs may not be operated on any portion of the Project except as necessary for the loading or unloading of such vehicles. Motorized vehicles are strictly prohibited on any sidewalks or walking trails.

The use or discharge of fireworks of any size, kind or nature on any portion of the Project is strictly prohibited, including during holidays or celebrations such as Independence Day, New Year's Eve, etc.

Excessive or disturbing noise is prohibited at all times. Such noise includes barking dogs, exterior speakers, horns, whistles, firecrackers, bells or other sound devices (except security devices used exclusively for security purposes), noisy HVAC equipment or any other noise that would disturb other Owners or Occupants. No activity that creates any noise that may disturb Owners or other Occupants is permitted before 8 A.M. or after 10 P.M. Exceptions to this Section 12.18 may be permitted with prior written consent of the Board, which the Board may grant or deny in the Board's sole discretion.

Normal construction activities and parking in connection with the construction of any Improvements within the Project shall not be deemed a nuisance or otherwise prohibited by this Declaration. Nonetheless, during any such construction, all portions of the Project under construction should be kept in a reasonably neat and tidy condition. Trash and debris shall not be permitted to accumulate, while brick, block, lumber and other building materials may be piled only in such areas as approved by the Board. In addition, any construction equipment and building materials stored or kept on any Lot during such construction may be kept only in areas approved by the Board in writing, which approval may require screening of the storage areas. This Section 12.18 shall not be construed to prohibit the short-term storage or accumulation of such building materials during active construction, provided such construction is commenced, diligently pursued and timely completed in accordance with the Design Guidelines and/or any written directive of the Board. The Board in its sole discretion shall have the right to determine whether the existence of any particular materials, activities or conditions poses a nuisance.

12.19 Storage of Waste and Non-Construction Materials or Equipment

12.19.1 Waste Storage. No storage of waste of any kind is permitted on any portion of the Project (including on any Driveway) unless such waste is stored in a closed container that has been approved by the Board. Such waste includes, without limitation, any form of trash, garbage, recyclable materials or debris including, for example, lawn, tree, or landscape clippings or trimmings, household refuse, or recyclable materials. No composting, trash, garbage or recyclable material containers may be stored in front of any Townhome, at any time, except for the day on which such containers are scheduled to be collected or emptied. In no event shall such containers be stored on or near any Private Drive except for the day on which such containers are scheduled to be collected or emptied. On such days, the composting, trash or recyclable material containers shall be temporarily placed at the edge of the street and removed from such location at the end of that same day. No outdoor incinerators shall be kept or maintained on any portion of the Project.

12.19.2 Non-Construction Materials or Equipment. Materials and/or equipment that are not directly associated with the construction of any Improvements within the Project ("**Non-Construction Materials or Equipment**") may not be stored or accumulated on any portion of the Project without the Board's prior written approval. Under no circumstances shall any portion of the Common Area be used as storage areas or service yards.

12.20 Diseases and Insects

No Owner shall permit any item(s) or condition(s) to exist upon any Lot which may or does induce, breed or harbor infectious plant diseases or noxious insects.

12.21 Communication Devices

The installation and use of any antenna, satellite dish or similar device (collectively, "**Communication Devices**") is subject to any Rules and Regulations regarding the installation and use of such Communication Devices, and any applicable laws, rules or regulations.

12.22 Personal Security Cameras

The size, color, location, installation, operation and use of personal security cameras ("**PSCs**") shall be subject to Rules and Regulations as adopted by the Board. The installation of any PSC by any Owner must be approved by the Board. In order to protect and maintain the privacy of other Owners and their family members, guests and invitees, Owners are prohibited from positioning, pointing, programming or using PSCs in any manner that violates another person's reasonable expectation of privacy.

12.23 Roofs

No apparatus, structure or object shall be placed on the roof of any Townhome or any Building without the prior written consent of the Board. Any apparatus, structure or object which is approved by the Board for placement on the roof of a Townhome or Building shall be mounted on the rear of the roof so that such apparatus or object is below the highest ridge on the roof. Evaporative coolers (i.e. swamp coolers) are prohibited on any Townhome. Window air conditioning units are also prohibited on any Townhomes. Central air conditioning units, connected to furnace systems, are permitted and must be placed in an inconspicuous and aesthetically pleasing location.

12.24 Mineral Exploration

No Lots shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

12.25 Leases

Any lease between an Owner and a lessee respecting a Lot or Townhome shall be subject in all respects to the provisions of the Governing Documents, and any failure by the lessee to comply with the terms of such Governing Documents shall be a default under the lease. Specifically, all leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Governing Documents.

12.26 Mailbox Banks

Mailbox banks are for the exclusive use of Owners and their family members and tenants. Keys to the mailboxes may be obtained from the local post office.

12.27 No Hazardous Activity

No activity may be conducted on any Lot, in any Townhome, or on any other portion of the Project that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous. Such activity 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, firecrackers or fireworks, and setting open fires (not including properly supervised and contained barbeques and fire pits).

12.28 Utility Service

No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, and cable information highways, shall be directed, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on a Building.

12.29 Driveways and Walkways

Driveways and Walkways shall be used exclusively for normal vehicle or pedestrian transit and/or traffic, and no obstructions shall be placed thereon except with the Board's prior written consent. Driveways and Walkways may not be used to store any equipment or any items whatsoever.

12.30 Hot Tubs

Hot tubs may only be installed on the upper deck of any Townhome, provided the Board has approved the location, design and color of the hot tub in advance and in writing. The Board may reasonably restrict or disapprove the location of any hot tub and/or require the installation of certain Improvements around the hot tub for various reasons such as aesthetics, privacy, and minimizing interference with the quiet enjoyment of neighboring or nearby Townhomes.

12.31 Townhome Completion Before Occupancy

No Townhome may be occupied prior to its completion and the issuance of a permanent certificate of occupancy.

12.32 Violations of Law

Any activity which violates local, state, or federal laws or regulations is prohibited; however, the board shall have no obligation to take enforcement action in the event of a violation.

12.33 Long-Term and Short-Term Leases/Rentals

12.33.1 Generally. Townhomes may be leased or rented on a long-term or short-term basis. All tenants must abide by the Governing Documents. The Owner of any Townhome that is being rented or leased (whether short-term or long-term) must provide his or her tenant(s) with an electronic or written copy of all current Rules and Regulations, and a list of any relevant provisions of this Declaration related to tenant conduct.

12.33.2 Occupancy Limitations and Definition of Bedroom

Pursuant to Subsection 57-8a-216(5) of the Community Act, the Association may adopt and enforce Rules and Regulations specifying maximum occupancy limitations on any rented Townhome.

Notwithstanding any provision of any Governing Document regarding occupancy requirements or the definition of a bedroom, the Association shall have no responsibility or liability whatsoever regarding the portion of a Townhome where an Owner elects to place beds, cots, futons, bunkbeds, mattresses, sleeper sofas or similar furnishings.

12.33.3 Tenant Conduct. Any Owner who rents their Townhome assumes complete responsibility for the actions and behavior of their tenants and the guests or invitees of such tenants. Any violation of any provision of the Governing Documents by any tenant, guest of tenant or any other Occupant of the Townhome may result in a fine being levied against the Townhome, the payment of which shall be the sole responsibility of the Owner of that Townhome.

12.33.4 Indemnification. Each Owner who rents his or her Townhome shall, to the fullest extent of the law, indemnify, defend and hold the Association, including its officers, directors, managers, and other Owners, employees and agents harmless from and against any claims losses, damages, demands, actions, causes of action, liabilities or expenses of any kind or nature directly or indirectly related to tenant's occupancy or use of the Townhome, use or occupancy of the Common Areas or use of any Common Improvements by any of Owner's tenants or any guests or invitees of any tenants.

12.34 Effect on Association Insurance

Nothing shall be done or kept in any Townhome or in the Common Area (including any Common Area that is contiguous and/or immediately adjacent to any Townhome) that may increase the rate of insurance on the Common Area without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his or her Townhome or in the Common Area which will result in the cancellation of insurance of the Project or any portion of the Project, or which would be in violation of any applicable local, state or federal law.

12.35 Board Rules / Fines

The Board may, by rule or regulation, adopt, clarify and/or enforce further requirements or restrictions regarding the use of any portion of the Project, including, without limitation, the use restrictions set forth under this Article 12. Prior to adopting, approving, amending, updating and/or clarifying any Rules and Regulations, the Board must first comply with the requirements of the Community Act regarding such Board action by, for example, giving the Owners notice of such proposed Board action and allowing Owners an opportunity to be heard at a Board meeting before the Board takes any action regarding any proposed Rule or Regulation. The Board must place any such Rules and Regulations in writing, and must furnish or make available to the Owners a complete copy of such Rules and Regulations.

As more particularly set forth under Article 13, below, the Board may adopt Rules and Regulations that impose fines for any violation of the use restrictions set forth under this Article 12, or any violation of use-related Rules that may be adopted by the Board. The Board must assess such fines in a manner that is consistent with Article 13 of this Declaration.

ARTICLE 13 – FINES

13.1 Generally

As provided under this Declaration, the Board is empowered to adopt, pass, amend, revoke and/or enforce Rules and Regulations as the Board deems necessary or convenient to ensure compliance with the Governing Documents. Such Rules and Regulations may include the imposition of fines for any violation of the Governing Documents. The imposition, enforcement and collection of such fines shall be consistent with this Article 13.

13.2 Imposition of Fines

The purpose of this Section 13.2 is to comply with Section 57-8a-208 of the Utah Community Association Act, as may be periodically amended or supplemented.

13.2.1 Prior to imposing or assessing any fine against an Owner due to a violation of any provision of any Governing Document, the Board must first deliver to the Owner a written warning that:

(a) describes the violation;

(b) states the provision of the Governing Documents that the Owner's conduct violates;

(c) states that the Board may, in accordance with the provisions of this Section 13.2, assess fines against the Owner if a continuing violation is not cured or if the Owner commits similar violations within one (1) year after the day on which the Board gives the Owner the written warning or assesses a fine against the Owner under this Section 13.2; and

(d) if the violation is a continuing violation, states a time that is not less than 48 hours after the day on which the Board gives the Owner the written warning by which the Owner must cure the violation.

13.2.2 The Board may assess a fine against an Owner if:

(a) within one (1) year after the day on which the Board gives the Owner a written warning described under Section 13.2.1, the Owner commits another violation of the same provision of the Governing Documents identified in the written warning; or

(b) for a continuing violation, the Owner does not cure the violation within the time period that is stated in the written warning described in Section 13.2.1.

13.2.3 After the Board has assessed a fine against an Owner under this Section 13.2, the Board may, without further warning, assess an additional fine against the Owner each time the Owner:

(a) commits a violation of the same provision of the Governing Documents within one (1) year after the day on which the Board assesses a fine for a violation of the same rule or provision; or

(b) allows a violation to continue for ten (10) days or longer after the day on which the Board assesses the fine.

13.2.4 An Owner who is assessed a fine may request an informal hearing before the Board to dispute the fine by delivering to the Board a written request for such hearing no later than thirty (30) days after the day on which the Owner receives notice that the fine is assessed.

13.2.5 At the informal hearing described under Section 13.2.4, the Board shall:

(a) provide the Owner a reasonable opportunity to present the Owner's position to the Board; and

(b) allow the Owner, a member of the Board, or any other person involved in the hearing to participate in the hearing by means of electronic communication.

13.2.6 If an Owner timely requests an informal hearing under Section 13.2.4, no interest or late fees may accrue until after the Board conducts the hearing and the Owner receives a final written decision from the Board.

13.2.7 An Owner may appeal a fine assessed under this Section 13.2 by initiating a civil action no later than one hundred eighty (160) days after:

(a) if the Owner timely requests an informal hearing under Section 13.2.4, the day on which the Owner receives a final decision from the Board; or

(b) if the Owner does not timely request an informal hearing under Section 13.2.4, the day on which the time to request an informal hearing under Section 13.2.4 expires.

13.2.8 (a) Subject to Section 13.2.8(b) a Board may delegate the Board's rights and responsibilities under this Section 13.2 to a managing agent.

(b) The Board may not delegate the Board's rights or responsibilities described under Section 13.2.5.

13.2.9 If any provision of any Governing Document provides a longer period of time within which an Owner may or must cure a violation than is stated in this Article 13, or a longer period of time before the Board is permitted to impose a fine than is stated in this Article 13, that longer period of time shall apply.

13.3 Amount of Fines

As set forth under Subsection 57-8a-208(3) of the Community Act, any fine that is assessed must be in an amount that is provided for under the Governing Documents, and may accrue interest and late fees as also provided for under the Governing Documents. Accordingly, the Board shall publish and may periodically update and/or revise a schedule of fines, late fees and interest rates, which the Board shall adopt as part of the Association's Rules and Regulations. Notwithstanding the previous sentence, the Board may not:

(a) adopt or attempt to enforce any late fees that exceed Twenty-Five Dollars ($25);

(b) adopt or attempt to enforce an interest rate that exceeds Eighteen Percent (16%) per annum;

(c) adopt or attempt to enforce any fine that exceeds One Hundred Dollars ($100); or

(d) assess against any Owner during any single calendar month an aggregate amount of fines that exceed Five Hundred Dollars ($500) for multiple violations of the same rule or provision of any Governing Document.

13.4 Tenants/Guests/Occupants

Each Owner is accountable and responsible for the behavior of the residents, tenants, invitees, guests and/or other Occupants of such Owner's Townhome. Accordingly, any fines that are levied against such residents, tenants, invitees, guests and/or other Occupants of any Townhome shall be the sole responsibility of the Owner of that Townhome.

ARTICLE 14 – BUDGET AND EXPENSES

14.1 Association Budget and Estimated Expenses

14.1.1 Annual Budget. No later than thirty (30) calendar days prior to the Association's annual meeting, the Board (or the Manager as may be directed by the Board) shall prepare and deliver to the Owners a proposed budget (the "**Annual Budget**") which shall set forth an itemization of all expenditures for upcoming fiscal year (commencing January 1st and ending December 31st).

The Annual Budget shall be based upon the Board's estimates for the payment of all expenses arising out of or associated with the administration, operation and maintenance of the Project during such upcoming fiscal year. The Annual Budget shall itemize the estimated costs for any and all Common Expenses, anticipated receipts (if any), any deficit or surplus from prior operating periods, and shall also include the Reserve Fund Line Item for such fiscal year as described under Section 14.4 of this Declaration.

The Annual Budget also may, but is not required to, include a Reserve Fund budget that shows the total amounts that are intended to be deposited into the Reserve Fund during the upcoming fiscal year, as well as the total amounts that are intended to be disbursed from the Reserve Fund during such upcoming fiscal year, including the manner in which such disbursements are intended to be used. Any such Reserve Fund budget must be reasonably consistent with the determinations of the most recent Reserve Analysis.

The Board may furnish the Annual Budget to the Owners by posting a copy of the Annual Budget on the Association's website. The Annual Budget shall serve as the supporting document for the Annual Assessment for the fiscal year to which the Annual Budget applies, and as a major guideline under which the Project shall be operated and managed during such fiscal year.

The proposed Annual Budget and Annual Assessments shall become effective on January 1st of the upcoming fiscal year unless the Annual Budget is specifically disapproved by a vote of at least a Majority of the Owners either at the annual Owners' meeting or at a special meeting that is held and completed not later than forty-five (45) days following the date of the annual Owners' meeting.

Unless the Annual Budget is specifically disapproved by a Majority of the Owners the Annual Budget and Annual Assessments shall be deemed approved. Notwithstanding the foregoing, however, if the Annual Budget and Annual Assessments are disapproved by a Majority of the Owners, or the Board fails for any reason to establish the Annual Budget and Annual Assessments for a particular fiscal year, until such time as a new Annual Budget and new schedule of Annual Assessments has been established, the Annual Budget and the Annual Assessments in effect for the previous fiscal year shall continue for the succeeding fiscal year.

The Annual Budget, and each line item therein, is intended as a management tool for the Board to meet the Common Expenses and cash needs of the Association for the applicable fiscal year. The actual amount of any given line item or category may exceed or be less than the amount that is set forth in the Annual Budget. Nothing herein or in the Annual Budget shall prevent the Board, in its discretion, from reallocating funds from one line item or category in the Annual Budget to another line item or category in order to meet actual expenses as they are incurred. Any such reallocation shall not require the Board to give prior notice to the Owners or obtain the approval of the Owners.

14.1.2 Annual Budget Shortfall. If the sum estimated and budgeted for the Annual Budget at any time proves inadequate for any reason the Board may impose a Special Assessment pursuant to Subsection 15.3.1, below. By way of example, and not limitation, such a shortfall in the Annual Budget may be caused by the failure of any individual Owner (or group of Owners) to pay their Annual or Special Assessment(s), or could result from any unanticipated increase in Common Expenses caused by, for example, increased snow removal costs due to rising fuel costs or unusually heavy snowfall.

14.2 Common Expense Fund

With the exception of those amounts that may be set aside and deposited into the Reserve Fund, or any amounts the Board may elect to deposit into a similar separate special fund (*i.e.* special capital improvement fund, or any fund the Board may establish in order to cover maintenance of specific Common Improvements, etc.), the total amount of any and all Assessments paid by the Owners shall be deposited into the Common Expense Fund.

14.3 Reserve Fund

14.3.1 Use of Reserve Funds. In addition to the needs for which the Reserve Fund may be used as described under Subsection 211(c) of the Community Act, the Reserve Fund may also be used to pay for certain unexpected Common Expenses, provided the cost of such unexpected Common Expenses cannot reasonably be funded from the Annual Budget (including the Common Expense Fund) or other funds of the Association. As used in this Section 14.3.1, the phrase "unexpected Common Expenses" solely and specifically refers to any unexpected costs resulting from (a) emergency repairs to the Association Sprinkler System; and/or (b) the removal of ice and snow from certain portions of the Project resulting from unexpectedly heavy snowfall, as described under Section 5.5.1.

14.3.2 Annual Presentation and Discussion of Reserve Fund. As required under the Community Act, the Association shall, at each annual meeting of the Owners, or at any special meeting of the Owners called for the purpose of addressing the Reserve Fund: (i) present a copy of the most recent Reserve Analysis; and (ii) provide an opportunity for the Owners to discuss and vote on whether to increase and/or further fund the Reserve Fund and, if so, how to fund it and in what amount. The Association shall prepare and keep minutes of each such meeting held and indicate in the minutes any decision relating to funding the Reserve Fund.

14.4 Reserve Fund Line Item

The purpose of this Section 14.4 is to comply with Section 57-8a-211 of the Community Act, as may be periodically amended.

14.4.1 Determination of Reserve Fund Line Item. In calculating, formulating or determining its Annual Budget, the Association must include a "**Reserve Fund Line Item**" which shall be used to fund the Reserve Fund. The Reserve Fund Line Item shall be in: (A) an amount the Board determines, based upon the Reserve Analysis, to be prudent; or (B) a higher amount if the Board reasonably determines that such higher amount is required in order to properly maintain or replenish the Reserve Fund as a result of, for example and without limitation, an unexpected depletion of the Reserve Fund due to the repair, replacement, or restoration of Common Areas and/or Common Improvements that were not anticipated or accounted for as part of the Association's most recent Reserve Analysis.

14.4.2 Veto of Reserve Fund Line Item. No later than forty-five (45) calendar days after the day on which the Association adopts the Annual Budget, the Reserve Fund Line Item may be vetoed by the Owners (at a special meeting called by the Owners for the purpose of voting whether to veto the Reserve Fund Line Item) collectively holding at least fifty-one percent (51%) of the Percentage Interest.

If the Owners veto the Reserve Fund Line Item as provided under this Subsection 14.4.2, and a Reserve Fund Line Item exists in a previously approved Annual Budget that was not vetoed, the Association shall fund the Reserve Account in accordance with the Reserve Fund Line Item from the previously approved Annual Budget.

14.4.3 Owner Legal Action. If the Association fails to comply with the requirements of Section 57-8a-211 of the Community Act and/or any provisions of this Declaration pertaining to the Reserve Fund Line Item, and the Association fails to remedy such noncompliance within the time period specified under Section 57-8a-211 of the Community Act, any Owner may file an action in state court for damages or remedies pursuant to Section 57-8a-211 of the Community Act.

14.5 Reserve Analysis

14.5.1 Reserve Analysis Frequency. The Board shall cause a complete analysis of the Reserve Fund ("**Reserve Analysis**") to be conducted no later than three (3) years following the Recording Date of this Declaration, The Board shall, thereafter, review the Reserve Analysis no less than once every three (3) years and shall consider and implement any necessary adjustments to the required amount of the Reserve Fund as a result of such review. Owners may receive a complete copy of the Reserve Analysis upon a written request submitted to the Board.

14.5.2 Reserve Analysis Purpose. As set forth under Section 57-8a-211 of the Community Act, the purpose of the Reserve Analysis is to determine the appropriate amount of the Reserve Fund needed to cover the cost of repairing, replacing, or restoring Common Areas and/or Common Improvements that have a useful life of three (3) years or more and a remaining useful life of less than thirty (30) years, if the cost cannot reasonably be funded from the Annual Budget (including the Common Expense Fund) or other funds of the Association.

14.5.3 Reserve Analysis Contents. The contents of the Reserve Analysis, and the manner in which the Reserve Analysis is reported to the Owners, must comply with the requirements of the Community Act, as may be periodically amended. As provided under the Community Act, the Board may conduct a Reserve Analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the Reserve Analysis.

Each Reserve Analysis shall, at a minimum, including the following information:

(a) Identification of the major components of the Project the Association is obligated to repair, replace, restore or maintain which, as of the date of the Reserve Analysis, have a useful life of no fewer than three (3) years but less than thirty (30) years that will reasonably require reserve funds;

(b) Identification of the probable remaining useful life of the components identified in Subsection 14.4.3(a), above, as of the date of the Reserve Analysis;

(c) An estimate of the cost of repair, replacement, and restoration of each major component identified;

(d) An estimate of the annual contributions to the Reserve Fund necessary to meet the cost to repair, replace, or restore each major component during and at the end of its useful life; and

(e) A plan to fund the Reserve Funding that recommends how the Association may fund such annual contributions.

14.6 Funds to be Maintained Separately

The Common Expense Fund and the Reserve Fund shall be kept in separate accounts, shall be established and deposited with a federally-insured bank or credit union, and shall be deposited into a checking, savings or certificate of deposit account. In the event the Board elects to establish and maintain any separate fund (*i.e.* special capital improvement fund or fund to cover maintenance of specific Common Improvements, etc.), a separate account shall be established for each such fund and deposited with a federally insured bank or credit union.

14.7 Recordkeeping

As required under the Acts, the Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and any other expenses incurred. Such records shall be available for examination by any Owner at convenient hours of weekdays no later than fourteen (14) calendar days after the Owner makes a written request to examine such records.

ARTICLE 15 – ASSESSMENTS

15.1 Owner Payment of Assessments

15.1.1 Assessments. Each Owner shall pay Assessments subject to and in accordance with the procedures set forth in this Article 15 or any other applicable provisions of the Governing Documents. As used in this Declaration, the term "**Assessments**" shall include Annual Assessments, Special Assessments and any other assessments as may be permitted under the Community Act or the Governing Documents.

15.1.2 Purpose of Assessments. Any and all Assessments provided for under this Declaration shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners, including the maintenance of any real and personal property owned by the Association, and regulating the Project, all as may be more specifically authorized from time to time by the Board.

15.1.3 Obligation to Pay Assessments. Each Assessment shall be joint and several personal debts and obligations of the Owner(s) and contract purchaser(s) of Lots for which the same are assessed as of the time the Assessment is made and shall be collectible as such. Each Owner, by acceptance of a deed or as a party to any other type of conveyance of any Lot, vests in the Association or its agents the right and power to (a) bring all actions against him or her personally for the collection of any debts arising out of or related to any Assessments, or any other charges related to such Assessments; or (b) foreclose any lien arising out of or related to any Assessments, or any other charges related to such Assessments, in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

15.1.4 No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including, without limitation, non-use of Common Areas, non-use of any Common Improvements, and/or the abandonment of his or her Townhome.

15.1.5 Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association, the Board or the Manager to take some action or perform some function required to be taken or performed by the Association, the Board or the Manager pursuant to the Governing Documents, or for any inconvenience to any Owner arising from or related to any maintenance or repairs occurring anywhere within the Project, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

15.1.6 Imposition of Assessments. The dollar amount of, and the purpose for, any Assessment shall be determined pursuant to the procedures set forth in the Acts and/or the Governing Documents. However, the Board has the sole authority and discretion to determine how and when any Assessment will be imposed upon, paid by and/or collected from the Owners.

15.1.7 Application of Payments. All payments received by the Association from Owners shall be applied in the following order: (i) Additional Charges, (ii) past due Assessments, (iii) currently due Assessments; and (iv) any remaining charges.

15.1.8 Account Status. The Association shall provide Owners with a timely accounting of the status of their accounts. Such accountings will be considered accurate unless challenged within ninety (90) calendar days of the posting of any item. After 90 calendar days, the costs incurred by the Association to review any item will be the responsibility of the individual Owner.

15.1.9 Statement of Assessments Due. Upon written request by any Owner, the Board shall furnish to such Owner a statement of Assessments due, if any, on his or her Lot. The Association may require the advance payment of a processing charge not to exceed $25.00 for the issuance of such statement. This written statement of Assessments due shall be conclusive in favor of any person who relies on such statement in good faith.

15.1.10 Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled which, insofar as it adversely affects the Association's lien for unpaid Assessments, each Owner by accepting a deed or other document of conveyance to a Lot hereby waives.

15.2 Annual Assessments

15.2.1 Use of Annual Assessments. Annual Assessments shall be levied by the Board against each Lot and its Owner in order to pay the Common Expenses.

15.2.2 Based on Percentage. All Annual Assessments shall be assessed to each Lot and the Owners thereof in an amount equal to the Percentage Interest for such Lot.

15.2.3 Notice of Annual Assessments and Time for Payment. The Board shall notify each Owner in writing as to the amount of the proposed Annual Assessment against such Owner's Lot for the upcoming fiscal year no later than thirty (30) calendar days prior to January 1st of such upcoming fiscal year. Each Annual Assessment shall be payable in twelve (12) equal monthly installments, with each such installment due on the first day of each calendar month during the fiscal year to which the Annual Assessment relates.

The failure of the Board to deliver timely notice of any Annual Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, nor a release of any Owner from the obligation to pay such Annual Assessment or any other Assessment; however the date when the payment shall become due in such case shall be deferred to a date fifteen (15) calendar days after notice of such Assessment shall have been given to the Owner.

15.3 Special Assessments

In addition to the Annual Assessments authorized by Section 15.2, the Board may, on behalf of the Association, periodically impose special assessments ("**Special Assessments**") pursuant to this Section 15.3.

15.3.1 Annual Budget Shortfall. If the sum estimated and budgeted for the Annual Budget at any time proves inadequate for any reason ("**Annual Budget Shortfall**") the Board may impose a Special Assessment which shall be assessed to each Lot and the Owner(s) thereof in an amount equal to the Percentage Interest for such Lot.

Any such Special Assessment deemed by at least a majority of the Board as necessary to remedy an Annual Budget Shortfall, and imposed by the Board without the prior approval of the Owners, shall not exceed ten percent (10%) of the Annual Assessment for the same fiscal year in which the Special Assessment has been imposed. Owners shall be given no less than thirty (30) calendar days written notice of any such Special Assessment caused by an Annual Budget Shortfall.

In the event the Board determines an Annual Budget Shortfall may only be adequately remedied by a Special Assessment that exceeds ten percent (10%) of the Annual Assessment for the same fiscal year in which the Special Assessment is to be imposed, such a Special Assessment shall require an affirmative vote or written consent of a Majority of the Owners. In the event the Board is unable to obtain such an affirmative vote or written consent of a Majority of the Owners, the Board may cover the Annual Budget Shortfall by using any portion of the Reserve Fund. Any such portion of the Reserve Fund used to cover any Annual Budget Shortfall shall constitute a debt of the Association, and shall be restored and returned to the Reserve Fund no later than three (3) years following the date of the use of such funds; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the Reserve Fund would be in the best interests of the Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any such funds to the Reserve Fund and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limit specified above, provided that any such Special Assessment must be approved by a Majority of the Owners.

15.3.2 No Board Majority. If the Board is unable to obtain a majority vote of the Board members (as required under Subsection 15.3.1) to approve any Special Assessment the Board is otherwise authorized to approve without the Owners' prior approval, the Board shall present such Special Assessment to a vote of the Owners, and the Special Assessment must be approved by a Majority of the Owners.

15.3.3 Reserve Fund Shortfall. In the event of any shortfall in the Reserve Fund, the Board may impose a Special Assessment to remedy such shortfall, provided the Board has first obtained an affirmative vote from a Majority of the Owners. Such Special Assessment shall be assessed to each Lot and the Owner(s) thereof in an amount equal to the Percentage Interest for such Lot.

15.3.4 Emergency Repair or Replacement. The Association may also levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any unexpected or emergency repair or replacement of any Common Area or Common Improvement. If the Board determines that such a Special Assessment is necessary, the Board shall present the proposed Special Assessment for a vote by the Owners along with a reasonably detailed narrative explaining the needed repair or replacement. The Special Assessment must then be approved by a Majority of the Owners.

15.3.5 No Authority to Incur Expenses. This Section 15.3 shall not be construed as an independent source of authority for the Association or the Board to incur expenses, but shall only be construed to prescribe the manner of assessing for imposing Special Assessments as described herein.

15.3.6 Notice and Payment. Special Assessments shall be payable on such date(s) and over such time periods as the Board may determine. The Board, in its sole discretion, may allow any Special Assessment to be paid in installments. Notice in writing of the amount of each such Special Assessment and the time for payment thereof shall be given promptly to the Owners. However, no payment of any Special Assessment, or any portion of any Special Assessment, shall be due less than thirty (30) calendar days after such notice shall have been given. The failure of the Board to deliver prompt notice of any Special Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, nor a release of any Owner from the obligation to pay such Special Assessment or any other Assessment.

15.4 Reimbursement Assessments

The Association may levy a Reimbursement Assessment against a particular Owner or group of Owners, and his or her or their Lot(s), in order to reimburse the Association for any costs the Association may incur due to the acts or omissions of such Owner(s) or his, her or their family members, tenants, guests or invitees.

The Association may impose a Reimbursement Assessment if, for example:

(a) the Association provides services or materials that were requested by a particular Owner or group of Owners for the benefit of that Owner or group of Owners*;

(b) an Owner or his or her family member, tenant, guest or invitee destroys or damages (beyond normal wear and tear) any Common Improvement, any portion of any Common Area;

(d) the Association repairs or replaces any damage or destruction of any Common Area or Common Improvement due to the willful or negligent act(s) or omission(s) of any Owner or any Owner's family member, tenant, guest or invitee;

(e) an Owner or his or her family member, tenant, guest or invitee fails to comply with any provision of any Governing Documents, causing the Association to incur expenses in order to cause compliance, such as hiring monitor/security personnel or retaining the services of a collection agency or legal counsel; or

(f) any similar incidents or circumstances.

*The Association may require that a Reimbursement Assessment be received by the Association prior to the Association providing any services or materials requested by a particular Owner or group of Owners for their benefit.

15.4.1 Reimbursement Assessment vs. Fine. A Reimbursement Assessment shall not be deemed a fine (*i.e.* a sum of money imposed as a penalty) provided the Reimbursement Assessment resulted from an expense the Association reasonably incurred due to the acts or omissions of an Owner or his or her family members, tenants, guests or invitees as described under this Section 15.4. Accordingly, the imposition of a Reimbursement Assessment shall not be subject to the provisions of Article 13 regarding fines, including the procedure for assessing fines, limitations regarding the dollar amount of fines, informal hearings and appeals. The Association may elect to impose both a Reimbursement Assessment and a fine in connection with the same incident or circumstances.

15.5 Reinvestment Fee

Each purchaser of a Townhome/Lot within the Project shall, at the closing of such purchase transaction, deliver to the Association a reinvestment fee ("**Reinvestment Fee**") immediately upon becoming the Owner of the Townhome/Lot in such amount as is established from time to time by the Board, subject to applicable law, including Utah Code Ann. §57-1-46 ("**Reinvestment Fee Statute**").

The Reinvestment Fee may be used by the Association to pay the Association's administrative expenses, including those expenses incurred by the Association in connection with the Transfer of any Townhomes/Lots. As set forth under the Reinvestment Fee Statute, the Reinvestment Fee may also be used to pay for various items including common planning, facilities, infrastructure, open space, recreation amenities, and association expenses. Accordingly, the Association may use the Reinvestment Fee to (A) reimburse the Association for costs incurred by the Association in connection with transfer of title of any Townhome/Lot to a new Owner, (B) pay the Association's costs of administering and maintaining the Common Areas and Common Improvements, (C) pay Common Expenses and/or (D) maintain the Reserve Fund for the repair or replacement of Common Improvements and any other purposes as set forth under the Governing Documents.

15.5.1 As used in this Section 15.5, a "**Transfer**" shall include, without limitation, (1) the conveyance of fee simple title to any Townhome/Lot, (2) the transfer of any ownership of more than fifty percent (50%) of the outstanding shares of the voting stock of a corporation that directly or indirectly owns the transferred Townhome/Lot, (3) the transfer of more than fifty percent (50%) of the interest in net profits or net losses of any partnership, joint venture or other entity that directly or indirectly owns the transferred Townhome/Lot.

15.5.2 The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted by the Reinvestment Fee Statute.

15.5.3 The Association shall provide notice of the Reinvestment Fee by recording, against the entire Project, a notice ("**Reinvestment Fee Notice**") that complies with the requirements of the Reinvestment Fee Statute. The Reinvestment Fee Notice shall state the amount of the Reinvestment Fee or the manner in which the Reinvestment Fee is to be calculated. Any changes to the amount of the Reinvestment Fee, or the manner in which the Reinvestment Fee is to be calculated, must be approved by a Majority of the Owners.

15.5.4 The Association shall not levy or collect a Reinvestment Fee for any Transfer described below, and the following Transfers shall be exempt from a Reinvestment Fee, except to the extent they are used for the purpose of avoiding the Reinvestment Fee:

a. Any Transfer made (A) between a majority-owned subsidiary and its parent corporation or between majority-owned subsidiaries of a common parent corporation, in each case for no consideration other than issuance, cancellation or surrender of the subsidiary's stock; or (B) by a partner, member or joint-venturer to a partnership, limited liability company or a joint venture in which the partner, member or joint venture has not less than a fifty percent (50%) interest, or by a partnership, limited

liability company or joint venture to a partner, member or joint venture holding not less than a fifty percent (50%) interest in such partnership, limited liability company or joint venture, in each case for no consideration other than the issuance, cancellation or surrender of the partnership, limited liability company or joint venture interests, as appropriate; or (C) by a corporation to its shareholders, in connection with the liquidation of such corporation or other distribution of property or dividend in kind to shareholders, if the Townhome/Lot is transferred generally pro rata to its shareholders and no consideration is paid other than the cancellation of such corporation's stock; or (D) by a partnership, limited liability company or a joint venture to its partners, members or joint venturers, in connection with a liquidation of the partnership, limited liability company or joint venture or other distribution of property to the partners, members or joint venturers, if the Townhome/Lot is transferred generally pro rata to its partners, members or joint venturers and no consideration is paid other than the cancellation of the partners', members' or joint venturers' interests; or (E) to a corporation, partnership, limited liability company, joint venture or other association or organization where such entity is owned in its entirety by the persons transferring the Townhome/Lot and such persons have the same relative interests in the Transferee entity as they had in the Townhome/Lot immediately prior to such Transfer, and no consideration is paid other than the issuance of each such persons' respective stock or other ownership interests the Transferee entity; or (F) by any person(s) or entity(ies) to any other person(s) or entity(ies), where the party or parties transferring title to the Townhome/Lot ("**Transferor(s)**") and the party or parties receiving title to the Townhome/Lot ("**Transferee(s)**") are and remain under common ownership and control as determined by the Board in its sole discretion applied on a consistent basis.

b. Any Transfer, whether outright or in trust, that is for the benefit of the Transferor or the Transferor's relatives (including the Transferor's spouse), but only if there is no more than nominal consideration for the Transfer. For purposes of this exclusion, the relatives of a Transferor shall include all lineal descendants of any grandparent of the Transferor, and the spouses of the descendants. Stepchildren and adopted children shall be recognized as descendants.

c. Any Transfer arising solely from the termination of a joint tenancy or the partition of property held under common ownership or in connection with a divorce, except to the extent that additional consideration is paid in connection therewith.

d. Any Transfer made for the sole purpose of confirming, correcting, modifying, or supplementing a Transfer that was previously recorded.

e. Any Transfer to secure a debt or other obligation to release property that is security for a debt or other obligation, including transfers in connection with foreclosure of a deed of trust or mortgage or transfers in connection with a deed in lieu of foreclosure.

f. The subsequent Transfer of a Townhome/Lot involved in a "tax free" or "tax deferred" exchange under the Internal Revenue Code, wherein the interim owner acquires such Townhome/Lot for the sole purpose of reselling that Townhome/Lot within thirty (30) days after the exchange. In these cases, the first Transfer is subject to the Reinvestment Fee, and any subsequent Transfers will only be exempt as long as the Reinvestment Fee has been paid in connection with the first Transfer of such Townhome/Lot in such exchange.

15.6 Collection of Assessments / Failure to Pay

Each Owner shall be obligated to pay his or her Assessments to the Association on or before the due date as set forth under the Governing Documents or otherwise determined by the Board.

15.6.1 Delinquent Assessments. Any Assessment not paid when due shall be immediately deemed as delinquent, and a lien securing the obligation to pay such Assessment shall automatically attach to the Lot of the Owner(s) failing to timely pay such Assessment, regardless of whether a written notice is recorded.

15.6.2 Late Fees and Accruing Interest. The Association's policies regarding late fees and/or accruing interest in connection with delinquent Assessment payments shall be determined by the Board and shall be set forth in the Rules and Regulations. Such policies shall be consistent with applicable laws, rules or regulations regarding the imposition of late fees and/or interest on delinquent Assessment payments.

15.6.3 Suspension of Right to Vote. At the discretion of the Board, the right of an Owner to vote on issues concerning the Association may be suspended if that Owner is delinquent in the complete payment of any Assessments, and has failed to cure or make satisfactory arrangements to cure the default after the Board has provided written notice pursuant to Subsection 15.6.4.

15.6.4 Notice of Suspension. Before suspending any Owner's right to vote, or before suspending any Owner's right to access or use certain Common Improvements, the Board shall give written notice to such Owner. The notice shall state: (A) voting rights and/or right to access or use certain Common Improvements will be suspended if payment of the Assessment is not received within three (3) business days; (B) the amount of the Assessment(s) due, including any late fees, interest, and costs of collection; and (C) that the Owner has a right to request a hearing by submitting a written request to the Board within thirty (30) calendar days from the date the notice is received. If a hearing is requested, the Owner's right to vote or access or use certain Common Improvements may not be suspended until after the hearing has been conducted and a final decision has been reached by the Board.

15.6.5 Security Deposit. Any Owner who has been late in delivering payment of his or her Assessments more than twice during any given twelve (12) month period may be required by the Board to deliver to the Association and maintain a security deposit not in excess of three (3) months of estimated Assessments, which may be collected in the same manner as other Assessments. Such deposit shall be held in a separate fund, credited to such Owner, and such deposit monies may be used by the Board whenever such Owner is more than ten (10) calendar days delinquent in paying his or her Annual Assessment or any other Assessment.

15.7 Lien / Foreclosure

15.7.1 Lien. The Association shall have a lien on the interest of the Owner(s) of the Lot for (1) any delinquent Assessment, (2) fees, charges, and costs associated with collecting any delinquent Assessment, including, court costs and reasonable attorney fees, late charges, interest, and any other amount the Association is entitled to recover under the Governing Documents, the Acts, or an administrative or judicial decision, and (3) any fine the Association may impose against the Owner of such Lot. The recording of this Declaration constitutes record notice and perfection of the lien described in this Section 15.7.1. A lien under this Section is not subject to Utah Code Annotated Title 78B, Chapter 5, Part 5, Utah Exemptions Act. If an Assessment is payable in installments, the lien described in this Section is for the full amount of the Assessment from the time the first installment is due, unless the Association otherwise provides in the notice of Assessment. A lien under this Section has priority over each other lien and encumbrance on a Lot except:

(a) a lien or encumbrance recorded before this Declaration was recorded;

(b) a first or second security interest on the Lot secured by a deed of trust or mortgage that is recorded before a recorded notice of lien by or on behalf of the Association; or

(c) a lien for real estate taxes or other governmental assessments or charges against the Lot.

15.7.2 Foreclosure of Lien and/or Collection Action. If the delinquent Assessments remain unpaid, the Association may, as determined by the Board, institute suit to collect the amounts due and/or to foreclose the lien. Suit to recover a money judgment for the unpaid Assessments shall be maintainable without foreclosure or waiving the lien securing the same.

15.7.3 Foreclosure of Lien as Mortgage or Trust Deed. In order to enforce a lien for any delinquent Assessment, or any of the other fees, charges, costs or fines described under Section 15.7.1, the Association may cause a Lot to be sold through nonjudicial foreclosure as though the lien were a deed of trust, in the manner provided by Utah Code Annotated §57-1-24 through §57-1-27 or any other applicable law, or foreclose the lien through a judicial foreclosure in the manner provided by law for the foreclosure of a Mortgage. For purposes of a nonjudicial or judicial foreclosure, the Association is considered to be the beneficiary under a trust deed and the Owner of the Lot being foreclosed is considered to be the trustor under a trust deed. An Owner's acceptance of the Owner's interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the trustee designated as provided in this Section for the purpose of securing payment of all amounts due under this Declaration and the Acts. In any such judicial or nonjudicial foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of any such judicial or nonjudicial foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power in behalf of the Association to bid in at any foreclosure sale, and to hold, lease, mortgage, or convey the subject Lot in the name of the Association.

15.7.4 Appointment of Trustee. The Association hereby conveys and warrants pursuant to Utah Code Sections 57-1-20 and 57-8-45 to Metro (as defined under Section 2.10, above) as trustee, with power of sale, the Lots, Townhomes, and all Improvements for the purpose of securing payment of Assessments under the terms of this Declaration. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code Ann.

Notwithstanding the above paragraph, if the Board elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to his, her or its Townhome/Lot hereby irrevocably appoints Metro as trustee, and hereby confers upon Metro the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended or supplemented. In addition, each Owner hereby transfers in trust to said trustee all of his or her right, title and interest in and to the Townhome/Lot for the purpose of securing his or her performance of the obligations set forth herein.

15.7.5 Notice of Foreclosure. At least thirty (30) calendar days before initiating a nonjudicial foreclosure, the Association shall provide notice to the Owner of the Lot that is the intended subject of the nonjudicial foreclosure. The notice shall (A) notify the Owner that the Association intends to pursue nonjudicial foreclosure with respect to the Owner's Lot to enforce the Association's lien for an unpaid Assessment; (B) notify the Owner of the Owner's right to demand judicial foreclosure in the place of nonjudicial foreclosure; (C) be sent to the Owner by certified mail, return receipt requested; and (D) be in substantially the following form (or other form as the Community Act may recommend or require):

> NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE, The Peaks Owners Association, Inc., a Utah nonprofit corporation, the Association for the project in which your Townhome/Lot is located, intends to foreclose upon your Townhome/Lot and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the Association's lien against your Townhome/Lot and to collect the amount of an unpaid assessment against your Townhome/Lot, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the Association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that "I demand a judicial foreclosure proceeding upon my Townhome/Lot," or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is [insert the current address of the Association for receipt of a demand].

15.7.6 Rental Value. From the time of commencement of any action to foreclose a lien against a Townhome/Lot for nonpayment of delinquent Assessments, the owner or purchaser of such Townhome/Lot shall pay to the Association the reasonable rental value of the Townhome/Lot to be fixed by the Board, and the plaintiff in any such foreclosure shall be entitled to the appointment of a receiver to collect the same, who may, if said rental is not paid, obtain possession of the Townhome/Lot, refurbish it for rental up to a reasonable standard for rental Townhomes/Lots in this type of dwelling unit, rent the Townhome or permit its rental to others, and apply rents first to costs of the receivership and attorney's fees thereof, then to costs of refurbishing the Townhome, then to costs, fees and charges, of the foreclosure action, then to the payment of the delinquent Assessment charges.

15.7.7 One-Action Rule Inapplicable. As provided under the Acts, the one-action-rule provided in Utah Code Annotated Subsection 78B-6-901(1) shall not apply to the Association's judicial or non-judicial foreclosure of a lien for Common Expenses and/or any Assessment.

15.8 Future Lease Payments

As set forth under Section 57-8a-310 of the Community Act, if the Owner of a Townhome who is leasing the Townhome fails to pay an Assessment for more than sixty (60) calendar days after the Assessment is due, the Board, upon compliance with this Section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

15.8.1 Notice to the Owner. The Manager or Board shall give the Owner written notice of its intent to demand full payment from the tenant. The notice shall: (A) provide notice to the tenant that full payment of the remaining lease payments, beginning with the next monthly payment unless the Assessment is received within fifteen (15) days from the date of the notice, must be paid directly to the Association at the following address: (address to which payment should be mailed, payment must go to the attorney if the account has been turned over for collection); (B) state the amount of the Assessment due, including any interest or late payment fee; and (C) state that any costs of collection, and other Assessments that become due, may be added to the total amount due.

15.8.2 Notice to the Tenant. If the Owner fails to pay the Assessment due by the date specified in the notice described in Subsection 15.8.1, the Manager or Board may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association. The Manager or Board shall mail a copy of the notice to the Owner. The notice shall state: (A) that due to the Owner's failure to pay the Assessment within the time period allowed, the Owner has been notified of the intent of the Board of Directors to collect all lease payments due to the Association; (B) that until notification by the Association that the Assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant shall pay to the Association all future lease payments due to the Owner; and (C) that payment by the tenant to the Association in compliance with this Section will not constitute a default under the terms of the lease agreement.

15.8.3 All funds paid to the Association pursuant to this Section shall be deposited in a separate account and disbursed to the Association until the Assessment due is paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association.

15.8.4 Within five (5) business days after payment in full of the Assessment, including any interest, late payment fee, and costs of collection, the Manager or Board shall notify the tenant in writing that future lease payments are no longer due to the Association. The Association shall mail a copy of the notification to the Owner.

15.8.5 If, as described under this Section 15.8, the Association receives lease payments for a particular Townhome that are otherwise due and payable to the Owner of that Townhome, the Association shall not assume any obligations, responsibilities or liabilities as the "landlord" of the Townhome. The Owner shall continue to assume any and all of the Owner's obligations, responsibilities or liabilities as the Owner/landlord of the Townhome.

15.9 Reassessment of Delinquent Assessments

In the event that all or part of any Assessment (including any Annual Assessment or Special Assessment) or any other expenses of the Board cannot be promptly collected from the Owners or any other persons or entities liable for the payment of such Assessments or expenses pursuant to the Acts or the Governing Documents, the Board shall have the right and authority to apply and reassess and reallocate such uncollected Assessments or expenses to all Owners as a Common Expense, without prejudice to the Board's right and authority to the collection of such uncollected Assessments or expenses from the Owners or any other persons or entities liable for their payment.

15.10 Remedies Cumulative

The remedies provided to the Association under this Article 15 are cumulative and the Association may pursue any such remedies concurrently, as well as any other remedies which may be available under law although not expressed herein.

ARTICLE 16 – COMPLIANCE AND ENFORCEMENT

16.1 Enforcement

Each Owner shall comply with the provisions of the Governing Documents, as the same may be lawfully amended from time to time, and with all decisions adopted pursuant to the Governing Documents. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by the Board on behalf of the Owners, or by the aggrieved Owner on his or her own. Reasonable fines may be levied and collected as an Assessment for violations of the Governing Documents. A schedule of fines may be adopted by the Board specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

The Association shall be entitled to an award of its attorneys' fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action.

16.2 Remedies

Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association, the right, but not the obligation, in addition to any other rights set forth in the Governing Documents, or under law, to do, any or all of the following after giving written notice:

(a) Subject to the provisions of this Declaration, to enter any Lot or any portion of the Common Area (including any Common Area that is contiguous and/or immediately adjacent to any Lot or Townhome) where such violation exists and to summarily correct, abate or remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of the provisions of the Governing Documents, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board, a copy of which shall be delivered to each Owner, mailed to the mailing address of the Lot or Townhome or mailed to the mailing address designated by the Owner in writing to the Association;

(d) To suspend the voting rights of any Owner, after notice and an opportunity to request a hearing, for any infraction of any of the published Rules and Regulations of the Association or the Governing Documents, including failure to timely pay an Assessment; and/or

(e) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any Rules and Regulations adopted pursuant thereto.

16.3 Action by Owners

Subject to any limitations that may be imposed under this Declaration, the Bylaws or applicable Utah law, an aggrieved Owner may bring an action against any other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

16.4 No Waiver of Strict Performance

The failure of the Board in any one or more instances to insist upon the strict performance of any of the terms, covenants, conditions or restrictions of the Governing Documents, or to exercise any right or option contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board of any Assessment from an Owner, with knowledge of any such breach shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in a writing been signed by the Board.

ARTICLE 17 – INSURANCE

17.1 Scope of Insurance Coverage

The Association shall maintain, to the extent reasonably available, the following insurance coverage:

17.1.1 Property insurance on any Common Areas and Common Improvements insuring against all risk of direct physical loss, including loss and damage by fire and other perils normally covered by the standard extended coverage endorsement, insured against in an amount equal to the maximum insurable replacement value of the insurable Improvements, Common Areas, Common Improvements, Lots, and Townhomes as determined by the Board; to the extent available at a reasonable cost, as the Board shall determine is advisable in its sole and subjective discretion, such property insurance includes all structural elements of and fixtures in the Townhomes, including without limitation those installed by Owners; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

17.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than Two Million Dollars ($2,000,000). Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas, Common Improvements, and any other portions of the Project or Improvements within the Project, which the Association is obligated to maintain under this Declaration.

17.1.3 Workers compensation insurance to the extent necessary to meet the requirements of applicable law, if any;

17.1.4 Fidelity bonding of the Board and employees of the Association having control of, or access to, the funds of the Association with loss coverage ordinarily not less than the maximum amount of funds of the Association over which the principal(s) under the bond may reasonably be expected to have control or access at any time;

17.1.5 Errors and omissions insurance coverage for the Board; and

17.1.6 Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association and/or the Owners.

17.2 Insurance Policy Requirements

17.2.1 Each insurance policy purchased by the Association shall, to the extent reasonably available, contain the following provisions:

17.2.2 The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against Owners or Occupants;

17.2.3 No act or omission by any Owner will void the policy or adversely affect recovery on the policy;

17.2.4 The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, Occupants or Mortgagees;

17.2.5 A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of the negligent acts of the Association or any Owners or Occupants;

17.2.6 Statement that the policy is primary in the event the Owner has other insurance covering the same loss;

17.2.7 Statement naming the Association as the insured;

17.2.8 For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy; and

17.2.9 Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Utah which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports-international edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBQ" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

17.3 Certificates of Insurance

An insurer which has issued an insurance policy under this Article 17 shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner or Mortgagee. Any insurance obtained pursuant to this Article 17 shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association and to each Owner and each Mortgagee to whom certificates of insurance have been issued, if any.

17.4 Payment of Premiums and Deductibles

The premiums for any insurance obtained by the Association pursuant to this Declaration shall be included in the budget of the Association as a Common Expense and shall be paid by the Association. The Association shall set aside an amount equal to the amount of the property insurance policy deductible or, if the policy deductible exceeds Ten Thousand Dollars ($10,000.00), an amount not less than Ten Thousand Dollars ($10,000.00). Owners affected by any loss covered by insurance maintained by the Association shall pay such Owner's share of any deductible; Owners may obtain insurance to cover such deductible. Any deductibles paid by the Association pursuant to insurance obtained by the Association shall also constitute Common Expenses. The Board shall provide notice to Owners of the amount of the deductibles and any change thereto.

17.5 Payment of Insurance Proceeds

With respect to any loss to the Common Areas and/or Common Improvements covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any Mortgagee. Subject to the provisions of Section 17.6, below, the proceeds shall be disbursed for the repair or restoration of the damage to the Common Areas and/or Common Improvements.

17.6 Repair and Replacement of Damaged or Destroyed Property

The Association will be responsible, as further provided in this Section 17.6, in the event of certain destruction or casualty of Common Areas or Common Improvements. Any portion of the Common Areas or Common Improvements that are damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (ii) Owners representing at least seventy-five (75%) percent of the total votes in the Association vote not to repair or replace such Improvements. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Areas, Common Improvements, Lots, or Townhomes are not repaired or replaced, insurance proceeds attributable to the damaged Common Areas, Common Improvements, Lots, or Townhomes shall be used to restore the damaged area to a condition which is in conformity with the Design Guidelines and/or as approved by the Board, and the remainder of the proceeds shall be: (i) retained by the Association as part of the Reserve Fund; (ii) used for payment of Operating Expenses if such action is approved by the affirmative vote or written consent of Members representing seventy-five percent (75%) or more of the Association's total voting power; and/or (iii) distributed to the Owners in shares equal to each Owner's Percentage Interest.

17.7 Owner Acknowledgement and Waiver

By acceptance of a deed to a Lot, each Owner hereby acknowledges his, her or its independent insurance obligations as outlined in Utah Code Annotated §57-8a-405 and such insurance shall apply to deductibles under the Association's master insurance policy. Each policy shall be carried with a company rated X or better in "Best's Insurance Guide", and each Owner shall provide the Board with a copy of the policy obtained by such Owner and such policy shall require thirty (30) days' notice to the Board before the policy can be cancelled. Each Owner shall obtain a clause or endorsement in the policies of such insurance which each Owner obtains to the effect that the insurer waives, or shall otherwise be denied, the right of subrogation against the Association for loss covered by the Association's master insurance policy. It is understood that such subrogation waivers may be operative only as long as such waivers are available in the State of Utah and do not invalidate any such policies. If such subrogation waivers are allegedly not operative in the State of Utah, notice of such fact shall be promptly given to the Board by the Owner obtaining insurance. The Board may unilaterally adopt, amend, and modify, in its sole and subjective discretion, Rules and Regulations regarding insurance requirements for Owners without amendment to this Declaration.

17.8 Annual Review

Insurance policies may be reviewed annually by the Board to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed and to determine their compliance with the provisions of this Declaration. In the event any of the insurance coverage provided for in this Article 17 is not available at a reasonable cost or is not reasonably necessary to provide the Project with adequate insurance protection, as determined by the Board, the Board shall have the right to obtain different insurance coverage or insurance coverage which does not meet all of the requirements of this Article 17 so long as, at all times, the Board maintains insurance coverage on a basis which is consistent with the types and amounts of insurance coverage obtained for projects similar to the Project. Additionally, the Board shall give Owners notice within seven (7) days if any such insurance is not reasonably available.

17.9 Owner to Insure

Notwithstanding anything in this Article 17 to the contrary, it shall be the responsibility of each Owner, at such Owner's expense, to maintain physical damage insurance on such Owner's personal property and furnishings. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Townhome as the Owner in the Owner's sole discretion shall conclude to be desirable. However, none of such insurance coverages obtained by such Owner shall affect any insurance coverage maintained by the Association or cause the diminution or termination of that insurance coverage, nor shall such insurance coverage of an Owner result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association as a result of insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a default Assessment, with the understanding that the Board on behalf of the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association.

ARTICLE 18 – DAMAGE OR DESTRUCTION

18.1 Generally

The Project shall be subject to any applicable provisions of the Community Act (as such Act may be amended or supplemented) pertaining to damage or destruction of a project including, by example and without limitation, Section 57-8a-407 of such Act.

In the event the Association determines that any damage or destruction of the Common Area cannot or shall not be repaired or reconstructed pursuant to any applicable provisions of the Community Act, and no alternative Improvements are authorized, then the Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

18.2 Homeowners Association as Attorney-In-Fact

Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorneys-in-fact in such Owners name, place and stead for the purpose of dealing with the damage or destruction of any Common Improvements as provided in this Article or a complete or partial taking as provided in Article 19, below. Acceptance by any grantee of a deed or other instrument of conveyance from any Owner shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the homeowners Association as attorney-in-fact. All proceeds from the insurance required here under shall be payable to the Association except as otherwise provided in this Declaration.

18.3 Estimate of Damages or Destruction

As soon as practical after an event causing damage to or destruction of any Common Improvements, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction those Common Improvements (and the Common Areas upon which such Common Improvements are/were located) that have been damaged or destroyed. "Repair and reconstruction "as used in this Article 18 shall mean restoring the damaged or destroyed Common Improvements to substantially the same condition in which they existed prior to the damage or destruction.

18.4 Repair and Reconstruction

As soon as possible after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Common Improvements (and the Common Areas upon which such Common Improvements are/were located). As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

18.5 Funds for Repair and Reconstruction

The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction of any Common Improvements. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may levy, assess, and collect in advance from all Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected proof insufficient to complete the repair and reconstruction.

18.6 Disbursement of Funds for Repair and Reconstruction

The insurance proceeds held by the Association and the amounts received from any Special Assessments as described under Section 15.3 constitutes a fund for the payments of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the

balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 15.3 above, or if no Special Assessments were made, and then in equal shares, first to the Mortgagees and then to the Owners, as their interests appear.

18.7 Decision Not to Rebuild

If Owners representing at least sixty-seven percent (67%) of the votes of the Association's membership and fifty-one percent (51%) of the Eligible Mortgagees (based upon one vote for each Mortgage owned) of the Lots vote not to repair and reconstruct and no alternative Common Improvements are authorized, then and in that event the affected portion of the common areas shall be restored to their natural state and maintained in an undeveloped portion of the Common Areas by the Association in a neat and attractive condition, and any remaining insurance proceeds shall be distributed in equal shares first to the Mortgagees and then to the Owners, as their interests appear.

18.8 Notice to First Mortgagees

The Association shall give timely written notice to any holder of any First Mortgage on a Lot who requests such notice in writing in the event of substantial damage to or destruction of a material part of the Common Areas.

ARTICLE 19 – CONDEMNATION

19.1 Rights of Owners

Whenever all or any part of the Common Areas shall be taken or conveyed in lieu of and under threat of condemnation, each Owner shall be entitled to notice of the taking, but the Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceedings, unless otherwise prohibited by law.

19.2 Partial Condemnation; Distribution of Award; Reconstruction

The award made for such taking shall be payable to the Association as trustees for all owners to be dispersed as follows:

If the taking involves a portion of the Common Areas on which Common Improvements have been constructed, then, unless within sixty (60) days after such taking, Owners representing at least sixty-seven (67%) of the Members of the Association shall otherwise agree, the Association shall restore or replace such Common Improvements on the Common Areas in accordance with plans approved by the Board. If the such Common Improvements are to be repaired or restored, the provisions of Article 18, above, regarding the disbursement of the funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on 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 distributed in equal shares per Membership, first to the Mortgagees and then to the Owners, as their interests appear.

19.3 Complete Condemnation

If all of the Project is taken, condemned, sold, or otherwise disposed of in Lou of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas shall be distributed to Owners based upon the relative value of the Lots or Townhomes (as applicable) prior to the condemnation.

ARTICLE 20 – LIMITATION OF BOARD MEMBERS' LIABILITY

20.1 No Personal Liability

So long as a Board member, Association officer, member of the Association or the Board or any committee, or any employee, independent contractor or agent of the Association has acted in good faith, without malicious, willful or intentional misconduct, upon the basis of such information as may be possessed by such person, then no such person shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of such person; provided, that this Section shall not apply where the consequences of such act, omission, error or negligence are covered by insurance obtained by the Board pursuant to Article 17.

20.2 Indemnification of Board Members

Each Board member, Association officer, or member of any Association or Board committee shall be indemnified by the Owners against all expenses and liabilities, including attorney's fees reasonably incurred by or imposed in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of holding or having held such a position, or any settlement thereof, whether or not he or she holds such position at the time such expenses or liabilities are incurred except in such cases wherein such person is adjudged guilty of malicious, willful or intentional misconduct in the performance of his or her duties; provided, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

ARTICLE 21 – MORTGAGEE REQUIREMENTS

21.1 Notice of Action

Upon written request made to the Association by the Mortgagee, or an insurer or a governmental guarantor of a Mortgage, which written request shall identify the name and address of such Mortgagee, insurer or governmental guarantor and the Lot number or address of the Townhome, any such Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

24.1.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or any Lot on which there is a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor;

24.1.2 Any delinquency in the payment of Assessments or charges owed by an Owner, whose Lot is subject to a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;

24.1.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond or insurance maintained by the Association; and

24.1.4 Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 21.2 below or elsewhere herein.

21.2 Matters Requiring Prior Eligible Mortgagee Approval

Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Members in the association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control), and Eligible Mortgagees holding Mortgages on Lots having at least fifty-one percent (51%) of the votes of the Lots subject to Mortgages held by Eligible Mortgagees shall be required to abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs. Termination of the legal status of the Project for any other reason shall require (i) the affirmative vote or authorization of Eligible Mortgagees holding at least sixty-seven percent (67%) of the Mortgages on lots; or (ii) restore or repair the Project (after damage or partial condemnation) in a manner other than that specified in this Declaration.

21.3 Availability of Governing Documents and Financial Statements

The Association shall maintain and have current copies of the Governing Documents and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of Mortgages that are secured by Lots. Generally, these documents shall be available during normal business hours.

21.4 Subordination of Lien

The lien or claim against a Lot for unpaid Assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgagee affecting such Lot, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No Assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Lot affected or previously affected by the First Mortgage concerned.

21.5 Payment of Taxes and Other Common Area Expenses

In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance lapses, is not to maintain, or the premiums thereof are not paid when due, any First Mortgagee or any combination of First Mortgagees may, jointly or singly, pay such taxes or premiums or secure such insurance. Moreover, in the event the Association is not adequately maintaining the Common Areas, then the County may (but shall not be obligated to) enter upon the Common Areas and perform such maintenance work as reasonably necessary to comply with this Declaration. If any First Mortgagee or the County expends funds for any such purposes, it shall be entitled to immediate reimbursement therefor from the Association.

21.6 Priority

No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots or the Common Areas.

ARTICLE 22 – APPROVAL/ADOPTION TERM – AMENDMENTS – TERMINATION

22.1 Approval/Adoption

Upon giving proper notice and holding a vote on the matter, this Declaration has been approved by no less than sixty-seven percent (67%) of the Owners of the Lots who are eligible to vote on the approval of this Declaration.

22.2 Term

This Declaration shall be effective upon the Recording Date and, as amended from time to time, shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each.

22.3 Amendments

Amendments to this Declaration shall be made by a recorded instrument that sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Owners. Amendments may be adopted at a meeting of the Owners if Owners holding sixty-seven percent (67%) of the Owners' cumulative voting rights vote in favor of such amendment, or without any meeting if all Owners have been duly notified and Owners holding sixty-seven (67%) percent of the Owners' cumulative voting rights consent in writing to such amendment. In all events, the amendment when adopted shall bear the signature of the President of the Association and shall be attested by the Secretary, who shall state whether the amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be

effective upon recording in the Recorder's Office and any other appropriate governmental offices as may be required by applicable law. It is specifically covenanted and understood that any amendment to this Declaration properly adopted will be completely effective to amend any or all of the covenants, conditions and restrictions contained herein which may be affected and any or all clauses of this Declaration unless otherwise specifically provided in the section being amended or the amendment itself.

ARTICLE 23 –UTILITY SERVICES

23.1 Townhome Internet Service

The Association may cause and/or facilitate the installation, operation and maintenance of Internet service within the Project for the benefit of, and use by, Owners of the Townhomes, and their family members, tenants, guests and invitees ("**Internet Service**").

23.1.1 Internet System Components Easement. The Declarant and the Association are hereby granted a permanent and irrevocable easement over, across and under the entire Project, including all Common Areas and Lots, for the purpose of installing, inspecting, operating, maintaining, repairing and/or replacing Internet System Components (as defined below). This easement may be utilized by any individuals or entities that may be hired or contracted by the Declarant or the Association in order to (A) provide Internet Service, or (B) install, operate, manage, maintain, repair and/or replace any Internet System Components. This easement may be utilized by any authorized agents or employees of the Declarant or the Association.

23.1.2 Power Supply Townhomes. Electrical power required to provide Internet Service will be supplied by each of the Townhomes identified under Subsection 23.2.5, below (the "**Power Supply Townhomes**"). Each Power Supply Townhome will supply electrical power for the Internet System Components that provide Internet Service for the Townhomes in the Building in which the Power Supply Townhome is located. Since the Internet System Components will consume a minimal amount of electricity and cannot be separately metered, neither the Declarant nor the Association will reimburse the Owners of any Power Supply Townhomes for the electricity used to power any Internet System Components. If electrical service for any Power Supply Townhome is temporarily suspended or permanently disconnected due to nonpayment of the electric utility bill, the Declarant and/or Association may contact the electric utility company and pay the charges required to reestablish such electrical service, and subsequently demand reimbursement from the Owner of the Power Supply Townhome.

23.1.3 Internet System Components. As used in this Declaration, the term "**Internet System Components**" collectively refers to any and all wiring, power transformers, equipment, devices, components, systems and infrastructure that may be used to deliver Internet Service. Without in any way limiting the previous sentence, the term "Internet System Components" includes any electrical wiring, junction boxes, circuit breakers and any other electrical supply components that may be connected to and extend from the main panel of the electric meter that serves each Power Supply Townhome (collectively, "**Electrical Supply Components**").

23.1.4 Common Improvements. Any and all Internet System Components shall be deemed Common Improvements, which are to be administered, maintained, repaired and/or replaced by the Association as set forth in this Declaration. The Association may contract with third parties (*e.g.* internet service provider, electricians, etc.) to administer, maintain, repair and/or replace the Internet System Components. The Internet Service described under this Section 23.2 is solely intended for use by the Owners of the Townhomes and their family members, tenants, guests and invitees. Accordingly, any expenses that may be incurred by the Association in connection with any Internet System Components shall be regarded and paid as Common Expenses.

23.1.5 Power Supply Townhomes. The following will serve as the Power Supply Townhomes:

Lot Number	Physical Address	Tax ID Number
BUILDING #1		
Lot 67	3557 North Creekside Way Eden, UT 84310	22-370-0005
Lot 73	3573 North Creekside Way Eden, UT 84310	22-370-0011
BUILDING #2		
Lot 75	3573 N Lakeview Court Eden, UT 84310	22-370-0015
BUILDING #3		
Lot 87	4935 East Wolf Lodge Drive Eden, UT 84310	22-370-0025
Lot 89	4929 East Wolf Lodge Drive Eden, UT 84310	22-370-0027
BUILDING #4		
Lot 82	3559 North Lakeview Court Eden, UT 84310	22-370-0020

23.1.6 Permanent Electrical Connections. The Electrical Supply Components will be permanently connected to the electrical service of each Power Supply Townhome. Accordingly, the provisions of this Section 23.1 will run with the land and shall be permanently binding upon the Owners of each of the Power Supply Townhomes, and their respective successors and assigns.

ARTICLE 24 – MISCELLANEOUS

24.1 Service of Process

Service of process for the purposes provided in the Acts may be made upon the offices of the President of the Association or upon the Manager of the Association, if any. The Board may at any time designate a new or different person, entity or agency for such purposes by filing an amendment to this Declaration limited to the sole purpose of making such change, and such amendment need only be signed and acknowledged by the then President of the Association.

24.2 Delivery of Notices to the Association

All notices to the Association or the Board shall be sent in care of the Manager or, if there is no Manager, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time.

24.3 Delivery of Notices to the Owners

Pursuant to Section 57-8a-214 of the Community Act, except as otherwise specifically permitted under any provision of this Declaration or the Bylaws or except as otherwise required under the Acts, the Association may send notices to Owners via first-class mail, registered mail or email.

The Association may also post notices on the Association's website (if any), but only if such notice has also been delivered to the Owners via first-class mail, registered mail or email. The Association may not utilize the Association's website as the sole means of delivering notices to the Owners. The Association may not utilize text messaging or any other electronic transmission (as that term is defined under Section 16-6a-102 of the Nonprofit Corporation Act) to deliver notices.

Each Owner must provide the Secretary of the Association with an email address which the Association may use for electronic delivery of certain notices. Each Owner shall also provide the Secretary of the Association with a mailing address at which the Association may mail any notices that, pursuant to the provisions of this Declaration, the Bylaws or the Acts, may not be electronically delivered. The Secretary of the Association shall maintain each Owner's email address and mailing address in the Association's ownership records.

Any notice that is sent via first-class mail or registered mail shall be sent to the mailing address that is on file with the Association. Any notice that is delivered via first-class mail shall be deemed to have been delivered three (3) business days after a copy has been deposited in the United States mail, postage prepaid.

If an Owner has not provided the Association with a mailing address, any notices the Association wishes to mail to that Owner shall be delivered via first-class mail or registered mail to both (A) the mailing address for such Owner that is published on the Weber County Assessor's Office website and (B) the physical address of such Owner's Lot/Townhome (if the two addresses are different).

An Owner may, by written demand to the Board, require that the Association abstain from delivering any notices to such Owner via email or any other electronic means and require that the Association only deliver notices to such Owner via first-class mail or registered mail.

If a Lot and/or Townhome is jointly owned or the Lot and/or Townhome has been sold under a land sale contract, notices shall be sent to a single mail address, of which the Board has been notified in writing by such parties. If no address has been given to the Board in writing, notices shall be sent to the mailing address that appears on the website for the Weber County Assessor's Office for to mailing address for the Owner's Lot and/or Townhome

24.4 Delivery of Notices to Mortgagees

Upon written request to the Secretary of the Association, a Mortgagee, or deed of trust beneficiary of any Lot or Townhome shall be entitled to be sent a copy of any notices respecting the Lot or Townhome covered by his or her security instrument until the request is withdrawn or the security right discharged. Notices will only be sent to those Mortgagees on record with the Association as having requested such notifications. The Association is not responsible to search for entities that may be entitled to receive notification.

24.5 Security Disclaimer

The Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. Neither the Association, nor the Board shall in any way be considered insurers or guarantors of security within the Project, however; and neither the Association, nor the Board shall be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken. Neither the Association nor the Board has made or shall make any express or implied representations or warranties to any Owner or to any residents, tenants, invitees, guests and/or other occupants of any Townhome regarding any security measures that may be, or may have been, undertaken within the Project.

24.6 Radon

Radon is a naturally occurring radioactive gas that, when it has accumulated in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Utah. Additional information regarding radon and radon testing may be obtained from the applicable county public health unit. Owners hereby acknowledge that neither Declarant or the Association will be responsible for injury or damage to persons or property caused by radon.

24.6 Use of Technology

In recognition of the opportunities offered through computers and continuing advancements in the high technology fields, the Association may, as a Common Expense, provide for or offer services, which make use of computers and other technological opportunities. For example, to the extent Utah law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect Assessment and other invoices electronically; sponsor a Project cable television channel; create and maintain a Project intranet or Internet home page offering interactive participation opportunities for users; maintain an "online" newsletter or bulletin board; and provide funding for any of the above purposes.

24.7 Mechanics Liens

Liens for materials, labor or money against any Townhome or Lot Owner or the Association are to be indexed in the public records under the name of the Townhome or Lot Owner. With regard to a lien on multiple Townhomes or Lots for materials, labor or money provided to the Association or affecting the Common Area, a Townhome or Lot Owner may pay his or her prorata share of the amount of any lien and that shall be sufficient to release the lien as to his or her Townhome or Lot. Any person, entity or organization who elects to provide materials or perform labor at the Project shall do so subject to the terms, covenants, and conditions of this Section 24.7.

24.8 Severability

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof, if the remainder complies with the Acts or as covenants affect the common plan.

24.9 Effective Date

This Declaration shall take effect immediately upon the date of its recordation in the Recorder's Office (the "**Recording Date**").

24.10 Rules Against Perpetuities and Unreasonable Restraints

As provided under Section 57-8a-108 of the Community Act, the rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat any provision of the Governing Documents. Accordingly, no provision of this Declaration shall be deemed unlawful, void, or voidable by reason of any applicable law restricting the period of time that covenants running with the land, or conditions on land, may be enforced.

24.11 Consistent with Acts

Capitalized terms such as, but not limited to, "Association", "Common Area", "Common Expenses", and "Project", as used in this Declaration are intended to have the same meaning given in the Acts unless the context clearly requires otherwise or to so define the terms would produce an illegal or improper result.

24.12 Liberal Construction

The provisions of the Governing Documents shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and operation of the Project consistent with applicable Utah law. It is intended and covenanted also that, insofar as it affects the Governing Documents and the Project, the provisions of the Acts referenced herein shall be liberally construed to effectuate the intent of the Governing Documents insofar as reasonably possible. In the event any provision of the Governing Documents is deemed as inconsistent with or illegal under any provision of the Acts (or any other applicable Utah law, rule or regulation) then the applicable provision(s) of the Acts (or any other applicable Utah law, rule or regulation) shall govern.

24.13 Covenant Running with Land

It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, supplementing and interpreting the Acts, and operating independently of the Acts should the Acts be, in any respect, inapplicable.

24.14 "Person", etc.

When interpreting this Declaration, the term "person" may include natural persons, partnerships, corporations, associations, and personal representatives. The term "mortgage" may be read to include deeds of trust. The singular may include the plural and the masculine may include the feminine, or vice versa, where the context so admits or requires.

24.15 Captions and Exhibits

Captions given to the various Articles and Sections herein are for convenience only and are not intended to modify or affect the meaning of the substantive provisions hereof. The various exhibits referred to herein by reference are hereby incorporated herein as though fully set forth where such reference is made.

IN WITNESS WHEREOF, the Association has caused this Declaration to be executed by its duly authorized officers.

"Association"

The Peaks Owners Association, Inc.
a Utah nonprofit corporation

By: _____
Name: Stephanie Haymond
Title: President

By: _____
Name: John Harrold
Title: Secretary

ACKNOWLEDGEMENT

(The Peaks Owners Association, Inc. – President)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 14 day of July in the year 2023, before me Alex Greenwell, a notary public, personally appeared

Notary Public Name

Stephanie Haymond, in his/her capacity as President of The Peaks

Name of Document Signer

Owners Association, Inc., a Utah nonprofit corporation, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal

Notary Seal

ALEX GREENWELL
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 725080
COMM. EXP. 06/07/2026

Alex Greenwell
(Signature of Notary)

My Commission Expires: 06/07/2023

Notary Acknowledgement

ACKNOWLEDGEMENT

(The Peaks Owners Association, Inc. – Secretary)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 14 day of July in the year 2023, before me Alex Greenwell, a notary public, personally appeared
Notary Public Name
John Harrold,
Name of Document Signer
in his/her capacity as Secretary of The Peaks Owners Association, Inc., a Utah nonprofit corporation, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal

Notary Seal

ALEX GREENWELL
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 725080
COMM. EXP. 06/07/2026

Alex Greenwell
(Signature of Notary)

My Commission Expires: 06/07/2023

Exhibit "A"
to
Declaration of Covenants, Conditions and Restrictions
for
The Peaks

Legal Description

ALL OF LOTS 63 THROUGH 89, THE VILLAGE AT WOLF CREEK 1ST AMENDMENT, WEBER COUNTY, UTAH.

Weber County Tax Parcel Numbers
22-370-0001, 22-370-0002, 22-370-0003, 22-370-0004, 22-370-0005, 22-370-0006, 22-370-0007, 22-370-0008, 22-370-0009, 22-370-0010, 22-370-0011, 22-370-0012, 22-370-0013, 22-370-0014, 22-370-0015, 22-370-0016, 22-370-0017, 22-370-0018, 22-370-0019, 22-370-0020, 22-370-0021, 22-370-0022, 22-370-0023, 22-370-0024, 22-370-0025, 22-370-0026, 22-370-0027

ALL COMMON AREA WITHIN VILLAGE AT WOLF CREEK (THE) A P.R.U.D. WEBER COUNTY, UTAH. LESS AND EXCEPTING: THOSE PORTIONS WITHIN VILLAGE AT WOLF CREEK 1ST AMENDMENT.

ALL PRIVATE DRIVES WITHIN THE VILLAGE AT WOLF CREEK 1ST AMENDMENT, WEBER COUNTY, UTAH.

Weber County Tax Parcel Number
22-191-0017
22-370-0028

Exhibit "B"
to
Declaration of Covenants, Conditions and Restrictions
for
The Peaks

Bylaws

[see attached Bylaws consisting of twenty-one (21) pages]

BYLAWS
OF
THE PEAKS OWNERS ASSOCIATION, INC.

ARTICLE 1
PLAN OF LOT OWNERSHIP

1.1 Name and Location. These are the Bylaws of The Peaks Owners Association, Inc., a Utah nonprofit corporation (the "**Association**"). The Association serves as the governing body for the residential townhome project located in Eden, Utah, known as the "The Peaks" (the "**Project**"). The Project has been subjected to that certain "Declaration of Covenants, Conditions and Restrictions for The Peaks" to which these Bylaws are attached as Exhibit "B".

1.2 Principal Office. The principal office of the Association shall be located at such location as may be designated by the Board from time to time.

1.3 Purposes. The Association has been formed to serve as a means by which the Owners may collectively take action regarding the administration, management and operation of the Project.

1.4 Applicability of Bylaws. The Association, all Owners and all persons using the Project (including any tenants or any other occupants of the Townhomes/Lots) shall be subject to these Bylaws, the Declaration, and any Rules and Regulations that may be adopted by the Board on behalf of the Association pursuant to the Declaration and/or these Bylaws.

1.5 Composition of Association. The Association shall be composed of all Owners and the Association itself, to the extent the Association owns any Townhomes/Lots within the Project. As set forth in the Declaration, each Owner shall be deemed a "**Member**" of the Association.

1.6 Incorporation of Association.

(a) The Association has been incorporated under the Utah Revised Nonprofit Corporation Act (Utah Code Section 16-6a *et seq.*) (the "**Nonprofit Corporation Act**"). The Articles of Incorporation of the Association shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the Bylaws of the incorporated Association.

(b) If the incorporated Association should ever be dissolved, whether inadvertently or deliberately, the Association shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, which vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any such successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the incorporated Association as if they had been made to constitute the governing documents of the unincorporated association.

1.7 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions, except that capitalized terms shall have the same meaning as set forth in the Declaration to which these Bylaws are attached, unless the context indicates otherwise.

ARTICLE 2
MEETING OF ASSOCIATION MEMBERS

2.1 Place of Meeting. The Association shall hold meetings at a location that is suitable and convenient to the Members as may be designated by the Board from time to time.

2.2 Annual Meetings. There shall be an annual meeting of the Members which shall be held no later than sixty (60) days prior to the first day of the upcoming fiscal year ("**Annual Meeting**"). The Board shall determine the exact date of the Annual Meeting. The Board shall deliver written notice of such Annual Meeting to the Members no later than thirty (30) calendar days prior to the date fixed for such meeting. Such notice may be delivered in any manner permitted under Section 19.3 of the Declaration. As set forth under Section 9.1.1 of the Declaration, no later than thirty (30) days prior to the Annual Meeting, the Board (or the Manager, if so requested by the Board) shall prepare and deliver to the Owners the Annual Budget. The Board may furnish the Annual Budget to the Owners by posting a copy on the Association's website.

2.3 Special Meetings. Special meetings of the Members may be called at any time for the purpose of considering matters which require the approval of all or some of the Members, or for any other reasonable purpose. Such meetings may be called by written notice of the President of the Association upon the decision of the President, or pursuant to a written request signed by a majority of the Board, or by written request by Members cumulatively holding at least twenty-five percent (25%) of the total votes, which notice shall be delivered according to Section 2.4, below. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.4 Notice of Meetings. Members must be provided with written notice of each Annual Meeting or special meeting of Members as set forth under Section 19.3 of the Declaration.

2.4.1 Contents of Notice. Each notice shall include the following information: (a) the place, day and hour of the meeting; (b) a description of any matter or matters that must be approved by the Members at such meeting; and (c) in the case of a special meeting, the purpose of such meeting.

2.4.2 Delivery of Notice. Notice of any meeting shall be delivered to all Members entitled to vote at such meeting no later than thirty (30) calendar days but no more than sixty (60) calendar days before such meeting to each Member entitled to vote at such meeting.

2.5 Members of Record. The Members of the Association shall be the fee owners of the Lots, including any Mortgagee, trustee or beneficiary under a deed of trust who acquires title pursuant to any remedy under the mortgage or deed of trust, or any proceeding or procedure in lieu thereof, provided the Association has been given written notice that such Mortgagee, trustee or beneficiary under a deed of trust has acquired title. The Board shall maintain a current list of Members which

shall be updated on a regular basis. Disputes regarding the true and actual list of Members shall be resolved by reference to the Official Records of the Recorder's Office.

2.6 Voting Rights. The total collective voting power of the Owners shall be equal to the total number of Lots in the Project. The Owner(s) of any one Lot shall be entitled to one (1) vote. If there is more than one Owner with respect to a particular Lot, any or all of such Owners may attend any meeting of the Association, but it shall be necessary for all Owners of the same Lot to act unanimously in order to cast the votes pertaining to their Lot. The Association's policies and procedures regarding voting, including voting representatives, joint Owner disputes, pledged votes, mail-in ballots, and electronic ballots shall be as set forth under the Declaration.

The Board shall be entitled to cast a vote on behalf of any Lot which has been acquired by or on behalf of the Association. Any such vote must be cast on behalf of such Lot consistent with a majority vote of the Board. The Board shall not be entitled to cast a vote with regard to any election of Board members on behalf of any Lot which has been acquired by or on behalf of the Association.

2.7 Proxies, Absentee Ballots and Rights of Mortgagees.

2.7.1 Proxies. Any vote may be cast by proxy. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the Secretary no later than one (1) week prior to the meeting at which such proxy is intended to be utilized. A proxy may only be assigned to and exercised by a person who is an Owner, except as otherwise provided under Section 2.8 below. No more than five (5) proxies may be assigned to and exercised by any one Owner. No proxy shall be valid after the meeting for which it was solicited. No proxy shall be valid if it purports to be revocable without notice.

An Owner may revoke his or her proxy by: (a) attending and voting at the meeting at which such proxy was intended to be utilized (as evidenced by the writing under which the proxy was authorized) and voting in person; or (b) signing and delivering to the Secretary (i) a writing stating that the appointment of the proxy is revoked; or (ii) a subsequent proxy appointment form; or (c) in the event of a vote that is being conducted by written ballot in lieu of a meeting pursuant to Section 2.14 below, signing and delivering to the Board a writing stating that the appointment of the proxy is revoked.

Every proxy shall automatically cease upon sale of the Townhome/Lot associated with such proxy. A proxy must be for the entire voting right of a Townhome/Lot with no divisions accepted. With regard to any Townhome/Lot that is owned by more than one Owner, if any such Owners delivers to the Board a written objection to the proxy given for such Townhome/Lot (which written objection must be received by the Board no later than three (3) calendar days prior to the meeting or vote at which such proxy is intended to be utilized) the proxy shall be deemed invalid and, if the Owners of such Townhome/Lot are unable to collectively agree as to how their vote is to be cast, they shall lose their right to vote on the matter in question.

2.7.2 Absentee Ballots. Any vote may be cast by absentee ballot.

2.7.3 Mortgagee Rights. An Owner may pledge or assign the Owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled hereunder and to exercise the Owner's voting rights from and after the time that the Mortgagee shall have given written notice of the pledge or assignment to the Board. Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

2.8 Fiduciaries and Joint Owners.

2.8.1 Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy at any meeting of the Association with respect to any Townhome/Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, however, that the person shall satisfy the Secretary that he or she is the executor, administrator, guardian, or trustee holding the Townhome/Lot in such capacity.

2.8.2 Ownership by Corporation, Partnership or Other Legal Entity. If a Townhome/Lot is owned by a corporation, partnership, limited liability company or other form of legal entity, such corporation, partnership, limited liability company or other entity shall designate a person who is an officer of such corporation, a partner of such partnership, a manager or member of such limited liability company, or a principal or owner of such other legal entity to cast the vote for such Townhome/Lot. Such written designation shall be given to the Secretary not less than three (3) days before the date any vote is to be cast. If no such designation is provided to the Secretary, the vote for such Townhome/Lot may not be cast.

2.8.3 Joint Owners. Whenever any Townhome/Lot is owned by two or more persons jointly, according to the records of the Association, then each co-Owner shall be deemed to have given each of the other co-Owners his or her proxy to cast the vote for such Townhome/Lot, and any co-Owner may cast the vote for such Townhome/Lot at any meeting or for any other purpose requiring the consent or approval of the Members herein, unless the Board has received a written protest from a co-Owner of such Townhome/Lot not less than three (3) days prior to the date any vote or approval is to be cast or given. If the Board receives such a written protest, then none of the co-Owners of such Townhome/Lot shall be entitled to vote without the approval of all co-Owners. In the event of disagreement among the co-Owners, the vote of the Townhome/Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.9 Quorum of Owners.

2.9.1 Annual Meetings. At any Annual Meeting of the Owners, the presence in person or by proxy of any Owners who are entitled to vote shall constitute a quorum. The purpose of this de minimis quorum requirement for Annual Meetings is to ensure the Association is able to fulfill its obligation to hold an Annual Meeting of the Owners as required under Nonprofit Corporation Act.

2.9.2 Special Meetings. At any special meeting of the Owners, a quorum shall be established by the presence, in person or by proxy, of a Majority of the Owners.

2.9.3 Owner Presence. Once an Owner is represented for any purpose at any Annual Meeting or special meeting, including for the purpose of determining that a quorum exists, that

Owner is considered present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new record date is or shall be set for that adjourned meeting.

2.10 Binding Vote. The vote of more than fifty percent (50%) of the Owners present (whether in-person, by proxy, or by absentee ballot) at any meeting at which a quorum is constituted shall be binding upon all Owners for all purposes except where a different approval process and/or higher percentage vote is required by law, the Declaration, or these Bylaws. As set forth in the Declaration, the process for determining or approving various matters (including, for example, changes to the Rules and Regulations, the Annual Budget, Annual Assessments, Special Assessments, and any amendments the Declaration or these Bylaws) does not allow or include a vote of the Owners at the Annual Meeting or any special meeting. As such, the matters that may be voted upon or approved at the Annual Meeting or any special meeting of the Owners is limited.

2.11 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, form of proxies and the method of ascertaining Owners present shall be deemed waived if no objection is made either at the meeting or within thirty (30) calendar days of the date of the meeting.

2.12 Order of Business. The order of business at Annual Meetings shall be according to the order established by the President, and by way of example, may include the following: (a) calling of the roll and certifying of proxies; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees, if any; (f) unfinished business, if any; (g) new business or such other matters as the President deems appropriate; (h) election of Board members, and (i) adjournment.

2.13 Meeting Procedure. When any dispute arises as to conduct of meetings of Members, the Association agrees to follow rules of order as established in the latest edition of "Robert's Rules of Order."

2.14 Action by Written Ballot in Lieu of a Meeting.

2.14.1 Action by Written Ballot. Pursuant to Section 16-6a-709 of the Nonprofit Corporation Act, at the discretion of the Board, any action that may be taken at any Annual Meeting or any special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner who is entitled to vote on the matter not less than fifteen (15) calendar days prior to the date on which the ballots must be received by the Association in order to be counted.

2.14.2 Form and Effect of Ballot. The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action. If approved by the Board, any Owner who has the right to vote at an Annual Meeting, but cannot personally attend such meeting, may be permitted to submit his or her vote via electronic transmission in a manner that satisfies the requirements of the Nonprofit Corporation Act.

2.14.3 Information Required in Ballot Solicitations. All solicitations for votes by written ballot must:

(1) State the number of responses needed to meet any applicable quorum requirements and the total percentage of votes needed for approval (including a statement that matters may approved by a majority of votes present or by proxy at any duly constituted meeting at which a quorum is present).

(2) Specify the period during which the Association will accept written ballots for counting, which period shall end on the earliest of the following: (a) the date on which the Association has received a sufficient number of approving ballots to pass the proposal; (b) the date on which the Association has received a sufficient number of disapproving ballots to render the proposal impossible of passage; or (c) a date certain on which all ballots must be returned to be counted.

2.14.4 Determination of Vote. The outcome of a vote by written ballot in lieu of a meeting shall be determined by the Board within seventy-two (72) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written ballot shall be deemed approved or rejected as follows:

(1) If approval of a proposed action would otherwise require a meeting at which a certain quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed as approved when the date for return of ballots has passed, a quorum of Owners has voted and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected.

(2) If approval of a proposed action otherwise would require a meeting at which a specified percentage of Owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met.

(3) Votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

2.14.5 Owner Notification of Ballot Results. The Board shall notify the Owners (via mail, email or the Association's website) of the results of the ballot meeting no later than ten (10) calendar days after the ballots have been counted.

ARTICLE 3
BOARD OF DIRECTORS – SELECTION, TERM OF OFFICE & REMOVAL

3.1 Number and Qualifications.

(a) The affairs of the Association shall be governed by a Board of Directors composed of three (3) Directors. The term of office shall be three (3) calendar years, and the expiration of such terms may, to the extent practical or possible, be offset or staggered such that the normal number of vacancies in any given calendar year will not be a majority of the positions on the Board.

(b) A Board member must be an Owner or the co-Owner of a Townhome/Lot. However, multiple Owners of the same Townhome/Lot may not simultaneously serve as Board members. An officer of a corporation, a partner of a partnership, a member or manager of a limited liability company, a trustee of a trust, or a personal representative of an estate may serve on the Board if the corporation, partnership, limited liability company, trust or estate owns a Townhome/Lot.

3.2 Vacancies. Vacancies on the Board may be filled for the balance of the term of each Board membership by vote of a simple majority of the remaining Board members even though they may constitute less than a quorum. If the remaining Board members are unable to achieve a simple majority to fill a vacancy of the Board, that Board vacancy shall be filled by a vote of all Owners pursuant to the Association's process for electing Directors. Each person so elected to fill a vacancy of the Board shall complete the term of the vacated Board position.

3.3 Removal of Board Members.

(a) At any special meeting of the Members, other than a meeting by written ballot conducted pursuant to Section 2.14 above, any one or more of the Board members may be removed for cause only. The Members may not vote to remove any member of the Board without cause. If a Board member is to be removed for cause, a Majority of the Owners (as that term is defined under Section 1.28 of the Declaration) must approve such removal. The notice of a meeting called to remove a Board member for cause must state that the removal is to be considered and any Board member whose removal has been proposed by any Member(s) may be given an opportunity to be heard at the meeting.

As used in this Subsection 3.3, "for cause" shall include a member of the Board (i) being convicted or pleading "no contest" to felony or a crime of moral turpitude, (ii) being delinquent in the payment of his or her dues or other fees to the Association for a period of more than two (2) months, (iii) chronically failing to abide by the Rules and Regulations of the Association, (iv) embezzling, misappropriating or misusing any funds of the Association, or (v) engaging in any other serious misconduct relating to his or her conduct as a Board member. Any vacancy on the Board resulting from the removal of a Director pursuant to this Section 3.3(a) shall be filled as provided in Section 3.2 of these Bylaws.

(b) The Board may remove a member of the Board for cause by the vote of a majority of all Board members then in office. In addition to what constitutes "for cause" under Section 3.3(a) above, "with cause" for purposes of this Section 3.3(b) shall also include (i) suing, or being sued by the Association or the Board or (ii) being absent from three (3) consecutive regular meetings of the Board. Any vacancy on the Board resulting from the removal of a Director pursuant to this Section 3.3(b) shall be filled as provided in Section 3.2 of these Bylaws.

3.4 Compensation. No Board member shall receive compensation for any service he or she may render to the Association. However, any Board member may be reimbursed for reasonable actual expenses incurred in the performance of his or her duties.

ARTICLE 4
NOMINATION AND ELECTION OF DIRECTORS

4.1 Nominations. Not less than forty five (45) days prior to the annual meeting of Members, the Board shall notify all Members regarding the number of seats on the Board that will be open for election at such meeting and the procedures for nominating persons to serve on the Board.

Nominations and elections shall be administered as follows:

(a) Any Owner who is interested in serving on the Board must provide the Secretary of the Association with a statement briefly describing why he or she would like to serve on the Board along with a brief biographical profile no later than thirty (30) days prior to the Annual Meeting. The statement submitted to the Secretary must disclose the information required under Subsection 6.4(b) of these Bylaws.

(b) Information regarding each nominee, along with voting ballots, shall be emailed to all Owners no later than twenty (20) days prior to the Annual Meeting. Any Owner may request that information regarding nominees, along with the voting ballot, be delivered to such Owner via regular mail, provided such request is delivered to the Board in writing.

(c) Owners may only vote for the nominees listed on the ballot. Write-in votes will not be counted. If a particular election is uncontested (*i.e.* there is only one nominee for one seat that is up for election, or there are only two nominees for two seats that are up for election, etc.) then no ballots will be distributed to the Owners and the uncontested nominee(s) will be named as member(s) of the Board at the Annual Meeting.

(d) Completed and signed ballots must be received by the Board no later than the beginning of the Annual Meeting so that ballots can be announced by the end of the Annual Meeting. Ballots may either be mailed, scanned and emailed, or directly submitted to the Board at the Annual Meeting. Owners holding no less than twenty-five percent (25%) of the Percentage Interest must participate in any contested election in order for the results of that election to be valid.

(e) Each Owner, or such Owner's proxy, shall cast towards the list of nominees a number of votes equal to the number of Board positions that are being filled (*i.e.* if one Director is being elected, each Owner, or such Owner's proxy, shall cast one vote; if two Directors are being elected, each Owner, or such Owner's proxy, shall cast two votes, etc.) An Owner may not, however, cast more than one vote for the same nominee. Any ballot that contains more than one vote for a particular nominee shall be deemed null and void. If just one Director position must be filled, the nominated Owner receiving the largest amount of votes shall be elected. If two (or more) Director positions must be filled, then the two (or more) nominees receiving the largest amount of votes shall be elected.

(f) Election results shall be announced via email within 24 hours of the adjournment of the Annual Meeting. Election results shall also be posted at the clubhouse and on the Association's website (if any).

4.2 Qualification of Board Members. Only natural persons who are Owners and over the age of twenty-one (21) may serve on the Board; provided, however, if a Townhome/Lot is owned by a corporation, trust, partnership, limited liability company or other form of legal entity, then an officer of such corporation, a trustee of such trust, a partner of such partnership, a member or manager of such limited liability company, or an owner or principal of such other legal entity may be nominated and serve on the Board. If a Townhome/Lot is owned by two (2) or more Owners, only one of such co-Owners may serve on the Board at any one time.

4.3 Vacancies. Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Owners, shall be filled for the balance of the term of each Board membership by vote of a simple majority of the remaining Board members even though they may constitute less than a quorum. If the remaining Board members are unable to achieve a simple majority to fill a vacancy of the Board, that Board vacancy shall be filled by a vote of all Owners pursuant to the Association's process for electing Directors. Each person so elected to fill a vacancy of the Board shall complete the term of the vacated Board position.

4.4 Compensation. No Board member shall receive compensation for any service he or she may render to the Association as a Board member or officer. However (A) any member of the Board may be reimbursed for reasonable actual expenses incurred in the performance of his or her duties, and (B) the services of any member of the Board may be retained by the Association in another capacity and receive compensation for such services.

No entity or person may be retained as an independent contractor or otherwise receive any compensation for services provided to the Association unless expressly approved by a majority of the Board members. An Owner with relevant qualifications and experience may be retained to provide the services of a Manager and be paid for rendering such services.

ARTICLE 5
MEETINGS OF THE BOARD OF DIRECTORS

5.1 Initial Meeting Following Election. At the first meeting of the Board following the Annual Meeting of Members at which new Board members were elected, the Board shall elect a member of the Board to serve as President, Vice President, Secretary and Treasurer in accordance with Section 7.2 below and may conduct any other Association business.

5.2 Regular Meetings. The Board shall hold regular Board meetings no less than twice per year. The Board must meet no later than thirty (30) days following the Annual Meeting in order to determine officer positions. Regular meetings of the Board may be held upon no less than two (2) weeks advance notice.

5.3 Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two (2) Board members, after not less than one (1) week notice to each Board member by mail or electronic mail. The notice must state the time, place, and purpose of the meeting.

5.4 Meeting Procedures.

(a) Meetings of the Board shall be conducted by the President

(b) A decision of the Board is deemed valid without regard to any procedural errors related to the rules of order unless the error is reflected in the meeting minutes or appears on the face of the Board resolution (if any) memorializing the Board's decision.

5.5 Open Meetings; Executive Sessions.

(a) Open Meetings. Except as provided under Subsection 5.5(d), below, each Board meeting shall be open to each Owner or the Owner's representative if the representative has been designated by the Owner to the Board in writing.

(b) Notice of Board Meetings. As set forth under Section 57-8-57 of the Condominium Act, no later than 48 hours prior to any Board meeting, the Association must give written notice of the meeting via email to each Owner who has requested notice of Board meetings, unless: (1) notice of the meeting is included in a meeting schedule that was previously provided by the Board to the Owner; or (2) the purpose of the meeting is to address an emergency and each Board member receives notice of the meeting less than 48 hours before such meeting.

(c) Delivery and Contents of Notice. A notice of any Board meeting, as described under Subsection 5.5(b), above, must:

(1) be delivered to the Owner by email, to the email address that the Owner provides to the Board or the Association;

(2) state the time and date of the Board meeting;

(3) state the location of the Board meeting; and

(4) if a Board member may participate by means of electronic communication, provide the information necessary to allow the Owner to participate by the available means of electronic communication.

(d) Executive Sessions. As provided under Subsection 57-8-57(3) of the Condominium Act, the Board may close a Board meeting to attendance by any Owner or any Owner's representative in order to:

(1) consult with an attorney for the purpose of obtaining legal advice;

(2) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings;

(3) discuss a personnel matter;

(4) discuss a matter relating to contract negotiations, including review of a bid or proposal;

(5) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or

(6) discuss a delinquent Assessment or fine.

(e) Owner Comments/Conduct. At each Board meeting, the Board must provide each Owner a reasonable opportunity to offer comments. However, the Board may limit such comments to specific time period(s) during the meeting. The Board shall have the authority to dismiss from a Board meeting any Owner who disrupts the proceedings of such meeting. The Board shall also have the authority to exclude from a Board meeting any Owner who disrupted the proceedings of the previous Board meeting that Owner attended.

(f) Failure to Comply. Any failure of the Association or the Board to comply with any portion of Subsections 5.5(a) through (e) shall be subject to the enforcement procedures set forth under Section 57-8-57(8) of the Condominium Act.

5.6 Meetings Via Electronic Communication. As set forth under Subsection 57-8-3(26) of the Condominium Act, any member or all members of the Board may choose to participate in any meeting of the Board by means of electronic communication. Per Subsection 57-8-3(26) "means of electronic communication" refers to an electronic system that allows individuals to communicate orally in real time via web conferencing, video conferencing or telephone conferencing.

5.7 Waiver of Notice. Any Board member may, at any time, waive notice of any meeting of the Board in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice by the Board member, except where the Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Board members are present at any meeting of the Board, no notice to Board members shall be required and any business may be transacted at the meeting.

This Section 5.7 is intended to be consistent with the requirements of Section 16-6a-815 of the Nonprofit Corporation Act. In the event Section 16-6a-815, as may be periodically amended,

provides "waiver of notice" requirements that in any way differ from those contained in this Section 5.7, then the requirements of Section 16-6a-815 shall control.

5.8 Quorum and Acts. At all meetings of the Board a majority of the existing Board members shall constitute a quorum for the transaction of business and the acts of the majority of the Board members present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. Any unfinished business upon such adjournment of a Board meeting may only be transacted at a subsequent regular or special meeting of the Board that has been properly held by giving notice and conducting such meeting as required by these Bylaws.

5.9 Action Taken Without A Meeting. The Board members shall have the right to take any action in the absence of a meeting which they could take a regular or special meeting by obtaining the written approval of all the Board members in accordance with Section 16-6a-813 of the Nonprofit Corporation Act, as amended from time to time. Any action so approved shall have the same effect as though taken at a meeting of the Board members.

ARTICLE 6
POWERS, RIGHTS, AND DUTIES OF THE BOARD

6.1 General Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

6.2 Specific Powers. In addition to powers authorized by the Declaration, these Bylaws or by resolution of the Association, the Nonprofit Corporation Act or other applicable law, and subject to Section 6.3 of these Bylaws, the Board shall have the power to:

(a) adopt, publish, amend and modify Rules and Regulations governing the use of Common Areas, including any Improvements, facilities and amenities located thereon, and the personal conduct of the Owners and their tenants or guests thereon, and to establish penalties and fines for the infraction thereof;

(b) suspend the voting rights and the right to use of any recreational Common Improvements by any Owner (including such Owner's tenants, guests or invitees) during any period in which such Owner shall be in default in the payment of any fine or Assessment levied by the Association against such Owner;

(c) engage the services of a property manager or property management company, accountants, attorneys or other professionals, employees or agents and to pay to said persons a reasonable compensation therefore;

(d) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(e) supervise all officers, agents, managers and employees of the Association, and see that their duties are properly performed;

(f) operate, maintain, repair, improve and replace the Common Areas;

(g) determine and pay the Operating Expenses;

(h) assess and collect the proportionate share of Operating Expenses from the Owners;

(i) subject to Section 6.3, below, enter into contracts, deeds, leases or other written instruments or document for and in behalf of the Association and to authorize the execution and delivery thereof by the appropriate officers;

(j) open bank accounts on behalf of the Association and designate the signatures for such bank accounts pursuant to a resolution adopted by the Board;

(k) purchase, hold, sell, convey, mortgage or lease any interest in real property for and in behalf of the Association subject to the restrictions, limitations and provisions of the Declaration;

(l) bring, prosecute and settle litigation for itself, the Association and the Project, provided it shall make no settlement which results in any uninsured liability against the Board, the Association, or the Project in excess of $20,000 without prior written approval of a Majority of the Owners;

(m) obtain insurance for the Association with respect to the Townhomes/Lots, the Common Areas and/or the Common Improvements, as well as Worker's Compensation Insurance and any other insurance the Board deems appropriate, all in such amounts, with such coverage and subject to such deductibles as the Board determines to be appropriate;

(n) repair or restore the Project (or any portion of the Project) following damage or destruction, or a permanent taking by the power of, or power in the nature of, eminent domain or by an action or deed in lieu of condemnation, not resulting in the removal of the Project from the provisions of the Acts;

(o) purchase or lease, and sell or otherwise acquire or dispose of, on behalf of the Association, items of personal property necessary to convenient in management of the business and affairs of the Association and the Board and in the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies;

(p) keep adequate books and financial records so that the Board can reasonably and regularly assess the financial status and strength of the Project. Such books and records may include, by example and without limitation, financial reports normally presented by the property manager to the Board, such as budget-to-actual reports for each fiscal quarter and fiscal year, quarterly reports of Owners who are delinquent in their payment of Assessments or any Additional Charges, fiscal quarterly and fiscal annual statements of Association's bank account balances, Association reserves reports, and Special Assessment reports (as applicable), and any other relevant financial reports;

(q) borrow funds and enter into promissory notes, provided that any such action has been approved in writing by a Majority of the Owners;

(r) sell portions of the Common Areas, provided that any such action has been approved in writing by at least seventy-five percent (75%) of the Owners;

(s) approve and sign checks and issue payment vouchers;

(t) pay off or otherwise satisfy any liens against any portion of the Project; and

(u) do all other acts necessary for the operation and maintenance of the Property, including the maintenance and repair of any Townhome/Lot if the same is necessary to protect or preserve the Project.

6.3 Association Contract Requirements.

(a) Minimum Required Bids. The Board shall not execute any contract or agreement on behalf of the Association (i) for any goods or services that exceed $5,000 in any single instance or (ii) that has a term of more than one year, unless the Board has first made a reasonable attempt to obtain at least two (2) bids from vendors or contractors qualified to provide such goods or services. The requirements of this Subsection 6.3(a) shall not apply (A) if the Board is unable to identify or locate more than one (1) such qualified vendor or contractor that is able or willing to provide the goods or services being sought; or (B) in the event of emergency maintenance or repairs as described under Subsection 6.3(c) below.

(b) Minimum Required Signatures. No member of the Board of Directors (including the President or Vice-President) may unilaterally obligate or bind the Board or the Association regarding the acknowledgement of, performance of, or payment under any contract, agreement or any other document. Any written contract, agreement or document must either be signed by at least two (2) members of the Board of Directors, or approved via email by at least three (3) members of the Board. If a particular contract, agreement or other document is approved via email, that contract, agreement or other document may be signed by the Manager on behalf of the Association. Under no circumstances, however, may the Manager sign any contract, agreement or other document that obligates the Association to pay more than $5,000 for any goods or services. The provisions of this Subsection 6.3(b) do not apply to the signing of checks on behalf of the Association. Any such Association checks must be signed by either the President or Vice-President and must also be co-signed by the Manager.

(c) Emergency Maintenance or Repairs. The Manager is prohibited from signing any contract, agreement or other document whatsoever on behalf of the Board or the Association. However, the language of this Subsection 6.3(c) shall not prevent the Manager from performing emergency maintenance or repairs, or from engaging or retaining the maintenance or repair services of any third party, as deemed necessary by the Manager in order to prevent or mitigate any harm or injury to any portion of the Project, any Owners, any tenant, guest or other occupant of any Townhome/Lot, or any other individuals or property that may be located on the Project. The Manager must notify the Board regarding the Manager's performance of any such emergency maintenance or repairs, or the engagement of any such maintenance or repair services by any third party, no later than twenty-four (24) hours after such emergency maintenance or repairs have been commenced.

(d) Contract Approval. Except for emergency maintenance or repairs as described under Subsection 6.3(b), above, the Board shall have the sole authority to negotiate and enter into contracts on behalf of the Association.

6.4 Disclosure of Interest.

(a) It shall be the affirmative duty of each Board member to disclose to the Board any conflict of interest which such Board member may have with respect to any matter under consideration by the Board or with respect to any matter under consideration by the Board with respect to any dealings the Association has with outside entities or businesses. A Board member is deemed to have a potential conflict of interest if the Board member has any relationship as a partner, shareholder, officer, director, employee or agent, with any entity or person with whom the Association is doing or contemplating doing business.

(b) Statements filed with the Secretary of the Association by any Board nominees as required under Section 4.1(a), above, must indicate the nominee's full and partial ownership in any Townhome(s)/Lot(s) and the extent of the Owner's involvement in the rental of any Townhomes/Lots within the Project (regardless of whether or not the Owner has any ownership in such rented Townhomes/Lots). The Owner must also disclose whether he or she is involved in the management of any rental Townhomes/Lots within the Project. A nominee's ownership or management of rental Townhomes/Lots shall not disqualify the nominee from being eligible to serve on the Board. The nominee must disclose such information merely so other Owners are aware as to whether the nominee derives income from the rental of Townhomes/Lots as a landlord and/or property manager.

(c) Because the Members of the Association are primarily individuals who view the Association's objectives as providing quality services to the Members, it shall be a conflict of interest for any Board member to vote on any Board decision from which said Board member or any person or entity with whom said Board member has a relationship described above, expects a profit. A Board member may not vote on an issue when he/she has such a conflict of interest, as determined by the other members of the Board.

(d) Any person who has served as a Board member is prohibited from becoming an employee, officer and/or agent of the Association for a period of one (1) year following his/ her termination as a Board member or the end of his/her term as a Board member. This restriction may be waived on an individual case basis by a majority vote of the Board.

ARTICLE 7
OFFICERS AND THEIR DUTIES

7.1 Designation and Qualification.

(a) Designation. The officers of the Association shall include a President, Vice-President, Secretary and a Treasurer.

(b) Qualifications. Each officer must be a member of the Board. Any Board member may be an officer.

(c) Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices specified in Subsection 7.1(a).

(d) Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.2 Election and Vacancies. The officers of the Association may be elected by the Board at the first meeting of each new Board held in accordance with Section 5.1 above or any Board meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board shall elect a successor to fill the unexpired term at any meeting of the Board.

7.3 Resignation. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 Compensation of Officers. No officer who is a member of the Board may receive any compensation from the Association for acting as an officer, unless the compensation is authorized by a vote of a Majority of the Owners. The Board may fix any compensation to be paid to any officers who are not also Board members.

7.5 Duties of Officers. The duties of the officers are as follows:

(a) President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of President of a homeowners association.

(b) Vice-President. The Vice-President (if any) shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

(c) Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association, have charge of such books and papers as the Board may direct, and in general, perform all of the duties normally incident to the office of Secretary.

(d) Treasurer. The Treasurer shall have responsibility for the Association's funds and securities not otherwise held by the Manager, and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the Association. The Treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board and disbursing funds as directed by resolution of the Board.

ARTICLE 8
INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS

Each Board member or Association committee member, or Association officer shall be indemnified by the Association and the Owners against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of holding or having held such a position, or any settlement thereof, whether or not he or she holds such position at the time such expenses or liabilities are incurred except in such cases wherein such person is adjudged (by a court of competent jurisdiction) guilty of willful misfeasance, malfeasance or nonfeasance in the performance of his or her duties; provided, however, that, in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

ARTICLE 9
RECORDS AND AUDITS

The Association shall maintain within the State of Utah, all documents, information and other records of the Association in accordance with the Declaration, these Bylaws and the Nonprofit Corporation Act in the manner prescribed by a resolution adopted by the Board.

9.1 General Records.

(a) The Board or Manager, if any, shall keep records of the actions of the Board and Manager, minutes of the meetings of the Board, and minutes of the meeting of the Association.

(b) The Board or Manager, if any, shall maintain records containing the rules, regulations, and policies adopted by the Association and Board.

(c) The Board or Manager, if any, shall maintain a list of Owners. The list of Owners may specify whether or not the Owner is an Owner in good standing.

(d) The Association shall retain within the State of Utah all records of the Association for not less than the period of time specified and required under applicable law.

9.2 Records of Receipts and Expenditures. The Manager, if any, shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Project, itemizing the maintenance and repair expenses of the Common Areas or Association property and any other expenses incurred.

9.3 Assessment Roll. The Assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Townhome/Lot. The account shall designate the Townhome/Lot number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.4 Financial Reports and Audits.

(a) An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board to all Owners and to all Mortgagees of Townhomes/Lots who have requested the same in writing no later than ninety (90) calendar days following the end of each fiscal year. Such report may be provided by mail, email or posting on the Association's website.

(b) Concurrent with the reserve analysis described under Section 9.4 of the Declaration, the Board shall, at the expense of the Association, obtain an audit or other financial review of the Association's books and records, and shall either cause a copy of the results of such audit or other financial review to be available for review by the Owners, or shall post the results of such audit or other financial review on the Association's website. The Board may not conduct the audit or other financial review itself, and must retain the services of a qualified independent financial entity.

9.5 Inspection of Records by Owners.

(a) Except as otherwise provided in Section 9.6 below, all records of the Association shall be reasonably available for examination by an Owner and any Mortgagee of a Townhome/Lot pursuant to rules adopted by resolution of the Board or if no such resolution has been adopted, pursuant to the Nonprofit Corporation Act.

(b) The Board shall maintain a copy, suitable for the purposes of duplication, of the following: (1) the Declaration, Bylaws and any amendments in effect or supplements thereto, and Rules and Regulations of the Association; (2) the most recent financial statement prepared pursuant to Section 9.4 above; and (3) the current Annual Budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an Owner, shall furnish the requested information required to be maintained under Subsection 9.5(b), subject to a reasonable fee for furnishing copies of any documents, information or records described in this Section 9.5. The fee may include reasonable personnel costs incurred to furnish the information.

(d) The Board, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section 9.5. The fee may include reasonable personnel costs incurred to furnish the information.

9.6 Records Not Subject to Inspection. Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

(a) personnel matters relating to a specific identified person or a person's medical records;

(b) contracts, leases and other business transactions that are currently under negotiation to purchase or provide goods or services;

(c) communications with legal counsel that relate to matters specified in Subsections (a) and (b) of this Section 9.6, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege;

(d) disclosure of information in violation of law;

(e) documents, correspondence or management or Board reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session held in accordance with these Bylaws;

(f) documents, correspondence or other matters considered by the Board in executive session held in accordance with these Bylaws; and

(g) files of individual Owners, other than those of a requesting Owner or requesting Mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

9.7 Notice of Sale or Mortgage. Immediately upon the sale or Mortgage of any Townhome/Lot, the Owner shall promptly inform the Secretary or Manager of the name and address of the purchaser, vendee or Mortgagee.

ARTICLE 10
AMENDMENTS

10.1 Adoption. Amendments to these Bylaws Declaration shall be made by a written instrument entitled "Amendment to Bylaws" (or similar title) which sets forth the entire amendment. Any proposed amendment to these Bylaws must be approved by a majority of the Board prior to being presented to the Owners for review and approval. No later than forty-five (45) days prior to the date the Owners are provided with a written ballot regarding any proposed amendment to these Bylaws, the Board must (A) post a complete copy of any such proposed amendment on the Association's website, and (B) deliver to each Owner, via both email and regular mail, a notice of such proposed amendment.

Any amendment to these Bylaws must be approved by Owners holding no less than sixty-seven percent (67%) of the Percentage Interest. The Owner may vote upon such amendment only by means of a written ballot that has been mailed or emailed to each Owner. As provided under Section 4.3.2 of the Declaration, there shall be one vote and one "voting representative" for each Townhome/Lot. Each ballot must be signed by the Owner or the person the Owner(s) of a particular Townhome/Lot have named as the voting representative for that Townhome/Lot. Owners may mail to the Association a signed copy of their ballot, or may email to the Association a scanned copy of their signed ballot. No amendment to these Bylaws may be voted upon at any meeting of the Owners including, without limitation, the annual Owners' meeting or any special meeting of the Owners.

10.2 Execution and Recording. Any amendment to these Bylaws shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws, acknowledged and recorded with the Recorder's Office.

10.3 Challenge to Validity. No action to challenge the validity of an adopted amendment may be brought more than one (1) calendar year after the amendment is recorded.

ARTICLE 11
LITIGATION

11.1 Action Brought on Behalf of the Association.

If any action is brought by one or more but less than all Owners on behalf of the Association and any form of recovery is achieved, the plaintiffs' expenses, including reasonable court costs and legal counsel fees, shall be an Operating Expense; provided, however, that if such action is brought against the Owners or against the Board, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all the Owners, the plaintiffs' expenses, including court costs and legal counsel fees, shall not be charged to or borne by the other Owners, as an Operating Expense or otherwise.

11.2 Complaints Brought Against the Association, Board, or Officers.

Complaints brought against the Association, the Board or other officers, employees or agents thereof, in their respective capacities as such or the Project as a whole, shall be directed to the Board, which shall promptly give written notice thereof to the Owners and any Mortgagees and shall be reasonably defended by the Board, and the Owners and all Mortgagees shall have no right to participate other than through the Board in such defense. Complaints against one or more, but less than all Owners, shall be directed to such Owners, who shall promptly give written notice thereof to the Board and to the Mortgagees having an interest in such Lots, and shall be defended by the Owners of such Lots.

ARTICLE 12
MISCELLANEOUS

12.1 Notices.

(a) Association. All notices to the Association or the Board shall be delivered as set forth under Section 19.2 of the Declaration.

(b) Owners. All notices to the Owners shall be delivered as set forth under Section 19.3 of the Declaration.

12.2 Nonprofit Association. This Association is not organized for profit. Accordingly, no Member, member of the Board or person from whom the Association may receive any property or funds, shall receive or shall be lawfully entitled to receive any pecuniary profit from the operations thereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of any members of the Board. The foregoing, however, shall neither prevent nor restrict the payment or compensation to the Manager or reimbursing certain Members or members of the Board as specifically set forth in the Declaration or these Bylaws.

12.3 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision contained in these Bylaws or and Rules and Regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

12.4 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

12.5 Fiscal Year. Each fiscal year of the Association shall begin on January 1st and end on December 31st.

12.6 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. These Bylaws are intended to comply with the requirements of the Condominium Act and the Nonprofit Corporation Act. If any of the provisions of these Bylaws conflict with such Acts, the applicable provisions of the Act will apply.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers.

"Association"

The Peaks Owners Association, Inc.
a Utah nonprofit corporation

By: _____
Name: Stephanie Hayman
Title: President

By: _____
Name: John Harrold
Title: Secretary

ACKNOWLEDGEMENT

(The Peaks Owners Association, Inc. – President)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 14 day of July in the year 2023, before me Alex Greenwell, a notary public, personally appeared
Notary Public Name
Stephanie Haymond, in his/her capacity as President of The Peaks
Name of Document Signer

Owners Association, Inc., a Utah nonprofit corporation, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal

Notary Seal

ALEX GREENWELL
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 725080
COMM. EXP. 06/07/2026

Alex Greenwell
(Signature of Notary)

My Commission Expires: 06/07/2023

ACKNOWLEDGEMENT

(The Peaks Owners Association, Inc. – Secretary)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 14 day of July in the year 2023, before me

Alex Greenwell, a notary public, personally appeared
Notary Public Name

John Harrold, in his/her capacity as Secretary of The Peaks
Name of Document Signer

Owners Association, Inc., a Utah nonprofit corporation, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal

Notary Seal

ALEX GREENWELL
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 725080
COMM. EXP. 06/07/2026

Alex Greenwell
(Signature of Notary)

My Commission Expires: 06/07/2023