

WHEN RECORDED RETURN TO:

HOLLEY DRIGGS  
400 S. Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Attn: J. Douglas Driggs, Jr., Esq.

Tax ID Nos.: 00-0021-5308; 00-0021-5309; 00-0021-5310

**DECLARATION OF DEVELOPMENT COVENANTS,  
CONDITIONS AND RESTRICTIONS**

Between

**Jordanelle REF Acquisition LLC,**  
a Delaware limited liability company

and

**Lennar Homes of Utah, Inc.,**  
a Delaware corporation

## DECLARATION OF DEVELOPMENT COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF DEVELOPMENT COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made this 30 day of December, 2021 (the "Effective Date"), by Jordanelle REF Acquisition LLC, a Delaware limited liability company ("Declarant") and Lennar Homes of Utah, Inc., a Delaware corporation ("Builder"). Declarant and Builder are sometimes individually or collectively hereinafter called a "Party" or the "Parties."

### ARTICLE I

#### Recitals

1.01 Real Property. Declarant, is the owner of a parcel or parcels of real property located in the City of Heber (the "City"), County of Wasatch (the "County"), State of Utah, more particularly described in Exhibit "A" attached hereto (the "Burdened Property"). The Burdened Property is a portion of the larger master planned community known as the Upper Jordanelle Master Planned Community.

1.02 Master Declaration. The property within the Upper Jordanelle Master Planned Community is subject to The Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Jordanelle Ridge Master Planned Community recorded December 29, 2021 as entry no. 513077 in book 1392, page 303 of the Official Records of Wasatch County, Utah together with any additions, amendments or supplements thereto (the "Master Declaration"). Declarant is the declarant under the Master Declaration.

1.03 Acquisition of Burdened Property by Builder. Builder is acquiring the Burdened Property from Declarant pursuant to the Purchase and Sale Agreement between Declarant and Builder dated February 25, 2021 (the "Purchase Agreement") and a special warranty deed from Declarant to Builder recorded concurrently herewith (the "Deed"). In connection with such acquisition, Builder is acquiring the Burdened Property for development in accordance with the covenants, conditions, rights, restrictions and limitations set forth in this Declaration, the Master Declaration, the Master Development Agreement (the "MDA") entered into on June 24, 2020 by and between the City and RE Investment Holdings LLC, a Utah limited liability company and recorded July 28, 2020 as entry no. 481606 in book 1303, page 1632 of the records of the Wasatch County Recorder and the general scheme of development of the Upper Jordanelle Master Planned Community. Builder intends to construct a residential project consisting of approximately 241 Residences on the Burdened Property.

1.04 Declaration. The Declarant hereby declares, and Builder hereby agrees, that all of the Burdened Property shall be held, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied, developed and improved subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the orderly development

consistent with the standards and guidelines of the Upper Jordanelle Master Planned Community and the Burdened Property.

1.05 Definitions. Certain terms used herein shall have the meaning ascribed to such terms as set forth in Schedule 1 attached hereto.

1.06 Rules of Construction. The words "Schedule" or "Exhibit" shall mean an enumerated schedule or exhibit, all of which shall be deemed attached hereto and incorporated herein by way of the specific reference or references made in this Declaration. Each reference to a "Section" or an "Article" shall be deemed a reference to an enumerated provision of this Declaration. All the defined terms, if defined in the singular or present tense, shall retain such specified meaning if used in the plural or past tense, and if defined in the plural or past tense, shall retain the specified meaning if used in the singular or present tense. Whenever this Declaration refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

## ARTICLE II

### Approvals and Permits

2.01 Governmental Approvals and Permits. Prior to the construction or installation of any Improvements on the Burdened Property (except for Improvements being constructed by Declarant pursuant to the Purchase Agreement and the express obligations of Declarant pursuant to this Declaration), Builder shall obtain, at its sole expense (except as otherwise provided in the Purchase Agreement): (a) to the extent not already approved, approval of the Preliminary Plat and Final Plat from the City and all other applicable Government Authorities; and (b) all other City and other governmental approvals that may, from time to time, be required for the development of the Burdened Property in accordance with the Preliminary Plat, the Final Plat, and the Development Documents. Without limiting the generality of the foregoing, except as otherwise set forth in the Purchase Agreement, Builder shall make all conveyances or dedications required as a condition to the Final Plat or required to be satisfied by the Preliminary Plat or the Development Documents, and all obligations, costs and expenses incurred in connection with the satisfaction of such conditions and recordation of the Final Plat, including, without limitation, bond premiums, and attendant fees and expenses, shall, except as otherwise set forth in the Purchase Agreement, be the sole cost and responsibility of Builder.

2.02 Approval of Declarant. No construction or alteration of any Improvement shall be commenced, erected or maintained upon the Burdened Property (except for Improvements being constructed by Declarant pursuant to the Purchase Agreement and Improvements already approved by Declarant), including, without limitation, model homes or Residences or ancillary facilities, until Builder has prepared and submitted to Declarant, and Declarant has approved, a Project Plan in accordance with the terms of this Declaration. The Project Plan shall describe three separate elements of the Project: (a) the Site Improvements; (b) the Landscape Improvements; and (c) the Building Improvements. To the extent the Improvements consist of Community Facilities to be

conveyed to the Master Association, such Community Facilities must also be approved by the Master Association. Plans may be submitted in phases or parts, and may be submitted as preliminary plans.

(a) Site Improvements. Builder shall submit to Declarant: (i) a Site Plan; (ii) a Utilities Plan; and (iii) a Project Storm Water Plan, as follows:

(i) Site Plan. The Site Plan shall clearly detail all of the following: (A) street layout; (B) lot layout with dimensions; (C) the location of all pedestrian walkways, parks and common facilities; and (D) the location of model homes, including guest parking;

(ii) Utilities Plan. The Utilities Plan shall clearly detail all of the following: (A) location of all utility lines; and (B) specifications for all utility lines; and

(iii) Project Storm Water Plan. The Project Storm Water Plan shall consist of maps and plans demonstrating that storm water within the Project shall be collected, diverted and handled in a manner consistent with any applicable master storm water drainage plan.

(b) Preliminary and Final Plats. Except as otherwise provided in the Purchase Agreement, Builder shall subdivide the Burdened Property into parcels suitable for the development of the Residences in accordance with the requirements of the City and any other applicable Government Authority. Builder's Preliminary and Final Plats shall substantially comply with Builder's Site Plan and Grading Plan, as approved by Declarant. Builder shall not submit or file any preliminary or final plat with the City that does not substantially comply with the approved Site Plan, Grading Plan, Utilities Plan or Project Storm Water Plan without the prior written approval and consent of Declarant, which shall not be unreasonably withheld, conditioned or delayed. Except as otherwise provided in the Purchase Agreement, Builder agrees to comply with all conditions to approval of Builder's Final Plat at Builder's sole cost and expense.

(c) Landscape Improvements. Builder shall submit to Declarant a Landscape Plan which shall be in sufficient detail for Declarant to verify that Builder's landscape Improvements (including sidewalks, paths, walls, fences, improvements on parks and common areas, street lights and lighting structures) will comply with the Development Documents, together with specific detailed plans for all entry monumentation.

(d) Building Improvements. Builder shall submit to Declarant: (i) an Architectural Plan; (ii) a Plot Plan; (iii) a Marketing Signage Plan; and (iv) a Phasing Plan, as follows:

(i) Architectural Plan. The Architectural Plan shall include: (A) floor plans for the Residences; (B) photographs or sketches of all elevations for the Residences (including walls and ornamental structures); and (C) descriptions of materials to be used in exterior surfaces, roofs, driveways, walls and fences (including all exterior colors and trims);

(ii) Plot Plan. The Plot Plan shall detail typical lots for each type of Residence indicating building footprints, setback requirements, driveway locations and wall or fence locations;

(iii) Marketing Signage Plan. The Marketing Signage Plan shall illustrate the layout and design details for all informational, directional, traffic control, marketing, construction, and all other signs and similar Improvements or items; and

(iv) Phasing Plan. The Phasing Plan shall show the sequence of all Improvements.

(e) Plan Submittals. Each of the plans referred to in subsections 2.02(a), 2.02(c), and 2.02(d) is hereinafter referred to as a "Plan." All of such Plans collectively, as approved by Declarant in accordance with the terms of this Declaration, shall constitute the "Project Plan." Builder shall submit each of the Plans or portions thereof to Declarant in such form as specified above. Declarant shall, within ten (10) Business Days after receipt of each Plan, or portions thereof either: (i) reasonably approve the Plan as submitted; or (ii) reasonably disapprove the Plan and advise Builder in reasonable detail of the reasons for the disapproval. Declarant shall take similar action on each resubmittal or amendment of a Plan or portions thereof following any disapproval or otherwise.

(f) Project Plan Approval. Declarant may, in its reasonable discretion, disapprove any or all portions of a Plan submitted for its approval, but Declarant's right of disapproval shall be limited to (i) the conformity of the Plan with the Development Documents and the general scheme of development, management, aesthetics, and marketing of the Upper Jordanelle Master Planned Community; (ii) the exterior design, elevation, materials and colors, and other architectural and design elements and landscaping for the Project; (iv) any roof equipment; (v) the size and location of Improvements; (vi) the conformity with laws and ordinances; and (vii) other matters that bear on the compatibility of the Project with the Upper Jordanelle Master Planned Community and the real property in the vicinity of the Burdened Property. Declarant shall not have the right to disapprove any feature or component of the Project Plan to the extent it was previously approved by Declarant. Declarant may condition its approval of a Plan upon the making of such changes therein as are consistent with the scope of its review as set forth above and may require submission of additional plans or other information prior to approving or disapproving material submitted. When Declarant has reviewed and approved all of the Plans, the Project Plan shall be deemed approved in its entirety. If Builder changes any of the Plans in any material respect after they have been approved by Declarant, Builder shall not construct any Improvement pursuant to such changed Plan, unless such changed Plan has been submitted to Declarant and approved by Declarant in the same manner as provided herein for all of the Plans. Declarant may condition its approval of any Plan upon Builder's agreement to grant any appropriate maintenance or other easements to Declarant, the Master Association, a Project Association, or a Government Authority as applicable.

(g) Non-Liability of Declarant. Neither Declarant nor any person acting on behalf of Declarant shall be liable to Builder for any Liabilities arising out of or in any way connected with the exercise of its rights under this Declaration, unless due to the gross negligence, willful misconduct or bad faith of Declarant. Declarant shall not be responsible for reviewing, nor shall its approval of any Plan or design be deemed approval of such Plan or design from the standpoint of the adequacy for any purpose, structural safety or conformance of the Plan or design with building codes or other governmental regulations.

(h) No Waiver of Future Approvals. Declarant's approval of any Submitted Materials shall not be deemed to constitute a waiver of any right to withhold approval or consent to any other Submitted Materials.

(i) Variances. Declarant may authorize variances from compliance with any of the requirements of the Development Documents. Any such variance must be in writing. The granting of a variance shall not affect Builder's obligation to comply with all laws and regulations of a Government Authority affecting the Burdened Property.

(j) Residential Design Guidelines. The requirements set forth in this Article II are in addition to, and not in substitution for, the requirements for design review set forth in the Residential Design Guidelines. Prior to the construction of any Improvements on the Burdened Property, Builder shall obtain approvals as and when required pursuant to the Residential Design Guidelines. Declarant may, from time to time, modify or amend the Residential Design Guidelines or impose requirements in addition to those set forth in the Residential Design Guidelines, and Builder agrees not to unreasonably object to such modifications, amendments, or additional requirements; provided that Declarant shall not modify, amend or impose any additional requirements in a discriminatory manner as to Builder or that would materially and adversely change the Residential Design Guidelines or square footage bands or other architectural, design, construction or engineering requirements as applicable to the Burdened Property without the consent of Builder.

### ARTICLE III

#### **Builder's Obligations With Respect to Construction of the Project**

3.01 Manner of Construction. Except as otherwise provided in the Purchase Agreement or the Development Agreement (hereinafter defined), Builder, at its sole cost and expense, shall cause to be performed or constructed all of the work contemplated by the Project Plan (the "Project Plan Work"). Builder shall cause the Project Plan Work to be performed or constructed by a duly licensed general contractor and duly licensed subcontractors in a good and workmanlike manner in accordance with: (a) the Project Plan; (b) all applicable laws, regulations, codes, and ordinances; (c) all requirements of Government Authorities, utility companies and other duly qualified bodies having jurisdiction with respect to each work of Improvement; (d) all requirements contained in the Development Documents (provided that Builder shall not be responsible for compliance with any changes to the Development Documents made by Declarant after approval by Declarant of

Builder's Project Plan or any approved portion thereof that would require any changes to the approved Project Plan); and (e) generally accepted engineering standards with respect to geotechnical and soil conditions. Except as otherwise provided in the Purchase Agreement, Builder shall supervise and direct the Project Plan Work using commercially reasonable skill and attention and Builder shall be solely responsible for all means, methods, techniques, sequences, and procedures used in the performance or construction of the Project Plan Work and shall diligently pursue the same to completion. Except as otherwise provided in the Purchase Agreement, Builder shall be responsible for the application for, and the obtaining of, all permits and approvals from any Government Authority, utility companies, or others required for the Project Plan Work.

3.02 Commencement and Completion of Project Plan Work. Upon the commencement of each discrete item of the Project Plan Work, Builder shall cause such item of the Project Plan Work to be diligently and continuously prosecuted to its completion. Each discrete item of the Project Plan Work shall be deemed to be completed upon the acceptance of the same by the appropriate Government Authorities.

3.03 Correction of Defects. In the event of rejection by the appropriate Government Authority of any item of the Project Plan Work as being defective, or Declarant's reasonable determination that such item fails to substantially conform to the Project Plan, the drawings and specifications therefor, or the Development Documents, whether or not completed, Builder shall promptly commence to correct such defect and diligently prosecute such correction to its completion. Builder shall bear all costs of correcting any such rejected item of the Project Plan Work, except for any Project Plan Work that is the responsibility of Declarant and except for any defects in the Project Plan Work that are caused by the negligence or willful misconduct of Declarant or its agents, employees, engineers, consultants, contractors or subcontractors, in which event Declarant shall bear all costs of correcting any such rejected item of the Project Plan Work.

3.04 Compliance With Zoning. Builder acknowledges and agrees that construction of the Project on the Burdened Property pursuant to the Project Plan shall be in compliance with all applicable zoning and other governmental restrictions pertaining to the Burdened Property. Builder shall not seek to change any zoning or other governmental restrictions applicable to the Burdened Property, or initiate or participate in any change or amendment to the Master Plan or any other matter that might affect the land use entitlements within the Upper Jordanelle Master Planned Community, without the prior written consent of Declarant, which shall not be unreasonably withheld, conditioned or delayed. All requests or applications together with all supporting documentation for approvals or permits that require discretionary action on the part of a Government Authority, whether or not such approvals are specifically herein required to be obtained, shall be submitted to and approved by Declarant prior to filing with the appropriate Government Authority. Declarant shall have a period of ten (10) days to disapprove, in its reasonable discretion, any requests where application is so submitted by Builder, and in the event of disapproval, Declarant shall specify the reasons therefor. Failure to so disapprove within such time period shall be deemed approval thereof.

3.05 Density Transfer. To the extent Builder's ability to develop the Burdened Property as contemplated by the Project Plan is not affected, Builder agrees that Declarant has the right to all density allocable to the Burdened Property, pursuant to the Master Plan or the zoning of the Burdened Property, in excess of the number of Residences approved for development on the Burdened Property as of the date of recordation of this Declaration as a result of reduction from the number of Residences previously authorized on the Burdened Property. Builder further agrees that Declarant may take any and all actions Declarant deems reasonably appropriate to obtain the requisite permits, approvals or any other entitlements to accomplish the transfer or reallocation to other planning areas within the Upper Jordanelle Master Planned Community of density in excess of that authorized by the City as of the date of recordation of this Declaration. To the extent Builder's ability to develop the Burdened Property as contemplated by the Project Plan is not affected, Builder shall not oppose before any Government Authority that has jurisdiction over the Burdened Property, any application of Declarant seeking to accomplish such transfer or reallocation of density.

3.06 Damage to Roads or Improvements. Should Builder's construction activities in connection with the Project Plan Work cause any damage to any public or private right-of-way or to any Improvement within the right-of-way surrounding the Burdened Property or to any Improvements on any other property within the Upper Jordanelle Master Planned Community, whether completed or under construction by Declarant or others, Builder shall, upon demand from Declarant, promptly repair and restore such right-of-way, property, or Improvement. Notwithstanding the foregoing, Builder may repair or restore damage to Improvements that does not interfere with the reasonable enjoyment of such Improvements by the public or other builders (such as damage to Improvements that relate only to the Burdened Property), or that is part of the normal development process (such as curb cuts and roadwork), within a reasonable time within the ordinary course of development of the Burdened Property.

3.07 Additional Obligations. If the City or any other Government Authority imposes any conditions, fees, or other obligations in connection with the Project, which require the construction of physical improvements on the Burdened Property intended to service only the Project or which requires the payment of fees which are imposed based upon the number of Residences to be built by Builder in the Project ("Additional Obligations") in addition to those described herein, the performance and satisfaction of such Additional Obligations which relate to Improvements in, over or upon the Burdened Property, shall be the sole and exclusive responsibility of Builder and Declarant shall have no responsibility with respect thereto. Notwithstanding the foregoing, Builder shall have no responsibility with respect to any Additional Obligation or any other work of Improvement that is Declarant's responsibility under the Purchase Agreement, the Development Agreement entered into between Builder and Declarant on February 25, 2021 (the "Development Agreement"), or any Additional Obligation that is otherwise to be provided or paid for by Declarant or an Affiliate under the Purchase Agreement or Development Agreement.

3.08 Rules and Regulations. Builder's construction and development activities shall conform to the following rules and regulations:



(i) No equipment maintenance or construction work of any type shall be performed or conducted on Sunday or between the hours of 8:00 p.m. and 6:00 a.m., Monday through Saturday (or such other hours during which work may not be performed pursuant to any City requirement), and shall be limited on days of major events at the Upper Jordanelle Master Planned Community so as not to adversely affect such events, which limited construction activity shall be discussed at least seven (7) days prior to such event and reasonably agreed upon by Declarant and Builder in good faith so as not to unduly delay Builder's construction schedule, provided that, notwithstanding the foregoing, work which will not result in noise being experienced outside the Property may be conducted on any days and at any times in the discretion of Builder;

(ii) No temporary structures or facilities, including construction trailers or other temporary office or sales facilities, or portable sanitation facilities, shall be placed or maintained on the Burdened Property until the appearance and location of such facilities have received the approval of Declarant, which approval shall not be unreasonably withheld, conditioned or delayed; all temporary structures and facilities are to be located on the Burdened Property and not within public or private rights-of-way or on adjacent properties;

(iii) All portions of the Burdened Property that are visible from surrounding property shall be kept free of weeds and debris with all scrap materials generated by the construction activities removed as soon as reasonably possible;

(iv) Builder shall maintain a concrete wash-out site on the Burdened Property and shall not wash trucks or equipment on any other property within the Upper Jordanelle Master Planned Community without the prior written consent of the owner of such property;

(v) Builder shall not leave any debris or material on any other property within the Upper Jordanelle Master Planned Community without the prior written consent of the owner of such property;

(vi) Builder shall clean and wash any arterial or collector streets that have become soiled as a result of Builder's grading or construction (whether or not located within the Upper Jordanelle Master Planned Community);

(vii) Builder shall provide adequate covered trash enclosures for Residences under construction. All debris will be placed in a trash enclosure at the end of each day;

(viii) Builder shall employ commercially reasonable methods, equipment, techniques and activities to control ambient dust on the Burdened Property during grading and construction operations in compliance with any applicable requirements of the City;

(ix) Builder shall employ commercially reasonable methods, equipment, techniques and activities to abate noise, and to mitigate and abate noise pollution;

(x) Until such time as the Perimeter Walls around the Burdened Property have been completed, Builder shall provide screening between the Burdened Property and any adjoining property with then existing commercial or residential improvements;

(xi) Except for on the Burdened Property, Builder shall not place or store materials, vehicles or equipment of any kind on public or private rights-of-way or other properties within the Upper Jordanelle Master Planned Community. All materials, vehicles and equipment must be stored on the Burdened Property in a safe and secure manner and, to the extent reasonable, shielded from view of other properties at the Upper Jordanelle Master Planned Community.

3.09 Declarant Self-Help. In the event of any failure of Builder to comply with any of the requirements set forth in this Article III in any material respect, with respect to any portion of the Project Plan Work that is not on the Burdened Property, if correction of such failure is not reasonably commenced within ten (10) Business Days after written notice by Declarant to Builder of such failure, Declarant shall have, in addition to all other rights and remedies available to it, the right to cure such failure, and Builder hereby agrees to reimburse Declarant for one hundred ten percent (110%) of the reasonable cost of curing such failure which amount shall be due and payable within thirty (30) days of receipt of written request of payment therefor by Declarant.

## ARTICLE IV

### Other Construction Requirements

4.01 Builder's Improvements. In addition to its obligation to construct the Project Plan Work, including the Residences and any Community Facilities on the Burdened Property, and except as provided in the Purchase Agreement or the Development Agreement, Builder shall be obligated to design, construct and install, at its sole expense, any other Improvements required on the Burdened Property by any Government Authority. All of such Improvements ("Builder's Improvements") shall be subject to the provisions of this Declaration applicable to the construction of Improvements on the Burdened Property.

4.02 Reservation of Construction Easement. Declarant hereby reserves to itself and its successors and assigns, a nonexclusive easement over the Burdened Property for the purpose of constructing any Improvements (whether on or off the Burdened Property) that they are required or permitted to construct or install pursuant to the terms of this Agreement, the Purchase Agreement, or the Development Agreement, or that Declarant is otherwise required or permitted to construct for itself or the Master Association as the Master Declarant pursuant to the Master Declaration. The use of the land subject to the easement reserved under this Section shall be limited to that reasonably necessary for the construction or installation of the applicable Improvements, and shall be used in a manner so as to cause as little interference as reasonably possible with the Project Plan Work and Builder's marketing activities on the Burdened Property, and shall automatically terminate upon completion of all such Improvements.

4.03 Correction of Defects. In the event that Improvements on, or slopes or any other portion of, the Burdened Property shall prove to be defective or shall require repair, including repairs to prevent the deterioration of the Burdened Property and Improvements constructed thereon by erosion or otherwise, Builder shall promptly commence to correct such defect or effect such repair and diligently and continuously prosecute the same to completion, provided that Builder shall not be required to correct any defect caused by the negligence or willful misconduct of Declarant or its agents, employees, engineers, consultants, contractors or subcontractors, which shall be corrected by Declarant at its sole cost and expense.

## ARTICLE V

### Miscellaneous Development Issues

5.01 Street Names. Builder shall submit to Declarant, for Declarant's review and approval, which approval shall not be unreasonably withheld, conditioned or delayed, the proposed name of any public or private street within the Burdened Property. Declarant may, in its discretion, provide Builder with a list of approved names for Builder's consideration. Builder shall not name any street, or propose any street name to the City, unless Declarant has previously approved such street name in writing, unless such street name is on Declarant's list of approved names.

5.02 Prohibited Plant Species. Builder shall not plant or place on the Burdened Property any plant species contained on the Prohibited Plant List set forth in the Landscape Standards. Declarant may, from time to time and at any time, in its sole discretion, add or delete any plant species to the list of prohibited plants. If Declarant adds a plant species to the list of prohibited plants, Builder shall refrain from planting or placing such plant species on the Burdened Property; provided, however, that Builder shall not be obligated to remove landscaping existing at such time to remove such plant species from the Burdened Property.

5.03 Government Approvals; Builder's Duty. Except for any matters that are the obligation of Declarant or pursuant to the Purchase Agreement or Development Agreement, Builder shall obtain, at its sole expense, all approvals and permits that may, from time to time, be required with respect to the construction or sale of Residences on the Burdened Property, including, as applicable and without limitation, any approvals from any Government Authority.

5.04 Rights to Address Interim Conditions. Prior to Improvements being installed by Builder on the areas affected, Declarant or any person to whom Declarant has transferred title to any of the Benefited Property adjacent to the Burdened Property (collectively, the "Requesting Party"), may provide written notice to Builder of any interim condition affecting such adjoining property which requires attention, maintenance or repair so as to avoid damage to the adjoining property. In the event Builder has not remedied such interim condition within ten (10) days of receipt of any such written notice, the Requesting Party shall be permitted to enter upon portions of the Burdened Property located within ten (10) feet of such adjacent property for purposes of remediation of the interim condition. Remediation shall be undertaken only to the extent reasonably necessary to avoid or correct damage to the adjoining property, and if undertaken by a

Requesting Party, shall be at such Requesting Party's sole cost and expense. In no event shall a Requesting Party make modifications to any slope or other portion of the Burdened Property or otherwise perform any work which materially affects the developability, marketability or value of the Burdened Property or any portion thereof without the prior written consent of Builder. The Requesting Party shall indemnify and hold Builder and the Burdened Property free and harmless from all costs, liabilities, losses, damages and expenses, including reasonable attorneys' fees and costs, arising from the activities on the Burdened Property of the Requesting Party or its agents and employees, and from all mechanic's, materialmen's and other liens resulting from such activities. The Requesting Party shall also, before entering upon the portion of the Burdened Property on which the work is to be performed, deliver to Builder a certificate of liability insurance maintained by the Requesting Party having coverage in the amount of no less than One Million Dollars (\$1,000,000.00), with Builder named as an additional insured.

5.05 OSHA. Builder shall at all times comply with the requirements of the Occupational Safety and Health Act of 1970, 29 U.S.C. Section 651 et seq., and any analogous legislation in Utah (collectively, the "Act"), to the extent that the Act applies to the Burdened Property and Builder's activities thereon.

5.06 Restoration of Damaged or Destroyed Residences. If at any time after Builder's commencement of construction of any Residence, and prior to the sale of such Residence to a member of the home-buying public, such Residence is damaged or destroyed by fire or other casualty, Builder shall, not later than one hundred twenty (120) days after the occurrence of such damage or destruction, commence to repair or restore the damage and diligently complete the repair or restoration thereof no later than one (1) year from the date of the occurrence of such damage or destruction.

5.07 Perimeter Walls and Common Walls. Builder shall be responsible for constructing, at Builder's sole expense, and as part of the Project Plan Work, any and all of the perimeter walls ("Perimeter Walls") surrounding the Project. The Perimeter Walls shall be constructed by Builder in all respects in strict compliance with Declarant's specifications for Perimeter Walls in the Upper Jordanelle Master Planned Community, including color and materials. Declarant shall have no obligation to construct any Perimeter Walls for the Project.

5.08 Broadband Network and Cable TV. Except as may be otherwise provided in the Purchase Agreement, Builder, at its sole expense, shall pre-wire and install a complete broadband network and cable television system (collectively, "Network") within the Burdened Property, as well as each Residence in accordance with reasonable specifications furnished to Builder by a national scale provider of such services selected by Declarant (the "Cable Provider"). Such Network shall include an interface cabinet, pre-wiring of category 5e and coaxial cable, plaster rings, wall plates, line splitters, sweeps and an access box in each Residence for at least four (4) service outlets in each Residence together with such other Network facilities, including trenching, conduit, cable, amplifiers, splitters, terminating electronics and other equipment, necessary to bring the Network to each Residence. Except as may be otherwise provided in the Purchase Agreement, Builder shall also provide for the Cable Provider, at Builder's sole expense, joint

nonexclusive utility access to network facilities within the streets of the Burdened Property and from those streets to each Residence in such locations as determined by Builder in its sole discretion. Builder shall provide the Cable Provider with the Heber Light & Power plans for the Burdened Property as soon as they are available.

5.09 Consent to Public Infrastructure District. Builder acknowledges and agrees that the development of the Property will be financed in part through one or more public infrastructure districts established in accordance with the Public Infrastructure District Act, Utah Code Ann. § 17D-4-101, et seq. (the "Infrastructure Act"). Builder agrees that Builder will support the incorporation, adoption, and operation of one or more public infrastructure districts that include the Burdened Property within the boundaries of the districts, provided that the total tax rate of all public infrastructure districts does not exceed .005 per dollar of taxable property value in the public infrastructure districts. Builder agrees to execute any and all documents necessary to form and carryout the operations of the public infrastructure districts, including, but not limited to, the following: (1) a petition requesting the creation of the public infrastructure districts under Section 17D-4-201(1) of the Infrastructure Act, as amended; (2) a waiver of the protest period described in Utah Code Ann. § 17B-1-213, pursuant to Section 17D-4-201(2) of the Infrastructure Act, as amended; (3) a waiver of the residency requirement for members of the Board of Trustees of the district as permitted under Section 17D-4-202 of the Infrastructure Act, as amended; (3) a property owner consent to the bonds; (4) a consent to annexation into the public infrastructure district, under Section 17D-4-201(3) of the Infrastructure Act, as amended; (5) an amendment to the property tax rate limitation under Section 17D-4-201(3) of the Infrastructure Act, provided that the total tax rate of all public infrastructure districts does not exceed .005 per dollar of taxable property value in the public infrastructure district; (6) a consent to a limited tax bond under Section 17D-4-301 of the Infrastructure Act, as amended; and (7) a consent to the governing documents, including consenting to the initial board of trustees of the public infrastructure districts. Builder further agrees to provide any and all disclosures to purchasers or lessors as required by the Infrastructure Act and the governing documents of the public infrastructure districts, including, but not limited, a disclosure on a separate colored page of any closing or lease documents that states: "Under the maximum property tax rate of the District, for every \$100,000 of taxable value, there would be an additional annual property tax of \$\_\_\_\_\_ for the duration of the District's bonds."

## ARTICLE VI

### Marketing and Advertising

6.01 Master Marketing Program. Declarant shall implement a master marketing program intended to enhance the reputation of, and generate customer traffic for, the Upper Jordanelle Master Planned Community (the "Master Marketing Program"). Builder shall pay to Declarant a Master Marketing Fee for the purpose of conducting the Master Marketing Program. The amount of the Master Marketing Fee shall be an amount equal to one percent (1%) of the contract sales price as stated on page 1 of the standard TILA/RESPA Closing Disclosure form ("Contract Sales Price") prepared upon the closing of the sale of each Residence constructed on the Burdened Property and sold to a member of the home-buying public. The Master Marketing Fee shall be payable by Builder to Declarant. At the close of each escrow for the sale of a Residence by Builder

to a homebuyer, Builder shall pay to Declarant directly from the escrow, an amount equal to the Master Marketing Fee for that particular Residence sale and Builder shall agree to execute and deposit into each such escrow, before the closing of such escrow, an instruction directing the escrow holder to compute the amount due under this paragraph and to pay that amount to Declarant at the close of the escrow. Builder acknowledges and agrees that the Master Marketing Fee may be commingled with other funds received by Declarant from other purchasers of land within the Upper Jordanelle Master Planned Community, and that such funds, as commingled, will be expended for advertising and marketing efforts, in Declarant's discretion, that relate to other lands and developments within the Upper Jordanelle Master Planned Community and which may or may not refer specifically to Builder or the Burdened Property. In the event Declarant establishes or operates a master information or sales center for the Upper Jordanelle Master Planned Community, Builder agrees, at Builder's expense, to cooperate with Declarant and, at the Declarant's request, provide such materials that are customary and reasonable in connection with such a center, including, but not limited to, to the extent available, marketing materials and graphic displays, including, floor and site plans, elevations and project renderings.

6.02 Builder's Advertising. In addition to any Master Marketing Program administered by Declarant, Builder may conduct an advertising and marketing program for the sale of the Residences to the home-buying public, which program shall be subject to Declarant's prior written approval, which will not be unreasonably withheld, conditioned or delayed. Except as otherwise agreed to by Declarant and Builder, prior to public dissemination, Builder shall submit to Declarant proofs or copies of all proposed advertisements, including, without limitation, newspaper ads, television or radio ads, signs or billboards, press releases, and copies of all brochures and other handouts which advertise the Project or the Residences (collectively, the "Advertising") and the locations where Builder intends to disseminate the Advertising. Except as otherwise agreed to by Declarant and Builder, Declarant shall have the right to disapprove, in its sole discretion, all Advertising that may refer to Declarant or any of its Affiliates, the Upper Jordanelle Master Planned Community, or in any manner to the amenities available or planned therein.

6.03 Procedure for submission of Builder Advertising. Within ten (10) days after actual receipt from Builder of any proposed Advertising required to be approved by Declarant, Declarant shall: (a) reasonably disapprove the Advertising by written notice stating the reasons therefor, in which case Builder shall not permit the same to be publicly disseminated; (b) reasonably disapprove certain parts or elements of the Advertising by written notice stating the necessary changes or corrections, in which case Builder shall not permit the Advertising to be publicly disseminated without first making the required changes or corrections; or (c) take no action, in which case the Advertising shall be deemed approved, and Builder may following such ten (10) day period, permit the Advertising to be publicly disseminated.

6.04 Trademarks. Builder acknowledges that Declarant has the sole right to the "Jordanelle Ridge" tradename, trademarks, service marks and logos as well as certain other tradenames, service marks and logos associated with the Upper Jordanelle Master Planned Community and facilities and amenities located therein (the "Trademarks"). Builder warrants that

it shall not use, nor permit others to use on behalf of Builder, in any manner whatsoever, the Trademarks except pursuant to the Purchase Agreement.

6.05 Signs and Advertising Devices. Builder shall not place anywhere in the Upper Jordanelle Master Planned Community, or anywhere within one (1) mile of the boundaries thereof, any promotional or directional signs or advertising devices (collectively, the "Signs") relating to the construction, sale, or renting of any Residence within the Burdened Property without first submitting to Declarant a schedule and specifications showing the location, placement, design, size, material, color, typeface, and other similar information and receiving Declarant's prior written approval thereof which approval will not be unreasonably withheld, conditioned or delayed. Declarant's failure to disapprove in writing of any submitted Signs within ten (10) days of submission shall be deemed approval. Nothing herein shall be deemed to indicate that Declarant agrees to permit the use of property owned by Declarant for any of Builder's Signs. Declarant shall have the right, in addition to any and all other rights it may have, to remove or terminate or cause to be removed or terminated any Signs or Advertising which have not been approved in accordance with this Section. All signs shall be properly maintained by Builder.

6.06 Project Name and Logo. Builder shall submit to Declarant, for Declarant's review and approval, the name it intends to use in connection with the development and marketing of the Project or any portion thereof (a "Project Name") and any logo or mark to be used in connection therewith (a "Project Logo"). Builder shall not use in Advertising or place on any sign, billboard or entry monument, any Project Name or Project Logo without first obtaining the written consent thereof of Declarant, which consent shall not unreasonably be withheld, conditioned or delayed. In the event Declarant fails to respond to a written request for approval of a Project Name or Project Logo within ten (10) days of receipt of such request, such Project Name or Project Logo shall be deemed approved.

## ARTICLE VII

### Sales Procedures

7.01 Upper Jordanelle Master Planned Community Homebuyer's Notices. Builder shall distribute to each prospective buyer of a Residence in the Project, the Upper Jordanelle Master Planned Community Residential Buyer Disclosure and Notices (the "Homeowners Notice"), as prepared by Declarant from time to time. Builder acknowledges that the form and content of the Homeowners Notice may be changed from time to time by Declarant in its sole discretion; provided, however that Declarant's right to change the Homeowners Notice shall be limited to changes that reflect the current plans for development of the Upper Jordanelle Master Planned Community existing at the time of such change or are necessary to make the Homeowners Notice factually accurate and complete for purposes of full disclosure. Builder acknowledges that the purpose of the Homeowners Notice is to provide prospective buyers of Residences with certain information concerning the Upper Jordanelle Master Planned Community. The Homeowners Notice does not constitute a representation or warranty by Declarant to Builder or any homebuyers or by Builder to any homebuyers.

7.02 Disclosures to Purchasers. Builder shall obtain from each purchaser of a Residence, an acknowledgment of receipt of the Homeowners Notice as well as such other disclosures as Declarant shall reasonably require from time to time, all on forms acceptable to Declarant, upon the execution of a sales agreement for any Residence. Any sales agreement for Residences shall include all disclosures required under Section 57 of the Utah Code and all other disclosures or materials required by any federal, state or local laws or regulations. Declarant may inspect such acknowledged disclosures at Builder's office during normal business hours after no less than ten (10) days' advance written notice.

7.03 Quarterly Statements. Not later than the twentieth (20th) day of each calendar month following the end of a quarter, Builder shall furnish to Declarant a statement on a form supplied by Declarant showing all sales escrows closed during the prior calendar month, indicating the subdivision lot, the purchaser(s), and the Contract Sales Price charged for each Residence. The provisions of this Section shall apply from the Effective Date until all of the Residences have been sold.

7.04 Sales Agreements. All sales agreements with purchasers of Residences or Lots on the Burdened Property will conform in all respects with all federal, state and local laws and ordinances.

7.05 Sales Practices. Builder shall coordinate all sales and marketing of the Project and Residences in compliance with all applicable laws and regulations of all Government Authorities including the Utah Division of Real Estate. In no event shall Builder conduct any sales or marketing activities that: (a) are illegal or involve fraud or other misconduct; or (b) have a material adverse effect on the quality, character, or reputation of Declarant or the Upper Jordanelle Master Planned Community.

7.06 Restriction on Pre-Sale Rental of Residences. Buyer agrees that the Residences shall be developed on the Burdened Property only for model homes or resale to the general homebuying public and not for rental. No Residence may be rented or held out for rental at any time prior to its sale to an unaffiliated member of the homebuying public.

## **ARTICLE VIII**

### **Golf Course, Private Clubs**

Declarant or its Affiliates may in the future establish golf courses, private clubs or other private facilities within the Upper Jordanelle Master Planned Community. Except as otherwise provided in the Purchase Agreement, neither the purchase of the Burdened Property by Builder nor the purchase of a Residence or a Lot shall confer any rights whatsoever to use any golf course or golf facilities or to become a member of any golf club or other private club or facility within the Upper Jordanelle Master Planned Community, and neither Declarant nor any Affiliate has any obligation to operate any golf course or to establish or operate any private club or private facilities in the future.



## ARTICLE IX

### **Formation of Associations; Construction and Conveyance of Community Facilities**

#### 9.01 Master and Project Declarations.

(a) Master Declaration. To the extent permitted under the Master Declaration, the Declarant may be required or desire to amend or supplement the Master Declaration from time to time, to incorporate such changes, additions or deletions (collectively called "Master Declaration Amendments") as the Declarant may deem to be necessary or appropriate. Declarant will provide a copy of all Master Declaration Amendments to Builder. Notwithstanding the foregoing, Declarant shall not amend the Master Declaration in a manner which is discriminatory as to Builder, which requires Builder to alter or change any architectural plans or Project Plans previously approved in connection with its development of the Burdened Property or which prohibits Builder from constructing the Improvements contemplated in such plans.

(b) Master Association. The Burdened Property is subject to the jurisdiction of the Master Association. The Master Association is responsible for the maintenance of Association Property. Any Association Property to be located within the Burdened Property shall be determined by the written agreement of the Builder and the Declarant. Builder shall furnish appropriate legal descriptions of any Association Property within the Burdened Property.

(c) Association Assessments; Supplemental Declaration. The commencement of assessments on Lots located within the Burdened Property shall be determined pursuant to the Master Declaration. Prior to the first sale of a Residence in a phase to the homebuying public (based on phases of approximately 20 lots per phase as reasonably agreed to by Builder and Declarant), Builder and Declarant shall execute and record a supplemental declaration to the Master Declaration annexing that phase of the Burdened Property (to the extent not already annexed) and classifying such phase of the Burdened Property as single-family Residences.

(d) Construction and Acceptance of Association Property. Except as may be otherwise provided in the Purchase Agreement or the Development Agreement, Builder shall, at its sole expense, construct the Community Facilities, if any, to be located on any Association Property located within the Burdened Property, as determined by the Builder and the Declarant pursuant to this Section 9.01 and in accordance with the Plans and completion schedules for such Common Facilities submitted to and approved by Declarant pursuant to Article II, if any. Upon Builder's request for the Master Association's acceptance of the transfer of the Association Property to the Master Association, which such request shall not be made until substantial completion of the construction of any Community Facilities within the Burdened Property, Builder shall, as soon as practicable, submit to Declarant two (2) "as built" plans for the Improvements. Within ten (10) days after Declarant's receipt of the "as built" plans, Declarant shall inspect the Community Facilities and notify Builder whether such Community Facilities conform to the approved Plans for such Community Facilities. If Builder has not Substantially Completed

required construction on any Community Facilities in accordance with the approved Plans, Declarant shall notify Builder of any corrections reasonably required to be completed and Builder shall make such corrections as soon as practicable. Builder shall be responsible for maintenance of any Association Property or Common Facilities until such time as the Association Property or Community Facilities have been conveyed to the Master Association. In such event the Association Property and the Community Facilities shall be conveyed to the Master Association at such time as the Community Facilities are Substantially Completed by the Declarant. Builder shall convey the Association Property and the Community Facilities to the Master Association free of all monetary liens or encumbrances except non-delinquent real property taxes and assessments any encumbrances existing at the time of the conveyance of the Burdened Property to the Builder, any non-monetary encumbrances then of record that do not materially affect the ownership or use of the Community Facilities, and any monetary or non-monetary liens or encumbrances created by, through or under Declarant, any of Declarant's Affiliates, or the Master Association (provided that the foregoing shall not be construed as granting Declarant, Declarant's Affiliates or the Master Association any rights to create or allow any liens or encumbrances to be recorded or asserted against any of the Association Property or Community Facilities while they are owned by Builder).

(e) Dedicated Property. In the event any of the Burdened Property or Builder's Project Plan Work located thereon, including streets or other rights-of-way, is required to be dedicated to the City, Builder shall perform such work and make such dedications as required by the Project Plan or the City.

9.02 Project Declaration. Builder shall provide Declarant a draft of any proposed Project Declaration. Each Project Declaration shall be consistent with this Declaration and the Master Declaration and shall include such additional provisions concerning the Burdened Property as Declarant may reasonably require. Each Project Declaration, if any is to be Recorded against the Burdened Property, shall be recorded before the first sale of a Residence in the Phase of the Burdened Property that is to be subject to such Project Declaration.

9.03 Formation of Project Association. Builder may, at its sole expense, form any Project Association required to maintain any Community Facilities located on the Burdened Property to be conveyed to the Project Association, if any (the "Project Association Property"). Builder shall bear all costs and expenses incurred in organizing and establishing the Project Association, including without limitation, all fees, attorneys' fees, incorporation costs or other charges arising from the preparation or filing of any applications for required governmental approvals, reports or permits relating to such documents. Builder shall convey the Project Association Property to the Project Association as required by applicable federal, state or local laws or regulation, free of all monetary liens or encumbrances except non-delinquent real property taxes and assessments.

## ARTICLE X

### Insurance and Indemnity

10.01 Insurance. Prior to commencement of construction on the Burdened Property, Builder shall obtain and, at all times prior to the completion of the Project Plan Work, maintain in effect, the following policies of insurance: (a) commercial general liability insurance with a single per occurrence limit of not less than Five Million Dollars (\$5,000,000.00) with respect to the Burdened Property and the operations of Builder in, on or about the Burdened Property; (b) workers' compensation insurance required by law covering liability arising from claims of workers in respect of and during the period of the performance of the Project Plan Work; and (c) standard "all risk" insurance (including builder's risk). All policies of insurance shall be issued by insurance companies authorized to do business in Utah and with a financial rating of at least "VII" status as rated in the most recent edition of Best's Insurance Reports, or such other insurers to which Declarant may consent in writing, which consent shall not be unreasonably withheld, conditioned or delayed. All such policies shall provide coverage against claims which may arise out of or result from the activities of Builder, any contractor or subcontractor of Builder, or anyone employed by any of them, or anyone for whose acts any of them may be liable. Builder shall furnish Declarant with copies of all insurance policies required under this Section 10.01 before commencing the Project Plan Work. Each policy shall provide that it may not be canceled or reduced in coverage until thirty (30) days after written notice shall have been given to Declarant of such cancellation or reduction in coverage. All insurance required hereunder (except worker's compensation) shall name Declarant, the Master Association and such other of their Affiliates or lenders as Declarant may reasonably designate, as additional insureds as to claims by third parties.

10.02 Indemnity. Each of Builder and Declarant (each, as used in this Section 10.02 and Section 10.03, the "Indemnitor") shall indemnify and hold free and harmless the other party and such party's respective Affiliates, employees, officers, directors, members and shareholders (collectively, the "Indemnitees") from and against any and all claims, damages, losses, liabilities, demands, and expenses, including, but not limited to, reasonable attorneys' fees, court costs and expenses of litigation (collectively, hereinafter referred to as "Liabilities"), arising out of or resulting from any fault, act, or omission of the Indemnitor, any contractor or subcontractor employed by it, any sales agent or marketing representative employed by the Indemnitor, or anyone for whose acts the Indemnitor may be liable, in connection with Indemnitor's development of the Upper Jordanelle Master Planned Community or the Burdened Property or the performance or construction of the Indemnitor's obligations with respect to the Project (including, without limitation, in the case of Builder, the Project Plan Work and construction or sale or other conveyance of Residences thereon).

Notwithstanding the foregoing, the indemnity agreement created herein shall not indemnify any Indemnatee against, or constitute a waiver with respect to, any Liabilities to the extent such Liabilities: (a) arise from the negligent acts or omissions or willful misconduct of such Indemnatee; provided, however, that: (i) any act or omission of Declarant or its agents, servants or independent contractors with respect to the review of the Project Plan or the drawings or specifications related to the Project Plan Work; or (ii) any inspection or failure to inspect the construction activities of Indemnitor by any of the Indemnitees; or (iii) any direction or suggestion given by an Indemnatee with respect to construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Project Plan Work, or the failure to give any such

direction or suggestion shall not be deemed a negligent act or omission or willful misconduct of such Indemnitee; (b) are covered by available insurance and such insurance is responsive to the claim; (c) are limited by another provision in this Declaration; or (d) arise from any failure, inaccuracy or untruth of such Indemnitee's representations and warranties reasonably relied on by Indemnitor.

**10.03 Survival of Covenants.** The covenants in Article X and the obligations of each Indemnitor contained herein shall survive the conveyance of all or any of the Residences built by Builder on the Burdened Property and shall be binding on such Indemnitor until the last to occur of (a) such date as action against such Indemnitor shall be barred by an applicable statute of limitations; or (b) such date as any claim or action for which indemnification may be claimed is fully and finally resolved and, if applicable, any compromise thereof or judgment or award thereon is paid in full by such Indemnitor and the Indemnitee is reimbursed by such Indemnitor for any amounts paid by such Indemnitee in compromise thereof or upon a judgment or award thereon and in defense of such action or claim, including reasonable attorneys' fees. Payment shall not be a condition precedent to the enforcement of any indemnity provision herein, and if any action or proceeding shall be brought against any Indemnitee for which an Indemnitor is to provide indemnification, such Indemnitor, upon notice from the Indemnitee shall defend the same at such Indemnitor's expense, by counsel reasonably acceptable to Indemnitee.

## **ARTICLE XI**

### **Enforcement; Assignment and Amendment By Declarant**

**11.01 Enforcement; Waiver.** Declarant shall have the right to enforce, by proceedings at law or in equity, all restrictions, covenants, and reservations, now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, covenants, or reservations, and the right to recover damages or other amounts due for such violation. Builder shall have no right to enforce the terms hereof against anyone other than a party signatory hereto or an assignee of Declarant's interests as contemplated by Section 11.02. Failure by Declarant to enforce any condition, covenant, or restriction herein contained in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any future breach of the same or any other condition, covenant, or restriction by Builder. Except as provided in the written approval by Declarant of the Project Plan or any other plans, drawings or specifications for the construction of any Improvement upon the Burdened Property, such approval shall not constitute or be deemed a waiver of any requirement contained in this Declaration which relates to the conditions upon such construction, or the manner in which such construction shall be performed. All rights, options, and remedies of Declarant under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant shall have the right to pursue any one or all of such rights, options, and remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Declaration, provided that any award of damages shall be limited to actual damages only.

11.02 Assignment of Rights. In addition to and without limiting the foregoing, and notwithstanding anything to the contrary in Section 11.01, Declarant may assign any of its rights and powers under this Declaration to any person or entity which purchases 20% or more of the Benefitted Property, so long as such person or entity in writing agrees to assume the duties of Declarant, pertaining to the particular rights and powers assigned. Upon the Recordation of such writing accepting such assignment and assuming such duties, such person or entity shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Without limiting the generality of the foregoing, Declarant may make such assignment as to the entire Burdened Property or to any portion thereof provided such portion constitutes not less than 20% of the Benefitted Property upon Recordation.

11.03 Substitution. Declarant may, by a duly Recorded amendment to this Declaration, executed by Declarant and Builder, in Builder's sole and absolute discretion, add to, subtract from, or substitute for the Benefitted Property any real property owned by Declarant or its Affiliates within the Community and the term "Benefitted Property," as used herein, shall refer to such added, reduced, or substituted real property, effective upon the Recordation of such amendment.

11.04 Amendments. Except as provided in this Declaration concerning the addition, reduction of or substitution for other real property as the Benefitted Property, or concerning the assignment by Declarant of its rights under this Declaration, this Declaration may only be amended by a writing executed by Declarant and the record owner of the Burdened Property which shall be Recorded against the Burdened Property. For purposes of this Section, "Burdened Property" shall not include any parcel or portion of the Burdened Property that has been released from the encumbrance of this Declaration pursuant to the terms of Article XIII of this Declaration.

## ARTICLE XII

### General Provisions

12.01 Force Majeure. Any prevention, delay or stoppage in the work of subdivision and building of Residences, or any of the Project Plan Work as provided for in this Declaration through general or sympathetic strikes, lockouts or acts of government not caused by Builder, unlawful acts of Declarant, acts of God, nature, wars, riots, terrorist activity, civil insurrection, sabotage, earthquake, fire, floods and other out of the ordinary actions of the elements, weather, sickness, accident, epidemic, unavailability of labor or materials, or other causes beyond Builder's reasonable control (an "Unavoidable Delay") shall extend the time within which this Declaration requires certain acts to be performed for a period or periods equal to any such prevention, delay or stoppage; provided, however, that nothing in this Section 12.01 shall excuse the prompt payment of any and all amounts due from Builder to Declarant as required herein or in any of the Development Documents or the performance of any act rendered difficult solely because of the financial condition of Builder. Without limiting the generality of the foregoing, in no event shall Builder's inability to obtain financing for development of the Burdened Property, or any portion thereof, constitute an Unavoidable Delay pursuant to this Section 12.01. Furthermore, in no event

shall any extension of any period of time be deemed to have occurred unless the Party affected shall have given written notice to the other within thirty (30) days following any such delay, setting forth the facts giving rise to such extension.

12.02 Easement for Inspection. Declarant or its authorized representatives may, from time to time, at any reasonable hours, enter upon and inspect the Burdened Property and any Improvements thereon to verify compliance with this Declaration or the Development Documents. Builder hereby expressly grants and conveys to Declarant, its successors and assigns, a temporary non-exclusive right-of-way, easement in gross, and interest in and across the Burdened Property as is necessary for Declarant, or persons designated by Declarant, to inspect improvements thereon. Such easement shall terminate with respect to each completed Residence upon the sale and conveyance of such Residence to a member of the home-buying public.

12.03 Time of the Essence; Successors and Assigns. Time is of the essence of each and every provision of this Declaration. Each and all of the covenants and conditions of this Declaration shall inure to the benefit of and shall be binding upon the successors in interest of Declarant and Builder. As used in the foregoing, "successors" shall include interests in the Burdened Property, and to the successors to all or substantially all of a Party's assets and to successors to the Parties by merger or consolidation.

#### 12.04 Remedies.

(a) Default. The breach of any of the terms, conditions, covenants and provisions of this Declaration shall be deemed a default hereunder. Such default shall be deemed to have occurred if the breaching Party has not effected a cure within thirty (30) days of a notice specifying the breach from the other Party in the case of the breaching Party's obligations to pay money hereunder, and commenced a cure within thirty (30) days of such notice in the case of any of the breaching Party's other obligations hereunder; provided, however, except as specified otherwise herein, in the case of a breach of any obligations hereunder other than for the payment of money which is not capable of being cured within said thirty (30) day period, no default shall be deemed to have occurred so long as the breaching Party commences to cure such default within such thirty (30) day period and thereafter diligently and continuously prosecutes the same to a conclusion.

(b) Cumulative Remedies. Except as expressly provided herein, all rights, options and remedies of Declarant and Builder, respectively, contained in this Declaration shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Declarant or Builder, as applicable, shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or equity, whether or not stated in this Declaration. Each Party acknowledges that a default may cause the non-breaching Party to suffer material injury or damage not compensable in money and that the non-breaching Party shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with the terms of this Declaration, bring an action for an injunction to enjoin the

continuance of any such breach or violation, or may exercise self-help, but only to the extent provided for herein.

(c) No Waiver. No waiver by Declarant or Builder of a breach of any of the terms, covenants or conditions of this Declaration by the other shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or conditions herein contained. No waiver of any default by Declarant or Builder hereunder shall be implied from any omission by Builder or Declarant to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by either Party to or of any act requiring such Party's consent or approval shall not be deemed to waive or render unnecessary such Party's consent or approval to or of any subsequent similar acts by the other Party. Without limiting the generality of the foregoing, either Party's acceptance of any payments hereunder shall not be deemed a waiver of any breach by the other Party under the terms and conditions hereof.

12.05 Attorneys' Fees. In the event any action shall be instituted between Declarant and Builder in connection with this Declaration, the Party prevailing in such action shall be entitled to recover from the other Party all of its costs and expenses incurred therein, including reasonable attorneys' fees.

12.06 Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Declaration shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Declaration shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

12.07 Gender. In this Declaration (unless the context requires otherwise), the masculine, feminine and neuter genders include one another.

12.08 Entire Agreement. This Declaration, including the Exhibits attached hereto which are incorporated herein by this reference, constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect the validity of this Declaration, any of the Development Documents, the Purchase Agreement, or any instruments executed in connection therewith.

12.09 Payments. Any amounts which are due and owing to Declarant or Builder pursuant to the various terms of the Purchase Agreement, this Declaration or any other related agreement shall be paid as specified. In the event any of these amounts are not paid when due, such amounts shall bear interest as specified in the particular Section requiring such payment or, if not so specified then at a rate equal to the Wall Street Journal prime rate plus two percent (2%) per annum, adjusted daily.

12.10 Interpretation; Governing Law. This Declaration shall be construed as if prepared by both Parties hereto. Each party acknowledges that it has had full benefit of legal counsel in the preparation and negotiation of this Declaration. This Declaration shall be governed by and construed under the laws of the State of Utah.

12.11 Covenants to Run With the Land: Term. The covenants, restrictions, and reservations of this Declaration shall run with and bind the Burdened Property and shall inure to the benefit of and be enforceable by Declarant and its successors and assigns for a term of fifty (50) years from the date this Declaration is Recorded, unless terminated earlier in accordance with the terms of Article XIII of this Declaration, or by a written termination agreement Recorded as to all or any portion of the Burdened Property.

12.12 Notices. All notices or other communications between Declarant and Builder required or permitted hereunder shall be in writing and personally delivered (which delivery may be by reputable overnight commercial courier service such as Federal Express), sent by email or sent by certified United States mail, return receipt requested, postage prepaid, to the following address or number (until a notice of change thereof shall have been delivered as provided in this Section 12.12):

Declarant:

Jordanelle REF Acquisition LLC  
1166 Avenue of the Americas  
New York, NY 10036  
Attn: Jon Shumaker  
Telephone No. (212) 599-6348  
Email: jshumaker@crosslakepartners.com

2030 Lake Las Vegas Parkway  
Henderson, NV 89011  
Attention: Cody Winterton  
Facsimile: None  
Telephone: (702) 568-7948  
Email: cwinterton@raintree.us.com

With copies to:

Raintree Investment Corporation  
2753 Camino Capistrano A201  
San Clemente, CA 92672  
Attention: Patrick M. Parker  
Facsimile: None  
Telephone: (702) 568-7948

Holley Driggs



400 S. 4th Street, Suite 300  
Las Vegas, NV 89101  
Attn: J. Douglas Driggs, Jr.  
Email: ddriggs@nevadafirm.com

Builder: Bryson Fish, Division President  
Lennar  
111 E Sego Lily Drive Suite 150  
Sandy, UT 84070  
E-mail: Bryson.Fish@lennar.com

With a copies to: Shane Orr, Regional Transactional Counsel  
Lennar  
9193 Jamaica Street, 4<sup>th</sup> Floor  
Englewood, Colorado 80112  
E-mail: shane.orr@lennar.com

Seth Townsend  
Lennar  
111 E Sego Lily Drive Suite 150  
Sandy, UT 84070  
E-mail: seth.townsend@lennar.com

A notice shall be effective: (a) on the date of personal delivery if personally delivered to the primary notice recipient before 5:00 p.m., otherwise on the day following personal delivery (including by reputable overnight courier); (b) when delivered with confirmation of good transmission, if sent by email before 5:00 p.m. Mountain Standard Time, otherwise on the day following the email; or (c) if mailed as provided above, upon the date of execution of the return receipt or the date upon which the postal authorities first attempt delivery.

12.13 Modification. This Declaration may not be modified in any respect whatsoever, except in a written instrument executed by all Parties hereto.

12.14 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Burdened Property to the general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration shall be strictly limited to the purposes herein expressed.

12.15 Not a Joint Venture. The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture or any other similar relationship between the Parties.

12.16 Third Party Beneficiary Rights. Except as expressly provided for herein, this Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any Person not a party hereto unless otherwise expressly provided herein.

### ARTICLE XIII

#### Release And Termination

13.01 Residences. Each Lot or Residence within the Project shall be automatically released from the encumbrance of this Declaration without the necessity of executing or Recording any instrument of release: (a) upon the sale of the Residence by Builder to a member of the home-buying public; or (b) upon the sale of the Residence which is a model home by Builder (whether singly or in bulk) to investors for model home leaseback purposes.

13.02 Dedication to Public Agency or Public Utility. Any portion of the Burdened Property, upon dedication or conveyance to, and acceptance by, a public entity or public utility in accordance with the Project Plan, shall be deemed automatically released from the encumbrance of this Declaration, without the necessity of executing or Recording any instrument of release.

13.03 Transfer to a Project Association or Master Association. Any Association Property or Community Facilities constituting a portion of the Burdened Property, upon transfer to and acceptance by a Project Association or the Master Association, shall be deemed automatically released from the encumbrance of this Declaration, without the necessity of executing or Recording any instrument of release.

13.04 Acquisition of Property by Declarant. Upon the acquisition of all or portions of the Burdened Property by Declarant by and through any operation of law or instrument of transfer, Declarant shall have the right, in its sole discretion, to terminate this Declaration, and release portions or all of the Burdened Property from the covenants and restrictions of this Declaration, in which event the covenants and restrictions shall be forever terminated and extinguished.

13.05 Right of Release. Declarant shall also have the right to release, from time to time and at any time, all or any portion of the Burdened Property from this Declaration for any reason, and the foregoing provisions of this Article XIII shall not be deemed to limit such right in any manner whatsoever.

13.06 Instrument. Following the release of any portion of the Burdened Property from the encumbrance hereof, Declarant shall, if requested by the Builder, execute and cause to be Recorded a quitclaim or other instrument evidencing such release. Such instrument shall not be necessary, however, to evidence the automatic release of this Declaration pursuant to this Article XIII.

[Signatures and acknowledgements follow]

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be duly executed as of the day and year first above written.

DECLARANT

Jordanelle REF Acquisition LLC,  
a Delaware limited liability company

By: [Signature]

Name: Cody WINTERTON

Title: Authorized Agent

BUILDER

Lennar Homes of Utah, Inc.,  
a Delaware corporation

By: [Signature]

Name: Bryson FISK

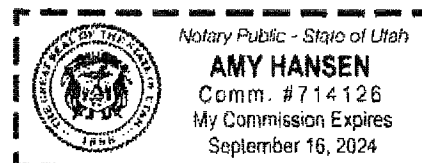
Title: Division President

STATE OF Utah  
COUNTY OF Salt Lake ) ss.

The foregoing instrument was acknowledged before me this 30 day of December 2021, by Cody Winterton as authorized signatory of Jordanelle REF Acquisition LLC, a Delaware limited liability company.

WITNESS my hand and official seal.

[Signature]  
Notary Public



STATE OF Ut  
COUNTY OF Salt Lake ) ss.

The foregoing instrument was acknowledged before me this 30 day of December  
2021, by Bryan Fish as Ut. Division President of Lennar Homes  
of Utah, Inc., a Delaware corporation.

WITNESS my hand and official seal.

[Signature]  
Notary Public



## SCHEDULE 1

### DEFINITIONS

The following additional terms shall have the following meaning whenever used in this Declaration:

“Act” shall have the meaning set forth in Section 5.05 of this Declaration.

“Additional Obligations” shall have the meaning set forth in Section 3.07 of this Declaration.

“Advertising” shall have the meaning set forth in Section 6.03 of this Declaration.

“Affiliate” shall mean any Person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person or the Party specified, including that Person itself. For purposes of this definition, control of a Person shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise and, in any event and without limitation of the previous sentence, any Person owning more than fifty percent (50%) of the voting Interests of another Person shall be deemed to control that Person.

“Architectural Plan” shall mean the Plan described in Section 2.02(d)(i).

“Association Property” shall mean the Community Facilities owned by the Master Association.

“Benefited Property” shall mean that portion of the Upper Jordanelle Master Planned Community owned from time-to-time by Declarant or any successor declarant so designated by Declarant in a recorded instrument.

“Builder” shall have the meaning set forth in the preamble of this Declaration.

“Builder’s Improvements” shall have the meaning set forth in Section 4.01 of this Declaration.

“Building Improvements” shall mean the Improvements described in Section 2.02(d).

“Burdened Property” shall have the meaning set forth in Section 1.01 of this Declaration.

“Business Day” shall mean any day other than Saturday, Sunday, or a legal holiday on which national banks are not open for general business in the State of Utah.

“Cable Provider” shall have the meaning set forth in Section 5.08 of this Declaration.

“City” shall mean Heber City, Utah.

Community Facilities. The term “Community Facilities” shall mean and refer to all real property and the Improvements constructed thereon intended to be owned by a Project Association,

the Master Association, or in common by the members of a Project Association or the Master Association and maintained or otherwise managed by the Project Association or the Master Association.

**Condominium Plan.** The term "Condominium Plan" shall mean and refer to a plan recorded against the Burdened Property or any portion thereof in compliance with Utah Code Title 57 or any similar statute hereinafter enacted.

"Contract Sales Price" shall have the meaning set forth in Section 6.01 of this Declaration.

"County" shall mean Wasatch County, Utah.

"Declarant" shall have the meaning set forth in the preamble of this Declaration.

"Declaration" shall have the meaning set forth in Section 1.01 of this Declaration.

"Deed" shall have the meaning set forth in Section 1.03 of this Declaration.

"Development Agreement" shall have the meaning set forth in Section 3.07 of this Declaration.

"Development Documents" shall mean and refer to the Master Declaration, Master Plan, this Declaration, the Residential Design Guidelines, and the rules, regulations, and governing documents of the Master Association.

"Effective Date" shall have the meaning set forth in the preamble of this Agreement.

"Final Plat" shall mean a final subdivision map for the Burdened Property approved by the City establishing individual Lots within the Project.

"Government Authority" means any federal, state, municipal or local government, governmental authority, regulatory or administrative agency, governmental commission, department, board, bureau, instrumentality, body, court, tribunal, arbitrator or arbitral body, including the City.

"Homeowners Notice" shall have the meaning set forth in Section 7.01 of this Declaration.

"Improvement" shall mean any structure, fixture, alteration or other item constructed, installed, built or modified on the Burdened Property, including, but not limited to, buildings, walls, and fences, streets, sidewalks, parking areas, utility lines and facilities, landscaping, signs, street lights, pools, curbs, drainage facilities, trails, tunnels, and park and recreational facilities.

"Indemnitees" shall have the meaning set forth in Section 10.02 of this Declaration.

"Indemnitor" shall have the meaning set forth in Section 10.02 of this Declaration.

"Infrastructure Act" shall have the meaning set forth in Section 5.09 of this Declaration.

"Landscape Improvements" shall mean the Improvements described in Section 2.02(c).

“Landscape Plan” shall mean the Plan described in Section 2.02(c).

“Landscape Standards” shall mean the any landscaping standards adapted or amended by the Declarant or the Master Association from time to time.

“Liabilities” shall have the meaning set forth in Section 10.02 of this Declaration.

“Lot”, in the event no Condominium Plan is recorded against the Property, shall mean and refer to a lot or parcel as shown on a plat covering the Property or portion thereof upon which there has been or will be constructed a Residence but shall not mean or include any Community Facilities lot or parcel nor streets and alleys.

“Marketing Signage Plan” shall mean the Plan described in Section 2.02(d)(iii).

“Master Association” shall mean the Jordanelle Ridge Master Association, a Utah nonprofit corporation formed for the purposes of maintaining the Association Property and performing certain other duties and functions benefiting the Upper Jordanelle Master Planned Community as provided in the Master Declaration.

“Master Declaration” shall have the meaning set forth in Section 1.02 of this Declaration.

“Master Declaration Amendments” shall have the meaning set forth in Section 9.01(a) of this Declaration.

“Master Marketing Fee” shall mean the fee charged to Builder pursuant to Section 6.01 of the Declaration as part of the Master Marketing Program.

“Master Marketing Program” shall have the meaning set forth in Section 6.01 of this Declaration.

“Master Plan” shall mean the Master Development Plan covering a portion of the Upper Jordanelle Master Planned Community, including the Burdened Property, approved by the City on June 24, 2020, together with any additions, amendments or supplements thereto.

“MDA” shall have the meaning set forth in Section 1.03 of this Declaration.

“Network” shall have the meaning set forth in Section 5.08 of this Declaration.

“Parties” shall have the meaning set forth in the Preamble of this Declaration.

“Perimeter Walls” shall have the meaning set forth in Section 5.07 of this Declaration.

“Person” shall mean any natural person, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, proprietorship, other business organization, trust, union, association or Government Authority.



"Phase" shall mean a portion of the Burdened Property determined in accordance with Section 9.01(c) that been released by Builder for sale to the public.

"Phasing Plan" shall mean the Plan described in Section 2.02(d)(iv).

"Plan" shall have the meaning set forth in Section 2.02(e) of this Declaration.

"Plot Plan" shall mean the Plan described in Section 2.02(d)(ii).

"Preliminary Plat" shall mean the preliminary subdivision map for the Burdened Property approved by the City for the Project.

"Prohibited Plant List" shall mean the schedule of plants prohibited in the Upper Jordanelle Master Planned Community from time to time by Declarant, the Master Association, any Project Association, or any Government Authority.

"Project" shall mean the residential community and related Improvements to be constructed on the Burdened Property.

"Project Association" shall mean any Utah nonprofit corporation or unincorporated association, or its successor in interest, organized and established or authorized pursuant to or in connection with a Project Declaration, for the purpose of administering or maintaining Project Association Property and/or the Lots within the Burdened Property.

"Project Association Property" shall have the meaning set forth in Section 9.03 of this Declaration.

"Project Declaration" shall mean any declaration of covenants, conditions and restrictions, or similar document, which encumbers Project Association Property and/or the Lots within the Burdened Property.

"Project Logo" shall have the meaning set forth in Section 6.06 of this Declaration.

"Project Name" shall have the meaning set forth in Section 6.06 of this Declaration.

"Project Plan" shall have the meaning set forth in Section 2.02(e) of this Declaration.

"Project Plan Work" shall have the meaning set forth in Section 3.01 of this Declaration.

"Project Storm Water Plan" shall mean the Plan described in Section 2.02(a)(iii).

"Purchase Agreement" shall have the meaning set forth in Section 1.03 of this Declaration.

"Record," "Recorded" and "Recordation" shall mean, with respect to any document, the recordation of such document in the Office of the County Recorder of Wasatch County, Utah.

"Requesting Party" shall have the meaning set forth in Section 5.04 of this Declaration.

"Residence" The term "Residence" shall mean the following:

(a) If Declarant approves the filing for record of a Condominium Plan or Condominium Plans covering the Property, "Residence" shall mean and refer to a "unit" as defined in Utah Code Section 57-8-3 in a "condominium" as defined in Utah Code Section 57-8-3 or any similar statute hereinafter enacted consisting of an undivided interest in all or a portion of the Burdened Property together with a separate interest in space in a residential building on such property; and

(b) For any portion of the Burdened Property not within a Condominium Plan, "Residence" shall mean and refer to a Lot together with the single-family dwelling unit constructed thereon.

"Residential Design Guidelines" shall mean those design guidelines set forth in Exhibit F of the MDA.

"Signs" shall have the meaning set forth in Section 6.05 of this Declaration.

"Site Improvements" shall mean the Improvements described in Section 2.02(a).

"Site Plan" shall mean the Plan described in Section 2.02(a)(i).

"Submitted Materials" shall mean any Plans or other materials submitted to Declarant for approval.

"Substantially Complete" shall mean, with respect to any Improvement to be constructed or installed, that such Improvement is sufficiently complete so that it may be used for the purpose for which it is intended, including inspections or certifications and approvals, if any, of any Government Authority, necessary for practical use thereof, subject to reasonable "punch-list" and warranty work that does not materially affect the practical use of the Improvement.

"Trademarks" shall have the meaning set forth in Section 6.04 of this Declaration.

"Unavoidable Delay" shall have the meaning set forth in Section 12.01 of this Declaration.

"Upper Jordanelle Master Planned Community" shall mean the master planned community subject to the Master Declaration.

"Utilities Plan" shall mean the Plan described in Section 2.02(a)(ii).

## EXHIBIT "A"

## BURDENED PROPERTY

A PARCEL OF LAND SITUATE IN THE SOUTHEAST QUARTER OF SECTION 20, AND THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING NORTH 00°00'09" EAST 447.17 FEET ALONG THE QUARTER SECTION LINE AND EAST 1,104.18 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 20, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTHEASTERLY 59.76 FEET ALONG THE ARC OF A 434.00 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS NORTH 28°37'36" WEST AND THE CHORD BEARS NORTH 57°25'44" EAST 59.71 FEET WITH A CENTRAL ANGLE OF 07°53'20");

THENCE NORTH 53°29'05" EAST 736.73 FEET;  
 THENCE SOUTHEASTERLY 23.85 FEET ALONG THE ARC OF A 18.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 36°30'55" EAST AND THE CHORD BEARS SOUTH 88°33'01" EAST 22.15 FEET WITH A CENTRAL ANGLE OF 75°55'50");  
 THENCE SOUTH 50°35'06" EAST 126.60 FEET;  
 THENCE SOUTHEASTERLY 176.16 FEET ALONG THE ARC OF A 396.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 39°24'54" WEST AND THE CHORD BEARS SOUTH 37°50'27" EAST 174.71 FEET WITH A CENTRAL ANGLE OF 25°29'18");  
 THENCE SOUTH 25°05'48" EAST 153.97 FEET;  
 THENCE SOUTHEASTERLY 221.62 FEET ALONG THE ARC OF A 584.00 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS NORTH 64°54'12" EAST AND THE CHORD BEARS SOUTH 35°58'06" EAST 220.30 FEET WITH A CENTRAL ANGLE OF 21°44'36");  
 THENCE SOUTH 46°50'25" EAST 359.55 FEET;  
 THENCE SOUTHEASTERLY 98.50 FEET ALONG THE ARC OF A 534.00 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS NORTH 43°09'35" EAST AND THE CHORD BEARS SOUTH 52°07'29" EAST 98.36 FEET WITH A CENTRAL ANGLE OF 10°34'08");  
 THENCE SOUTH 57°24'33" EAST 121.42 FEET;  
 THENCE SOUTHEASTERLY 27.40 FEET ALONG THE ARC OF A 18.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 32°35'27" WEST AND THE CHORD BEARS SOUTH 13°48'07" EAST 24.83 FEET WITH A CENTRAL ANGLE OF 87°12'51");  
 THENCE SOUTHWESTERLY 120.99 FEET ALONG THE ARC OF A 1,034.00 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS SOUTH 60°11'42" EAST AND THE CHORD BEARS SOUTH 26°27'10" WEST 120.93 FEET WITH A CENTRAL ANGLE OF 06°42'16");  
 THENCE SOUTH 23°06'02" WEST 275.11 FEET;  
 THENCE SOUTHWESTERLY 73.69 FEET ALONG THE ARC OF A 334.00 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS SOUTH 66°53'58" EAST AND THE CHORD BEARS SOUTH 16°46'48" WEST 73.54 FEET WITH A CENTRAL ANGLE OF 12°38'28");  
 THENCE SOUTH 10°27'34" WEST 105.01 FEET;  
 THENCE SOUTHWESTERLY 44.76 FEET ALONG THE ARC OF A 216.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 79°32'26" WEST AND THE CHORD BEARS SOUTH 16°23'44" WEST 44.68 FEET WITH A CENTRAL ANGLE OF 11°52'19");  
 THENCE SOUTH 22°19'54" WEST 275.29 FEET;  
 THENCE SOUTHWESTERLY 307.05 FEET ALONG THE ARC OF A 266.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 67°40'06" WEST AND THE CHORD BEARS SOUTH 55°24'03" WEST 290.29 FEET WITH A CENTRAL ANGLE OF 66°08'19");

THENCE SOUTH 88°28'13" WEST 421.13 FEET;  
THENCE NORTHWESTERLY 33.84 FEET ALONG THE ARC OF A 241.11 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS SOUTH 46°37'03" WEST AND THE CHORD BEARS NORTH 47°24'10" WEST 33.81 FEET WITH A CENTRAL ANGLE OF 08°02'26");  
THENCE NORTH 51°25'23" WEST 196.58 FEET;  
THENCE NORTHWESTERLY 153.43 FEET ALONG THE ARC OF A 368.42 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 38°34'37" EAST AND THE CHORD BEARS NORTH 39°29'34" WEST 152.32 FEET WITH A CENTRAL ANGLE OF 23°51'39");  
THENCE NORTH 27°33'45" WEST 111.62 FEET;  
THENCE NORTHWESTERLY 42.54 FEET ALONG THE ARC OF A 65.40 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 62°26'15" EAST AND THE CHORD BEARS NORTH 08°55'35" WEST 41.80 FEET WITH A CENTRAL ANGLE OF 37°16'19");  
THENCE NORTH 09°42'34" EAST 125.78 FEET;  
THENCE NORTHWESTERLY 47.22 FEET ALONG THE ARC OF A 47.99 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS NORTH 80°17'26" WEST AND THE CHORD BEARS NORTH 18°28'50" WEST 45.34 FEET WITH A CENTRAL ANGLE OF 56°22'48");  
THENCE NORTH 46°40'14" WEST 187.43 FEET;  
THENCE NORTHWESTERLY 177.77 FEET ALONG THE ARC OF A 216.91 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 43°19'46" EAST AND THE CHORD BEARS NORTH 23°11'30" WEST 172.84 FEET WITH A CENTRAL ANGLE OF 46°57'28");  
THENCE NORTH 00°17'14" EAST 85.76 FEET;  
THENCE NORTHWESTERLY 59.09 FEET ALONG THE ARC OF A 437.30 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS NORTH 89°42'46" WEST AND THE CHORD BEARS NORTH 03°35'02" WEST 59.05 FEET WITH A CENTRAL ANGLE OF 07°44'32");  
THENCE NORTH 07°27'18" WEST 71.83 FEET;  
THENCE NORTHWESTERLY 86.11 FEET ALONG THE ARC OF A 714.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 82°32'42" EAST AND THE CHORD BEARS NORTH 04°00'00" WEST 86.05 FEET WITH A CENTRAL ANGLE OF 06°54'35");  
THENCE NORTH 00°32'43" WEST 148.45 FEET;  
THENCE NORTHEASTERLY 50.63 FEET ALONG THE ARC OF A 321.32 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 89°27'17" EAST AND THE CHORD BEARS NORTH 03°58'09" EAST 50.58 FEET WITH A CENTRAL ANGLE OF 09°01'44");  
THENCE NORTH 08°29'02" EAST 67.26 FEET;  
THENCE NORTHEASTERLY 45.87 FEET ALONG THE ARC OF A 475.34 FOOT RADIUS CURVE TO THE LEFT (CENTER BEARS NORTH 81°30'58" WEST AND THE CHORD BEARS NORTH 05°43'09" EAST 45.85 FEET WITH A CENTRAL ANGLE OF 05°31'44") TO THE POINT OF BEGINNING.