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

OF

OLD MILL VILLAGE TOWNHOME OWNERS SUB-ASSOCIATION

(a Townhome/PUD Community located in Heber City, Wasatch County, Utah)

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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND
RESTRICTIONS
OF
OLD MILL VILLAGE TOWNHOME OWNERS SUB-ASSOCIATION**

This Declaration of Covenants, Conditions, Easements and Restrictions of Old Mill Village Townhome Owners Sub-Association, hereinafter referred to as the “**Declaration**” is made and executed this 4 day of April, 2022, by FIG Kollman Farms, LLC, a Utah limited liability company, hereinafter referred to as the “**Declarant**.”

1. RECITALS.

1.1. Declarant intends to create a master planned townhome and apartment community (the “**Project**”). The Project may be platted and developed in phases, in accordance with the approvals and ordinances of the city and county in which the Project is located. The Project is located within the boundaries of Heber City, Wasatch County, State of Utah.

1.2. The Project will have common areas and facilities to be owned, managed and maintained by and through the Old Mill Village Master Owners Association pursuant to that certain Master Declaration of Covenants, Conditions, Restrictions and Easements for the Old Mill Village Master Owners Association recorded in the Wasatch County Recorder’s Office on 5/26/22 as 520119 (the “**Master Declaration**”).

1.3. Under Section 3.2 of the Master Declaration, the Master Association is permitted to record an addition declaration against a sub-association, which additional declaration (i) shall be subject to the terms and conditions of the Master Declaration, (ii) may create a subordinate owners association (sub-association) to administer and enforce the additional declaration, and (iii) may contain additional restrictions, covenants, easements or provisions with respect to such builder’s property subject to such additional declaration beyond what is set forth in the Master Declaration.

1.4. Declarant desires to form such a sub-association to govern the attached townhome units to be developed (the “**Townhome Community**”) and to record against the Townhome Community this Declaration of Covenants, Conditions, and Restrictions for Old Mill Village Townhome Owners Association (the “**Townhome Declaration**”). The legal description of the property comprising the Townhome Community is attached as Exhibit A to this Declaration. The Townhome Declaration will be administered by the Old Mill Village Townhome Owners Association (the “**Townhome Association**”). The Townhome Community is divided into Lots for attached Townhomes, parking areas and certain common areas and facilities.

1.5. The Townhome Association has been, or will be, incorporated as a Utah non-profit corporation to act as a homeowners association with the powers of managing and maintaining the Common Areas in the Townhome Community, administering and enforcing this Townhome Declaration, and assessing and collecting from Owners a share of the costs for maintaining and repairing any and all Common Areas within the Townhome Community and performing such other acts as are provided for in this Townhome Declaration, the Townhome Association’s Bylaws, by statute, or which generally benefit the Townhome Community. The

Townhome Community is not a cooperative and no portion of the Townhome Community is subject to the Condominium Association Act, Utah Code § 57-8-1.

1.6. Declarant has adopted the covenants, conditions, restrictions, easements, servitudes, and limitations set forth in this Townhome Declaration (collectively, the “**Covenants**”) for the purpose of:

- i. Helping to ensure uniformity in the development of the Lots;
- ii. Protecting long-term property values and a desired quality of life in the Townhome Community;
- iii. Facilitating the initial sale of Lots by the Declarant, its successors and assigns, and subsequent sale by the individual Owners of Lots in the Townhome Community; and
- iv. Maintaining the Common Areas located within the Townhome Community in accordance with the Townhome Declaration and with County standard.

1.7. The covenants, conditions and restrictions contained in this Townhome Declaration and in the Exhibits hereto shall be enforceable equitable servitudes and shall run with the land.

1.8. The Townhome Community, as a portion of the Project, is also subject to that certain Master Development Agreement and Affordable Housing Plan for the Old Mill Village Development that was recorded in the Wasatch County Recorder’s Office on March 17, 2021 as Entry No. 495995 (the “**Original Development Agreement**”), as amended by that certain First Amendment to Master Development Agreement and Affordable Housing Plan for the Old Mill Village Development recorded in the Wasatch County Recorder’s Office on 5/25/22 as Entry No. 520091 (the “**First Amendment**”) and together with the Original Development Agreement, the “**Development Agreement**”).

1.9. The Affordable Housing Plan for the Project is established in Section 5 of the Development Agreement. Pursuant to the Affordable Housing Plan, Declarant has or will enter into that certain Affordable Housing Plan Agreement (“**AHPA**”) with the Wasatch County Housing Authority (“**WCHA**”) to further establish the affordable housing requirements applicable to twenty-five (25) units within the Project that have been designated as affordable housing units (“**AHUs**”). The AHUs that are located within the Townhome Community are described on Exhibit B of this Declaration (the “**Townhome AHUs**”) and shall be subject to deed restrictions to be recorded against such AHUs (the “**Deed Restrictions**”).

1.10. Further, as established by Section 5.10 of the First Amendment, there are certain townhome units that will be offered for sale as “Attainable” housing (the “**For Sale Attainable Townhome Units**”), as described on Exhibit C of this Declaration, which shall be subject to

owner occupancy requirements, as set forth in the First Amendment and Section 10.9.1 of the Master Declaration.

- Exhibit A: Legal Description of Townhome Community
- Exhibit B: Description of Affordable Housing Townhome Units
- Exhibit C: Description of For Sale Attainable Townhome Units
- Exhibit D: Bylaws of Townhome Association

NOW, THEREFORE, for the foregoing purposes, the Declarant adopts the following covenants, conditions, easements and restrictions to govern the development, use, maintenance and management of this Townhome Community:

2. DEFINITIONS.

Unless the context clearly indicates otherwise, certain terms as used in this Townhome Declaration and the foregoing Recitals shall have the meanings set forth in this Section 2.

- 2.1. Act shall mean the Community Association Act (Title 57, Chapter 8a, Utah Code, as amended).
- 2.2. Amendment shall mean any amendment to this Townhome Declaration made in accordance with the Townhome Governing Documents and the Act.
- 2.3. Assessable Townhome Unit shall mean each Townhome Unit, except for Exempt Units.
- 2.4. Capital Improvement shall mean any improvement with a useful life of more than three (3) years.
- 2.5. City shall mean Heber City, a political subdivision of Utah.
- 2.6. Common Townhome Assessments shall mean those assessments described in Section 19 to fund the Common Townhome Expenses, and which shall include Regular Common Townhome Assessments and Special Common Townhome Assessments.
- 2.7. Common Townhome Expense Account shall mean one or more deposit or investment accounts of the Townhome Association into which are deposited the Common Townhome Assessments.
- 2.8. Common Townhome Expenses shall mean all expenses of the administration, maintenance, repair, or replacement of the Townhome Common Areas and Facilities and all other expenses denominated as Common Townhome Expenses by this Townhome Declaration or by the Act.
- 2.9. Common Wall(s) means the walls in each Building that divide and are located between any two (2) adjoining Units in a Building. The Common Walls are used by the

Owners of adjoining Units in a Building, and are subject to the provisions of Section 7.2 and the subsections thereof.

2.10. County means Wasatch County, Utah.

2.11. Declarant shall mean the entity identified in the opening paragraph of this Townhome Declaration.

2.12. Declarant Affiliate means any person directly or indirectly controlling, controlled by or under common control with Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

2.13. Exempt Townhome Unit(s) shall mean (i) each Townhome Unit in the Townhome Community that has not received a certificate of occupancy from the municipal authority having jurisdiction, regardless of who owns the Townhome Unit; and (ii) each Townhome Unit in the Townhome Community while owned by Declarant or a Declarant Affiliate until the one hundred eightieth (180th) day after the municipal authority having jurisdiction thereover issues a certificate of occupancy for such Townhome Unit. In addition, each Townhome Lot that does not contain a fully-constructed Townhome Unit shall be an "Exempt Unit," and each model unit owned by the Declarant shall be an "Exempt Townhome Unit" so long as the same is used as a model unit by the Declarant, a Declarant Affiliate, or their assign(s).

2.14. Master Association shall mean the home owners association of the Project, named Old Mill Village Master Owners Association, which association will be, or has been, organized as a Utah nonprofit corporation.

2.15. Master Association Board shall mean the Board of Directors of the Master Association, appointed or elected in accordance with the Master Declaration and the Master Bylaws.

2.16. Member shall mean any person or entity who is a member of the Townhome Association.

2.17. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Townhome Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Townhome Unit or any part thereof or interest therein.

2.18. Mortgagee shall mean (i) any persons or entities named as the Mortgagee or beneficiary under any Mortgage by which the interest of any Townhome Owner is encumbered, (ii) any successor to the interest of such person or entity under such Mortgage, or (iii) any insurer or guarantor of such person or entity under such Mortgage.

2.19. Period of Administrative Control means the period of time during which the Declarant shall have administrative control of the Townhome Association and the other rights and privileges as set forth in this Townhome Declaration. Following the recording of this

Townhome Declaration, the Period of Administrative Control shall continue until such time as Declarant sees fit to, by written notice, transfer administrative control of the Townhome Association to the Townhome Owners, but in no event shall the Period of Administrative Control extend beyond the date which is one hundred and eighty (180) days after a Certificate of Occupancy has been issued for one hundred percent (100%) of the Townhome Lots in the Townhome Community.

2.20. Plat shall mean the plat(s) for the Project, as filed of record in the county in which the Project is located, as the same may be amended, including the plats for subsequent phases of the Project and including plats for the Townhome Community.

2.21. Project shall mean the Property subject to the Master Declaration, Buildings, Units, Common Areas and Facilities and all improvements constructed in the master planned community, as approved by the applicable governmental authorities.

2.22. Regular Common Townhome Assessments shall mean the annual assessments levied by the Townhome Association to pay the budgeted Common Townhome Expenses.

2.23. Special Common Townhome Assessments shall mean assessments, which the Townhome Association may levy from time to time, in addition to the Regular Common Townhome Assessments, for unexpected Common Townhome Expenses or other purposes as provided herein.

2.24. Specific Townhome Assessments shall mean assessments which the Townhome Association may levy from time to time against a Townhome Owner or Townhome Owner's Lot, in addition to Regular Common Townhome Assessments and Special Common Townhome Assessments, for the purposes provided herein.

2.25. State shall mean the State of Utah, in which the Property is located.

2.26. Townhome Assessments shall mean all assessments described in Section 19, including Regular Common Townhome Assessments, Special Common Townhome Assessments and Specific Townhome Assessments.

2.27. Townhome Association shall mean the homeowners association of the Townhome Community, named Old Mill Village Townhome Owners Sub-Association, which association will be, or has been, organized as a Utah nonprofit corporation.

2.28. Townhome Association Board shall mean the Board of Directors of the Townhome Association, appointed or elected in accordance with this Townhome Declaration and the Townhome Bylaws.

2.29. Townhome Building shall mean the buildings constructed as part of the Townhome Community, with all Townhome Buildings containing two (2) or more Townhome Units.

2.30. Townhome Bylaws shall mean the Bylaws of the Townhome Association, a copy of which is attached hereto as **Exhibit D**, as amended from time to time.

2.31. Townhome Common Areas and Facilities shall mean the portions of the Townhome Community described as Townhome Common Areas and Facilities in Section 6 hereof.

2.32. Townhome Governing Documents shall mean the the Master Declaration, the Master Bylaws, the Development Agreement, the AHPA (as to the Townhome AHUs only) and the Deed Restrictions (as to the Townhome AHUs only) and any rules and regulations adopted by the Master Association Board, this Townhome Declaration, the Townhome Bylaws and any rules and regulations promulgated by the Townhome Association Board.

2.33. Townhome Limited Common Areas and Facilities shall mean a portion of the Townhome Common Areas and Facilities, if any, allocated by this Townhome Declaration or the Act, as may be shown on the Plat or described in this Townhome Declaration, for the exclusive use of one or more, but fewer than all, of the Townhome Units as further described in Section 7.

2.34. Townhome Lot shall mean a Lot upon which one (1) Townhome Unit will be constructed. Ownership of the Townhome Lot and the Townhome Unit constructed thereon shall be inseparable, and any conveyance of a Townhome Lot shall operate to convey title to the Townhome Unit constructed on the Townhome Lot. Likewise, any conveyance of a Townhome Unit shall operate to convey title to the Townhome Lot on which the Townhome Unit is located.

2.35. Townhome Owner shall mean any person or entity at any time owning in fee simple a Lot within the Townhome Community as such ownership is shown by the records of the County Recorder of the county in which the Townhome Community is located. The term "Townhome Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

2.36. Townhome Unit shall mean each townhome within a Building designed for separate residential use and occupancy as described in Section 5 hereof.

2.37. Turnover Meeting shall mean the meeting described in Section 22.1.

3. DESCRIPTION OF TOWNHOME COMMUNITY; EXPANDABLE TOWNHOME COMMUNITY

3.1. The Townhome Community, identified in **Exhibit A** together with all additional phases of the Townhome Community, is, and henceforth shall be, held, occupied, transferred, sold, and conveyed subject to the Covenants set forth in this Townhome Declaration. The Townhome Community may be comprised of multiple phases, as shown on the portions of the Plat, both those now on record with the County Recorder's Office, and those to be recorded after the date of this Townhome Declaration. The Townhome Community is not a cooperative. As of the date of this Declaration, no portion of the Townhome Community is subject to the Condominium Association Act, Utah Code § 57-8-1. No portion of the Townhome Community may consist of condominiums subject to the Condominium Association Act without Declarant's express written consent.

3.2. The Buildings in the Townhome Community will be principally constructed of the following materials: Wooden frames with load bearing and non-load bearing walls studded with wood; hardiplank siding; glass openings; wooden joist floors and roofs; roof surfaces with asphalt shingles; interior walls surfaced with gypsum sheets. The exterior finishes may include some of the following: stucco, siding, and stone, hardiplank and/or masonry products.

3.3 Prior to the Turnover Meeting, the Townhome Community is expandable. Hence, following construction of the Buildings and improvements in the first phase of the Townhome Community, subsequent phases may also be constructed in accordance with the plat approvals and zoning requirements of the City. There is no guarantee that subsequent phases will be constructed or that the Townhome Community will be expanded. Declarant (or its assigns) shall have the sole discretion to determine if and when to apply for plat approval to develop and construct additional phases. If approved and constructed, the additional phases shall be annexed into, and made a part of, this Townhome Community by recording an instrument confirming the Declarant's intention to expand the Townhome Community to include the additional phase(s). Upon the recordation of such an instrument, the land and improvements against which the instrument is recorded shall automatically become part of the Townhome Community, subject to and governed by all of the terms and provisions of this Townhome Declaration.

4. CONFIRMATION OF SUBMISSION TO THE ACT.

Declarant hereby confirms and acknowledges that the Townhome Community is subject to the provisions of the Act. The Townhome Community is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a townhome community, subject to the Townhome Governing Documents. The Townhome Community is and shall be subject to the covenants, conditions, restrictions, easements, uses, limitations and obligations set forth herein, as well as the provisions of the Act, each and all of which are declared and agreed to be for the benefit of said Townhome Community. Further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and a benefit on the Townhome Community and shall be binding on any person acquiring, leasing, subleasing or owning an interest in the real property and improvements comprising the Townhome Community, their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

5. DESCRIPTION OF UNITS, LOTS, AND BUILDINGS.

Each Townhome Building will contain either two (2) or more Townhome Units, as shown on the Plat. Each Townhome Building shall consist of the Townhome Units therein and the interior surfaces of each dwelling, and its perimeter walls, bearing walls, floors, ceilings, and the windows and doors of each Townhome Unit. In addition, each Townhome Lot shall consist of the airspace above and the subsurface below the land and all of the area and improvements above and below the surface of the land and within and part of the vertical boundaries defined by the Townhome Lot lines shown on the Plat. By this provision, the Declarant intends each Townhome Lot to be comprised of all of the physical improvements that pertain solely to the area in which the Townhome Lot is located or pertain solely to the improvements within the Townhome Lot, including, without limitation, all physical facilities, installations, lines,

foundations, equipment, tanks, pumps, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations that connect or provide service only to the applicable Townhome Unit, subject to any Common Areas or Facilities as defined in the Master Declaration, or such Townhome Common Areas and Facilities or Townhome Limited Common Areas and Facilities as defined herein.

The following items shall not be included in the definition of a Townhome Unit or Townhome Building but shall be considered Townhome Common Areas and Facilities to be maintained by the Townhome Association: the exterior surfaces of the Townhome Buildings and the roofs of the Townhome Buildings. Utility meters or other Improvements may be attached to any portion of the exterior of a Townhome Building or Townhome Unit for the benefit of multiple Townhome Units within such Townhome Building or within adjoining or nearby Townhome Units. Such meters or common Improvements will be considered Townhome Common Areas and Facilities maintained by the Townhome Association, or, as applicable, the appropriate utility company. Garage doors shall not be included in the definition of Townhome Common Areas and Facilities.

6. TOWNHOME COMMON AREAS AND FACILITIES.

6.1 The Townhome Common Areas and Facilities shall mean and include the exterior surfaces of the Townhome Buildings, the roofs of the Townhome Buildings, the private roadways and the driveways denoted as Limited Common Area on the Plat. This provision shall not be construed to require the construction or installation of any such common amenities or facilities.

6.2. No Townhome Owner, directly or indirectly, shall make any alterations to any of the Townhome Common Areas and Facilities or other elements affecting the overall appearance of the Townhome Community without the prior written consent of the Townhome Board, including, without limitation, any changes to any of the exterior elements of the Townhome Units or Townhome Buildings, the paint color of the exterior of the Townhome Units or Townhome Buildings, the landscaping of the Townhome Community or any other Townhome Common Areas and Facilities.

7. TOWNHOME LIMITED COMMON AREAS AND FACILITIES; COMMON WALLS.

7.1 Townhome Limited Common Areas and Facilities. Townhome Limited Common Areas and Facilities shall mean any portion of the Townhome Common Areas and Facilities reserved for the use of certain Townhome Units or Building to the exclusion of other Townhome Units or Townhome Buildings in the Townhome Community, including but not limited to any balconies, driveways denoted as Limited Common Area on the Plat which service individual Townhome Units, or other areas, if any, indicated by the Townhome Declaration or the Plat to be for the exclusive use of one or more but fewer than all of the Townhome Units or Townhome Buildings in the Townhome Community. Townhome Owners may not reallocate Limited Townhome Common Areas and Facilities. Each Townhome Owner shall be responsible for the Townhome Limited Common Area attached to such Owner's Townhome Unit, except the Townhome Association shall be responsible for maintaining and

providing snow removal for the driveways denoted as Limited Common Area as shown on the Plat.

7.2 Common Walls. To the extent that any Townhome Units are connected by, or share, a common wall ("**Common Wall**"), the following provisions shall govern the use, maintenance, repair and restoration thereof:

7.2.1 Each Townhome Unit sharing a Common Wall with a different Townhome Unit shall provide such access as may be reasonably necessary to permit the Townhome Association and the Townhome Owner of the other Townhome Unit sharing said Common Wall, and their respective agents and contractors, to maintain the integrity of the Common Wall, and to repair and restore it as necessary.

7.2.2 Should any Common Wall be damaged or destroyed by the negligence or other act or omission of an Townhome Owner of one of the Townhome Units sharing the same, or said Townhome Owner's agents, employees, invitees or guests, said Townhome Owner shall be liable, at its sole cost and expense, for all necessary repairs or restoration of said Common Wall, and related damage to any Townhome Unit; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Townhome Unit sharing said Common Wall, or by the Townhome Association, shall first be applied toward the costs of repairing or restoring the Common Wall and related damages to the Townhome Units. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the affected Townhome Owners.

7.2.3 Should any Common Wall be damaged or destroyed by any cause other than the negligence, act or omission of the Townhome Owner of either Townhome Unit sharing said Common Wall, or said Townhome Owner's agents, employees, invitees or guests, the Owners of the Townhome Units sharing said Common Wall shall be equally liable for all necessary repairs or restoration of said Common Wall, and related damage to either Townhome Unit; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Townhome Unit sharing said Common Wall, or by the Townhome Association, shall first be applied toward the costs of repairing or restoring the Townhome Common Wall and related damages to the affected Townhome Unit. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the affected Townhome Owners.

7.2.4 Should any party fail or refuse to complete the repairs or restorations imposed upon it by these provisions, the Townhome Association, after giving written notice to said party of its intention to do so, may undertake said repairs or restorations, and be entitled to reimbursement for all costs incurred in connection therewith from said party. Such reimbursement shall be made within thirty (30) days after the Townhome Association has completed the work and presented said party with a statement and demand for payment setting forth all costs incurred. The Townhome Association shall have a lien against the Unit of the liable Townhome Owner to secure payment to the Townhome Association of all costs and expenses incurred in making the necessary

repairs or restorations, and the Townhome Association shall be entitled to enforce said lien in the same manner as it is authorized to enforce assessment liens, including recovery of attorney fees, costs and interest.

7.2.5 In the event of a dispute or controversy between the Owners of Townhome Units sharing a Common Wall, as to any matter within or arising out of the provisions of this Article 7, or the respective use, maintenance, repair, or replacement of said Common Wall, such dispute or controversy shall be submitted to the Board of Directors of the Townhome Association for arbitration. The decision of the Board with respect to the issues presented shall be binding upon the parties involved.

8. NATURE AND INCIDENTS OF LOT OWNERSHIP.

8.1. Each Townhome Lot is a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved and otherwise affected in accordance with the provisions of this Townhome Declaration.

8.2. Subject to the limitations contained in this Townhome Declaration, each Townhome Owner shall have the non-exclusive right to use and enjoy the Townhome Common Areas and Facilities, the exclusive right to occupy and use their Townhome Lot and the exclusive (or semi-exclusive, as the case may be) right to use any Townhome Limited Common Areas and Facilities designated for exclusive (or semi-exclusive) use by such Owner, a limited group of Townhome Owners, or all Townhome Owners.

8.3. Except as otherwise provided herein, each Townhome Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet or otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the boundaries of their Townhome Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries. Each Townhome Owner shall keep the interior of their Townhome Unit, including without limitation, interior walls, windows, ceilings, floors and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. In addition, each Townhome Owner shall keep their garages, balconies, patios and other Townhome Limited Common Area servicing such Owner's Unit in a good state of repair. In the event that any such Townhome Unit should develop an unsanitary condition or fall into a state of disrepair and in the event that the Owner of such Townhome Unit should fail to correct such condition or state of disrepair promptly following written notice from the Townhome Board, the Townhome Board shall have the right, at the expense of the Townhome Owner and without liability to the Townhome Owner for trespass or otherwise, to enter said Townhome Unit (including any garages) and correct or eliminate said unsanitary condition or state of disrepair. The Townhome Association shall collect any costs or expenses incurred by the Townhome Association to correct or eliminate an unsanitary condition or state of disrepair by Specific Townhome Assessment against the subject Townhome Unit. Owners of adjoining Townhome Units may not reallocate or change the boundaries of such Townhome Units unless they obtain the necessary approvals from the local city or county jurisdiction, which may include the requirement of formal plat amendment approval.

8.4. The Townhome Board shall have the right to enter into any Townhome Unit for the purpose of cleaning, maintenance, repairs, including emergency repairs, and for the purpose of abating a nuisance, or a known or suspected dangerous or unlawful activity, and for the purpose of cleaning, maintaining or repairing any Townhome Common Areas and Facilities or Townhome Limited Common Areas and Facilities.

9. TITLE TO LOTS.

9.1. Title to a Townhome Lot may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State, subject to the AHPA and the Deed Restrictions. Title to part of a Townhome Lot may not be separated from any other part thereof during the period of ownership, and each Lot shall always be conveyed, devised, encumbered and otherwise affected only as a complete Townhome Lot. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Lot, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Townhome Lot, together with all appurtenant rights created by law and by this Townhome Declaration, including appurtenant membership in the Townhome Association as herein set forth.

9.2. The Townhome Common Areas and Facilities shall be owned by the Townhome Association, and no Townhome Owner may bring any action for partition thereof.

9.3. Each Townhome Owner shall have the right to encumber such Owner's interest in a Townhome Lot with a Mortgage. However, no Townhome Owner shall attempt to or shall have the right to encumber the Townhome Common Areas and Facilities or any part thereof. Any Mortgage of any Townhome Lot within the Townhome Community shall be subordinate to all of the provisions of this Townhome Declaration, and in the event of foreclosure the provisions of this Townhome Declaration shall be binding upon any Townhome Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

9.4. Intentionally Left Blank.

9.5. Every contract for the sale of a Lot and every other instrument affecting title to a Townhome Lot within the Townhome Community shall incorporate all the rights incident to ownership of a Townhome Lot within the Townhome Community and all of the limitations on such ownership as described in this Townhome Declaration.

10. RESTRICTIONS ON USE.

The Townhome Lots, Townhome Buildings, Townhome Units, and Townhome Common Areas and Facilities, including but not limited to the Townhome Limited Common Areas and Facilities, except as otherwise permitted in writing by the Townhome Board, shall be used in accordance with the following restrictions, which restrictions shall also be applicable to any resident of a Townhome Unit:

10.1. Each Townhome Unit shall be used for residential purposes only. Notwithstanding the foregoing, home-based businesses which have no impact on the Townhome Community beyond the ordinary impact of residential use are permissible.

10.2. No noxious, destructive or offensive activity shall be carried on or placed in or upon any Townhome Unit, Townhome Lot, or in the Townhome Common Areas, or Limited Townhome Common Areas, or any part thereof, which shall interfere with the legal rights of other Townhome Owners nor shall anything be done therein which is or may become an annoyance or nuisance to any other Townhome Owner or to any person at any time lawfully residing in the Townhome Community. No activities shall be conducted, nor improvements constructed, in or upon any part of the Townhome Community which are or may become unsafe or hazardous to any person or property. Without limiting the breadth of the foregoing, aluminum foil, sheets, linen, bed sheets, newspapers, or any other similar materials may not be used to cover the windows in any Townhome Unit. The Townhome Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and the use restrictions applicable to the Townhome Units. Without limiting the breadth of the foregoing sentence: (i) no automobile or other vehicle shall be parked at any location within the Townhome Community which impairs or tends to impair vehicular or pedestrian access within the Townhome Community or to and from its various parts; (ii) no garments, rugs, or other household items, or wash lines of any kind may be hung, erected, or maintained outside of an Owner's Townhome Unit; (iii) no Townhome Owner or occupant shall discard or permit any items to fall from the windows of such Owner's Unit; (iv) no dogs are permitted on common areas unless the dog is on a leash; and (v) each pet owner must immediately remove any animal droppings and dispose of them in a garbage container.

10.3. No signs, flags or advertising devices of any nature, including, without limitation, informational or directional signs or devices or campaign or political signs, shall be erected or maintained on any part of the Townhome Community, without the prior inspection and written approval of the Board, except as may be necessary temporarily to caution or warn of danger. If the Board consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Board.

10.4. No pets, animals, livestock or poultry of any kinds shall be bred in or kept on or about the Townhome Community, except as may be allowed by the Townhome Association in accordance with rules and regulations governing pets which may be promulgated by the Board. Pets shall not create a nuisance, and the following acts may constitute a nuisance: (a) causing damage to the property of anyone other than the pet owner; (b) causing unsanitary conditions; (c) defecating on any Townhome Common Areas and Facilities when the feces are not immediately cleaned up by the responsible party; (d) barking, howling, whining or making other disturbing noises in an excessive or continuous fashion; (e) harassing passersby by lunging at them or chasing vehicles; (f) attacking or threatening to attack people or other domestic pets; or (g) otherwise acting so as to unreasonably bother, annoy or disturb other residents or unreasonably interfering with their right of peaceful and quiet enjoyment of their Townhome Units. Pets in the Townhome Common Areas must be in a cage or on a leash at all times. Pets may not be tied or tethered in any Townhome Common Areas. The Board may establish and enforce rules and regulations governing pets within the Townhome Community and may charge a deposit for pets within the Townhome Community. No Townhome Owner shall, without the prior written consent of the Townhome Board, make or permit to be made any alteration, improvement or addition in or to any portion of the Townhome Limited Common Areas and Facilities.

10.5. There shall be no obstruction of the Townhome Common Areas and Facilities by any Townhome Owner. Townhome Owners shall neither store nor leave any of their property in the Townhome Common Areas and Facilities, other than Townhome Limited Common Areas and Facilities appurtenant to their Townhome Unit, except with the prior consent of the Board.

10.6. Nothing shall be done or kept in any Townhome Unit or in the Townhome Common Areas and Facilities or any part thereof, which would result in cancellation of the insurance on the Townhome Community or any part thereof, nor shall anything be done or kept in any Townhome Unit which would increase the rate of insurance on the Townhome Community or any part thereof over what the Townhome Association, but for such activity, would pay, without the prior written consent of the Townhome Board. Nothing shall be done or kept in any Townhome Unit or in the Townhome Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Townhome Common Areas and Facilities or any part thereof shall be committed by any Townhome Owner or guest, lessee, licensee or invitee of any Townhome Owner, and each Townhome Owner shall indemnify and hold the Townhome Association and the other Townhome Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner's guests, lessees, licensees or invitees.

10.7. Each Townhome Owner shall comply strictly with all reasonable rules and regulations adopted by the Townhome Association for the governance of the Townhome Units, the Townhome Common Areas, and the Townhome Community, as such rules and regulations may be modified, amended and construed by the Townhome Association in the sole discretion of its Board.

10.8. Any lease of a Townhome AHU or For Sale Attainable Townhome Unit shall be governed by Section 10.9 of the Master Declaration, the AHPA and any applicable Deed Restriction.

11. ASSOCIATION AND BOARD OF DIRECTORS.

11.1. Each Owner of a Townhome Lot shall be entitled and required to be a member of the Townhome Association. Membership will begin immediately and automatically upon becoming a Townhome Owner and shall terminate immediately and automatically upon ceasing to be a Townhome Owner. If title to a Townhome Lot is held by more than one person, the membership appurtenant to that Townhome Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Townhome Lot is held. A Townhome Owner shall be entitled to one membership for each Townhome Unit located on a Townhome Lot owned by such Owner. Each membership shall be appurtenant to the Townhome Lot to which it relates and shall be transferred automatically by conveyance of that Townhome Lot. Ownership of a Townhome Lot within the Townhome Community cannot be separated from the Townhome Association membership appurtenant thereto, and any devise, encumbrance, conveyance or other disposition of a Townhome Lot shall constitute a devise, encumbrance, conveyance or other disposition, respectively, of such

Owner's membership in the Townhome Association and the rights appurtenant thereto. No person or entity other than a Townhome Owner may be a member of the Townhome Association, and membership in the Townhome Association may not be transferred except in connection with the transfer of a Townhome Lot.

11.2. The Townhome Association shall be governed by the following provisions:

11.2.1. The management and maintenance of the Townhome Community and the administration of the affairs of the Townhome Association shall be conducted by a Townhome Board of Directors consisting of at least three (3) natural persons as provided in the Townhome Bylaws. The Townhome Board shall be appointed or elected as provided in this Townhome Declaration and in the Townhome Bylaws. Notwithstanding the foregoing, the Declarant shall have the exclusive right to appoint, remove and replace all members of the Townhome Board during the Period of Administrative Control.

11.2.2. Except as otherwise provided herein, the Townhome Board shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Townhome Declaration and the Townhome Bylaws, including but not limited to the following:

11.2.2.1. To make and enforce all rules and regulations covering the operation and maintenance of the Townhome Community, the Townhome Buildings, and the Townhome Units.

11.2.2.2. To carry out through the Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Townhome Association or Townhome Board, shall be responsible for managing the Townhome Community for the benefit of the Townhome Association and the Townhome Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Townhome Board, be authorized to perform any of the functions or acts required or permitted to be performed by the Townhome Board itself. The cost of retaining or employing the Manager shall be a Common Townhome Expense.

11.2.2.3. To engage the services of accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefore, and to appoint committees as determined by the Townhome Board.

11.2.2.4. To operate, maintain, repair, improve and replace the Townhome Common Areas and Facilities.

11.2.2.5. To determine and pay the Common Townhome Expenses.

11.2.2.6. To assess and collect the proportionate share of Common Townhome Expenses from the Townhome Owners, as provided in Section 19 hereinafter.

11.2.2.7. To levy Specific Townhome Assessments on Townhome Owners or Townhome Units, as provided in Section 19.

11.2.2.8. To enter into contracts, deeds, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

11.2.2.9. To open bank accounts on behalf of the Townhome Association and to designate the signatories therefor.

11.2.2.10. To purchase, hold, sell, convey, mortgage or lease any one or more Townhome Units in the name of the Townhome Association or its designee.

11.2.2.11. To bring, prosecute and settle any lawsuit, binding arbitration, mediation, or governmental proceeding for itself, the Townhome Association and the Townhome Community, provided that it shall make no settlement which results in a liability against the Townhome Board, the Townhome Association or the Townhome Community in excess of \$25,000.00, without the prior approval of a majority of the total votes of the Townhome Association at a meeting or by written ballot distributed to Townhome Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Townhome Association's insurance carrier and which in either case results in no actual liability of funds of the Townhome Association in excess of \$20,000 shall not require Townhome Association approval.

11.2.2.12. To obtain insurance for the Townhome Association with respect to the Townhome Buildings and Townhome Units and the Townhome Common Areas and Facilities, as well as worker's compensation insurance, as needed.

11.2.2.13. To repair or restore the Townhome Community following damage or destruction or a permanent taking by the power of, or power in the nature of, eminent domain, or by an action or deed in lieu of condemnation not resulting in the removal of the Townhome Community from the provisions of the Act.

11.2.2.14. To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Townhome Owners, items of personal property necessary to or convenient to the management of the business and affairs of the Townhome Association and the Townhome Board and to the operation of the Townhome Community, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

11.2.2.15. To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Townhome Community by Townhome Owners in accordance with the terms of the Townhome Bylaws. The Townhome Association or the Townhome Board shall make available to the Townhome Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Townhome Unit current copies of the Townhome Governing Documents and other rules governing the Townhome Community and

other books, records and financial statements of the Townhome Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

11.2.2.16. To do all other acts necessary for the operation and maintenance of the Townhome Community, including the maintenance and repair of any Townhome Unit if the same is necessary to protect or preserve the Townhome Community.

11.2.2.17. To prepare, adopt, amend and disseminate budgets and other information from time to time in accordance with the terms of the Townhome Bylaws.

11.2.2.18. To grant conveyances, easements and rights-of-way over the Townhome Common Areas and Facilities.

11.2.2.19. To comply with Section 19.4 of this Townhome Declaration.

11.2.3. Members of the Townhome Board, the officers and any assistant officers, agents and employees of the Townhome Association (i) shall not be liable to the Townhome Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to a Townhome Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Townhome Association in their capacity as such; (iii) shall have no personal liability in tort to any Townhome Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Townhome Community, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

11.2.4. When a member of the Townhome Board is sued for liability for actions undertaken in his role as a member of the Townhome Board, the Townhome Association shall indemnify him for his losses or claims, and undertake all costs of defense, until and unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof the Townhome Association is no longer liable for the cost of defense, and may recover costs already expended from the member of the Townhome Board who so acted. Members of the Townhome Board are not personally liable to the victims of crimes occurring at the Townhome Community. Punitive damages may not be recovered against the Townhome Association, but may be recovered from persons whose gross negligence gave rise to the damages.

11.2.5. Neither the Townhome Board nor the Manager, if any, shall sell any portion of the Townhome Community except as permitted by the Act and this Townhome Declaration.

12. MAINTENANCE, ALTERATION AND IMPROVEMENT.

12.1. The Townhome Board, acting on behalf of the Townhome Association and, subject to the rights and duties of the Townhome Owners as set forth in this Townhome Declaration, shall be responsible for the exclusive management and control of the Townhome Common Areas and Facilities and all improvements thereon and shall keep the same in a good, clean, attractive, safe and sanitary condition, order and repair. The Townhome Board shall be responsible for the maintenance and repair of the Townhome Common Areas and Facilities including the roofs of the Townhome Units, and other improvements and grounds designated as Townhome Common Areas and Facilities, the painting thereof, repair and replacement of exterior trim, siding, railings, roofs and fences. In addition, the Board shall be responsible for the repair and replacement of the private driveways servicing the Townhome Units that are designated as Limited Common Area on the Plat. The costs associated with the maintenance, replacement and repair of the Townhome Common Areas and Facilities shall be a Common Townhome Expense.

12.2. Some of the Townhome Common Areas and Facilities or Townhome Limited Common Areas for which the Townhome Association is responsible are or may be located within the Townhome Buildings, attached to the exterior of the Townhome Buildings, or may be conveniently accessible only through the Townhome Units. The Townhome Association shall have the irrevocable right to have access to each Townhome Unit in order to access, maintain, repair and/or replace, as necessary, all Townhome Common Areas and Facilities from time to time during such reasonable hours as may be necessary, or for making any emergency repairs at any time and when necessary to prevent damage to the Townhome Common Areas and Facilities or to any Townhome Unit. The Townhome Association shall also have the irrevocable right to have access to any Townhome Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction or reconstruction for which the Townhome Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Townhome Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Townhome Association.

12.3. Subject to Declarant's rights during the Period of Administrative Control, additions or Capital Improvements to the Townhome Community which are the responsibility of the Townhome Association and which cost no more than \$25,000 may be authorized by the Townhome Board alone. Such additions or Capital Improvements the cost of which exceed \$25,000 and which are not part of the Townhome Board-approved annual budget of the Townhome Association must, prior to being constructed, be authorized by at least a majority of the undivided ownership in the Townhome Community. Any additional or Capital Improvements which would materially alter the nature of the Townhome Community must, regardless of its cost and prior to being constructed, be authorized by at least sixty-seven percent (67%) of the Townhome Community's undivided ownership interest. For purposes of this Section 12.3, "materially alter the nature of the Townhome Community" shall mean any addition or Capital Improvement that changes the Townhome Community from residential to any other use, such as commercial or any form of timesharing. Notwithstanding anything to

the contrary in this Townhome Declaration, any actions under this Section 12.3 shall be subject to the approval of the Master Association Board.

13. INSURANCE.

13.1. The Townhome Association shall at all times maintain in force insurance meeting the following requirements:

13.1.1. Subject to Utah Code § 57-8a-405, blanket property insurance or guaranteed replacement cost insurance on the physical structure of all Apartment Units (not including the interior thereof), Apartment Limited Common Areas appurtenant to Units on a Lot and Apartment Common Areas in the Apartment Community, insuring against all risk of direct physical loss commonly insured against, including fire and extended coverage perils. The master or blanket policy of property insurance shall include: fixtures, building service equipment, personal property and supplies comprising a part of the Townhome Common Areas or Facilities or owned by the Townhome Association, but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. As a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Townhome Community in construction, location, and use, including (without limitation) all perils normally covered by the standard "all risk" endorsement, where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Townhome Community covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. If the Board deems such advisable, the insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (2) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent of the property's insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). Unless the Board otherwise determines, the maximum deductible amount for such a policy covering the Townhome Common Areas and Facilities shall be Ten Thousand Dollars (\$10,000) and for losses related to individual Townhome Units that are covered by such a policy, the maximum deductible related to each individual Unit shall be Ten Thousand Dollars (\$10,000.00). Funds to cover these deductible amounts shall be included in the Townhome Association's operating reserve account.

13.1.2. Subject to Utah Code § 57-8a-406, liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Townhome Common Areas and Facilities, Townhome Building exteriors, public ways in the Townhome Community,

all other areas of the Townhome Community that are under the Townhome Association's supervision, and any commercial spaces owned by the Townhome Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Townhome Community in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Townhome Common Areas and Facilities, Townhome Building exteriors, and legal liability arising out of lawsuits related to employment contracts of the Townhome Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Townhome Community in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Townhome Owner's claim because of negligent acts of the Townhome Association or any other Townhome Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Townhome Association and to each First Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

13.1.3. The Townhome Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all officers, members, and employees of the Townhome Association and for all other persons handling or responsible for funds of or administered by the Townhome Association whether or not that individual receives compensation for services. Furthermore, where the Townhome Association has delegated some or all of the responsibility for the handling of funds to the Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Townhome Association, for the Manager's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Townhome Association. The total amount of fidelity bond coverage required shall be based upon the Townhome Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Townhome Association, or the Manager, as the case may be, at any given time during the term of each bond. The bonds required shall meet the following additional requirements: (1) the fidelity bonds shall name the Townhome Association as obligee; (2) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (3) the premiums on all bonds required herein for the Townhome Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees and agents) shall be paid by the Townhome Association as part of the Townhome Common Expenses; and (4) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Townhome Association.

13.1.4. Each policy required to be maintained by Sections 13.1.1 and 13.1.2 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Townhome Community is located. In addition, such mortgage clause or another appropriate provision of each such policy shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Townhome Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

13.1.5. Each policy required to be maintained by the foregoing Sections shall provide, if available, for the following: a waiver of the right of subrogation against Townhome Owners individually; the insurance is not prejudiced by any act or neglect of individual Townhome Owners which is not in the control of such Owners collectively or the Townhome Association; and the policy is primary in the event the Townhome Owner has other insurance covering the same loss.

13.1.6. In contracting for the policies of insurance required to be maintained by the foregoing Section 13.1, the Board shall make reasonable efforts to secure, if the Board deems such advisable, coverage which provides the following endorsements: (1) "Inflation Guard Endorsement" (2) "Building Ordinance or Law Endorsement", if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs. (The endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (3) "Steam Boiler and Machinery Coverage Endorsement", if the Townhome Community has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Townhome Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Townhome Association may purchase separate stand-alone boiler and machinery coverage.

13.1.7. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Townhome Association, the Townhome Association's authorized representative, including any trustee with whom the Townhome Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Townhome Owner hereby appoints the Townhome Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Townhome Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Townhome Owners and their Mortgagees, as their interests may appear.

13.1.8. Each insurance policy maintained hereunder shall be written by an insurance carrier which is licensed to transact business in the State and which has a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, a Townhome Owner, a Mortgagee, the Board, or the Townhome Association; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Townhome Association, or Townhome Owner) from collecting insurance proceeds. The provisions of this Section 13 shall not be construed to limit the power or authority of the Townhome Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Townhome Association may deem appropriate from time to time.

If the Townhome Board becomes aware that property insurance under Subsection 13.1.1 or liability insurance under Section 13.1.2 is not reasonably available, the Townhome Board shall, within seven calendar days after becoming aware, give all Townhome Owners notice, as provided in Utah Code § 57-8a-214, that the insurance is not reasonably available. The Townhome Board may adopt insurance rules and policies to maintain the insurance required under this Section and keep the premiums reasonable.

13.2. Insurance Company. The Townhome Association shall use an insurance company knowledgeable with community association insurance that is licensed in Utah.

13.3. Premium as Common Townhome Expense. The premiums for the Townhome Association's insurance policies shall be a Common Townhome Expense.

13.4. Payment of Deductible. Payment of the Townhome Association's property insurance deductible in connection with a loss shall be governed by Utah Code § 57-8a-405. The Townhome Association shall set aside an amount equal to the amount of the Townhome Association's property insurance policy deductible or, if the policy deductible exceeds \$10,000, an amount not less than \$10,000. Each Townhome Owner shall be required to maintain a H06 policy of insurance in the amount of the Townhome Association's property insurance deductible, which shall initially be \$10,000.00.

13.5. Insurance Proceeds. If an insurable loss to the Townhome Common Areas occurs, the Townhome Association shall use the insurance proceeds to restore the Townhome Common Areas to their original or better condition.

13.6. Obligation of Townhome Owner to Repair and Restore.

13.6.1. In the event of any damage or destruction of the improvements on a Townhome Lot, the insurance proceeds, unless retained by a Mortgagee of such Lot, shall be applied first to the repair, restoration, or replacement of the insured Improvements. Any such

repair, restoration or replacement shall be done in accordance with the plans and specifications for such Improvements originally constructed; unless the Townhome Owner desires to construct Improvements differing from the original, in which event the Townhome Owner shall submit plans and specifications for the improvements to the Master Board and obtain its approval prior to commencing the repair, restoration or replacement.

13.6.2. If any Owner of an improved Townhome Lot fails to maintain the insurance required by this Article, the Townhome Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Townhome Owner shall be personally liable to the Townhome Association for any costs incurred by the Townhome Association in obtaining such insurance, to the same extent as such Owner is liable for assessments levied against its Lot, and, upon the failure of the Townhome Owner to pay such costs within 10 days after such Owner's receipt of a written demand therefor from the Townhome Association, the Townhome Association may establish a lien therefor upon such Owner's Lot in accordance with and subject to the provisions of this Townhome Declaration applicable to an assessment lien.

13.6.3. All insurance policies shall be reviewed at least annually by the Townhome Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Townhome Community which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Townhome Declaration.

14. DESTRUCTION OR DAMAGE.

14.1. All of the Townhome Owners irrevocably constitute and appoint the Townhome Association as their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with the Townhome Association's responsibilities under this Townhome Declaration upon damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from any Townhome Owner shall constitute an appointment by said grantee of the Townhome Association as such Owner's attorney-in-fact as herein provided. As attorney-in-fact, the Townhome Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of a Townhome Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Townhome Association except as otherwise provided in this Townhome Declaration.

14.2. Repair and reconstruction of the improvements as used herein means restoring the Townhome Community to substantially the same condition in which it existed prior to the damage or destruction, with each Townhome Unit and the Townhome Common Areas and Facilities having substantially the same vertical and horizontal boundaries as before.

14.3. To the extent the Townhome Association is responsible under this Townhome Declaration for any portion of the Townhome Community that has been damaged or destroyed, the Townhome Association shall proceed as follows:

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

14.3.2. As soon as practicable after an event causing damage to or destruction of any part of the Townhome Community, the Townhome Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Townhome Community damaged or destroyed.

14.3.3. If the proceeds of the insurance maintained by the Townhome Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Townhome Community, such repair and reconstruction shall be carried out.

14.3.4. If the proceeds of the insurance maintained by the Townhome Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Townhome Community and if less than seventy-five percent (75%) of the Townhome Community is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Townhome Association shall levy a Special Common Townhome Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Common Townhome Assessment shall be allocated and collected as provided in Section 19.1.4 hereof, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

14.3.5. If the proceeds of the insurance maintained by the Townhome Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Townhome Community and if seventy-five percent (75%) or more of the Townhome Community is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Townhome Owners entitled to vote at least seventy-five percent (75%) of the votes of the total votes of the Association vote to carry out such repair and reconstruction. If, however, the Townhome Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the total votes of the Association to carry out such repair and reconstruction, the Townhome Association shall record in the office of the County Recorder of Wasatch County, State, a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

14.3.5.1. The Townhome Community shall be subject to an action for partition at the suit of any Townhome Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Townhome Community, if any, shall be considered as one fund and shall be divided among all Townhome Owners in an amount equal to the pro-rata interests of the Owners in the Townhome Community.

14.3.5.2. In no event shall an Owner of a Townhome Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

14.4. If the damage or destruction is to be repaired or reconstructed as provided above, the Townhome Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Townhome Community damaged or destroyed. The Townhome Association may take all necessary or appropriate action to effect the repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Townhome Community shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Townhome Unit and the Townhome Common Areas and Facilities having the same vertical and horizontal boundaries as before. Any restoration or repair of the Townhome Community, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Townhome Declaration and the original architectural plans and specifications.

14.5. If repair or reconstruction is to occur, the insurance proceeds held by the Townhome Association and any amounts received from Common Townhome Assessments shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Townhome Owners equally.

14.6. If any Townhome Owner (or the family members, guests, tenants or invitees of such Owner) causes any damages to or destruction of any Townhome Common Areas and Facilities or any Townhome Limited Common Areas, said Owner shall be fully responsible for all costs reasonably incurred to repair the damage or replace any items that need to be replaced as a result of the damage. All costs incurred by the Townhome Association in connection with such repair and/or replacement shall be secured by a lien in favor of the Townhome Association, and the Townhome Association shall have the same rights with respect to collection of said amounts and/or enforcement of the lien as it does with respect to collection of assessments and enforcement of the lien securing payment of assessments as set forth in Section 19 below.

14.7. The Townhome Association's obligations under this Section 14 are limited by the authority granted to the Townhome Association under this Townhome Declaration.

15. TERMINATION.

15.1. This Townhome Declaration may only be terminated by an affirmative vote of the members of the Master Association entitled to vote at least sixty-seven percent (67%) of the total votes of the Master Association at a meeting of the Master Association duly called for such purpose at which a quorum is present and with any and all approvals

necessary from the governing city or county with jurisdiction over the Project. Notwithstanding the foregoing, during the Period of Administrative Control, the Townhome Community may only be terminated if the Declarant approves termination of the Townhome Community.

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17. MORTGAGEE PROTECTION.

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

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

17.3. In the event any taxes or other charges which may or have become a lien on the Townhome Common Areas and Facilities are not timely paid, or in the event the required hazard insurance described in 13.1.1 lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Townhome Association.

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

18. AMENDMENT.

18.1. Except during the Period of Administrative Control, and except as provided elsewhere in this Declaration, this Declaration may be amended by affirmative vote or written

consent, obtained by written ballot or otherwise, or any combination thereof, of at least sixty-seven percent (67%) of the total votes of the Townhome Association and an affirmative vote of at least sixty-seven percent (67%) of the total votes of the Master Association. Notwithstanding the foregoing, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Wasatch County Recorder of an instrument executed by the Townhome Association and the Master Association. In such instrument an officer or a member of the Board of the Townhome Association and a member of the Master Association shall certify that the vote required by this Section for amendment has occurred.

18.2. Notwithstanding anything to the contrary in this Townhome Declaration, Declarant has the right to unilaterally amend, modify, extend or revoke this Declaration for any purpose during the Period of Administrative Control, so long as a copy of the written amendment is provided to all other Townhome Owners. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary: (1) to bring any provision into compliance with any applicable governmental statute, rule, regulation or judicial determination; (2) to enable any reputable title insurance company to issue title insurance coverage on any Townhome Lot or Townhome Unit; (3) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans to make, purchase, insure, or guarantee mortgage loans on any Townhome Lot or Townhome Unit; or (4) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment occurring after the Period of Administrative Control shall not adversely affect the title to any Townhome Lot or Townhome Unit unless the Owner of such Lot or Unit shall consent in writing. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

19. ASSESSMENT OF TOWNHOME UNITS BY THE TOWNHOME ASSOCIATION.

19.1. The making and collection of Common Townhome Assessments by the Townhome Association from Owners of Townhome Units for their share of Common Townhome Expenses shall be pursuant to the Townhome Bylaws and subject to the following provisions:

19.1.1. Declarant, for each Townhome Unit owned by Declarant which is not an Exempt Townhome Unit, and each Townhome Owner, other than Declarant, by becoming an Owner of a Townhome Unit that is not an Exempt Townhome Unit, is deemed to covenant and agree to pay Assessments to the Townhome Association in accordance with this Declaration. Each Townhome Unit in the Townhome Community (except for Exempt Townhome Units) shall be liable for an equal share of the Common Townhome Expenses of the Townhome Association; provided, however, that the portion of the Common Townhome Expenses which is attributable solely to certain categories of Townhome Owners, if such Townhome Owners receive services from the Townhome Association which are not provided to all Townhome Owners, or attributable to Benefitted Townhome Areas, will be apportioned only to the affected category of Townhome Owners. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses. Such combined expenses shall constitute

the Common Townhome Expenses, and the funds received from Common Townhome Assessments under this Article 19 shall be the Common Townhome Expense Account. Common Townhome Assessments shall include both Regular Common Townhome Assessments and Special Common Townhome Assessments. Regular Common Townhome Assessments must be made at least annually, based on a budget adopted at least annually by the Townhome Association in accordance with the provisions of this Declaration and the Townhome Bylaws. Regular Common Townhome Assessments shall be levied against each separate Townhome Unit annually.

19.1.2. At any time during the Period of Administrative Control, and without the consent of any Townhome Owner being required, the Declarant may create, modify, or discontinue one or more benefitted service areas (each, a “**Benefitted Townhome Area**”) which receive certain services or benefits from the Townhome Association which the Townhome Association does not provide to all areas of the Townhome Community. Alternatively, a Benefitted Townhome Area may receive the same services or benefits which the Townhome Association provides to other areas within the Townhome Community but at a higher level or more frequent occurrence than is otherwise applicable to other areas within the Townhome Community. Lots within the Townhome Community may be located within more than one Benefitted Townhome Area. A Benefitted Townhome Area may contain Lots or other parcels within the Townhome Community which are not contiguous. After the Period of Administrative Control, such Benefitted Townhome Areas shall continue unless the Townhome Board discontinues the Benefitted Townhome Areas; provided, however, that any such action must have the approval of at least sixty-seven percent (67%) of the Owners of Lots within the affected Benefitted Townhome Area. In connection with the budget, the Townhome Board will identify with specificity the allocation of the portion of Common Townhome Expenses which is attributable to each Benefitted Townhome Area and the basis for that allocation.

19.1.3. The Townhome Association may not impose a Regular Common Townhome Assessment per Townhome Unit which is more than twenty percent (20%) greater than the previous year’s Regular Common Townhome Assessment, without first obtaining the vote of Townhome Owners, constituting a quorum, casting a majority of the total votes of the Association at a meeting of the Townhome Association. Such percentage increase shall be calculated without regard to any increase attributable to an increase in real estate taxes against the Townhome Units. The Townhome Association shall provide notice, by first class mail or by e-mail transmission to all Townhome Owners, of any increase in the Regular Common Townhome Assessments not less than fifteen (15) nor more than sixty (60) days prior to the date the increased Regular Common Townhome Assessment is due.

19.1.4. In addition to the Regular Common Townhome Assessments, the Townhome Association may levy in any calendar year, Special Common Townhome Assessments applicable to that year only. However, in any fiscal year, except as otherwise provided in this Declaration, the Townhome Board shall not, without the vote or written assent of Townhome Owners, casting a majority of the total votes of the Townhome Association at a meeting or by written ballot, levy Special Common Townhome Assessments which in the aggregate exceed 10% of the budgeted gross expenses of the Townhome Association for that fiscal year. All Townhome Units within the Townhome Community, except

Exempt Townhome Units, shall pay an equal portion of any Special Common Townhome Assessment, except to the extent that Declarant has established a Benefitted Townhome Area in which case the expenses shall be allocated among the Townhome Owners benefitting from such Benefitted Townhome Area. These provisions with respect to the imposition or allocation of Special Common Townhome Assessments shall not apply when the special assessment is to pay an increase in real property taxes. The Townhome Board shall provide notice by first class mail or by e-mail transmission to all Townhome Owners of any Special Common Townhome Assessments not less than fifteen (15) nor more than sixty (60) days prior to the date such Townhome Assessment is due. Special Common Townhome Assessments shall be paid as determined by the Townhome Board and the Townhome Board may permit Special Common Townhome Assessments to be paid in installments extending beyond the fiscal year in which the Special Common Townhome Assessment is imposed.

19.1.5. The Townhome Association may also levy a Specific Townhome Assessment against an Townhome Owner or a Townhome Owner's Unit: (1) to reimburse the Townhome Association for costs incurred in bringing such Owner and/or an Owner's Unit into compliance with the provisions of this Declaration, the Townhome Bylaws, rules and regulations of the Townhome Association or any other governing instrument of the Townhome Community; (2) to cover costs incurred as a consequence of the conduct of the Townhome Owner or occupants of the Townhome Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Townhome Board shall give the Townhome Owner prior written notice and an opportunity for a hearing, in accordance with the Townhome Bylaws, before levying a Specific Townhome Assessment for this purpose; or (3) to pay the costs, including overhead and administrative costs, of providing services to the Townhome Owner or the Owner's Unit in accordance with this Declaration, including the provisions of Section 20, or pursuant to any menu of special services which may be offered by the Townhome Association or the Manager. Specific Townhome Assessments for special services may be levied in advance of the provision of the requested service.

19.1.6. All Townhome Assessments shall be due as determined pursuant to this Declaration and the Townhome Governing Documents. Townhome Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall be delinquent and shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Board, from the date when due until paid. In addition, Townhome Owners who do not pay their Common Townhome Assessments when due shall be subject to a late fee of up to One Hundred dollars (\$100.00), adjustable from year to year at the discretion of the Board. All payments of Townhome Assessments shall be first applied to accrued interest and late fees, and then to the Townhome Assessment payment first due. All Townhome Assessments to pay a judgment against the Townhome Association may be made only against the Townhome Units in the Townhome Community at the time the judgment was entered, in proportion to their liabilities for Common Townhome Expenses. If any Common Townhome Expense is caused by the misconduct of any Townhome Owner, the Townhome Association may assess that expense exclusively against such Owner's Unit(s). If the Owners' percentage interests in the Townhome Common Areas and Facilities are reallocated, assessments for Common

Townhome Expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated percentage interests of the Townhome Owners.

19.1.7. There shall be a lien upon the applicable Townhome Lot for all unpaid Townhome Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to this Declaration and the Act. The lien for unpaid Townhome Assessments and related charges shall be effective upon recordation in the Office of the Wasatch County Recorder of a written notice of lien by the Townhome Board or the Manager. The written notice of lien shall set forth the amount of the Townhome Assessment, the date(s) due, the amount remaining unpaid, the name of the Townhome Owner of the Units, and a description of the Units. No notice of lien shall be recorded until there is a delinquency in payment of the Townhome Assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the State for the enforcement of a mechanics lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code Ann., as amended from time to time. In any such foreclosure, the Townhome Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Townhome Owner shall also be required to pay to the Townhome Association any Townhome Assessments against the Units which shall become due during the period of foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power on behalf of the Townhome Association to bid at any foreclosure sale and to hold, lease, mortgage or convey the subject Units in the name of the Townhome Association. In furtherance of such foreclosure rights, the Townhome Association may bring an action at law against the Townhome Owner personally obligated to pay the same or the Townhome Association may foreclose the lien in accordance with the provisions of the Act. The Townhome Board hereby appoints Paxton R. Guymon, Esq., of York Howell & Guymon, 10610 S. Jordan Gateway, Suite 200, South Jordan, Utah 84095, as trustee for the purposes of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1 Utah Code Ann. and made applicable hereto by Title 57, Chapter 8a Utah Code Ann. Provided, however, the Townhome Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1 Utah Code Ann. The Declarant hereby conveys and warrants pursuant to Utah Code Ann. Sections 57-1-20 and 57-8a-302 to Paxton R. Guymon, with power of sale, the Townhome Lots and Townhome Units and all improvements to such Lots and Units for the purpose of securing payment of Assessments under the terms of this Declaration. Each Townhome Owner also hereby conveys all of its right, title and interest in its Townhome Units to such trustee, in trust, with a power of sale, to secure each Owner's obligations under this Declaration, including but not limited to the obligation to pay all Townhome Assessments. The Townhome Association may, through its duly authorized agents, bid on the Townhome Units at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The lien of the Townhome Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a First Mortgage on a Townhome Unit as provided for in Section 17.2 hereof and assessments, liens and

charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Townhome Units. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Townhome Association from taking a deed in lieu of foreclosure. The Townhome Board, upon written request, shall furnish to a Townhome Owner a statement setting forth the amount of unpaid Assessments against the Townhome Units. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Townhome Association, the Townhome Board, the Manager and every Townhome Owner, in favor of all who rely on such statement in good faith.

19.1.8. The amount of any Townhome Assessment against any Townhome Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Townhome Association without foreclosing or waiving the lien securing the same. No Townhome Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Townhome Common Areas and Facilities or by abandonment of their Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the Townhome Owner shall pay the costs and expenses incurred by the Townhome Association in connection therewith, including reasonable attorneys' fees.

19.1.9. The personal obligation of a Townhome Owner to pay unpaid Assessments against such Owner's Townhome Unit as described in Section 19.1.7 shall not pass to successors in title unless assumed by them; provided, however, that a lien to secure unpaid assessments shall not be impaired, nullified or otherwise affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but shall not relieve any subsequent Owner from paying further Townhome Assessments.

19.1.10. All Exempt Townhome Units shall be exempt from the Townhome Assessments (including Regular Common Townhome Assessments and Special Common Townhome Assessments). On the date on which a Townhome Unit loses its status of being an Exempt Townhome Unit (as set forth in Section 2.22), then it shall automatically be subject to its share of Assessments from that date forward.

19.2. The Townhome Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Townhome Common Areas and Facilities for which the Townhome Association is responsible and for which the reserve fund was established or for litigation or binding arbitration involving such matters. Nevertheless, the Townhome Board may authorize the temporary transfer of money from the reserve account to the Townhome Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Townhome Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Townhome Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Townhome Community and Townhome Association, delay such restoration until the time it reasonably

determines to be necessary. The Townhome Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Townhome Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Common Townhome Assessment shall not be subject to the limitations set forth in Section 19.1.4 hereof. At least once every three (3) years the Townhome Board shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Townhome Board shall, thereafter, annually review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

19.2.1. Identification of the major components which the Townhome Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of less than 30 years.

19.2.2. Identification of the probable remaining useful life of the components identified in Section 19.2.1 above, as of the date of the study.

19.2.3. An estimate of the cost of repair, replacement, restoration or maintenance of each major component identified in Section 19.2.1 above, during and at the end of its useful life.

19.2.4. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For the purposes of this Section, the term "reserve account requirements" means the estimated funds which the Townhome Board has determined are required to repair, replace or restore those major components which the Townhome Association is obligated to maintain. The Townhome Association shall comply with the requirements of the Act pertaining to a reserve analysis and reserve fund.

19.3. If a Townhome Owner shall at any time lease such Owner's Rentable Unit and shall default in the payment of Townhome Assessments, the Townhome Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Townhome Board shall be sufficient payment and discharge of such tenant and the Townhome Owner for such assessments to the extent of the amount so paid.

19.4. Payment of Master Association Assessment to Townhome Association. Each Owner of a Townhome Lot, by accepting a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to have covenanted and agreed to pay the Townhome Association all Assessments levied from time to time as provided in the Master Declaration, including costs of collection (including attorney's fees) whether or not a lawsuit is commenced. All costs and expenses incurred by the Townhome Board in collecting such Master Assessments, shall be paid by the applicable Townhome Owner and shall be secured by a lien against the Townhome Unit owned by the applicable Owner. Said lien shall be enforced in the same manner as the lien securing

payment of Townhome Assessments, as provided in this Declaration. The Townhome Association shall pay to the Master Association all Assessments as are levied in the Master Declaration notwithstanding any Townhome Owner's failure to pay such Master Association Assessments to the Townhome Association. Failure by the Townhome Association to pay such Master Assessments to the Master Association shall result in the immediate removal of all Directors presently elected to the Townhome Association with the Directors of the Master Association acting as the Board for the Townhome Association until new Directors for the Townhome Association can be elected to the Board for the Townhome Association. Any Townhome Association Director removed for reasons provided in this Section 19.4 shall not be eligible to serve as a Director in either the Master Association or the Townhome Association from the time of such removal.

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22. VOTING.

22.1. Administrative Control of Townhome Association. Declarant shall assume full administrative control of the Townhome Association through an interim Board appointed by the Declarant which shall serve until the turnover meeting ("**Turnover Meeting**").

The Turnover Meeting shall be held at the Declarant's option and sole discretion but shall not be held later than one hundred and eighty (180) days after the issuance of the Certificate of Occupancy for the last Townhome Unit or as further described below.

Declarant may elect to relinquish control of the Townhome Association at an earlier time by written notice to Townhome Owners and the Turnover Meeting shall be held within ninety (90) days of such notice.

22.2. Voting Rights. After the Turnover Meeting, the Townhome Owner or Owners of each Townhome Lot shall be entitled to one (1) vote for each Townhome Unit owned. The one (1) vote for such Unit shall be exercised as they, among themselves, determine. Where a Townhome Unit is owned by more than one Owner, the vote of any one of them shall be conclusively presumed to have been exercised as a result of an agreement among such Owners and in the event multiple Owners attempt to exercise a vote for such Townhome Unit(s) on any question or issue, the Owners of such Townhome Unit(s) will forfeit the right to vote on that question or issue. In no event shall more than one (1) vote be cast with respect to any Townhome Unit. With respect to any question or issue requiring a vote of the Townhome Association, vote of the Townhome Owners, or vote of the Members of the Townhome Association, the total number of votes cast shall not exceed the number of Townhome Unit(s) in the Townhome Community. Unless otherwise required by this Declaration or the Townhome Bylaws, the number of affirmative votes required for approval of any matter submitted to vote of the Members shall be a majority of the votes cast with respect to such matter. All voting rights shall be subject to the restrictions and limitations provided herein and in the Townhome Bylaws.

23. EASEMENTS.

23.1. If any part of the Townhome Common Areas and Facilities encroaches or shall hereafter encroach upon a Townhome Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Townhome Unit encroaches or shall hereafter encroach upon the Townhome Common Areas and Facilities, or upon an adjoining Townhome Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Townhome Common Areas and Facilities or the Townhome Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Townhome Community, by error in the Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Townhome Community or any part thereof.

23.2. If any utility line of any kind is constructed such that it crosses through, over, or under one or more Townhome Units in order to provide service to another area within the Project, or if, after construction, it becomes necessary to install a utility line through, over or under one or more Townhome Units in order to provide service to another area within the Project, a perpetual easement for such utility line(s) is hereby granted for the installation, maintenance, repair (or replacement) and operation of all such utility line(s).

23.3. Each Townhome Owner shall have the unrestricted right to ingress and egress over, upon and across the Townhome Common Areas and Facilities as necessary for access to the Unit such Owner is occupying and to any Limited Townhome Common Areas and Facilities appurtenant to such Owner's Unit, and shall have the right to the horizontal, vertical and lateral support of such Unit and such rights shall be perpetual and shall be appurtenant to and pass with title to each Townhome Unit.

23.4. The Townhome Association shall have an easement, including, without limitation, an easement through, over and across the Townhome Lots and the Townhome Units, to make such use of the Townhome Common Areas and Facilities as may be necessary or convenient to perform the duties and functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Townhome Common Areas and Facilities for use by the Townhome Owners and the Townhome Association.

23.5. All conveyances of Townhome Units within the Townhome Community shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

24. NOTICES.

Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof of delivery, or by email transmission. Notice to Townhome Owners shall be addressed or e-

mailed to each Townhome Owner at the address or e-mail address given by such Owners to the Board for the purpose of service of such notice or to the Townhome Unit of such Owner if no such address has been given to the Board. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if e-mailed, when the e-mail is sent; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid. Such address may be changed from time to time by notice in writing to the Townhome Board.

25. NO WAIVER.

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

26. ENFORCEMENT.

26.1. All Townhome Owners, guests or lessees of a Townhome Owner, and persons under such Owner's control, shall strictly comply with the provisions of the Townhome Governing Documents and the rules and regulations and decisions issued pursuant thereto. The Townhome Association and any aggrieved Townhome Owner shall have a right of action against Townhome Owners who fail to comply with provisions of the Declaration or the decisions of the Townhome Association. Townhome Owners shall have a similar right or action against the Townhome Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Townhome Board, or its agent or designee on behalf of the Townhome Owners, or in an appropriate case, by an aggrieved Townhome Owner; and/or (ii) the Townhome Board to impose monetary penalties, temporary suspensions of an Owner's right to the use of the Townhome Common Areas and Facilities, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Townhome Board shall determine whether the Townhome Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Townhome Owner shall be notified of the decision of the Townhome Board. The Townhome Board may delegate to the Manager the power and authority to carry out disciplinary actions duly imposed.

26.2. The Townhome Board may adopt and enforce reasonable rules and regulations that are not inconsistent with the provisions of this Declaration. The Townhome Board may also adopt and enforce reasonable fine schedules, and may impose and collect fines from Townhome Owners who violate the provisions of this Declaration. All costs and expenses

incurred by the Townhome Board in enforcing the rules and regulations, and enforcing or collecting fines, shall be paid by the applicable Owner and shall be secured by a lien against the Townhome Unit owned by the applicable Owner. Said lien shall be enforced in the same manner as the lien securing payment of assessments, as provided in this Declaration.

26.3. The Townhome Association shall not be empowered to cause the absolute forfeiture of a Townhome Owner's right, title or interest in the Townhome Community on account of the Owner's failure to comply with the provisions of the Declaration or the rules and regulations for the Townhome Community except pursuant to:

26.3.1. The judgment of a court; or

26.3.2. A foreclosure for the failure of a Townhome Owner to pay assessments or fines duly levied by the Townhome Association.

27. AGENT FOR SERVICE OF PROCESS.

The name and address of the person to receive service of process shall be the registered agent and address of the Townhome Association as shown on the official corporate records maintained in the office of the Division of Corporations and Commercial Code of the State.

28. DISPUTE RESOLUTION; MANDATORY BINDING ARBITRATION.

Neither the approval of this Townhome Declaration nor the creation of the Townhome Association shall be deemed to constitute any waiver, limitation or similar modification of Article 28 of the Master Declaration, which shall apply to all members of the Townhome Association.

29. WAIVER OF SUBROGATION.

The Townhome Association and each Townhome Owner waives any and all rights to subrogation against the Declarant and any builder, contractor, and engineer in the Townhome Community. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Townhome Owner or of the Townhome Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the project engineer, and builder, contractors of the Declarant and the builder, and their officers, employees, owners, and representatives. to the full extent permitted by law, the Townhome Association and Townhome Owners hereby release Declarant, the project engineer, and builder, and their respective officers, employees, owners, contractors, insurers, and representatives from any and all liability to the Townhome Association and all Townhome Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or builder, their officers, employees, owners, and representatives. The Townhome Association and each Townhome Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Townhome Association or any Townhome Owner to recover thereunder. The Townhome Association and

all Townhome Owners shall indemnify and defend the Declarant, the builder, and any of their officers, employees, owners, contractors, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

30. RIGHTS RESERVED FOR DECLARANT.

During the Period of Administrative Control, the Declarant shall have the right to use all Townhome Common Areas and/or Limited Townhome Common Areas as the Declarant may desire. In addition, pursuant to Utah Code § 57-8a-217(6), Declarant is hereby exempt from the provisions of § 57-8a-217. Pursuant to Utah Code § 57-8a-211(5), the Declarant shall have no duty whatsoever to obtain a Reserve Analysis or to fund any Reserve Fund for the Townhome Association during the Period of Administrative Control.

31. SEVERABILITY.

The provisions of this Townhome Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

32. LAW CONTROLLING.

This Declaration shall be construed and controlled by and under the laws of the State.

This Townhome Declaration shall take effect when recorded. In this Declaration, the singular shall include the plural and the masculine shall include the feminine and vice versa, if the context so requires.

(Signature Page Follows)

STATE of Utah)
 : ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 4 day of April, 2022, by Brian Schnell, as Manager of FIG Kollman Farms, LLC, a Utah limited liability company as Declarant of the Old Mill Village Townhome Owners Association.

Karen Weeks

NOTARY PUBLIC

SEAL:

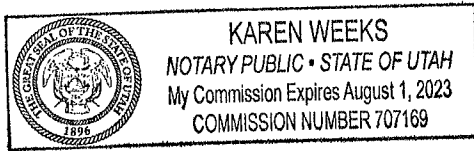


EXHIBIT A

Legal Description of Townhome Community

Lots 1 through 104, Old Mill Village Townhomes, a part of Overall Plat as depicted on Page 2 Recorded on May 20, 2022 as Entry No. 519822 in the Office of the Wasatch County Recorder, Utah.

Parcel # : 21-7426 through 21-7529

EXHIBIT B

Description of Affordable Townhome Units

Lots 1 through 17, Old Mill Village Townhomes, a part of Overall Plat as depicted on Page 2
Recorded on May 20, 2022 as Entry No. 519822 in the Office of the Wasatch County Recorder,
Utah.

EXHIBIT C

Description of For Sale Attainable Townhome Units

Lots 63 through 104, Old Mill Village Townhomes, a part of Overall Plat as depicted on Page 2 Recorded on May 20, 2022 as Entry No. 519822 in the Office of the Wasatch County Recorder, Utah.

EXHIBIT D

Townhome Association Bylaws

BYLAWS

OF

OLD MILL VILLAGE TOWNHOME OWNERS ASSOCIATION

ARTICLE I

NAME AND LOCATION. The name of the corporation is Old Mill Village Townhome Owners Association (“**Association**”). The principal office of the Townhome Association shall be located at 3278 West 1150 South, Provo, UT 84601 (or at such other location as the Townhome Board hereafter may designate), but meetings of Owners and Townhome Board Members may be held at such places within the State of Utah as may be designated by the Townhome Board.

ARTICLE II
DEFINITIONS

Section 1. “Articles of Incorporation” means and refers to the *Articles of Incorporation of Old Mill Village Townhome Owners Association* which have been or will be filed with the Utah Division of Corporations and Commercial Code.

Section 2. “Association Act” means and refers to the Community Association Act, Utah Code Ann. § 57-8a-101, *et seq.*, as amended.

Section 3. “Directors” means and refers to those individuals who are members of the Townhome Board. The singular Director shall refer to the singular of the Directors.

Section 4. “Nonprofit Act” means and refers to the Utah Revised Nonprofit Act, Utah Code Ann. § 16-6a-101, *et seq.*, as amended.

Section 5. “Period of Administrative Control” means the period of time during which the Declarant shall have administrative control of the Townhome Association and the other rights and privileges as set forth in the Townhome Declaration.

Section 6. “Townhome Association” means and refers to the Old Mill Village Townhome Owners Association, a Utah non-profit corporation, and its successors and assigns.

Section 7. “Townhome Board” means and refers to the Board of Directors of the Townhome Association, with all powers as stated in the Townhome Declaration, the Articles of Incorporation of the Association, and these Bylaws.

Section 8. “Townhome Bylaws” means and refers to these *Bylaws of Old Mill Village*

Townhome Owners Association.

Section 9. “Townhome Declaration” means and refers to the *Declaration of Covenants, Conditions, and Restrictions for Old Mill Village Townhome Owners Association*, which has been or will be recorded in the Wasatch County Recorder’s Office, as the Declaration may be amended in accordance with its terms and provisions.

Section 10. “Townhome Lot” means each of the tracts of land designated a Lot on the approved Plat and upon which one (1) Townhome Unit will be constructed. Ownership of the Townhome Lot and the Townhome Unit constructed thereon shall be inseparable, and any conveyance of a Townhome Lot shall operate to convey title to the Townhome Unit constructed on the Lot.

Section 11. “Townhome Owner” means and refers to any person or entity owning a Townhome Lot within the Project, as such ownership is evidenced by the official records of the Wasatch County Recorder’s office, but shall not include a Mortgagee unless such Mortgagee acquires ownership other than for security purposes.

Section 12. “Townhome Unit” means each townhome designed for separate residential use and occupancy.

Section 13. All other capitalized terms used herein shall have the same meaning as stated elsewhere in these Townhome Bylaws or in the Townhome Declaration.

ARTICLE III

MEMBERSHIP IN TOWNHOME ASSOCIATION; MEETING OF TOWNHOME OWNERS;
VOTING

Section 1. Membership in Townhome Association. Declarant, so long as Declarant owns a Townhome Lot, and every Townhome Owner of a Townhome Lot shall be a member of the Townhome Association. Membership shall be appurtenant to ownership of any Townhome Lot. Each Townhome Lot in the Project shall be entitled to one (1) vote for each Unit located upon such Townhome Lot. Membership will begin immediately and automatically upon becoming a Townhome Owner and shall terminate immediately and automatically upon ceasing to be a Townhome Owner. If a Townhome Lot is owned by more than one person, the membership appurtenant to that Townhome Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Townhome Lot is held. Ownership of a Townhome Lot within the Project cannot be separated from the Townhome Association membership appurtenant thereto, and any devise, conveyance, or other disposition of a Townhome Lot shall constitute a devise, conveyance, or other disposition, respectively, of such Owner’s membership in the Townhome Association and the rights appurtenant thereto. The foregoing is not intended to include conveyances made solely for the purpose of securing performance of an obligation.

Section 2. Voting. Unless otherwise provided for herein, or required by the Townhome Declaration, all matters submitted to a vote shall be by a majority vote of all votes cast. Notwithstanding the foregoing, during the Period of Administrative Control, Declarant may act in all Townhome Association matters with or without a vote of the Townhome Owners. To the extent any matters are submitted to a vote of the Townhome Owners during the Period of Administrative Control, such matters shall be approved and implemented if, and only if, the Declarant also approves such matters. After the Turnover Meeting, all matters submitted to a vote of the Townhome Association shall be decided by the votes of the Townhome Owners. A change in the ownership of a Townhome Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded. Thereafter, the new Townhome Owner shall give the Townhome Board written notice of such change of ownership and provide satisfactory evidence thereof. The vote for each Townhome Lot must be cast as one vote, and fractional votes shall not be allowed. In the event that a Townhome Lot is owned by more than one (1) Townhome Owner the vote(s) for the Townhome Lot shall be cast as such Townhome Owners decide among themselves. In the event such Townhome Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Townhome Owner casts a vote or votes representing a certain Townhome Lot, it will thereafter be conclusively presumed for all purposes that such Townhome Owner was acting with the authority and consent of all other Townhome Owners of the same Townhome Lot unless objection thereto is made at the time the vote is cast. In the event more than one Townhome Owner attempts to cast the vote or votes for a particular Townhome Lot, the vote for that Lot shall be deemed void and shall not be counted.

Except where a greater number is required by the Governing Documents or the Nonprofit Act and for the elections of Directors, any decision requiring Townhome Owner consent shall be passed by majority vote of a quorum (defined below).

Section 3. Annual Meeting. The first annual meeting of the Townhome Association shall be held in June following the date of incorporation of the Townhome Association, and each subsequent regular, annual meeting of the Townhome Association shall be held in June of each year thereafter. The Townhome Board may change the date of the annual meeting provided it gives reasonable advance notice to all Townhome Owners. Notwithstanding any other provision of these Townhome Bylaws, during the Period of Administrative Control, Declarant may act on behalf of the Townhome Association without a meeting of the Townhome Association.

Section 4. Special Meetings. Special meetings of the Townhome Association may be called at any time by the Townhome Board, or upon written request of the Townhome Owners who are entitled to vote thirty percent (30%) of all of the total votes.

Section 5. Notice of Meetings. Written notice of each meeting of the Townhome Association shall be given by, or at the direction of, the Secretary or person authorized by the Townhome Board to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days, and no more than sixty (60) days, before such meeting to each Townhome Owner entitled

to vote, addressed to the Townhome Owner's address last appearing on the books of the Townhome Association, or supplied by such Townhome Owner to the Townhome Association for the purpose of notice. In lieu of mailing, such notice may also be given by email, in accordance with the provisions of the Association Act, to Townhome Owners who have consented to receive notices by email and have provided the Townhome Association with an email address for notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Those present at the meeting may vote to continue the meeting to any date within 30 days. Notice of the continued meeting will be given by mail, and at the subsequent continued meeting, a quorum will consist of those Townhome Owners present. The President of the Townhome Association will give notice of any meetings, and will chair meetings of the Townhome Owners.

Section 6. Quorum. The presence at the meeting of Townhome Owners entitled to cast, or of proxies entitled to cast, at least twenty percent (20%) of the total votes of the Townhome Association shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Townhome Declaration, or these Townhome Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Townhome Owners entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. Unless otherwise stated in the Townhome Declaration, the Articles of Incorporation, or these Townhome Bylaws, an action supported by majority of the votes cast at any meeting where a quorum is present shall be the action of the Townhome Association.

Section 7. Proxies. At all meetings of the Townhome Association, each Townhome Owner entitled to cast a vote may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and automatically cease upon conveyance by the Townhome Owner of such Owner's Townhome Lot.

ARTICLE IV TOWNHOME BOARD; SELECTION; TERM OF OFFICE

Section 1. Nomination, Tenure, and Removal. The Declarant shall appoint the initial Directors and decide who serves on the Townhome Board during the Administrative Period of Control. After the Turnover Meeting, the Townhome Owners shall at the next annual Townhome Association meeting, or at such earlier meeting as may be called for the purpose, elect three (3) Directors from among the Townhome Owners. Each of the three elected Directors shall draw lots to divide themselves into terms of one, two and three years. At each successive annual meeting, provided a quorum is present, the Townhome Owners shall elect a Director to replace the Director whose term has expired or is then expiring. Each newly elected Director shall serve for a three year term. If a quorum is not present at the annual meeting, the other Directors shall select a new Director. Nomination for election to the Townhome Board may be made by the Directors. Nominations may also be made from the floor at the annual meeting. During the Period of Administrative Control, Declarant may remove a Director with or without cause. After the Turnover Meeting, Directors may be removed with or without cause by a vote

of the Townhome Owners owning a majority of the Townhome Lots. If any Director resigns, is removed, dies, or is otherwise unwilling or unable to serve during his or her term, the remaining Directors may appoint another Townhome Owner to fill the remainder of such term.

Section 2. Election. Election to the Townhome Board shall be by secret written ballot. At such election the Townhome Owners or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Townhome Declaration. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting.

Section 3. Number of Directors. The Townhome Board shall consist of not less than three (3) Directors and not more than five (5) Directors. An odd number of Directors shall be required at all times. The initial number of Directors shall be three (3). After the Turnover Meeting, the Townhome Owners may, at an annual meeting or a special meeting, vote to change the number of Directors. In the event the number of Directors is increased, such additional Directors shall draw lots for terms. The term of one of the additional Directors shall expire at the next annual meeting of the Townhome Association to be held after the vote to increase the number of Directors; the term of the other additional Director shall expire at the successive annual meeting of the Townhome Association.

ARTICLE V MEETINGS OF THE TOWNHOME BOARD OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Townhome Board shall be held as frequently as the Townhome Board deems appropriate, but at least annually, at such place and hour as may be fixed from time to time by resolution of the Townhome Board. Should such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Townhome Board shall be held when called by the President of the Townhome Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Townhome Board.

Section 4. Written Action. Nothing in these Townhome Bylaws shall prevent the Townhome Board from acting without a meeting by means of a writing describing the action to be taken and signed by the Directors.

ARTICLE VI
POWERS AND DUTIES OF THE TOWNHOME BOARD; APPLICABILITY OF THE ACTS

Section 1. Powers. The Townhome Board shall have power to:

- A. Adopt and publish rules and regulations governing the use of the common areas within the Project as described in the Townhome Declaration or as shown on the Plat Map (“**Common Areas**”), and the personal conduct of the Townhome Owners and their guests thereon, and to establish penalties for the infraction thereof;
- B. Exercise for the Townhome Association all powers, duties and authority vested in or delegated to the Townhome Association and not reserved to the Townhome Owners by other provisions of these Townhome Bylaws, the Articles of Incorporation, or the Townhome Declaration;
- C. Declare the office of a member of the Townhome Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Townhome Board; and
- D. Employ managers, independent contractors, or such other persons as the Townhome Board deems necessary to exercise the powers, duties and authority vested in the Townhome Association, and to delegate to such persons such powers as are necessary to accomplish the Townhome Association purposes for which such persons have been employed.

Section 2. Duties. It shall be the duty of the Townhome Board to:

- A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Townhome Owners at the annual meeting of the Townhome Association, or at any special meeting when such statement is requested in writing by the Townhome Owners who are entitled to vote thirty percent (30%) of the total votes;
- B. Supervise all officers, agents and employees of this Townhome Association, and to see that their duties are properly performed;
- C. To:
 - 1. Fix the amount of the annual assessment applicable to each Townhome Unit at least fifteen (15) and no more than sixty (60) days in advance of each annual assessment period, and fix the amount of any special assessments against each Townhome Unit;
 - 2. Send written notice of each annual assessment to every Townhome Owner subject thereto at least fifteen (15) and no more than sixty (60) days in advance of each annual assessment period and similar notice for imposition of each special

assessment; and

3. Foreclose the lien (at the option of the Townhome Board) against any Townhome Lot for which assessments are not paid within ninety (90) days after due date or to bring an action at law (at the option of the Townhome Board) against the Townhome Owner personally obligated to pay the same.
 - D. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Townhome Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
 - E. Procure and maintain insurance in accordance with the provisions relating to insurance in the Association Act;
 - F. Establish a reserve fund and conduct a reserve fund analysis in accordance with the provisions relating to reserve funds in the Association Act;
 - G. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
 - H. Cause all Common Areas and Facilities, as identified in the Townhome Declaration, to be properly maintained and managed by the Townhome Association.

Section 3. Legal Action Involving Declarant. Neither the Townhome Board nor any other person or entity acting, or purporting to act, on behalf of the Townhome Association shall file, commence, or maintain any lawsuits or legal proceedings of any nature against Declarant, the individual managers, owners, members, or officers of Declarant, Declarant's contractors, or any other person or entity involved in the construction of the Townhome Units or Townhome Units thereon unless and until all of the "DISPUTE RESOLUTION: MANDATORY BINDING ARBITRATION" provisions set forth in the Townhome Declaration have been satisfied.

Section 4. Applicability of the Association Act. The provisions of the Association Act shall apply and govern the Townhome Association's rights with respect to levying of assessments, collection of assessments, and remedies that apply in the event of non-payment of assessments.

Section 5. Applicability of the Nonprofit Act. The provisions of the Nonprofit Act shall apply and govern the operations and dealings of the Townhome Association to the extent not otherwise provided in these Townhome Bylaws, the Townhome Declaration, or the Articles of Incorporation.

ARTICLE VII
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Townhome Association shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers as the Townhome Board may from time to time by resolution create. Following the expiration or termination of the Administrative Period of Control, all officers of the Townhome Association must be Owners of Townhome Lots in this Project.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Townhome Board following each annual meeting of the Townhome Association.

Section 3. Term. The officers of the Townhome Association shall be elected annually by the Townhome Board and each shall hold office for one (1) year unless they shall sooner resign, or shall be removed, or are otherwise disqualified to serve.

Section 4. Special Appointments. The Townhome Board may elect such other officers as the affairs of the Townhome Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Townhome Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Townhome Board. Any officer may resign at any time by giving written notice to the Townhome Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Townhome Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special officers created pursuant to Section 4 of this Article. Directors may also be officers of the Townhome Association.

Section 8. Duties. The duties of the officers are as follows:

President

A. The President shall preside at all meetings of the Townhome Owners and the Townhome Board; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments of the Townhome Association, and shall co-sign all checks and promissory notes.

Vice-President

B. The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Townhome Board.

Secretary

C. The Secretary shall record the votes and keep minutes of all proceedings of the Townhome Board and of the Townhome Owners; at the direction of the President, serve notice of meetings of the Townhome Board and of the Townhome Owners; keep appropriate current records showing the Owners of the Townhome Association together with their addresses; and perform such other duties as required by the Townhome Board.

Treasurer

D. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Townhome Association and shall disburse such funds as directed by the Townhome Board; shall sign all checks and promissory notes of the Townhome Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the ownership at its regular annual meeting, and deliver a copy of each to the Townhome Owners.

ARTICLE VIII
COMMITTEES

The Townhome Board may appoint Committees as it deems necessary or appropriate to carry out the purposes of the Townhome Association.

ARTICLE IX
BOOKS AND RECORDS

The books, records and papers of the Townhome Association shall at all times, during reasonable business hours, be subject to inspection by any Townhome Owner. The Townhome Declaration, the Articles of Incorporation and the Townhome Bylaws of the Townhome Association shall be available for inspection by any Townhome Owner at the principal office of the Townhome Association, where copies may be purchased at reasonable cost.

ARTICLE X
ASSESSMENTS

Section 1. Exempt Townhome Units/Townhome Lots. "Exempt Townhome Unit(s)" or "Exempt Townhome Lot(s)" shall have the meaning given in the Townhome Declaration

describing the time in which such Units or Lots are exempt from the obligation to pay Assessments to the Townhome Association.

Section 2. Townhome Association May Impose Assessments. As set forth in the Townhome Declaration, Declarant, for each Townhome Lot owned by Declarant which is not exempt from the requirement to pay assessments, and each Townhome Owner, other than Declarant, by becoming an Townhome Owner of a Townhome Lot is obligated to pay assessments to the Townhome Association in the manner established in the Townhome Declaration. The Townhome Board shall fix the date by which assessments must be paid. Prompt and full payment of the assessments is secured by a continuing lien upon each Owner's Townhome Lot and Unit(s). Any assessment which is not paid when due shall be delinquent. The Townhome Board has the authority to establish late fees and interest applicable to delinquent assessments and collect the same from any Townhome Owner whose assessment is delinquent. The remedies available to the Townhome Association are set forth in the Townhome Declaration and the Association Act. The amount the Townhome Association is entitled to recover in connection with the remedies it pursues shall include, without limitation, interest, costs, late fees, fines, and reasonable attorney's fees. No Townhome Owner may waive or otherwise escape liability for the assessments, late fees, and interest provided for herein or provided in the Townhome Declaration by nonuse of the Common Areas or abandonment of his or her Unit.

ARTICLE XI AMENDMENTS

Section 1. After the Period of Administrative Control has terminated, these Townhome Bylaws may be amended at a regular or special meeting of the Townhome Association, by a vote, in person or by proxy, of the Townhome Owners entitled to cast sixty-seven percent (67%) of the total votes; provided, however, that no amendment to these Townhome Bylaws shall be adopted that is inconsistent with or contradicts any provisions of the Townhome Declaration unless and until the Townhome Declaration is also amended, in accordance with the amendment requirements of the Townhome Declaration, to resolve such inconsistency or contradiction. The President may prepare amendments to these Townhome Bylaws and to the Townhome Declaration and submit the same to the Townhome Owners for approval. If such amendments are approved as provided herein, the President may execute, certify, and record such amendments as appropriate.

Section 2. Notwithstanding Section 1, above, nothing in these Townhome Bylaws shall prevent the Townhome Board from amending these Townhome Bylaws as permitted by the Nonprofit Act.

ARTICLE XII MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Townhome Association shall begin on January 1 and end on December 31 of every year, except that the first fiscal year shall begin on the date

of incorporation.

Section 2. Conflict. In the case of any conflict between the Articles of Incorporation and these Townhome Bylaws, the Articles shall control; and in the case of any conflict between the Townhome Declaration and these Townhome Bylaws, the Townhome Declaration shall control.

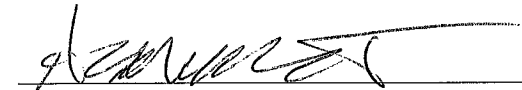
Section 3. Severability. In the event that any term, provision, or section of these Townhome Bylaws is determined by a court of competent jurisdiction to be invalid otherwise unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision of these Townhome Bylaws, the Townhome Declaration, or the Articles of Incorporation.

In witness whereof, we, the undersigned initial three (3) Directors of the Townhome Association have hereunto set our hands as of the 4 day of April, 2022.

Signature:

_____

Signature:

_____

Signature:

_____