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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
RESERVATION OF EASEMENTS
FOR
LEXINGTON TOWNHOMES
A PLANNED UNIT DEVELOPMENT COMMUNITY
WITHIN
LEXINGTON GREENS
A MASTER PLANNED COMMUNITY
LOCATED IN TOOELE CITY UTAH**

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RESERVATION OF EASEMENTS
FOR
LEXINGTON TOWNHOMES
A PLANNED UNIT DEVELOPMENT COMMUNITY

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
RESERVATION OF EASEMENTS
FOR
LEXINGTON TOWNHOMES
A PLANNED UNIT DEVELOPMENT COMMUNITY
WITHIN
LEXINGTON GREENS**

This Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for **LEXINGTON TOWNHOMES** ("**Declaration**" or "**Neighborhood Declaration**") is made by Building Dynamics, Inc., a Utah corporation ("**Declarant**"). The capitalized terms used in the Preamble are defined in Article I.

PREAMBLE

A. The Declarant is the Owner of the Community, which is real property in Tooele City, County of Tooele, Utah, described on the attached legal description **Exhibit A**:

B. Declarant and the Community is subject to the Master Declaration, as defined herein, as amended from time to time, has agreed that the Community will be developed with certain common objectives to the Master Declaration and Lexington Greens, and that Owners of Lots within the Residential Area will have certain common interests. The Community will be developed with objectives designed to benefit all the property within Lexington Greens. This common development scheme created by Master Declarant, Declarant, and the Neighborhood Builders imposes reciprocal burdens and benefits on all of Lexington Greens.

C. Declarant deems it desirable, for the efficient preservation of the amenities in the Community, to create a planned unit development in a master planned community. The general plan of development of the Community will include forming a corporation pursuant to the Utah Revised Nonprofit Corporations Act to which will be assigned the powers of (1) owning, maintaining and administering the Association Property, (2) administering and enforcing the Governing Documents and, as applicable, the Master Governing Documents, and (3) collecting and disbursing Assessments. The Members of the Association will be the Owners of Lots in the Community, as further provided in Article III of this Declaration.

D. Declarant declares that the Community will be transferred, encumbered, leased, used and improved subject to this Declaration, which is for the purpose of enhancing the attractiveness and desirability of the Community, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Community. The covenants, conditions, restrictions, reservations, easements and equitable servitudes in this Declaration will (1) run with and burden the Community and all Lots therein and be binding upon all Persons having

or acquiring any interest in the Community, their heirs, successors and assigns; (2) inure to the benefit of the Community and all interests therein; (3) inure to the benefit of and be binding upon Declarant, and its respective successors-in-interest, each Owner and each Owner's successors in interest; and (4) may be enforced by Declarant or any Owner.

E. Declarant deems it desirable that certain amenities be provided which are not provided for in the Master Declaration.

F. The Master Declarant has approved the recording of this Townhome Declaration.

INTRODUCTION TO THE COMMUNITY

Declarant has established this Declaration to provide a governance structure for the community in the Community. The Association is the homeowner's association formed to manage, maintain and govern the Community. The Association's powers are described in Sections 3.2 and 3.3. The majority of the Association's business is overseen by its Board of Directors. Day-to-day activities are supervised by the Association's officers and the Community Manager. The Design Review Committee is a committee of the Association formed to have jurisdiction over design, development and aesthetics in the Community.

Procedures for calling Member meetings are also contained in the Bylaws.

To encourage a sense of community in the Community, this Declaration provides for Special Benefit Areas as an alternative to the creation of multiple Neighborhood Associations. The Special Benefit Areas permit Neighborhoods to receive extra services or other benefits from the Association and to pay for these benefits above the basic level of the Common Assessments for the entire community.

Further, so as to encourage autonomy within neighborhoods or phases of the Development, Neighborhoods may form separate sub-associations for the purposes of governing the neighborhoods, areas or phases which have common interests and which may receive a conveyance of parcels of Association property which pertain to particular phases.

ARTICLE I DEFINITIONS AND INTERPRETATION

The following defined terms shown in bold have the meanings given in this Article and are subject to the limitations described in this Article.

1.1. ANNEXABLE TERRITORY. Annexable Territory means the real property described in **Exhibit A**, all or any portion of which may be made subject to this Declaration by following the procedure established in Article XVI.

1.2. DESIGN GUIDELINES. Design Guidelines mean the design standards, guidelines, procedures and rules adopted pursuant to Article IV.

1.3. GENERAL PLAN. General Plan means the entire bound volume with sequentially numbered pages on file with the City Planning Office. The General Plan is composed of a cover letter, a map or plan entitled "City of Tooele General Plan" The General Plan was

approved by the City Council and then filed with the City Development Planning Office. The General Plan may only be modified by amendments approved by Declarant, Master Declarant, and the City.

1.4. ARTICLES. Articles mean the Articles of Incorporation of the Association as amended or restated. A copy of the initial Articles is attached as **Exhibit B**.

1.5. ASSESSMENT. Assessment means any Common Assessment, Capital Improvement Assessment, Compliance Assessment or Reconstruction Assessment.

1.6. ASSESSMENT UNIT. Assessment Unit means a unit of value assigned to Lots that is used to calculate each Lot share of Common Expenses and to establish the number of votes assigned to each Lot.

1.7. ASSOCIATION. Association means the Lexington Townhomes Homeowners Association, Inc. a Utah nonprofit corporation, its successors and assigns. This Association was formed by filing Articles of Incorporation with the State of Utah.

1.8. ASSOCIATION PROPERTY. Association Property means all the real property and Improvements, whether annexed to the Community or not, which are owned in fee simple by the Association, or for which the Association has rights or obligations by easement, lease, encroachment permit, license or other agreement. Association Property may include areas on public property designated by a local government agency for maintenance by the Association pursuant to this Declaration, any Supplemental Declaration, any agreement or Recorded plat. The Association Property in each Phase of the Subdivision will be identified in the Plat and/or designated in Recorded Supplemental Declarations. On the last Close of Escrow in each particular Phase, the Association Property will include all of the Improvements, including the landscaping, fencing and irrigation system (payment for the pressurized irrigation service bill on the common areas is the responsibility of the Homeowners Association), located at 8703 Sandy Pkwy, Sandy, UT 84070. Additional Association property may be annexed to the Community pursuant to article XVI.

1.9. BOARD OR BOARD OF DIRECTORS. Board or Board of Directors means the Association's Board of Directors.

1.10. BUDGET. Budget means a written, itemized estimate of the Association's income and Common Expenses.

1.11. BYLAWS. Bylaws mean the Bylaws of the Association initially in the form of **Exhibit C**, as amended or restated.

1.12. CAPITAL IMPROVEMENT. Addition of an Improvement to a Common Area or Association Property which did not previously exist, or expansion of an existing Improvement to a Common Area or Association Property, or installation of a better-quality facility, product, or repair to an existing Improvement to a Common Area or Association Property.

1.13. CAPITAL IMPROVEMENT AND ASSESSMENT. Capital Improvement Assessment means a charge against the Owners and their Lots and representing a portion of the cost to the Association for installing or constructing Capital Improvements on the Association Property. Capital Improvement Assessments will be levied in the same proportion as Common Assessments.

1.14. CITY. City means Tooele City, Utah, and its various departments, divisions, employees and representatives.

1.15. CLOSE OF ESCROW. Close of Escrow means the date on which a deed is Recorded conveying a Lot to a member of the public. The term "Close of Escrow" does not include the Recordation of a deed (i) between Declarant and (a) any successor to any rights of the Declarant or (b) any Neighborhood Builder, (ii) between Neighborhood Builders, or (iii) conveying any portion of the Multi-Family Area.

1.16. RESERVED.

1.17. COMMON AREA. Common Area means land within the Community (a) designated in the recorded Plat as "common area," or (b) owned or maintained by the Association for the primary benefit of the Owners within the jurisdiction of the Community.

1.18. COMMON ASSESSMENT. Common Assessment means a charge against the Owners and their Lots to be used to satisfy Common Expenses. Common Assessments are composed of a "General Assessment Component" and, possibly, a "Special Benefit Area Assessment Component," as provided in Section 7.4.

1.19. COMMON EXPENSES. Common Expenses means those expenses for which the Association is responsible under this Declaration, including, but not limited to, the actual and estimated costs of the following:

- Maintaining, managing and operating the Association Property and Common Area;
- Unpaid Capital Improvement Assessments, Common Assessments, Compliance Assessments and Reconstruction Assessments;
- Any commonly metered utilities or other commonly metered charges not paid for by a Neighborhood Association;
- Managing and administering the Association;
- Compensation paid by the Association to managers, accountants, attorneys and Association employees and contractors;
- All utilities, landscaping, trash pickup and other services benefiting the Association Property or Common Area;

- Maintaining address identification signs not provided for by a Neighborhood Association;
- Fire, casualty and liability insurance, worker's compensation insurance, and other insurance covering the Community and the directors, officers and agents of the Association;
- Bonding the members of the Association Board of Directors, its officers and other representatives;
- Taxes paid by the Association;
- Amounts paid by the Association for discharge of any lien or encumbrance levied against the Community;
- Reasonable reserves;
- Providing protective services for the Association Property or other portions of the Community;
- Payments under contracts entered into by the Association;
- Expenses designated as Common Expenses in Supplemental Declarations;
- All other expenses incurred by the Association for any reason whatsoever in connection with the Community, for the common benefit of the Owners.

1.20. COMMUNITY GUIDELINES. Community Guidelines mean the Community Guidelines adopted, amended or restated by the Board.

1.21. COMPLIANCE ASSESSMENT. Compliance Assessment means a charge against a particular Owner or Neighborhood Association directly attributable to or reimbursable by that Owner or Neighborhood Association equal to the cost incurred by the Association for corrective action performed pursuant to the Governing Documents, or a fine or penalty assessed by the Board, plus interest and other charges on such Compliance Assessments as provided for in the Governing Documents. Compliance Assessments may include any collection costs, expenses and reasonable attorneys' fees.

1.22. DECLARANT. Declarant shall mean and refer to Building Dynamics, Inc., and its successors and assigns.

1.22.1. "Declarant Related Entity or Entities" shall mean Declarant, parent companies, subsidiaries, assigns, successors, related or designated construction entities, or other entities established by Declarant or Declarant's members for the purpose of owning, developing, constructing and/or selling Lots or Units in the Subdivision

1.23. DESIGN REVIEW COMMITTEE. Design Review Committee means the Design Review Committee created pursuant to article IV.

1.24. DEVELOPMENT AGREEMENT. Development Agreement means the Development and Settlement Agreement dated as of August 6, 2014, between the Declarant and the City of Tooele Utah.

1.25. FAMILY. Family means (a) one Person or a group of natural Persons related to each other by blood, marriage, or adoption, or (b) a group of natural Persons defined by Tooele City Zoning Code to be a family.

1.26. FHA. FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and its successors.

1.27. FHLMC. FHLMC means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970, and its successors.

1.28. FISCAL YEAR. Fiscal Year means the fiscal accounting and reporting period of the Association.

1.29. FNMA. FNMA means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, and its successors.

1.30. GNMA. GNMA means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, and its successors.

1.31. GOVERNING DOCUMENTS. Governing Documents mean this Declaration, all Supplemental Declarations, the Articles, Bylaws, the Design Guidelines and the Community Guidelines.

1.32. IMPROVEMENT. Improvement means any structure, vegetation or appurtenance including buildings, walkways, irrigation systems, garages, roads, driveways, parking areas, fences, walls, stairs, decks, landscaping, antennae, the paint on all exterior surfaces, windbreaks, patio covers, railings, gates, poles, exterior air conditioning and water-softening fixtures or equipment. The Design Guidelines may identify additional items that are Improvements.

1.33. INCLUDES, INCLUDING. Whether capitalized or not, includes and including mean “includes without limitation” and “including without limitation,” respectively.

1.34. LOT. Lot means a lot or parcel of land shown on a Recorded subdivision plat of any portion of the Community, including any Lot or unit or building pad or site in a Multi-Family Area, but not the Association Property and the Common Area. Lot will also mean any portion of a lot or parcel of land designated as a Lot in a Supplemental Declaration.

1.35. MAINTENANCE FUNDS. Maintenance Funds mean the accounts created for the Association receipts and disbursements pursuant to Article VII.

1.36. MANAGER. Manager means the Person or Entity who provides professional community management for the Association.

1.37. MASTER ASSOCIATION. Master Association means the LEXINGTON GREENS HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation, its successors and assigns. This Association was formed on December 7, 2018 by filing Articles of Incorporation with the State of Utah.

1.38. MASTER DECLARANT. Master Declarant means ZENITH TOOELE, LLC, a Delaware limited liability company, its successors and any Person to which it shall have assigned any rights hereunder by express written assignment. Any such assignment may include some or all of the rights of the Master Declarant and may be subject to such purposes, conditions or limits as ZENITH TOOELE, LLC, may impose in its sole and absolute discretion. As used in this Section, "successor" means a Person who acquires Master Declarant or substantially all of its assets, or who merges with Master Declarant, by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise.

1.39. MASTER DECLARATION. Master Declaration means the entire instrument, and its exhibits, as amended or restated, namely: the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Lexington Greens a Master Planned Community Located in Tooele City Utah recorded on June 22, 2020, as Entry No. 513289, in the office of the Tooele County Recorder, state of Utah.

1.40. MEMBER. Member means any Person owing a Membership and the Declarant.

1.41. MEMBERSHIP. Membership means the property, voting and other rights and privileges, duties and obligations of Members.

1.42. MORTGAGE. Mortgage means any instrument Recorded against one or more Lots, or other portions of the Community to secure the performance of an obligation and includes a mortgage and a deed of trust.

1.43. MORTGAGEE. Mortgagee means a Person to whom a Mortgage is made and includes the beneficiary under a Mortgage or the assignees of such Mortgage identified in a Recorded assignment of rights under the Mortgage, or a beneficiary of a deed of trust.

1.44. MULTI-FAMILY AREA(S) AND SINGLE-FAMILY AREA(S). Multi-Family Area(s) means the real property classified as a portion of the Multi-Family Area in this Declaration or in a Supplemental Declaration, which is or will be developed with Improvements suitable for multi-Family rental apartment use. Multi-family area shall be in structures or buildings of 10 or more units. Single-Family Area(s) means the real property classified as a portion of the Single-Family Area in the Declaration or in a Supplemental Declaration, which is or will be developed with Improvements suitable for Single-Family detached and attached 1-6 Units of townhomes.

1.45. NEIGHBORHOOD ASSOCIATION. Neighborhood Association or sub association means any Utah corporation or unincorporated association, or its successor, established in connection with this declaration, the membership of which is composed of the holders of lots or units within the phases or neighborhoods as shown on the recorded on the Plat and as explained in section 3.5 herein.

1.46. NEIGHBORHOOD BUILDER. Neighborhood Builder means a Person designated by Declarant as a Neighborhood Builder in a Recorded document. Some of the Persons Declarant intends to designate as Neighborhood Builders are Persons who acquire a portion of the Community for the purpose of (i) developing such portion for resale to the general public, or (ii) in the case of a Multi-Family Area, developing such portion for sale, lease, investment or occupancy. Upon the first occupancy of a building in a Multi-Family Area, the owner of the building ceases to be a Neighborhood Builder for purposes of that building. The term "Neighborhood Builder" does not include Declarant.

1.47. NEIGHBORHOOD DECLARATION. Neighborhood Declaration means any declaration of covenants conditions and restrictions which affects only a portion or phase of the Community as described in section 3.5 herein. Declarant may require uniform conditions and restrictions and reserves the right to approve the content thereof. Neighborhood Declarations may also be referred to as "associations declarations" herein.

1.48. NOTICE AND HEARING. Notice and Hearing means written notice and a hearing before the Board as provided in the Bylaws, this Declaration or Community Guidelines.

1.49. OWNER. Owner means the Person or Persons, including Declarant and the Neighborhood Builders, holding fee simple interest of record to any or Lot. The term "Owner" includes a seller under an executory contract of sale but excludes Mortgagees. A Supplemental Declaration may change the definition of the term "Owner" as it applies to a Neighborhood. For example, the term "Owner" may include a ground lessee under a long-term ground lease if so designated in the Supplemental Declaration for such property.

1.50. PERSON. Person means a natural individual or any entity with the legal capacity to hold title to real property.

1.51. PHASE. Phase means any portion of the Community defined as a Phase on the recorded plat or in a Supplemental Declaration.

1.52. PLAT, PLAT MAP, OR MAP. A final subdivision plat covering any real property in the Area Plan, as recorded in the office of the County Recorder, Tooele County, Utah, as the same may be amended by duly recorded amendments thereto.

1.53. COMMUNITY. Community means all of the real property encumbered by this Declaration. References in this Declaration to the Community are to the Community as a whole and to portions of the Community.

1.54. RECONSTRUCTION ASSESSMENT. Reconstruction Assessment means a charge against the Owners and their Lots representing a portion of the Master Association's cost

to reconstruct any Improvements on the Association Property. Reconstruction Assessments will be levied in the same proportion as Common Assessments.

1.55. RECORD OR FILE. Record or File means, with respect to any document, entry of such document in the records of the Recorder for the County.

1.56. RESERVES. Reserves mean Association funds set aside for funding periodic painting and maintaining of the components of the Association Property which would not reasonably be expected to recur on an annual or more frequent basis and for payment of deductible amounts for insurance policies which the Association obtains. The amount of Reserves will be determined annually by the Board pursuant to reserve cost guidelines established in accordance with prudent property management practices.

1.57. RESIDENCE. Residence means the structure intended for use and occupancy by one Family and located in a unit of an apartment building in a Multi-Family Area, or on a Lot in the Residential Area or in the unit of townhome in the Residential Area.

1.58. RESIDENTIAL AREA. Residential Area means the real property which is so classified in the Master Declaration or a Supplemental Declaration. The Residential Area is designated for development as Lots. The Residential Area may include Association Property as well as Common Area. The residential area is divided into 4 phases: (i) Phases 1 - Single Family detached homes; (ii) Phase 2 - Single Family detached homes; (iii) Phases 3 - Attached Townhomes; and (iv) Phase 4 - Courtyard Apartments. Each of these phases has Master Association properties or parcels which relate specifically to that phase which will be conveyed to the Master Association or to the Association or other Neighborhood Associations.

1.59. SPECIAL BENEFIT AREA. Special Benefit Area means a group of Lots that share the costs of either (i) maintaining specified Improvements, or (ii) receiving certain services. The additional administrative costs of administering each Special Benefit Area shall be a part of the Common Expenses allocated to the Special Benefit Area Component of Common Assessments. Special Benefit Areas may be identified by Declarant in this Declaration or any Supplemental Declaration when Declarant, in its sole discretion, determines that a group of Lots benefits more from the specified Improvements or services than the Community as a whole. The Board may also identify Special Benefit Areas as authorized in this Declaration or a Supplemental Declaration. A Special Benefit area may, but need not be required to become a Neighborhood Association or sub association.

1.60. RESERVED.

1.61. SUPPLEMENTAL DECLARATION. Supplemental Declaration means an instrument Recorded to annex additional real property to the Community or to supplement this Declaration, as such instrument is amended or restated.

1.62. TELECOMMUNICATIONS FACILITIES. Telecommunication Facilities means (1) Improvements, equipment and facilities for (i) telecommunications, (ii) transfer of audio, video and data signals, (iii) transfer of any other signals used for transmission of intelligence by electrical, light wave, wireless frequencies or radio frequencies, and (iv) any other

methods of communication and information transfer; (2) all associated Improvements, equipment and facilities, including but not limited to outside plant ducts, manholes, riser cables, protection equipment, communications rooms, antennas, power outlets, power conditioning and back-up power supplies, cross connect hardware, copper, fiber, and coaxial cables, towers, broadcasting and receiving devices, conduits, junction boxes, wires, cables, fiber optics, and any other necessary or appropriate enclosures and connections; and (3) power generation serving the Improvements, equipment and facilities described in subparts (1) and (2) of this sentence. Declarant intends to have the term "Telecommunication Facilities" be interpreted as broadly as possible and to include relocated facilities, expansion of facilities, and/or facilities used for any and all new technology that replaces any Telecommunication Facilities. If there is a doubt as to whether an item fits within the definition of Telecommunication Facilities, the term is to be interpreted to include that item.

1.63. TELECOMMUNICATIONS SERVICES. Telecommunications Services means Telecommunication Facilities, Improvements, and services for cable television, communications, telecommunications, antenna, high-speed data, telephony and all related vertical services, intranet, internet, information transfer (including wireless transfer), transmission, video and other similar services. Declarant may expand this definition in any Supplemental Declaration.

1.64. VA. VA means the Department of Veterans Affairs of the United States of America and its successors.

1.65. INTERPRETATION OF MASTER DECLARATION.

1.65.1. General Rules. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a master planned community and for the maintenance of the Association Property. Any violation of this Declaration is a nuisance. The Governing Documents shall be interpreted so as to be consistent with applicable laws and regulations, including ordinances and regulations of the appropriate Local Governmental Agencies. The Article and Section headings are for convenience only and may not be considered or referred to in resolving questions of interpretation or construction. As used in this Declaration, the singular includes the plural and the plural the singular; and the masculine, feminine and neuter each include the other, unless the context dictates otherwise. Except as otherwise expressly provided in this Declaration, any reference in this Declaration to time for performance of obligations or to elapsed time means consecutive calendar days, months, or years, as applicable. All Exhibits are incorporated in this Declaration by this reference. All references made in this Declaration to statutes are to those statutes as amended or restated or to subsequently enacted replacement statutes. Unless otherwise indicated, references to Articles, Sections and Exhibits are to Articles, Sections and Exhibits of this Declaration.

1.65.2. Statements in Italics. The portions of the Governing Documents printed in italics are provided as simplified, general explanations of the purposes of the Articles, Sections or paragraphs of the Governing Documents and the scheme of governance for the Community. The statements in italics are provided for convenience

and may not be considered in resolving questions of interpretation or construction of the Governing Documents.

1.65.3. Intent of Declarant. Declarant intends that the Community be developed for one-Family residential, multi-Family residential apartment uses, and other uses defined in Supplemental Declarations, all consistent with this Declaration and any applicable Supplemental Declarations. In addition, Declarant, at its option, may designate areas for maintenance, recreational, institutional or other purposes.

1.65.4. Relationship to Other Declarations. As each Phase is developed, Master Declarant, Declarant, or a Neighborhood Builder may Record one (1) or more Supplemental Declarations which may designate the use classifications within the areas affected and which may supplement the Master Declaration with such additional covenants, conditions, restrictions and easements as Master Declarant may deem appropriate for the real property being annexed thereby. The provisions of any Supplemental Declaration may impose such additional, different or more restrictive conditions, covenants, restrictions, easements and limits as Declarant may deem advisable, taking into account the particular requirements of each Phase. If there is any conflict between any Supplemental Declaration, the Declaration, and the Master Declaration, the Declaration shall control with respect to the Community and any Supplemental Declaration shall control with respect to the real property annexed by such Supplemental Declaration. If there is any conflict between the Declaration and the provisions of the Master Declaration or applicable Supplemental Declaration, the Master Declaration and applicable Supplemental Declaration shall control.

1.65.5. Relationship to Other Governing Documents. If there are conflicts or inconsistencies between this Declaration and the Articles, Bylaws, Design Guidelines or Community Guidelines then the provisions of this Declaration shall prevail.

1.65.6. Relationship of Development Agreement to General Plan and Other Planning Documents. The Governing Documents do not transfer to the Members or the Association any rights acquired by Declarant pursuant to the General Plan and/or the Development Agreement; all of these rights are retained by Declarant. Declarant has the right to pursue to completion any electric energy facilities, improvements, roads and/or infrastructure that Declarant deems necessary to benefit Declarant and to entitle and allow Declarant to realize the full potential of the Development. This provision cannot be altered or amended except in writing that is approved by the City and the Declarant, and this provision supersedes all other documents, agreements and ordinances related thereto.

1.65.7. Severability. The provisions hereof are independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction does not affect the validity or enforceability of any other provision.

ARTICLE II RESIDENTIAL AREA USE RESTRICTIONS

This Article establishes limits on the use of Lots in the Residential Area. The Master Association and the Association have the power to enforce the use restrictions. Potential purchasers of Lots in the Residential Area should read these use restrictions closely to make sure they can use their property as they intend, without violating these use restrictions. In some cases, the Master Association and the Association are given the power to delegate its authority to enforce certain use restrictions to the Owners. Some of the use restrictions apply not only to the Community, but to public areas adjacent to the Community. This is to prevent Owners and occupants from circumventing the use restrictions by placing items that are prohibited in the Community (such as an unsightly, inoperable vehicle) on adjacent public property and leaving other Lots that are negatively impacted without a remedy.

The Residential Area shall be held, used and enjoyed subject to the following restrictions. Real property added to the Community that is not part of the Residential Area is exempt from the restrictions established in this Article unless the Supplemental Declaration annexing the property to the Community indicates that the property being annexed is subject to the restrictions in this Article. Supplemental Declarations may add use restrictions or replace the use restrictions contained in this Article for the property the Supplemental Declarations encumber.

2.1 SINGLE FAMILY OCCUPANCY. Each Residence shall be used only for (a) residential purposes, or (b) business or commercial activities authorized by this Section. Subject to Article II, Section 2.12 of this Declaration, an Owner may rent his Residence to a single Family provided that the Residence is rented pursuant to a lease or rental agreement which is (a) in writing and (b) subject to all of the provisions of the Governing Documents. Residences may be used for business or commercial activities so long as the following requirements are met:

2.1.1 Compliance With Law. The activities are conducted in conformance with all applicable Local Governmental Agency ordinances, including the General Plan and the City Code;

2.1.2 Streets and Parking Areas. The patrons or clientele do not overburden the streets or parking areas in the Community, considering the streets and parking areas are a part of a residential community, not a commercial development;

2.1.3 Exterior Effects. The existence or operation of such activities does not produce sounds, odors or materials outside the boundaries of the Lot, or Neighborhood Property that are excessive or inappropriate for a residential community;

2.1.4 Insurance. The activity does not increase the Association's liability or casualty insurance obligation or premium; and

2.1.5 Consistent. The activities are consistent with the character of the Residential Area and the Community as a whole and conform to the other provisions of this Declaration, as determined by the Board.

Offices operated by the manager the Association, for the sole purpose of managing the Association, and any Master Association business, are exempt from the restrictions contained in this Section.

Except as authorized in this Section 2.1, no part of the Residential Area may be used for any business, commercial (including auctions or similar events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including any activity for which the provider is compensated or receives any consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license.

2.2 NUISANCES. No noxious or offensive activities may be carried on upon the Community or on any public street abutting or visible from the Community. No Owner may (a) permit or cause anything to be done or kept on the Community or on any public street abutting the Community which may (i) increase the rate of insurance in the Community, (ii) result in the cancellation of such insurance, or (iii) obstruct or interfere with the rights of other Owners, or (b) commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all requirements of the local or state health authorities and with all other applicable governmental ordinances regarding occupancy and use of a or Lot, including the Residence thereon. Each Owner is accountable to the Association and other Owners for the conduct and behavior of Persons residing in or visiting his Lot. The Association has the power to require that any damage to the Association Property, personal property of the Master Association, or property of another Owner caused by such Persons shall be repaired at the sole expense of the Owner of the Lot where such Persons are residing or visiting. The Association is entitled to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. The Board has the right to delegate responsibility for enforcing any of the restrictions on nuisances contained in this Section to the Owners. Any violation of this Declaration is a nuisance.

2.3 SIGNS. All signs, posters, billboards, balloon advertising devices and other displays of any kind must comply with the Area Plan and City Code. In addition, they shall not be displayed within the Community except as follows:

2.3.1 Declarant and Neighborhood Builder Signs. Signs of any size or configuration used by Declarant or the Neighborhood Builders in connection with the development of the Community and the sale, lease or other disposition of Lots, and the Annexable Territory;

2.3.2 Entry Monuments. Entry monuments and similar community identification signs either maintained by the Master Association or approved by the Design Review Committee and maintained by the Association;

2.3.3 Lots. Subject to the Design Guidelines, one (1) nameplate or similar Owner name identification, and one (1) sign advising of the existence of security services protecting a Lot;

2.3.4 Sale or Lease. One (1) sign which may be displayed on each Lot advertising the Lot for sale or lease; however, such sign must comply with the Community Guidelines and Design Guidelines; and

2.3.5 Other Approved Displays. Other displays such as decorative flags or holiday displays authorized in the Community Guidelines.

2.4 PARKING AND VEHICULAR RESTRICTIONS. The Association shall enforce these restrictions as they apply to the property subject to the Association's jurisdiction. If the Association fails to enforce these restrictions, the Master Association may enforce those restrictions, subject to Article XII.

2.4.1 Authorized Vehicles. The following vehicles are Authorized Vehicles: standard passenger vehicles, including automobiles, passenger vans designed to accommodate ten (10) or fewer people, motorcycles and pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less. Authorized Vehicles may be parked in any portion of the Community intended for parking of motorized vehicles, subject to the restrictions in the other portions of the Governing Documents. No Owner may park any vehicle in a manner which extends beyond the boundaries of a parking space or into streets or sidewalks within the Community. The Association has the power to identify additional vehicles as Authorized Vehicles.

2.4.2 Restricted Vehicles. The following vehicles are Restricted Vehicles:

- (i) recreational vehicles (e.g., motor homes, travel trailers, camper vans, snowmobiles and boats),
- (ii) commercial-type vehicles (e.g., stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, and limousines),
- (iii) buses or vans designed to accommodate more than ten (10) people (unless the vehicle is operated by the Master Association or a Neighborhood Association),
- (iv) vehicles having more than two (2) axles,
- (v) trailers, inoperable vehicles or parts of vehicles,
- (vi) aircraft,
- (vii) other similar vehicles, or
- (viii) any vehicle or vehicular equipment deemed a nuisance by the Board.

Restricted Vehicles may not be parked, stored or kept on any public or private street within, adjacent to or visible from the Community or any other Association Property parking area unless (a) they are owned and used by the Master Association or a Neighborhood Association, (b) they are parked for limited periods in specified locations, as authorized in the Community Guidelines, or (c) they are parked within an Owner's fully enclosed garage with the door closed. If a vehicle qualifies as both an Authorized

Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle, unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Board. The Master Association and Association have the power to identify additional vehicles as Restricted Vehicles. Some areas of the Community may be developed so that Prohibited Vehicles may be stored on Lots. These areas may be exempted from this restriction in the Supplemental Declarations for the areas. Supplemental Declarations may establish additional or different restrictions on parking Prohibited Vehicles.

2.4.3 General Restrictions. All vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Lot and kept within the Community must be parked in the assigned carport, parking space or garage of that Owner to the extent of the space available. Each Owner shall ensure that any such carport, parking space or garage accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant or a Neighborhood Builder. No repair, maintenance or restoration of any vehicle may be conducted in the Community except as authorized by the Community Guidelines provided such activity is not undertaken as a business, and provided that such activity may be prohibited entirely by the Board if the Board determines that it constitutes a nuisance.

2.4.4 Parking and Street Regulations. The Board may establish regulations in the Community Guidelines regarding any private streets and parking areas not assigned to individual Lots. These regulations may include setting speed limits, restricting types of vehicles that may be used in different areas, designating "parking," "guest parking," "temporary Owner parking" and "no parking" areas, setting time limits for parking vehicles in the Master Association Property parking areas, and requiring registration of vehicles or use of parking permits. The Master Association and the Association have the power, subject to the City Traffic Code, to enforce all parking and vehicle use regulations applicable to the Community, including removing violating vehicles from the Community without advance notice to the owner of the vehicle. Nothing in this Section 2.4 shall be construed as prohibiting enforcement of City Code and Area Plan parking restrictions by the City.

2.5 ANIMAL RESTRICTIONS. The only pets that may be raised, bred or kept in the Residential Area are animals that comply with the City Code and that are either (i) domestic dogs, cats, fish, birds and other usual household pets, or (ii) animals authorized to be kept on the Community in the Community Guidelines. Animals cannot be raised, bred or kept for commercial purposes in violation of the Governing Documents. No pet or animal is permitted to be raised, bred, or kept in the Residential Area that weighs more than seventy-five pounds (75 lbs.). No exotic animals are permitted to be raised, bred, or kept in the Residential Area. Exotic animals include, at a minimum, any animal imported from out of the United States, any animal which requires a license or permit to raise, breed, or keep, and any animal identified as vulnerable, endangered, or threatened by the International Union for Conservation of Nature. No Residence may be used to raise, breed, or keep more than two (2) authorized pets. The Board may prohibit any pet which, in the Board's opinion, constitutes a nuisance, or threat to the health, safety, or welfare of the community. Animals within the Community must be either kept within an enclosure or on a leash held by a Person capable of controlling the animal. Any Person shall be liable to each and every other Person for any unreasonable noise or damage to Person or property

caused by any pets brought or kept upon the Community by such Person. Persons shall clean up after their pets use any portion of the Community or public street abutting or visible from the Community. Any Person who keeps any animal, insect or reptile within the Community, whether in compliance with or in violation of the Governing Documents, shall indemnify, defend and hold harmless the Association, its officers, directors, contractors, agents and employees from any claim brought by any Person against the Association, its officers, directors, agents and employees for personal injuries or property damage caused by such animal, insect or reptile. The Master Association may elect to only enforce this Section in connection with the Master Association Property, leaving for the Owners or the Neighborhood Associations the power to enforce this Section as it applies to other areas of the Community.

2.6 EXTERIOR ITEMS. Weeds, rubbish, debris, items designated as unsightly in the Community Guidelines and trash may not be kept or permitted upon the Community or on any public area abutting or visible from the Community. Trash may be kept in sanitary containers located in appropriate areas screened from view in accordance with the Community Guidelines and Design Guidelines, and no odor may be permitted to arise therefrom so as to render the Community or any portion thereof unsanitary, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Trash containers for individual Owners may be exposed to view only when set out for a reasonable period of time not to exceed twelve (12) hours before and after scheduled trash collection hours. Trash containers for Neighborhood Associations may be kept on Common Area so long as they are contained within an enclosure installed by Declarant or a Neighborhood Builder or approved by the Design Review Committee. No exterior fires are permitted, except barbecue fires contained within receptacles therefore and fire pits in enclosed areas and designed so that they do not create a fire hazard.

2.7 TEMPORARY BUILDINGS. Outbuildings, sheds, tents, shacks, or other temporary buildings or Improvements may not be placed upon any portion of the Community, without the prior written consent of the Design Review Committee. Garages, carports, trailers, campers, motor homes, recreation vehicles or other vehicles may not be kept or used as residences in the Community.

2.8 ASSOCIATION PROPERTY. Owners may not alter the Association Property without the prior written consent of the Board.

2.9 INSTALLATIONS. Projections of any type, except those allowed in this Declaration, are not permitted above the roof of any building within the Community, except chimneys and vent stacks originally installed, by Declarant or a Neighborhood Builder. Portable and fixed basketball backboard and other sports apparatus are subject to regulation by the Community Guidelines. No fence or wall may be erected, altered or maintained around any Residence or on any Lot except with the Design Review Committee's prior approval. No patio cover, wiring, or air conditioning fixture, or other Improvement may be installed on the exterior of a Residence or be allowed to protrude through the walls or roof of the Residence except those items installed during the original construction of the Residence without the Design Review Committee's prior written approval. The Association has the power to prohibit or restrict use of aluminum foil, newspaper, paint, reflective tint or any other material as window coverings.

2.10 ANTENNAE AND SATELLITE DISHES. Owners (excluding Declarant and Neighborhood Builders) are prohibited from placing any Telecommunications Facilities, or from

permitting any Telecommunications Facilities to be placed, on any portion of the Community for any purpose, except for an "Approved Antenna," as is more fully defined below.

In order to preserve the aesthetic and visual integrity of the Community, but subject to any contrary provisions of applicable law, no Telecommunications Facilities, including but not limited to exterior radio antenna, television antenna, "C.B." antenna, satellite dish, over-the-air reception device, microwave transmitting shall be constructed, placed or maintained anywhere within the Community except as more fully set forth below.

Any Antenna equal to or less than one (1) meter in diameter, that falls within the scope of, or is otherwise covered by Telecommunications Act of 1995, and the provisions of 47 C.F.R. 1.400, as may be amended from time to time, or any subsequent federal or state law applicable to common-interest communities ("Approved Antenna"), shall be permitted upon any Lot, Townhome, Apartment, Master Association Property or Common Area. Installation of any Approved Antenna shall comply with any and all requirements and guidelines adopted by the City of Tooele, as well as any and all applicable Design Guidelines or Community Guidelines, including, but not limited to, any preferred placement locations; provided, however, that such Design Guidelines or Community Guidelines may not unreasonably increase the cost of installing, maintaining, or using the Approved Antenna, unreasonably delay installation of the service, or unreasonably interfere with the quality of reception. Subject to the requirements of 47 C.F.R. 1.4000, the Design Review Committee may prohibit the installation of any Approved Antennae if the installation, location or maintenance of such Approved Antenna unreasonably affects the safety of Owners, or of agents or employees of the Master Association or Neighborhood Association for any other safety related reason. The Board of Directors may require that the Approved Antenna be relocated consistent with the established preferred placement locations so long as the location does not: (a) unreasonably delay or prevent installation, maintenance use of an Approved Antenna, (b) unreasonably increase the cost of an Approved Antenna, or (c) unreasonably interfere with acceptable quality reception.

The Association may also (A) prohibit an Owner from installing an Approved Antenna on property which such Owner does not own or is not entitled to exclusively use or control under the Governing Documents or (B) allow an Owner to install an antenna other than an Approved Antenna subject to the Design Guidelines and review by the Design Review Committee.

The Design Review Committee may prohibit the installation of any Antenna that does not fall within the scope of the Telecommunications Act of 1995 and the provisions of 47 C.F.R. 1.4000, as may be amended from time to time ("Unapproved Antenna"). In order for an Owner to install an Unapproved Antenna, the Owner must submit a written request to the Design Review Committee and satisfy all of the terms, conditions and requirements of Article IV of the Master Declaration, which governs design control within the Master Association.

Notwithstanding anything in this Section to the contrary, master antennae or cable television antennae may, but need not, be provided by Declarant, and Declarant may grant easements for the installation and maintenance of any such master or cable television service. This Section 2.10 shall not apply to, nor restrict, wireless Antennae, master Antennae, cable television Antennae, microcell or head end system for any cable television system, installed or

approved by Declarant or by a franchised or licensed cable television operator approved by Declarant, or to any Telecommunications Facilities installed or approved by Declarant; provided, however, that the location of any of the aforementioned Antennae shall not unreasonably affect the safety of the Owners, or of agents or employees of the Association. Roof mounted satellite dishes, cellular (cell) towers and related exterior equipment located outside the Residential Areas shall be permitted, provided the same have been approved by the Declarant or by the Association.

This Section is intended to be a restatement of the authority granted to the Master Association under applicable law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna shall be interpreted to amend, modify, restate or interpret this Section.

2.11 DRILLING. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted upon the Community, nor are oil wells, tanks, tunnels or mineral excavations or shafts permitted upon the surface of any Lot or below the surface of the Community. Except as required for development of City water sources, no derrick or other structure designed for use in boring for water, oil, geothermal heat or natural gas may be erected, maintained or permitted in the Community.

2.12 LEASES AND TIMESHARES.

2.12.1 General Rule. It is intended that the Association shall be subject to specific rental restrictions in an attempt to protect property values. If a Lot or Unit is purchased after the recordation of this document, then the Association and Owners shall strictly adhere to the following rental restrictions. The number of permissible rentals, after the recording of this document, shall be based on the total number of Lots and Units within the Association, except as otherwise provided in this Declaration, no Owner may further partition or subdivide his Lot including any division of such Owner's Lot time-share estates or time-share uses. This restriction against time-share estates or time-share uses does not prohibit an Owner from leasing his Lot. At no time shall more than forty percent (40%) of the Lots within the portion of the Community which is residential be leased or rented to any third-party. Subject to the above, a Lot may be leased only after the Board of Directors determines that the Lot is eligible for lease. A Lot is eligible for lease only if an Owner submits an "Application for Approval to Offer a Lot for Lease" to the Board. "Leasing or renting" of a Lot, the granting of a right to use or occupy a Lot for a specific term or indefinite term (with rent stated on a periodic basis), in exchange for the payment of rent (money, property or other goods or services of value); but shall not mean and include joint ownership of a Lot by means of joint tenancy, tenancy-in-common or other forms of co-ownership where the occupant of the Lot has an ownership interest of 50% or more. There shall be a minimum Lease Term of six (6) months and a maximum Lease Term (including all lease extensions) of sixty (60) months. During any Lease Term, any subleases, if permitted, shall follow the pattern of eligibility described in this Section 2.12.1 and neither the lessee/tenant nor the occupants of any Lot shall change. At the end of each Lease Term and prior to entering into a new lease contract for a Lot Owner shall resubmit the above-mentioned application entitled "Application for

Approval to offer a Lot for Lease” to the Board or its managing agent, which, if granted, will be based on the eligibility requirements described in this Section 2.12.1 and the Lease form approval requirements referenced in Section 2.12.5 herein.

2.12.2 Limitation on Subleasing or Assignment of Lots. No subleasing or assignment of a lease or rental agreement (the “Lease”) is permitted except with the prior written approval of the Board of Directors in accordance with subsection 2.12.1 above.

2.12.3 Prospective Application. The lease restriction set forth in subsection 2.12.1, above, shall only have prospective application. This restriction does not prevent an Owner that is leasing or contemplating leasing his Lot prior to the recordation of this Declaration, from leasing his Lot to new tenants after recordation of this Declaration. However, the lease restriction shall apply to all Owners and their Lots purchased after recordation of this Declaration;

For purposes hereof, “Owner Occupied” shall mean either of the following:

- (1) The Owner or any member of the Owner’s Family occupies the Lot for a period of at least seven days; or
- (2) Any person occupies the Lot with the consent of the Owner other than pursuant to a Lease which complies with the terms hereof.

Notwithstanding anything to the contrary herein, if an Owner sells his Lot at a time when a Lease is in effect with respect to that Lot, the Lease shall continue to its termination. However, subject to subsection 2.12.1 above, the purchaser of the Lot shall not have the right to lease the Lot after the purchaser takes title to the Lot except for the remainder of the term of the Lease in place at the time the Owner acquired title to the Lot.

2.12.4 Authorization to Enter Lease. Prior to offering a Lot for lease, the Owner must receive written notice from the Association that the Lot is eligible for lease in accordance with subsection 2.12.1 above.

2.12.5 Submission of Lease. All leases shall be in writing, executed by all parties to the Lease, shall provide that the Lease is subject in all respects to the terms and provisions of this Declaration and the Association’s Governing Documents and any restrictions or provisions therein, as may be amended from time to time, and shall state that any failure by the tenant to comply with the terms of the Governing Documents shall constitute a default under the Lease. All Owners who entered Leases prior to the recordation of this Declaration shall submit copies of their existing Lease of their Lot to the Board of Directors or its managing agent, within thirty (30) days after notice of recordation of this Declaration. For all other Owners interested in Leasing a Lot after the recordation of this Declaration, the form of the contemplated Lease document that will be entered into shall be submitted for approval to the Board of Directors, or its managing agent, not less than ten (10) calendar days before any Lease contract for the Lot or Unit is entered into. Within ten (10) calendar days of submission, the Board of Directors or its managing agent shall respond to the Owner with a written approval or disapproval of the form of the Lease document and a statement of lease eligibility or non-eligibility based

on the lease eligibility requirements of Section 2.12.1 above. Without a written statement from the Board of Directors or its managing agent giving approval of the lease form and confirming lease eligibility, an Owner shall not be permitted to enter into a Lease contract for a Lot. Within thirty (30) days after a Lease contract has been entered into, Owners shall submit a fully executed copy of the Lease to the Board of Directors or its managing agent. All Leases, and the tenants thereunder, shall be registered with the Association and the Association shall have the right to charge a registration fee to each Owner, in an amount determined by the Board of Directors, for each new tenant registered with the Association.

2.12.6 Hardship Exemption. Notwithstanding anything in this Declaration to the contrary, any Owner of a Lot may apply to the Board of Directors for an exemption from the lease restriction set forth in subsection 2.12.1 above, upon a showing of hardship. A hearing before the Board on this matter shall be consistent with the Board's standards for providing notice and a hearing, as set forth in the Governing Documents and consistent with Utah law, as may be amended.

2.12.7 Enforcement. The Board of Directors is empowered with the right to enforce the lease restrictions set forth in subsection 2.12.1 above. Any Owner who fails to obtain prior written authorization to offer a Lot for lease, as set forth in subsection 2.12.1 above, or to provide the Association with a copy of the Lease on a Lot, within the time set forth in subsection 2.12.5 above, shall be subject to a reasonable fine as determined by the Board and consistent with the Governing Documents; additionally, the Board shall have standing to and may initiate eviction proceedings to remove the tenant, after first giving the Owner an opportunity to cure the violations. Any Owner who fails to disclose the existence of a Lease on a Lot is subject to the percentage lease restriction at the time of disclosure or discovery of the Lease. Thus, if the Lease was actually executed and entered at the time when less than forty percent (40%) of the Lots are leased, but not disclosed to or discovered by the Association until more than forty percent (40%) of the Lots are leased, then the Owner will be in violation of the lease restrictions set forth in subsection 2.12.1 above. Any Owner that leases his Lot in violation of the lease restriction set forth in subsection 2.12.1 above shall be subject to a reasonable fine as determined by the Board of Directors; additionally, the Board shall have standing to and may initiate eviction proceedings to remove the tenant, after first giving the Owner an opportunity to cure the violations.

2.12.8 Liability of Owner for Tenant Conduct. It shall be the obligation of any Owner who rents or leases his Lot to provide the tenant with copies of relevant portions of this declaration. Any Lot owner who leases his property shall be liable for the acts of his tenant. Further the lot owner leasing his Lot shall continue to be bound by all the covenants and restrictions contained in this declaration.

2.12.9 Association's Governing Documents. It shall also be the obligation of any Owner to assure compliance with all of the covenants, conditions and restrictions in the Governing Documents. Notwithstanding the execution of a Lease, the Owner shall be fully responsible and liable to the Association for all violations of the Governing Documents by his tenants, and without limitation, shall be responsible for payment of any

assessments or fines incurred by his tenants. A tenant shall have no obligation to the Association to pay assessments imposed by the Association. The Board shall have the power and standing to initiate eviction proceedings to remove the tenant for violations of the Association's Governing Documents, after first giving the Owner an opportunity to cure the violations.

2.12.10 No Transient or Hotel Purposes. No Owner shall lease his/her Lot for transient motel or hotel purposes. Such purposes include those which are "Airbnb", rental pools, "build for rent community," and similar short-term rentals. Any Lease which is either for a period of less than six (6) months or pursuant to which the lessor provides any services normally associated with a motel or hotel shall be deemed to be for transient or hotel purposes.

2.12.11 No Lease of less Than Entire Lot / Parking Space. No Owner shall lease less than the entire Lot, including but not limited to, basements, rooms, garages, etc. No Owner may lease the exclusive use areas or restricted Common Areas the Owner has the exclusive right to use separate and apart from the Lot to which it is appurtenant, including but not limited to any assigned parking spaces.

2.12.12 Exemptions for Apartment Multi-Family; and Certain Single Family. The leasing restriction set forth in subsection 2.12.1 shall not apply to any (i) Multi-Family Areas established for rental apartment use, and (ii), high density areas where units are built and all common area landscaping and maintenance is maintained by the Association.

2.13 DRAINAGE. Rain gutters, down spouts, drainage systems or the established drainage pattern for a Lot, or Common Area originally installed or established by Declarant or a Neighborhood Builder, may not be altered or interfered with unless an adequate alternative provision is made with the Board's prior written approval, which must be consistent with the geotechnical report produced for each development pod identified in the Area Plan. "Established" drainage means the pattern and drainage Improvements which exist at the time that such Lot, or Common Area is conveyed to a purchaser or Neighborhood Association from Declarant or a Neighborhood Builder, and includes drainage from the Lots, and Common Area and Association Property onto adjacent Lots, Common Area and Association Property.

2.14 WATER SUPPLY SYSTEMS. Individual water supply or water softener systems are prohibited on any Lot or in any unless such system is designed, located, constructed and equipped in accordance with the requirements of any applicable water district, and all other Local Governmental Agencies with jurisdiction.

2.15 VIEW OBSTRUCTIONS. Each Owner acknowledges that any construction or installation by Declarant, any Neighborhood Builder or the Association may impair the view of such Owner and consents to such impairment. Each Owner acknowledges that there are no guaranteed views within the Community, and no Lot is assured the existence or unobstructed continuation of any particular view unless a Supplemental Declaration specifically provides otherwise.

2.16 SOLAR ENERGY SYSTEMS. Each Owner may install a solar energy system which serves his Lot so long as (a) the design and location of the solar energy system meet the requirements of all applicable governmental ordinances, (b) said design and location receive the prior written approval of the Design Review Committee and (c) the solar energy system complies with the Governing Documents, as amended from time to time.

2.17 URBAN WILDLIFE INTERFACE CODE COMPLIANCE. The Association will be responsible for complying with Urban Wildlife Interface Code requirements imposed on the Association Property. Areas subject to the Urban Wildlife Interface Code ("*Protected Areas*") will be designated on exhibits to Supplemental Declarations. Construction or maintenance of structural Improvements in the Protected Areas, construction or maintenance of any combustible structural Improvements on or adjacent to the Protected Areas and installation, maintenance or modification of any landscaping Improvements in the Protected Areas which are inconsistent with any landscape palette required by the City are prohibited. City setback requirements must also be complied with.

2.18 INSTALLATION LANDSCAPING. Front yard landscaping, including wing wall fencing, must be installed within 120 days of occupancy of a Residence, Lot, or Unit. Notwithstanding anything to the contrary contained herein, (i) no Neighborhood Builder or Owner shall be required to install any landscaping prior to issuance of a certificate of occupancy for, or actual occupancy of, any Residence for which such Neighborhood Builder or Owner applies for a certificate or which is sold/conveyed (as applicable) during the starting on October 15 and end on April 15 of each calendar year (the "Landscaping Exemption Period"), and (ii) the homebuyer who takes title to any such Residence during the Landscaping Exemption Period shall have 120-days from the expiration of said exemption period to submit to the Design Review Committee for approval and install front yard landscaping. In addition, front yard landscaping requirements, plan submittal, and approval process shall be governed by the design guidelines of the Neighborhood Association where the Residence, Lot, or Unit is located. If any landscaping or fencing on a Lot has not been installed by Declarant or Neighborhood Builder, the Owner shall then be required to submit landscaping plans to the Design Review Committee within the time frame noted above and complete the installation of any landscaping in accordance with a plan approved by the Design Review Committee and within 120-days from the receipt of approval by the Design Review Committee.

ARTICLE III THE ASSOCIATION

The success of the Community is dependent upon the support and participation of each Owner in its governance and administration. This Declaration and the Association's Articles of Incorporation and Bylaws establish the Association as the mechanism through which each Owner is able to provide that support and participation. This Article briefly describes the organization of the Association, its powers, duties, authorized activities and prohibited activities. (These items are spelled out in detail in the Association's Articles of Incorporation and Bylaws.) This Article also identifies the standards of care used to govern the Community. Inasmuch as the Residential Areas is divided into 3 distinct Phases based on the types of structures involved, it is contemplated that separate sub-associations will be formed for each phase and/or neighborhood- each governing the association property which has been conveyed to it and which relates specifically to it as a neighborhood.

3.1 ORGANIZATION. The homeowner's association organized to manage and maintain the Community is or shall be incorporated under the name of Lexington Townhomes Homeowners Association, Inc., as a corporation not for profit organized under the Utah Revised Nonprofit Corporation Act, Utah Code Ann. §§ 16-6a-101, *et seq.*, as amended.

3.2 DUTIES AND POWERS. The Association has the duties and powers set forth in the Articles, Bylaws, this Declaration and the Supplemental Declarations, which include the general and implied powers of a nonprofit corporation, generally to do all things that a corporation organized under the laws of the State of Utah may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limit upon the exercise of such powers set forth in the Articles, Bylaws, this Declaration and the Supplemental Declarations. Subject to Section 5.3 of this Declaration, the powers and duties of the Association include but are not limited to, the following:

- (a) Adopt and amend Community Guidelines for the use of the Common Areas and Association Property;
- (b) Adopt and amend Design Guidelines consistent with the Master Declaration;
- (c) Adopt and amend budgets for revenues, expenditures and reserves and collect Assessments for Common Expenses from the Owners;
- (d) Hire and discharge managing agents and other employees, agents and independent contractors;
- (e) Subject to Section 12.1.4 of the Declaration, institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Community;
- (f) Make contracts and incur liabilities;
- (g) Regulate the use, maintenance, repair, replacement and modification of Common Areas and Association Property;
- (h) Cause additional Improvements to be made as part of the Common Areas and Association Property;

- (i) Subject to applicable provisions of Utah law, acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property;
- (j) Grant easements, leases, licenses and concessions through or over the Common Areas and Association Property;
- (k) Impose and receive any payments, fees or charges for the use, rental or operation of the Common Areas or Association Property and for services provided to the Owners;
- (l) Impose charges for late payment of Assessments;
- (m) Impose construction penalties when authorized pursuant to the Design Guidelines;
- (n) Impose reasonable fines for violations of the Governing Documents of the Association;
- (o) Impose reasonable charges for the preparation and recordation of any amendments to the Declaration or any statements of unpaid Assessments, and impose reasonable fees for preparing and furnishing the documents for resale of any Lot in the Community.
- (p) Provide for the indemnification of its officers and directors and maintain directors' and officers' liability insurance.
- (q) Assign its right to future income, including the right to receive Assessments for Common Expenses, but only to the extent the Master Declaration expressly so provides;
- (r) Exercise any other powers conferred by the Declaration or By- laws;
- (s) Subject to applicable provisions of Utah law, direct the removal of vehicles improperly parked on the Association Property or Common Areas or improperly parked on any road, street, alley or other

thoroughfare within the Community and subject to the Declaration, in violation of the Governing Documents.

- (t) Exercise any other powers necessary and proper for the governance and operation of the Association.

All of the Association's powers shall be exercised by its Board of Directors except those powers reserved in specific provisions of the Articles, Bylaws, this Declaration or the Supplemental Declarations to the Members, or Design Review Committee.

3.3 SPECIFIC DUTIES AND POWERS. In addition to its general powers and duties, the Association has the specific powers and duties listed in the Articles and Bylaws, some of which are summarized below:

3.3.1 Association Property. The power and duty to accept, maintain and manage the Association Property.

3.3.2 Sewers and Storm Drains. The power and duty to maintain any private sewer systems and any private storm drains or drainage facilities within the Association Property if the drains and systems are not maintained by a Neighborhood Association, a local governmental agency or a utility company.

3.3.3 Utilities. The power and duty to obtain, for the benefit of the Community, all commonly metered water, gas and electric services, and the power but not the duty to provide for refuse collection and other utilities serving Lots if the utilities are not individually metered and are not obtained by an Apartment landlord.

3.3.4 Granting Rights. The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in portions of the Association Property, to the extent any such grant is reasonably required (i) for public or private utilities facilities to serve the Association Property, Common Area and the Lots s, (ii) for purposes of conformity with the as-built location of Improvements installed by Declarant or Neighborhood Builders, (iii) in connection with any lawful lot line adjustment, (iv) for purposes consistent with the intended use of the Community as a master planned community, or (v) for any other purpose permitted under this Declaration. Any easement grants made pursuant to this Section shall not interfere with previously designated utility easements. The Board may de-annex Association Property from the encumbrance of the Declaration in connection with any lot line adjustment.

3.3.5 Telecommunications/Fiber Optic/Related Contracts. The Board shall have the power to enter into, accept an assignment of, or otherwise cause the Master Association to comply with contracts with Telecommunication Service providers and Telecommunication Facilities owners (both, a "Telecommunication Provider"), pursuant

to which the Telecommunication Provider serves as the exclusive provider of Telecommunication Services and/or Telecommunication Facilities to each Apartment, and Lot in the Community. The Board shall also have the power to enter into or contract on behalf of the Association for similar bulk rate service contracts of any nature deemed in the Association's best interests.

3.3.6 Right of Entry. The power but not the duty to enter upon any Lot, or Common Area, as necessary, for the purpose of inspecting any portion of the Community and to enforce the Governing Documents.

3.4 COMMENCEMENT OF ASSOCIATION MAINTENANCE OBLIGATIONS

3.4.1 General Rule. The Association's obligation to maintain the Association Property shall commence on conveyance of such property to the Association. The Declarant or Neighborhood Builder shall be responsible for paying all expenses related to the Association Property which are incurred before or simultaneously with the conveyance of the Master Association Property to the Association. The initial nature, design, quantity, quality and all other attributes of the Association Property shall be determined in Declarant's sole and absolute discretion, provided the same is in compliance with the Master Declaration.

3.4.2 Offers of Dedication. Portions of the Association Property may be or become subject to an unaccepted offer of dedication to a Local Governmental Agency. Association Property subject to such offers of dedication shall be maintained by the Association in the same manner as all other Association Property until the offer of dedication is accepted. Once the dedication is accepted, (i) the dedicated Association Property shall be maintained by the accepting Local Governmental Agency pursuant to the offer of dedication, and (ii) the dedicated Association Property shall no longer constitute a part of the association Property.

3.5 CONVEYANCE OF ASSOCIATION PROPERTY. Within every Phase, conveyance of any Association Property to the Association therein shall occur no later than the last Close of Escrow for all Lots or units in such Phase. The Association must accept title to and maintenance responsibility for each portion of Association Property when title and maintenance responsibility is tendered by Declarant, whether in fee simple, by easement or otherwise, and the Association shall execute each deed and any accompanying escrow instructions if requested to do so by Declarant. No Owner shall interfere with the exercise by the Master Association, Declarant of rights under this Section.

3.6 CONVEYANCE TO SUBASSOCIATIONS. In the event a sub-association is validly formed for the phase as described in Section 3.5 hereinabove and such association, by its articles and Bylaws, agrees to maintain the Parcels which pertain to its particular neighborhood or phase then the Association shall convey such parcel to the neighborhood sub association. Such

sub-association shall be bound by this declaration to all duties which the Association had, prior to the conveyance.

ARTICLE IV DESIGN CONTROL

Jurisdiction over design, construction and aesthetic aspects of the Community is given to the Design Review Committee. The Design Review Committee is a three to five-person committee initially appointed by the Declarant and eventually appointed by the Board of Directors of the Master Association. The Design Review Committee must approve all plans for designer landscaping modifications in the Community before the modifications are made. The Design Review Committee also has the right to review modifications as they are constructed and give final approval of completed modifications.

In addition to establishing the Design Review Committee, this Article establishes the procedures for pre-approving certain Improvements, granting variances and appealing decisions of the Design Review Committee.

4.1 MEMBERS OF COMMITTEE. The Design Review Committee shall be composed of no fewer than three (3) nor more than five (5) members, with the exact number of members set by the Board. The Design Review Committee has the right to recommend adoption of Design Guidelines or amendments thereto, containing standards, guidelines, procedures and rules, against which to examine any request made pursuant to this Article. The Board of Directors shall act on any recommendation made by the Design Review Committee and is responsible for adopting and amending the Design Guidelines. Board members may also serve as Design Review Committee members.

4.2 POWERS AND DUTIES.

4.2.1 General Powers and Duties. The Design Review Committee shall consider and act upon all plans and specifications submitted for its approval under the Governing Documents, including inspection of work in progress to assure conformance with plans approved by the Design Review Committee, and shall perform such other duties as the Board assigns to it. The Design Review Committee shall not have the power to enforce the Governing Documents. This power is reserved to the Board.

4.2.2 Issuance of Design Guidelines. The Board of Directors shall issue, regularly review, and, if necessary, amend its Community and Design Guidelines. The Design Guidelines and all changes thereto must be approved by the Board. The Design Guidelines shall include procedures for submitting plans for approval, may require a fee to accompany each application for approval, and may identify additional factors which the Design Review Committee will consider in reviewing submissions. The Design Review Committee may provide that fees it imposes be uniform, or that fees will be determined in any other reasonable manner, such as by the reasonable cost of consultants or the cost of the construction, alterations or installations contemplated. The Design Review Committee may charge applicants for the cost of consultants the Design Review Committee uses in reviewing applications. The Design Review Committee may require such detail in plans and specifications submitted for its review as it deems proper.

4.2.3 Retaining Consultants. The Board of Directors has the power but not the duty to retain Persons to advise the Design Review Committee in connection with decisions; however, the Design Review Committee does not have the power to delegate its decision- making power.

4.3 RIGHTS OF APPOINTMENT.

4.3.1 By Declarant. The members of the Design Review Committee shall be appointed by Declarant until Close of Escrow for all of the Lots in the Community and the Annexable Area, after which time, members of the Design Review Committee shall be appointed by the Board. Design Review Committee members appointed by the Board must be Members, but Design Review Committee members appointed by Declarant are not subject to this limit. Declarant may, by written assignment, at any time, transfer its right to appoint one or more Design Review Committee Members to the Board.

4.3.2 By the Board. Subject to Section 4.3.1 above, the Board may appoint and remove those members of the Design Review Committee that Declarant does not appoint. Design Review Committee members appointed by the Board shall serve for terms determined by the Board or until their respective successors are appointed.

4.3.3 Notice of Appointment. If a Design Review Committee member is appointed or removed while both Declarant and the Board have rights of appointment, written notice of such appointment or removal must be given by the appointing party to the other party.

4.4 REVIEW OF PLANS AND SPECIFICATIONS.

4.4.1 Improvements Requiring Approval. Even if the Lot, or Common Area is located in a Neighborhood Association, no exterior construction, installation or alteration of an Improvement in the Community by an Owner or a Neighborhood Association may be commenced until the plans and specifications therefor showing the nature, kind, shape, height, width, color, materials and location thereof have been submitted to and approved in writing by the Design Review Committee; however, any Improvement may be repainted without Design Review Committee approval so long as the Improvement is repainted its original color or another color that has been approved by the Design Review Committee.

4.5 APPLICATION PROCEDURE. Until changed by the Board, the address for submission of plans and specifications is the Association's principal office. The form of application used by the Design Review Committee and shall be determined by the Board of Directors and shall include spaces allowing "Adjacent Owners" to sign or initial the application confirming that they have been notified of the application. The Board of Directors shall establish a definition of "Adjacent Owners" in its Design Guidelines for use by the Design Review Committee. Applications will be complete even if all of the Adjacent Owners do not initial the

applications so long as the Applicant states in writing to the Board that the Applicant requested that the Adjacent Owners sign the applications. The Board of Directors shall determine the meaning of Adjacent Owners in the Design Guidelines.

If the Design Review Committee receives plans and specifications it determines are not complete, the Design Review Committee may reject the application. The Design Review Committee shall give notice of its decision and the reasons therefor to the Owner submitting the plans and specifications (“Applicant”) at the address set forth in the application within forty-five (45) days after the Design Review Committee receives all required materials and information. Any application submitted shall be deemed denied if the Design Review Committee fails to transmit written approval or a request for additional information or materials to the Applicant within forty-five (45) days after the Design Review Committee receives all required material. No construction or installation shall commence until written approval is obtained from the Design Review Committee.

4.6 STANDARD FOR APPROVAL. The Design Review Committee shall approve plans and specifications submitted for its approval only if it determines that:

- (a) the installation, construction or alteration contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Community as a whole,
- (b) the appearance of any structure affected thereby will be in harmony with the surrounding structures,
- (c) the installation, construction or alteration will not detract from the beauty and attractiveness of the Association Property or the enjoyment thereof by the Members,
- (d) if applicable, the maintenance thereof will not become a burden on the Association, and
- (e) the installation, construction or alteration is consistent with the Design Guidelines.

The Design Review Committee may condition its approval of plans and specifications for any Improvement upon any of the following:

- (1) the Applicant’s furnishing the Association with security acceptable to the Association against any mechanic’s lien or other encumbrance which may be Recorded against all or any portion of the Community as a result of such work,
- (2) such changes therein as the Design Review Committee considers appropriate,

- (3) (if applicable) the Applicant's agreement to grant appropriate easements to the Association for the maintenance of the Improvements,
- (4) the Applicant's agreement to install (at its sole cost) water, gas, electrical or other utility meters to measure any increased consumption,
- (5) (if applicable) the Applicant's agreement to reimburse the Association for the cost of such maintenance, or
- (6) the Applicant's agreement to complete the proposed work within a stated period of time.

The Applicant shall meet any review or permit requirements of all Local Governmental Agencies and other regulatory agencies having jurisdiction prior to making any construction, installation or alterations permitted hereunder. The Applicant must obtain Design Review Committee approval before submission to the City for a building permit.

4.7 LEXINGTON GREENS DESIGN GUIDELINES. All new construction in the Community must comply with the Lexington Greens Design Guidelines. The Lexington Greens Design Guidelines may be changed or amended at any time at the discretion of the Board of Directors of the Master Association. The Lexington Greens Design Guidelines currently in effect can be obtained from the Master Association at its principal office, located at 8371 South State Street, Suite 202, Sandy, Utah 84070. [ALTERNATIVE: The Lexington Greens Design Guidelines currently in effect can be obtained from the Association at its principal office, located at [8703 Sandy Pkwy, Sandy, UT 84070].]

4.8 MEETINGS OF THE DESIGN REVIEW COMMITTEE. The Design Review Committee shall meet as necessary to perform its duties. The vote or written consent of a majority of the Design Review Committee constitutes an act of the Design Review Committee.

4.9 NO WAIVER OF FUTURE APPROVALS. The Design Review Committee's approval of any plans and specifications for any work done or proposed or in connection with any matter requiring the Design Review Committee's approval does not waive any right to withhold approval of any similar proposals, plans and specifications subsequently submitted for approval.

4.10 COMPENSATION OF MEMBERS. The Design Review Committee's members shall receive no compensation for services rendered, other than reimbursement for reasonable expenses incurred in performing their duties.

4.11 INSPECTION OF WORK AND RIGHT TO ORDER REMEDY. The Design Review Committee or its duly authorized representative may inspect any work for which approval of plans is required under this Article ("Work"). The right to inspect includes the right

to require any Owner to take such action as is necessary to remedy any noncompliance with the Design Review Committee- approved plans consistent with governmental approvals for the Work or with the requirements of the Governing Documents (“Noncompliance”).

4.11.1 Time Limit. The Design Review Committee’s right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the Design Review Committee has received written notice from the Owner that the Work is complete.

4.11.2 Remedy. If an Owner fails to remedy any Noncompliance within sixty (60) days after the date of notification of Noncompliance from the Design Review Committee, the Design Review Committee shall notify the Board in writing of such failure, and the Association shall proceed in accordance with Section 12.1.1 of this Declaration.

4.12 **SCOPE OF REVIEW.** Subject to Section 4.4.3 above, the Design Review Committee shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed construction, installation or alteration solely on the basis of aesthetic considerations, consistency with the Governing Documents, height of landscaping materials at maturity, and the overall benefit or detriment which would result to the immediate vicinity and the Community generally. The Design Review Committee shall consider the aesthetic aspects of the design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features. The Design Review Committee is not responsible for reviewing, nor may its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with law.

4.13 **VARIANCE.** The Design Review Committee may authorize variances from compliance with any of the design and landscaping provisions of the Governing Documents, including restrictions on height, size, materials, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing, must be approved and signed by a majority of the Design Review Committee Members and become effective upon Recordation. If a variance is granted, no violation of the covenants, conditions and restrictions contained in the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance does not waive any of the terms and provisions of the Governing Documents for any purpose except as to the particular property and particular provision hereof covered by the variance, nor does it affect the Owner’s obligation to comply with all laws affecting the use of his Residence, Lot, including all zoning and land use laws of Tooele City as set forth in the Tooele City Development Code or as modified by the General Plan.

4.14 **PRE-APPROVALS.** The Design Review Committee may pre-approve types or classes of construction activities if, in the exercise of the Design Review Committee’s judgment, pre-approval of such types or classes of Improvements is appropriate in carrying out the purposes of the Governing Documents and the type or class of Improvement has been approved by the Board of Directors and is included in the Design Guidelines.

4.15 APPEALS.

4.15.1 Persons Who Have Appeal Rights. Only an Applicant may appeal rejection of an application. The Persons granted appeal rights by this Section 4.15.1 are referred to in Sections 4.15.2 and 4.15.3 as "Appellants."

4.15.2 Appeals of Neighborhood Association Decisions. Appeals (if any) of decisions by the Neighborhood Association's Design Review Committee to the board of directors of the Neighborhood Association shall be in accordance with the appropriate Neighborhood Declaration. Decisions made by a Neighborhood Association's board are appealable to the Master Association Board of Directors. Each Neighborhood Association's board shall adopt procedures for appeals of Design Review Committee decisions to the Neighborhood Association's board.

4.15.3 Appeals of Decisions of Design Review Committee. Subject to the policies and procedures adopted by the Board, the Applicant has the right to appeal decisions by the Design Review Committee to the Board of Directors of the Association. The Design Review Committee is only responsible for ensuring that the Applicant is advised of its decision. Decisions made by the Association Board are not appealable. This limit on appeals from Association Board decisions is not a limit on the Association Board's ability to amend or modify a decision it has issued under circumstances it considers appropriate. The Board shall further adopt policies and procedures for appeals of Design Review Committee decisions. Further appeals may be made to the Master Association's Board.

ARTICLE V OWNERS' MEMBERSHIP AND VOTING RIGHTS

Each Person who purchases a Lot or Unit in the Community becomes a Member of the Association with certain rights and privileges. Membership rights, limits on Memberships and transfer of Memberships, voting rights and rights of co-owners are all described in detail in the Articles and Bylaws. Some Membership information is summarized here. Declarant's veto rights are also described in this Article. Declarant is given the right to veto certain actions by the Association because of Declarant's long term financial and philosophical commitment to development of the Community.

As described in the Articles and Bylaws, the Declarant has the right to appoint a majority of the Directors of the Association. This system is used to allow Declarant, who will be extensively involved in the Community for a long period of time, to ensure that the Association fulfills its purposes. By allowing the Members to elect increasing numbers of representatives to the Board on a gradual basis, the Declarant encourages Member participation and trains the Members in operation of the Association so that when the Declarant is no longer involved with the Community, the Members can effectively operate the Association.

5.1 MEMBERSHIP INFORMATION. Every Owner automatically acquires a Membership and retains the Membership until the Owner's Lot ownership ceases, at which time

such Owner's Membership shall automatically cease. Ownership of a Lot is the sole qualification for Membership. Neither the issuance nor the holding of shares of stock is necessary to evidence Membership in the Association. The classes of voting Membership shall be as set forth and described in the Bylaws. All Memberships in the Association are appurtenant to the Lots and shall not be separated from the Lot to which the Memberships appertain.

5.2 DECLARANT'S VETO RIGHT. So long as Declarant owns any portion of the Community or Annexable Territory, Declarant has a right to veto any of the actions listed in Section 5.3 if proposed to be taken by the Association. This right shall terminate on the date on which Declarant no longer owns or has a Mortgage interest in any portion of the Community or Annexable Territory.

5.3 ACTIONS SUBJECT TO DECLARANT'S VETO. The following actions are subject to Declarant's veto:

5.3.1 Change in Design. Any change in the general, overall design and landscaping design of the Community or the Association Property;

5.3.2 Design Review Committee. All decisions of the Design Review Committee, decisions made on appeal to the Board, and any decision to terminate the Design Review Committee;

5.3.3 Community Guidelines. Adoption of any change to the Community Guidelines or Design Guidelines;

5.3.4 Reduction in Services. Any significant reduction of Association Property services, the amount of Common Assessments or entering into contracts for maintenance or other goods and services benefiting the Association or the Association Property at contract rates which are fifteen percent (15%) or more below the reasonable cost for such maintenance, goods or services;

5.3.5 Special Benefit Areas. Creation of or modification of a Special Benefit Area;

5.3.6 Annexations. Annexation to the Community of real property pursuant to Section 16.5;

5.3.7 Amendments. All proposed amendments to this Declaration.

ARTICLE VI
OWNERS' PROPERTY RIGHTS AND PROPERTY EASEMENTS

Living or working in a master planned community involves sharing and cooperation. The various types of Community and uses in the Community require the creation of special property rights and provisions to address the needs of the variety of Persons living and working in the Community. The property rights acquired by Owners and other Persons are described in this Article along with limits on the exercise of those rights.

6.1 OWNERS' EASEMENT OF ENJOYMENT OVER ASSOCIATION PROPERTY. Every Owner has a right and easement of ingress and egress and of enjoyment in, to and over the Association Property, and such easement is appurtenant to and shall pass with title to every Lot, subject to the following:

6.1.1 Association Exercise of Powers. The Association's exercise of its powers.

6.1.2 Suspension of Privileges. Subject to Utah law, as amended, the Association's right to enforce provisions of the Governing Documents by suspending the Membership rights and other rights and easements of any Owner (and of the Persons deriving rights and easements from an Owner) to use the Association Property. The suspension of an Owner's right to use the Common Area and Master Association Property does not prohibit the Owner, resident, tenant or guest of the Owner from using any vehicular or pedestrian ingress or egress go to or from the Residence including any area used for parking.

6.1.3 Transfer of Property. Subject to the limits established in the Articles and Bylaws and applicable provisions of Utah law, the Association's right to transfer all or a part of the Association Property.

6.1.4 Declarant's Right to Access. The right of Declarant, the Neighborhood Builders and their respective sales agents, representatives and prospective purchasers to the nonexclusive use of the Association Property and Common Area, without cost, for access and use to market and dispose of the Community and the Annexable Territory, until neither Declarant nor any Neighborhood Builder owns any portion of the Community or the Annexable Territory; however, such use shall not unreasonably interfere with the rights of enjoyment of the other Owners established by this Declaration.

6.1.5 Declarant and Neighborhood Builder Rights. The easements, rights and reservations of Declarant and the Neighborhood Builders established in this Declaration.

6.1.6 Restricting Access. The Association's right to reasonably restrict access to slopes and other landscaped areas, maintenance facilities, open space areas and other areas of the Association Property designated by the Board. A Supplemental Declaration may designate exclusive use areas in portions of the Association Property for the exclusive use or maintenance by one or more Owners (such as common driveway areas).

6.1.7 Master Association Property Improvements. The Association's right to maintain, reconstruct and refinish any Improvement on the Association Property.

6.1.8 Access to Public. The Association's right to make portions of the Association Property available for use by Persons who are not residents or Owners in the Community on such terms and at such times as are negotiated by the Association.

6.1.9 Other Easements. The easements reserved in the other Sections of this Article.

6.2 **EASEMENTS FOR VEHICULAR/PEDESTRIAN TRAFFIC.** Declarant reserves, for the benefit of all Owners and the Neighborhood Associations, nonexclusive easements appurtenant to all the Lots, and Common Area in the Community for vehicular and pedestrian traffic over the private streets and walkways within the Association Property, subject to the parking and street restrictions in Article II.

6.3 **EASEMENTS FOR EMERGENCY VEHICULAR ACCESS AND PUBLIC SERVICE PURPOSES.** Declarant reserves easements over the Community for public services of the Local Government Agencies, including the right of law enforcement and fire protection personnel to enter upon any part of the Community for the purpose of carrying out their official duties and for emergency vehicle access.

6.4 **EASEMENTS FOR PRIVATE AND PUBLIC UTILITY PURPOSES.** Declarant reserves easements over the Master Association Property for public and private utility purposes, including the right of any public utility of access over the Association Property for purposes of reading and maintaining meters, and using and maintaining fire hydrants located in the Community. Declarant also reserves reciprocal, nonexclusive easements over all Lots, Common Area and the Association Property, for installation and maintenance of utility Improvements.

6.5 **EASEMENT FOR DECLARANT AND NEIGHBORHOOD BUILDERS.** Declarant reserves for its benefit, for the benefit of the Neighborhood Builders, and their agents, employees, contractors, customers and invitees and for the benefit of their successors and assigns, a nonexclusive easement appurtenant to the Annexable Territory, over the Association Property for access, use and enjoyment, to show the Community and Annexable Territory to prospective purchasers, or to develop, market, sell, lease or otherwise dispose of the Community and the Annexable Territory. Such easement shall continue for so long as Declarant or a Neighborhood Builder owns any portion of the Community or the Territory.

6.6 MASTER TELECOMMUNICATIONS EASEMENTS.

6.6.1 Reservation of Master Telecommunications Easements. The term “Telecommunication Easement Area” used in this Section 6.6 means the Common Area, Association Property and the portion of each Lot with a width measured from each Lot line and extending two feet into the Lot and with a length equal to each Lot line. To the maximum extent allowed by law, Declarant excepts and reserves from the Telecommunication Easement Area and retains the right to transfer and assign exclusive and nonexclusive easements in gross for the purposes of installing, maintaining, operating and relocating Telecommunication Facilities and conducting Telecommunication Services in the Community. Declarant also reserves, together with the right to grant and transfer all or a portion of the same, exclusive and nonexclusive easements in gross over and under the Telecommunication Easement Area for the purpose of access for the Telecommunication Services and to the Telecommunication Facilities. The easements reserved in this Section 6.6 are referred to as “Master Telecommunication Easements.”

6.6.2 Rights in Connection with Master Telecommunication Easements. The holder of any Master Telecommunication Easements has the right to trim and remove landscaping whenever, in easement holder’s reasonable judgment, it is necessary for the convenient and safe use of the Master Telecommunication Easements. The Telecommunication Facilities will not be deemed to be affixed to or a fixture of the Community unless otherwise indicated in a Recorded instrument. No one other than the holder of the Master Telecommunication Easements has the right to access, operate, or move the Telecommunication Facilities.

6.6.3 Limits on Use of the Community. No Person shall alter any Telecommunication Facilities without the prior consent of owner of the Telecommunication Facilities. No Person shall grant or dedicate any easements, licenses or other rights on, across, under or over or affecting the Community that interfere, compete or conflict with the terms of any Recorded grants of Telecommunication Easements. The Association, the Owners and the Sub Associations shall execute and allow to be Recorded against the Community such documents as are reasonably required in connection with exercise or protection of rights as established in a Recorded grant of Master Telecommunication Easements.

6.7 MISCELLANEOUS EASEMENTS. Declarant reserves the following easements, along with the right to transfer them, for the benefit of all of the Community, and for the benefit of all of the Owners:

6.7.1 Drainage. Reciprocal, nonexclusive easements for drainage of water over, across and upon Lots, Common Areas and Association Property (excluding the buildings and areas proposed to include a building) resulting from the normal use of the Lots, Common Areas or Master Association Property.

6.7.2 Maintenance and Repair. Nonexclusive easements over the Community for access to perform necessary maintenance, repair or replacement of any Improvement constructed by Declarant or a Neighborhood Builder.

6.7.3 Easements on Plats. Easements as shown on any Recorded subdivision plat of any portion of the Community.

6.7.4 Encroachments. Easements for minor encroachment and maintenance if any Improvement in a Lot, or Common Area encroaches upon the Association Property or if Association Property Improvements encroach upon any Lot, or Common Area as a result of construction by Declarant or a Neighborhood Builder or as a result of construction or reconstruction approved by the Design Review Committee, repair, shifting, settlement or movement of any portion of the Community.

6.8 DELEGATION OF USE. Any Owner may delegate the Owner's right to use the Master Association Property to such Owner's tenants, contract purchasers or subtenants who reside in such Owner's Residence, subject to reasonable regulation by the Board. Each Multi-Family Area Owner may delegate its right to use the Association Property to tenants or subtenants, and such tenants or subtenants may further delegate their rights to the members of their Family and their guests, subject to the Governing Documents.

6.9 WAIVER OF USE. No Owner may exempt himself from personal liability for Assessments levied by the Association, nor release his Lot from the liens and charges hereof, by waiving use of the Association Property or any facilities thereon or by abandoning such Owner's Lot.

6.10 RIGHT TO GRANT ADDITIONAL EASEMENTS. Declarant reserves easements over the Master Association Property for the exclusive use by an Owner or Owners of contiguous property as a yard, recreational, gardening, or landscaping area. Any such easement may be transferred by Declarant prior to conveying the last Lot in the Community and the Annexable Territory. The transfer must be approved in advance by the Board. The purpose of the easement, the portion of the Master Association Property affected, the Lot to which the easement is appurtenant, and any restrictions on use of the easement area shall be identified in the Recorded document used to transfer the easement. Nothing in this Declaration shall be construed as giving the Declarant the right to alter existing utility easements.

ARTICLE VII ASSESSMENT COLLECTION

One of the obligations of Owners is to contribute financially to support the operations of the Association. The Association funds its operations through collection of different kinds of assessments: Common Assessments, Capital Improvement Assessments, Reconstruction Assessments, Compliance Assessments and Transfer Fees. This Article describes how the different types of assessments are collected and used by the Association. This Article also sets limits on the amount of certain assessments that can be charged to Owners.

7.1 CREATION OF ASSESSMENT OBLIGATION. Declarant and each Neighborhood Builder, for each Lot owned by Declarant or a Neighborhood Builder, covenants to pay, and each Owner of a Lot, is deemed to covenant to pay to the Association (a) Common Assessments, (b) Capital Improvement Assessments, (c) Compliance Assessments, (d)

Reconstruction Assessments and (e) Transfer Fees. All Assessments, together with interest, late fees, costs, transfer fees and reasonable attorneys' fees for the collection thereof, are a charge and shall be and become a lien upon the Lot against which such Assessment is made. Each Assessment, together with interest, late fees, costs, transfer fees and reasonable attorneys' fees, is also the personal obligation of the Owner of the Lot at the time when the Assessment fell due. No Owner may except himself from liability for his Assessment obligation by any waiver of the use or enjoyment of, or by the abandonment of his portion of the Community, but an Owner will not be liable for Assessments accruing after consummation of a transfer of his portion of the Community accomplished in accordance herewith.

7.2 MAINTENANCE FUNDS. The Maintenance Funds may be established as trust accounts at a banking or savings institution and may be combined so long as the funds are treated as separate funds for accounting purposes. The Board shall budget, establish and keep at least the following accounts (the "Maintenance Funds")

7.1.1 General Operating Fund. A General Operating Fund for current expenses of the Association, exclusive of current expenses attributable to the Special Benefit Areas, if any.

7.1.2 General Reserve Fund. General Reserve Fund for the deposit of Reserves, exclusive of Reserves attributable to the Special Benefit Areas, if any.

7.1.3 Special Benefit Area Operating Fund. For each Special Benefit Area, if any, a separate Special Benefit Area Operating Fund for current expenses of the Special Benefit Area.

7.1.4 Special Benefit Area Reserve Fund. For each Special Benefit Area, if any, a separate Special Benefit Area Reserve Fund for the deposit of Reserves attributable to the Special Benefit Area.

7.1.5 Miscellaneous Maintenance Funds. Other Maintenance Funds as the Board deems necessary.

7.2 PURPOSE OF ASSESSMENTS. Assessments and any other amounts deposited into the Maintenance Funds shall be used exclusively to (a) promote the Owners' recreation and welfare, (b) improve and maintain the Association Property, and (c) discharge any other Association obligations. Disbursements from the particular Maintenance Funds shall be limited to specific purposes as follows:

7.2.1 General Operations. Disbursements from the General Operating Fund shall be made for payment of Common Expenses which are not Budgeted to a Special Benefit Area.

7.2.2 General Reserves. Disbursements from the General Reserve Fund shall be made solely for payment of those Reserve expenditures which are not Budgeted to a Special Benefit Area.

7.2.3 Special Benefit Area Operations. Disbursements from each Special Benefit Area Operating Fund shall be made solely for payment of the current operating Common Expenses of the Special Benefit Area for which the fund was created.

7.2.4 Special Benefit Area Reserves. Disbursements from each Special Benefit Area Reserve Fund shall be made solely for payment of Reserve expenditures attributable to the Special Benefit Area for which the fund was created.

7.2.5 Master Association Assessments. The Association may collect and remit amounts owed from each Owner to the Master Association as part of the Association's Assessments. Such amounts may not be counted against the overall or specific limits for Association Assessments as set forth in this Article.

7.3 ASSESSMENT COMPONENTS, RATES AND EXEMPTIONS. Each annual Common Assessment is an aggregate of separate assessments for each of the Maintenance Funds, reflecting an itemization of the amounts of prospective deposits into the General Operating and Reserve Funds, Special Benefit Area Operating and Reserve Funds, and other Maintenance Funds established by the Association. Common Assessments shall be assessed against the Owners of Lots as follows:

7.3.1 Assessment Units. Each Owner shall pay to the Association a proportionate share of all Assessments provided for in this Declaration, as may be amended from time to time, as follows:

(a) **Lots in Residential Area.** Each Lot or unit in a Residential Area (which shall include lots or building pads in phases 1,2,3,4) and improved with Residence or designated for residential use, and the Owner thereof, shall be allocated one (1) Assessment Unit, on the first calendar day of the calendar month following the date of recordation of this Declaration. For the purpose of assessment allocation, townhomes are considered Lots in a Residential Area and shall not be treated as Lots in a Residential Area for the purpose of assessment allocation.

(b) **Other Areas.** If a Phase includes Lots that are not a part of the Residential Area, the Supplemental Declaration annexing that Phase to this Declaration shall designate the number of Assessment Units assigned to each Lot in the area.

(c) **Special Allocation.** Declarant may identify any Common Expense which is an element of the General Assessment Component as subject to a special allocation. The Common Expense and special allocation must be identified in this Declaration or a Supplemental Declaration. A special allocation is made when all Lots subject to assessment are obligated to pay an expense, but the expense is allocated in a proportion based on something other than Assessment Units. If Telecommunication Services are provided through the Master Association, they may be subject to a special allocation.

(d) **Combining Lots.** If two (2) or more Lots owned by an Owner are combined into fewer Lots, the resulting Lot(s) shall be allocated the same number of assessment units as were allocated to the original separate Lots. Accordingly, two (2) or more Lots which might be under the same ownership shall be deemed separate Lots for the purpose of imposing Assessments and determining voting power, regardless of whether such Lots are combined, joined or otherwise used for the same Residence.

7.3.2 General Assessment Component. The General Assessment Component is composed of Common Expenses of the Master Association exclusive of Common Expenses Budgeted to the Special Benefit Areas and shall be allocated among all of the Residential Area Lots, Multi-Family Area Residences, and any other areas in the Community based upon the number of Assessment Units chargeable to each Lot, and Residence. The proportionate share of the General Assessment Component of Common Expenses chargeable to Residential Area and Multi-Family Area Residences, and other area Lots shall be a fraction, the numerator of which shall be the number of Assessment Units allocated to such Residence or Lot, and the denominator of which shall be the total number of Assessment Units allocated to all Residential Area and Multi-Family Area Residences, and other area Lots in the Community.

7.3.3 Special Benefit Area Assessment Component. The Special Benefit Area Assessment Component is that portion of the Common Expenses of the Master Association composed of Special Benefit Area Operating and Reserve Funds Budgeted exclusively to any particular Special Benefit Area and shall be assessed to the Lots s designated in a Supplemental Declaration as Lots to which the exclusive or disproportionate maintenance of such Special Benefit Area has been allocated. Unless otherwise provided in such Supplemental Declaration, the proportionate share of the Special Benefit Area Assessment Component of Common Expenses chargeable to each Lot located in such Special Benefit Area shall be a fraction, the numerator of which shall be the number of Assessment Units allocated to the Lot in the Special Benefit Area, and the denominator of which shall be the total number of Assessment Units allocated to all Lots located in such Special Benefit Area.

7.3.4 Excess Funds. During the term of any subsidy agreement between Declarant or any Neighborhood Builder and the Master Association, all funds remaining in the Maintenance Funds in excess of the amounts used for the operation and payment of Common Expenses of the Community (including Reserves) shall be accumulated to fund future Maintenance Fund deficits. After the termination of any subsidy agreement, the Board of Directors may determine that funds remaining in the Operating Funds, in excess of the amounts used for the operation of the Community, may, in the discretion of the Board, be used to reduce the following year's Common Assessment attributable to such Maintenance Funds or transferred into the Reserve Fund.

7.4 LIMIT ON COMMON ASSESSMENT INCREASES.

7.4.1 Increases in the General Assessment Component. During the Fiscal Year in which Common Assessments commence, the Board may increase the General

Assessment Component by more than twenty percent (20%) of the General Assessment Component disclosed for the Community in the Budget provided by Declarant on the first Close of Escrow in the Property. After the Fiscal Year in which Common Assessments commence, the Board may unilaterally increase the General Assessment Component up to twenty percent (20%) of the General Assessment Component for the immediately preceding Fiscal Year. All other increases must be approved in advance by the Neighborhood Representatives.

7.4.2 Increases in the Special Benefit Area Component. During the Fiscal Year in which Common Assessments commence, the Board may increase any Special Benefit Area Component by more than twenty percent (20%) of the Special Benefit Area Component disclosed for the Community in the Budget provided by Declarant on the first Close of Escrow in the Community. After the Fiscal Year in which Common Assessments commence, the Board may unilaterally increase any Special Benefit Area Component up to twenty percent (20%) of the Special Benefit Area Component for the immediately preceding Fiscal Year. Any other increases must be approved in advance by the Neighborhood Representatives representing the Lots in the Special Benefit Area.

7.4.3 Provisions Applicable to All Components of Common Assessments.

(a) Supplemental Common Assessments. If the Board determines that Common Expenses may be properly paid by collection of a Common Assessment in an amount less than the maximum authorized Common Assessment, the Board may levy a Common Assessment which is less than the maximum authorized amount. If the Board determines that the Common Assessment being collected is or will become inadequate to pay all Common Expenses, the Board shall immediately determine the approximate amount of the inadequacy and levy a supplemental Common Assessment, subject to the limitations described in subsections 7.5.1 and 7.5.2 above.

(b) Automatic Assessment Increases. Notwithstanding any other provisions of this Section 7.5, upon annexation of any portion of the Annexable Territory, the Common Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Association Property. To minimize the need for frequent adjustments in the amount of the Common Assessments during the development of the Community, the Board may level the amount of the Common Assessments invoiced to the Owners an amount calculated to defray the Common Expenses of the Association during the time that Common Assessments are fluctuating due to the periodic annexation of Lots, and Association Property.

7.5 SPECIAL ASSESSMENTS

7.6.1 Authorization. The Board may levy, in any Fiscal Year, a Capital Improvement Assessment or Reconstruction Assessment (each, a "Special Assessment"

for purposes of this Section 7.6) applicable to that Fiscal Year only for purposes authorized in this Declaration or any Supplemental Declaration.

7.6.2 Limit Outside of Special Benefit Areas. No Special Assessment in any Fiscal Year for an Improvement not included in a Special Benefit Area which, if added to the Special Assessments already levied during such Fiscal Year (excluding Special Assessments for Special Benefit Areas), may exceed ten percent (10%) of the Association's Budgeted gross expenses for such Fiscal Year (excluding Budgeted gross expenses for Special Benefit Areas).

7.6.3 Limit for Special Benefit Areas. No Special Assessments in any Fiscal Year for an Improvement in a Special Benefit Area which, if added to the Special Assessments already levied during such Fiscal Year solely for that Special Benefit Area, may exceed ten percent (10%) of the Association's Budgeted gross expenses for the Special Benefit Area for such Fiscal Year.

7.7 COMMENCEMENT OF COMMON ASSESSMENTS. Common Assessments shall commence as to each Lot in any Phase containing Single Family Residential Area on the first day of the first month after the Close of Escrow in such Phase. Assessments shall commence as to each Lot in a Multi-Family Area Phase on the later to occur of (i) the day of the first residential occupancy of any portion of such Multi-Family Area Phase occurs or following the issuance of a temporary or final certificate of occupancy by applicable Local Governmental Agency, whichever occurs first, or (ii) the day such Phase becomes subject to this Declaration. The first Common Assessment for each Phase shall be prorated for the number of months remaining in the Fiscal Year.

7.8 COLLECTION OF COMMON ASSESSMENTS. The Board shall fix the amount of the Common Assessment against each Lot at least thirty (30) days in advance of each Common Assessment period. Common Assessments shall be calculated annually based on a budget adopted at least annually by the Master Association in accordance with any requirements, if any, imposed by Utah law. The Board may at any time ratably increase or decrease the Common Assessments to such levels as shall be reasonably necessary in the judgment of the Association Board to cover the obligations of the Association hereunder, including provision for reasonable reserves for replacements. The Association is obligated to maintain Common Assessments at a level sufficient to enable payment of all costs of maintenance of the Common Areas. Written notice of any change in the amount of any Common Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) days prior to the increased Assessment becoming due. The due dates and late fees shall be established by resolution of the Board. The Association shall, upon demand and for a reasonable charge furnish a certificate setting forth whether the Assessments on a specified Lot are current. The Association may use any method of collecting Assessments allowed by law including charging credit cards or electronic transfers. At the Association's discretion, the additional cost of any method of collection may be collected from the Owner electing the method of collection and does not have to be divided equally among all Owners.

7.9 EXEMPT PROPERTY. The following property is exempt from the obligation to pay Assessments:

7.9.1 Public Property. All portions of the Community dedicated to and accepted by a Local government agency.

7.9.2 Master Association Property. The Master Association Property.

7.9.3 Common Area. All Common Area.

7.9.4 Association Property. The Association Property.

7.9.5 Other. Any areas exempted from Assessments in a Supplemental Declaration.

7.10 CAPITALIZATION OF ASSOCIATION.

7.10.1 Sale other than by Declarant or Neighborhood Builder. Upon the sale of a Lot by an Owner other than the Declarant or a Neighborhood Builder, each new Owner shall pay the Association an amount equal to one half percent (0.5%) of the value of the Lot, inclusive of any improvements (the "**Transfer Fee**").¹ For purposes of the determining the amount of the Transfer Fee, the value of the Pad is the highest of: (i) the value of the Lot, including any improvements, as determined by the property tax assessor on the date of the transfer of title; (ii) the purchase price paid for the Lot, including any improvements; or (iii) the value of the Lot, including any improvements, as determined in an appraisal obtained by the Association (in the Board's discretion). The Transfer Fee shall be collected from the Owner of each Lot at the Close of Escrow for the purchase of the Lot. The Transfer Fee provision shall not be considered as an advance payment of Assessments or a transfer fee. Each Lot Transfer Fee may be collected and then contributed to the Association by the Declarant or Neighborhood Builder. Until paid to the Association, the Transfer Fee due pursuant to this provision shall be considered an unpaid Common Assessment, with a lien on the Declarant's or Neighborhood Builder's unsold Pads.

**ARTICLE VIII
RESIDENTIAL AREA MAINTENANCE OBLIGATIONS**

To protect the aesthetics of the Community, the Declarant has established standards for maintaining the various types of property in the Residential Area. This Article describes these standards.

¹ The Transfer Fee is a "reinvestment fee" pursuant to Utah Code Ann. § 57-1-46(1)(i) (enacted 2010, as amended). Transfer Fees may be used by the Association for (A) common planning, facilities, and infrastructure; (B) obligations arising from an environmental covenant; (C) community programming; (D) resort facilities; (E) open space; (F) recreation amenities; (G) charitable purposes; or (H) association expenses.

8.1 COMMON AREAS. Except as otherwise provided in this Declaration, the Association, or its duly designated agent, shall maintain, repair and replace all Common Areas, including, without limitation, the Improvements and landscaping located thereon in good order and repair and shall otherwise manage and operate all Common Areas as it deems necessary and appropriate.

- (a) The Association, or its duly designated agent, shall maintain all Common Areas including, without limitation, the landscaping located outside of the Residence footprint and on the Common Area in good order and repair and shall otherwise manage and operate all Common Areas as it deems necessary and appropriate. The Association shall have the authority to assess its members for the costs of said maintenance in accordance with the terms of this Declaration. The Association may adopt Rules to add further detail with regard specific landscape maintenance services provided by the Association. Notwithstanding, it is the intent that the Association shall generally provide for all landscaping within the Association.
- (b) Snow Removal. The Association may coordinate with the Master Association with respect to snow removal in the sub-association. The Association may adopt Rules to add further detail with regard specific snow removal services provided by the Association. Notwithstanding, it is the intent that the Master Association and/or Association shall generally provide for all snow removal on the Common Areas. The Association and/or Master Association may make reasonable and prudent efforts to contract with a third party for the removal of snow from Common Areas within the Community. Unless the Board elects to provide snow removal for Limited Common Areas, Owners shall be responsible for such areas and other applicable areas on their Lot, including, but not limited to sidewalks immediately adjacent to or primarily serving an Owner's Lot and parking facilities within their Lot.

8.2 LIMITED COMMON AREAS. Owners shall maintain, repair and replace all Limited Common Areas following necessary approvals from the Association.

8.3 ASSOCIATION MAINTENANCE OF RESIDENCES. The Association shall maintain, repair, and replace the roofs, shingles, rain gutters and downspouts for all buildings (which include the Residences), and the normal wear and tear on exterior wall finishes of the buildings (which include the Residences). All necessary structural repairs of roofs and exterior walls will remain the financial responsibility of the affected Owners but may be organized and/or carried out by the Association, as determined by the Association. Exterior wall maintenance by the Association does not include: doors, doorframes, garage doors, windows, window frames, window wells, skylights, patio doors, or glass of any kind. All other components or Improvements within the Lot, including the Residence, that are not specifically assigned to the Association herein shall be maintained by Owners. It is the obligation of each Owner to maintain their Lot and Improvements located thereon in a clean and sanitary condition and uncluttered in order to preserve and enhance the enjoyment of the Community.

8.4 MAINTENANCE OBLIGATIONS OF OWNERS.

Each Owner of a Lot or Unit in a Residential Area shall maintain his Residence and Lot or Unit in accordance with this Article is explicitly superseded in a Supplemental Declaration.

8.4.1 General Responsibilities - Lots. Each Owner, at the Owner's sole expense, shall maintain and restore all Improvements located on the Owner's Lot and the Lot itself, in a neat, sanitary and attractive condition except those items expressly maintained by the Association. Such maintenance responsibilities include the maintenance of the entire Residence on the Lot, as well as any fence or wall constructed on the Lot along the Lot Line abutting any Association Property. Each Owner whose Lot uses a private drainage system installed by Declarant or a Neighborhood Builder is responsible for its maintenance. Each Owner whose Lot uses a sewer system lateral, water system lateral, or any other utility line exclusively servicing the Lot, is responsible for the maintenance of that portion of the lateral which exclusively serves such Owner's Lot. Each Owner is also responsible for maintaining the mailbox that serves the Owner's Lot. If any Owner permits any improvement which such Owner is responsible for maintaining to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate the Governing Documents, the Board may seek any remedies at law or in equity which it may have. In addition, the Board may, after Notice and Hearing, enter upon such Owner's Lot to perform such maintenance and charge the cost thereof to the Owner as a Compliance Assessment (such Notice to be provided by the Board and the Hearing to be conducted by and before the Board).

8.4.2 General Responsibilities - Units. Each Owner, unless expressly the duty of the Association as further set forth herein, at the Owner's sole expense, shall maintain and restore the Owner's Unit, in a neat, sanitary and attractive condition. If an Owner permits his Unit to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate the Governing Documents, the Board may seek any remedies at law or in equity which it may have. In addition, the Board may, after Notice and Hearing, enter upon such Owner's Unit to perform such maintenance and charge the cost thereof to the Owner as a Compliance Assessment.

8.4.3 Insurance Obligations. Each Owner is also responsible for carrying public liability insurance in the amount such Owner deems desirable to cover such Owner's individual liability for damage to person or property occurring inside such Owner's Residence or elsewhere upon such Owner's Lot or Unit.

8.4.4 Damage to Residences-Reconstruction. If all or any portion of any Lot or Residence is damaged or destroyed by fire or other casualty, the Owner of such Lot shall either (i) rebuild, repair or reconstruct the Lot and the Residence thereon in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the Design Review Committee, or (ii) install landscaping on the Lot without rebuilding the Residence as approved by the Design Review Committee. The Owner of any damaged Lot or Residence and the Design Review Committee shall proceed with all due diligence. The Owner shall cause construction or landscaping to commence within six (6) months after the damage occurs and to be

completed within twelve (12) months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. A transferee of the Lot, which is damaged, or upon which is located a damaged Residence shall commence and complete construction or landscaping in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, no such transferee may be required to commence or complete such construction in less than thirty (30) days from the date such transferee acquired title to the Lot.

8.4.5 Party Walls. Each wall or fence which is placed on the dividing line between the Lots (the "Party Wall") is a party wall. The cost of the initial installation, reasonable maintenance, and subsequent replacement of a Party Wall shall be shared equally by the Owners of the Lots divided by the Party Wall. However, each Owner is responsible for repainting the side of any Party Wall facing his Lot. If a Party Wall is destroyed or damaged, any Owner whose Lot is affected thereby may restore it, and the Owner of the other Lot which is affected thereby shall contribute equally to the cost of restoration. An Owner who by his negligent or willful act causes a Party Wall to require repair or replacement shall bear the whole cost of the necessary repairs or replacement. The right of any Owner to contribution from any other Owner under this Subsection is appurtenant to each Owner's Lot and passes to such Owner's successors in title. An Owner's contribution to the initial installation of a Party Wall shall be made within twelve (12) months from the date of completion of work. All other contributions for maintenance, restoration, or subsequent replacement shall be made within sixty (60) days from completion of work. If an Owner fails to make his contribution, the harmed Owner shall have the right to initiate a legal or equitable action to recover the monies owed. Neither the Master Association nor the Association shall be party to an action to collect contributions for Party Walls.

8.5 MAINTENANCE OBLIGATIONS OF THE ASSOCIATION.

8.5.1 Responsibilities. The Association shall maintain all Improvements on the Association Property in an attractive condition and in good order and repair. The Board shall determine, in its sole discretion, the level and frequency of maintenance of the Association Property. The Association may add or remove any landscaping Improvements to or from the Association Property and shall keep the landscaping thereon free of weeds and disease.

8.5.2 Inspection. The Board shall have the Association Property and all Improvements thereon inspected at least once every year in order to (a) determine whether the Association Property is being maintained in accordance with the standards of maintenance established in the Governing Documents, (b) determine the condition of the Association Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (c) recommend preventive actions to reduce potential maintenance costs to be incurred in the future. The Board shall keep Declarant fully informed of the Board's activities under this Section 8.3.2. The Board may employ such

experts and consultants as necessary to perform the inspection and make the report required by this Section. The Board shall prepare a report of the results of the inspection required by this Section. The report shall be furnished to Owners and to Declarant within the time set forth for furnishing Owners with the Budget. The report must include at least the following:

- (a) a description of the condition of the Association Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) a description of all maintenance, repair and replacement planned for the ensuing Fiscal Year and included in the Budget;
- (c) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) a summary of all reports of inspections performed by any expert or consultant employed by the Board to perform inspections;
- (e) a report of the status of compliance with the maintenance, replacement and repair needs set forth in the inspection report for preceding years; and
- (f) such other matters as the Board deems appropriate.

8.5.3 Damage to Master Association Property. After Notice and Hearing, the Board may levy the cost of any maintenance, repairs and replacements by the Master Association within the Association Property arising out of or caused by the willful or negligent act of an Owner, other Person or any Neighborhood Association as a Compliance Assessment against the responsible Owner, Person or Neighborhood Association.

ARTICLE IX DAMAGE AND CONDEMNATION OF ASSOCIATION PROPERTY

This Article establishes the procedure for repairing or reconstructing damaged Association Property and for obtaining funds from condemnation of Association Property.

Damage to or destruction of all or any portion of the Association Property and condemnation of all or any portion of the Association Property shall be handled in the following manner:

9.1 REPAIR AND RECONSTRUCTION. If the Association Property is damaged or destroyed, the Association shall cause the Association Property to be repaired and reconstructed in accordance with plans and specifications approved by the Board. If the cost of effecting total restoration of the Association Property exceeds the available insurance proceeds, then the Association shall levy a Reconstruction Assessment against the Lots and their

respective Owners equal to the difference between the total restoration cost and the insurance proceeds.

9.2 OWNERS' RESPONSIBILITIES. Each Owner is liable to the Association for all expenses of repairing damage to the Association Property which may be sustained due to the negligence or willful misconduct of said Owner or the Persons deriving their right to use the Association Property from said Owner. The Association may, after Notice and Hearing, (i) charge the Owner for the cost of repairing the damage, (ii) determine whether any claim shall be made upon the insurance kept by the Association and (iii) levy against such Owner a charge equal to any deductible paid and the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner or the Persons for whom such Owner may be responsible. If a Lot is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary.

9.3 EMINENT DOMAIN. If all or any portion of the Association Property is taken by exercise of the power of eminent domain or by purchase in lieu thereof, the award in condemnation shall be paid to the Master Association and deposited in the Operating Fund. No Owner may participate as a party, or otherwise, in any proceedings relating to such condemnation.

ARTICLE X INSURANCE OBLIGATION OF ASSOCIATION

This Article establishes minimum requirements for insurance kept by the Association.

10.1 CASUALTY INSURANCE. The Board shall obtain all risk property insurance for loss or damage to all insurable Improvements on the Association Property and any Master Association Property with an agreed amount endorsement for no less than one hundred percent (100%) of the full replacement cost (new without deduction for depreciation) of the cost of Improvements, fixtures and other property, without deduction for coinsurance, and may obtain insurance against such hazards and casualties as the Association may deem desirable if commercially reasonable and held by reasonably prudent owners of similar properties. The Master Association may also insure any other real or personal property it owns against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance, and the Master Association as an additional insured. The policies insuring the Association Property and Master Association Property must be written in the name of, and the proceeds thereof must be payable to the Association. Unless the applicable insurance policy provides for a different procedure for filing claims, all claims made under such policy must be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made.

10.2 INSURANCE OBLIGATIONS OF OWNERS. Each Owner is responsible for insuring his personal property and all other property and Improvements within his Lot as required by the applicable Supplemental Declaration or this Declaration. Such policies shall not adversely

affect or diminish any coverage under any insurance obtained by or on behalf of the Association. Duplicate copies of such other policies shall be deposited with the Board upon the Board's request. If any loss intended to be covered by insurance carried by or on behalf of the Association occurs and the proceeds payable thereunder are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of such insurance to the Association, to the extent of such reduction.

10.3 WAIVER OF SUBROGATION. All policies of property insurance held by the Association or the Owners must provide, if available on commercially reasonable terms, for a waiver of: (a) any defense based on coinsurance, and (b) any claim for subrogation and other rights of recovery as they might have against each other and their respective agents, employees, invitees and insurers with respect to all perils covered by whatever casualty insurance is in effect. As to each policy of insurance the Association keeps which will not be voided or impaired thereby, the Association waives and releases all claims against the Board, the Owners, the Manager, Declarant, the Neighborhood Builders and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

10.4 LIABILITY AND OTHER INSURANCE. The Association shall obtain commercial general liability insurance, including coverage for medical payments and malicious mischief, in such limits as it deems desirable, insuring against liability for bodily injury, death and property damage arising from the Association's activities or with respect to property the Association maintains or is required to maintain including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, the Board and Manager, against liability in connection with the Association Property or the Master Association Property. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity insurance and other insurance as it deems advisable, insuring the Board, the Association's officers and the Manager against liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or on any committee thereof. However, fidelity insurance coverage which names the Association as obligee must be obtained by or on behalf of the Association for any Person handling the Master Association funds, including, but not limited to, Master Association officers, directors, employees and agents and Manager employees, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the Master Association's or Manager's custody during the term of the insurance. The aggregate amount of such insurance coverage may not be less than one-fourth (1/4) of the Annual Common Assessments on all Lots in the Community, plus reserve funds. In addition, the Master Association shall continuously keep in effect such casualty, flood and liability insurance and fidelity insurance coverage meeting the requirements for developments such as the Community established by FNMA, GNMA and FHLMC, so long as any of them is a Mortgagee or an Owner of a Lot in the Community, except to the extent such coverage is not reasonably available or has been waived in writing.

10.5 NOTICE OF EXPIRATION REQUIREMENTS. If available, each insurance policy the Association keeps must contain a provision that said policy may not be canceled,

terminated, materially modified or allowed to expire by its terms, without ten (10) to thirty (30) days' prior written notice to the Board, Declarant, and to each Owner and Mortgagee, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice, and every other Person in interest who requests such notice of the insurer.

ARTICLE XI RIGHTS OF MORTGAGEES

11.1 GENERAL PROTECTIONS. Notwithstanding any other provision of this Declaration, no amendment or violation of the Master Declaration defeats or renders invalid the rights of the Beneficiary under any Mortgage made in good faith and for value, provided that after the foreclosure of any such Mortgage such Lot will remain subject to this Declaration. For purposes of the Governing Documents, "first Mortgage" means a Mortgage with first priority over other Mortgages on a Lot, and "first Mortgagee" means the Mortgagee of a first Mortgage. For purposes of any provisions of the Governing Documents which require the vote or approval of a specified percentage of first Mortgagees, such vote or approval is determined based upon one (1) vote for each Lot encumbered by each such first Mortgage. In order to induce VA, FHA, FHLMC, GNMA and FNMA to participate in the financing of the sale of Lots, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of this Declaration or any other of the Governing Documents, these added provisions control):

11.2 WRITTEN NOTIFICATION. Each Mortgagee, insurer and guarantor of a first Mortgage encumbering at least one Lot, upon filing a written request for notification with the Board, is entitled to written notification from the Association of:

- (a) any condemnation or casualty loss which affects either a material portion of the Community or the Lots s securing the respective first Mortgage; and
- (b) any delinquency of sixty (60) days or more in the performance of any obligation under the Governing Documents, including the payment of Assessments or charges owed by the Owner(s) of the Lots s securing the respective first Mortgage, which notice each Owner consents to and authorizes; and
- (c) a lapse, cancellation, or material modification of any policy of insurance or fidelity insurance kept by the Association; and
- (d) any abandonment or termination of the Master Association.

11.3 RIGHT OF FIRST REFUSAL. Each Owner, including each first Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

11.4 ACQUISITION BY MORTGAGEE. Each first Mortgagee of a Mortgage encumbering any Lot who obtains title to such Lot pursuant to the remedies provided in such

Mortgage or by foreclosure of such Mortgage shall take title to such Lot free of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such Mortgagee acquires title to such Lot.

11.5 RIGHTS UPON REQUEST. All Beneficiaries, insurers and guarantors of first Mortgages, upon written request to the Association, shall have the right to:

- (a) examine current copies of the Association's books, records and financial statements and the Governing Documents during normal business hours; and
- (b) receive written notice of all meetings of Neighborhood Representatives; and
- (c) designate in writing a representative who shall be authorized to attend all meetings of Neighborhood Representatives or Board.

11.6 PAYMENTS OF DELINQUENT AMOUNTS. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for Master Association Property and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Master Association.

11.7 CONTRACTS. The Board may enter into such contracts or agreements on behalf of the Master Association as are required in order to satisfy the guidelines or requirements of VA, FHA, FHLMC, FNMA, GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Lots and. Each Owner agrees that it will benefit the Master Association and its Members, as a class of potential Mortgage borrowers and potential sellers of their Lots, if such agencies approve the Community as a qualifying subdivision under their respective policies, Community Guidelines. Each Owner authorizes his Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Lot.

ARTICLE XII ENFORCEMENT

This Article establishes procedures for enforcing the Governing Documents, collecting delinquent assessments and resolving disputes with the Declarant.

12.1 ENFORCEMENT OF RESTRICTIONS. All disputes arising under the Governing Documents, other than those described in Section 12.2, Section 12.4, shall be resolved as follows:

12.1.1 Violations Identified by the Association. If the Board determines that there is a violation of the Governing Documents, or the Design Review Committee determines that an Improvement which is the responsibility of an Owner needs installation, maintenance, repair, restoration or painting, then the Board shall give written

notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) the length of time the Owner has to remedy the violation including, if applicable, the length of time the Owner has to submit plans to the Design Review Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Design Review Committee. If an Owner does not perform such corrective action as is required by the Board within the allotted time, the Board, after Notice and Hearing, may remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Compliance Assessment.

If the violation involves nonpayment of an Assessment, then the Board may collect such delinquent Assessment pursuant to the procedures set forth in Section 12.2.

12.1.2 Violations Identified by an Owner. If an Owner alleges that another Owner or other Person is violating the Governing Documents (other than nonpayment of an Assessment), the complaining Owner must first submit the matter to the Board for Notice and Hearing before the complaining Owner may resort to litigation.

12.1.3 Legal Proceedings. Failure of an Owner, or any other Person, to comply with any of the terms of the Governing Documents is grounds for relief which may include imposition of a Compliance Assessment and/or an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; however, the procedures established in Sections 12.1.1 and 12.1.2 must first be followed, if they are applicable.

12.1.4 Limitation on Expenditures. The Association may not incur litigation expenses, including attorneys' fees, or borrow money to fund litigation, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Association first obtains the consent of a majority of the Members (excluding the voting power of any Owner who would be a defendant in such proceedings). Such approval is not necessary if the legal proceedings are initiated (i) to enforce any provision of the Governing Documents, (ii) to collect any unpaid Assessments levied pursuant to the Governing Documents, (iii) to enforce a contract with a vendor, (iv) for a claim, the total value of which is less than Two Hundred Thousand Dollars (\$200,000), (v) as a cross-complaint or counter-claim in litigation to which the Master Association is already a party, or (vi) to protect the health, safety and welfare of the Members of the Association.

If the Association decides to use or transfer reserve funds or borrow funds to pay for any litigation, the Master Association must notify its Members of the decision by mail. Such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the reserve funds will be replaced, or the loan will be repaid, and a proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation which will be available at the Association's office. The accounting shall be updated monthly.

12.1.5 Additional Remedies. The Board may adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner for the failure of such Owner, or of a resident of or visitor to such Owner's Lot to comply

with the Governing Documents. The Board may Record a Notice of Noncompliance against an Owner's Lot for any violation of the Governing Documents, if permitted by law.

12.1.6 No Waiver. Failure to enforce any provision of the Declaration hereof does not waive the right to enforce that provision, or any other provision of the Declaration.

12.1.7 Right to Enforce. The Board or any Owner (not at the time in default hereunder) may enforce the Governing Documents as described in this Article. Each remedy provided for in the Governing Documents is cumulative and not exclusive or exhaustive.

12.2 NONPAYMENT OF ASSESSMENTS.

12.2.1 Remedies. Any installment of an Assessment is delinquent if not paid within ten (10) days of the due date established by the Board. Any Assessment installment not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges as provided in this Declaration bears interest at the maximum rate permitted by law commencing from the date the Assessment becomes due until paid. If an Assessment is payable in Installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The Board may also require the delinquent Owner to pay a late charge as established in the Community Guidelines.

The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot. The Association may record a notice of lien against the delinquent Lot. The Association need not accept any tender of a partial payment of an Assessment installment and all costs and attorneys' fees attributable thereto, and any acceptance of any such tender does not waive the Association's right to demand and receive full payments thereafter.

12.2.2 The Association's Lien

(a) Priority of Association Lien. Subject to any contrary provision in Utah Law, a lien in favor of the Association pursuant to this Declaration for any unpaid Assessments, is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances (other than first Mortgages) recorded before recordation of this Declaration; (2) a first Mortgage on the Lot recorded before the date on which the Assessment sought to be enforced became delinquent, except that the Master Association's lien is prior to such first Mortgage to the extent and in the amount of the Common Assessments for Common Expenses based on the periodic budget adopted by the Association which would have become due, in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien; and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This provision does not affect the priority of a lien for other Assessments made by the Association.

(b) Recording of Lien. Recording of the Master Declaration constitutes record notice and perfection of the Association's Lien. Further recording of a claim of lien for Assessment under this provision is not required.

(c) Limitation of Lien/Effect of Bankruptcy. A lien for unpaid Assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the Assessment becomes due, except that if an Owner of a Lot subject to a lien files a petition for relief under the United States Bankruptcy Code ("Bankruptcy Code"), the time period for instituting proceedings to enforce the Association's lien shall be tolled until the later of the time period allowed hereunder or thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

12.2.3 Foreclosure Sale. The Association may exercise any non-judicial remedy available under Utah law to foreclose the lien, including exercising a private power of sale. A sale to foreclose an Association lien may be conducted in the same manner, prescribed by Utah law, as foreclosures of deeds of trust. The Association, through duly authorized agents, may bid on the Lot at foreclosure sale, and acquire and hold, lease, encumber and convey the same. Upon completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of the Lot during any period of continued occupancy by the defaulting Owner or any Persons claiming under the defaulting Owner. Unless otherwise provided by Utah law, there is no right of redemption by the former Owner after the non-judicial foreclosure sale is completed by the Association.

12.2.4 Cumulative Remedies. All remedies the Association has available in connection with collection of delinquent Assessments are cumulative and not exclusive. A suit to recover a money judgment against an Owner may be maintained without foreclosing or waiving the Association's lien and right to foreclose the lien.

12.2.5 Assessments After Foreclosure. After a Mortgagee or other Person obtains title to a Lot by judicial foreclosure or by means set forth in a Mortgage, the Lot shall remain subject to the Declaration and the payment of all installments of Assessments accruing after the date the Mortgagee or other Person obtains title.

12.2.6 Receivers. In addition to the foreclosure and other remedies granted the Association in this Declaration, each Owner conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Lot, subject to the right, power and authority of the Association to collect and apply such rents, issues and profits to any delinquent Assessments owed by such Owner, reserving to the Owner the right, prior to any default by the Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they become due and payable. Subject to Utah law, as amended, upon any such default the Association may, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien

described in this Declaration, (a) enter and take possession of the Lot, (b) in the Association's name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses, to any delinquencies of the Owner hereunder, and in such order as the Association may determine. The entering upon and taking possession of the Lot, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

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

12.2.8 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

12.2.9 Appointment of Trustee. The Declarant hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, with power of sale, the Lot, and all Improvements to the Lot for the purpose of securing payment of assessments under the terms of this Declaration.

12.3 DISPUTES WITH DECLARANT PARTIES. Any disputes between (a) the Association, or any Owners, and (b) the Declarant, any Neighborhood Builder, or any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of the Declarant or any Neighborhood Builder (collectively "Declarant Parties") arising under this Declaration or relating to the Community, including disputes regarding latent or patent construction defects, but excluding actions taken by the Association against Declarant to collect delinquent Assessments, and disputes solely between Declarant and a Neighborhood Builder involving contracts for purchase and sale of any portion of the Community, where the amount in controversy is greater than Five Thousand Dollars (\$5,000), shall be subject to the following provisions:

(a) Notice. Any Person with a Dispute shall give written notice of the Dispute by personal or mail service as authorized by the Utah Rules of Civil Procedure to the party to whom the Dispute is directed ("Respondent") describing the nature of the Dispute and any proposed remedy (the "Dispute Notice").

(b) Right to Inspect and Correct. Commencing on the date the Dispute Notice is delivered to the Respondent and continuing until the Dispute is resolved, the Respondent and its representatives have the right to (i) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, (ii) enter the Community to inspect any areas that are subject to the Dispute, and (iii) conduct inspections and testing (including destructive or invasive testing) in a manner deemed appropriate by the Respondent. If Respondent elects to take any corrective action, Respondent and its representatives shall be provided full access to the Community to take and complete the corrective action.

Respondent is not obligated to take any corrective action. Respondent, with the consent of Declarant, has the right to select the corrective action Respondent believes is appropriate.

(c) Mediation. If the Dispute is not resolved within ninety (90) days after the Respondent receives the Dispute Notice, any party may submit the Dispute to mediation by delivering a request for mediation (“Mediation Notice”) in the same manner as allowed for delivery of the Dispute Notice. The Dispute shall be mediated pursuant to (i) the American Arbitration Association (“AAA”) mediation procedures in existence when the Dispute Notice is delivered, as modified by this Section, or (ii) the mediation procedures of any successor to the AAA in existence when the Dispute Notice is delivered, as modified by this Section, or (iii) mediation procedures approved by the parties of any entity offering mediation services that is acceptable to the parties to the Dispute (“Parties”). Except as provided in Section 12.3(d), no Person shall commence litigation regarding a Dispute without complying with this Section 12.3.

(i) Selection of Mediator. The mediator shall be selected within sixty (60) days from delivery of the Mediation Notice. The mediator shall be selected by mutual agreement of the Parties. If the parties cannot agree on a mediator, the mediator shall be selected by the entity providing the mediation service. No Person shall serve as a mediator in any Dispute in which the Person has any financial or personal interest in the result of the mediation, except by the written consent of all Parties. Before accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

(ii) Position Letter; Pre-Mediation Conference. No later than sixty (60) days after selection of the mediator, each party to the Dispute shall submit a letter (“Position Statement”) containing (i) a description of the party’s position concerning the issues that need to be resolved, (ii) a detailed description of the defects allegedly at issue, and (iii) a suggested plan of repair, remediation or correction. The mediator may schedule a pre-mediation conference. All Parties shall attend unless otherwise mutually agreed. The mediation shall be commenced within twenty (20) days after submittal of all Position Statements and shall be concluded within fifteen (15) days after the mediation began unless either (a) the mediator extends the mediation period, or (b) the Parties mutually agree to extend the mediation period. The mediation shall be held in the City or another place mutually acceptable to the parties.

(iii) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate to achieve the goal of settling the Dispute. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement. The mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the parties agree to and do assume the expenses of obtaining such advice. The mediator shall not have the authority to impose a settlement on the parties.

(iv) Application of Utah Rules of Evidence. The Utah Rules of Evidence shall be applicable to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be governed by these sections, including the sections which preclude use of material in future proceedings and the sections which provide for confidentiality of material.

(v) Parties Permitted at Mediation. Persons other than the parties, their liability insurers, Declarant, attorneys for the parties, the liability insurers and Declarant and the mediator may attend mediation sessions only with the permission of the parties and the consent of the mediator. Declarant has the right to attend the mediation session even if Declarant is not one of the parties.

(vi) Record. There shall be no stenographic, video or audio record of the mediation process.

(vii) Expenses. Each party shall bear its own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation including the fees charged by the mediator and the cost of any proof or expert advice requested by the mediator shall be shared equally by the parties unless they agree otherwise. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

(d) Judicial Reference. If a Dispute remains unresolved after the mediation required by Section 12.3(c) is completed, any of the Parties may file a lawsuit, provided that the Association, must obtain the vote or written consent of Owners other than Declarant who represent not less than sixty-seven percent (67%) of the voting power (excluding the voting power of Declarant) of the Association prior to filing a lawsuit in a Dispute with Declarant or a Declarant Party. All lawsuits regarding Disputes must be resolved by binding arbitration, as modified by this Section 12.3(d). The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding. The Dispute shall be arbitrated pursuant to (i) the American Arbitration Association ("AAA") arbitration procedures in existence when the Dispute Notice is delivered, as modified by this Section, or (ii) the arbitration procedures of any successor to the AAA in existence when the Dispute Notice is delivered, as modified by this Section, or (iii) arbitration procedures approved by the parties of any entity offering mediation services that is acceptable to the parties to the Dispute ("Parties").

(i) Place. The proceedings shall be heard in Salt Lake City, Utah.

(ii) Arbitrators. The parties to the arbitration proceeding shall meet to select the arbitrators no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. The arbitrators shall be selected by mutual agreement of the Parties. No Person shall serve as an arbitrator in any Dispute in which the Person has any financial or personal interest in the result of the arbitration, except by the written consent of all Parties. Before

accepting any appointment, the prospective arbitrators shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the arbitration process. Any dispute regarding selection of the arbitrators shall be resolved by the court in which the complaint is filed.

(iii) Commencement and Timing of Proceeding. The referee shall commence the proceeding at the earliest convenient date and shall conduct the proceeding without undue delay.

(iv) Record. A stenographic record of the hearing shall be made which shall remain confidential except as may be necessary for post-hearing motions and any appeals.

(v) Limit on Remedies/Prohibition on the Award of Punitive Damages. The arbitrators may not award punitive damages. In addition, as further provided below, the right to punitive damages is waived by the parties. The arbitrators may grant all other legal and equitable remedies and award compensatory damages in the arbitration proceeding.

(vi) Appeals. The decision of the referee shall be subject to appeal in the same manner as if the Dispute had been tried by the court.

(vii) Expenses. Each party shall bear its own attorneys' fees and costs incurred in connection with the arbitration proceeding. All other expenses of the arbitration proceeding including the cost of the stenographic record shall be shared equally by the parties to the arbitration proceeding unless they agree otherwise. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

(e) Statutes of Limitation. Nothing in this Section 12.3 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Declarant Parties, the Association, any other Neighborhood Association and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 12.3.

(f) Agreement to Dispute Resolution; Waivers of Jury Trial and Award of Punitive Damages. Declarant, the Master Association and each Owner agree to use the procedures established in this Section 12.3 to resolve all Disputes and waive their rights to resolve Dispute in any other manner. Declarant, the Association, each other Neighborhood Association and each Owner acknowledge that by agreeing to resolve all disputes as provided in this Section 12.3, they are giving up their right to have Disputes tried before a jury and waiving their rights to an award of punitive damages.

ARTICLE XIII DISCLOSURES

Because much of the information included in this Article has been obtained from other sources (e.g., governmental and other public agencies and public records) and because much of the information is subject to change for reasons beyond the control of Declarant, the Neighborhood Builders and the Master Association, the Declarant, the Neighborhood Builders and the Association do not guarantee the accuracy or completeness of any of the information disclosed in this Article. Further, neither Declarant nor any Neighborhood Builder nor the Association undertakes any obligation to advise Owners or prospective purchasers of any changes affecting the disclosures in this Article. All persons should make specific inquiries or investigations to determine the current status of the following information.

13.1 NO REPRESENTATIONS OR WARRANTIES. No representations or warranties of any kind, express or implied, have been given or made by Declarant, the Neighborhood Builders, the Master Association or their agents or employees in connection with the Community, its physical condition, zoning, compliance with laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation as a master planned community, except (i) as specifically and expressly set forth in this Declaration, and (ii) as expressly agreed in writing between the parties to the contrary.

13.2 OFFERS OF DEDICATION. Certain areas of the Association Property are or will be subject to irrevocable offers of dedication as shown on the recorded plats for the Community. The Local Governmental Agency may accept an offer of dedication and assume responsibility for these portions of the Association Property at any time.

13.3 NONLIABILITY. Each Owner acknowledges and agrees that neither the Declarant nor any Neighborhood Builder nor the Association shall be liable or responsible for any damage to Improvements that have been constructed or modified by another Owner or that is the result of Improvements that have been constructed or modified by another Owner. Improvements may not be installed, constructed or modified without the assistance of qualified consultants.

13.4 INTRANET. Declarant may establish a community-wide intranet network for the Community (the "Intranet"). If established, the Intranet will most likely be developed, hosted, maintained, serviced and updated by a provider pursuant to a contract to be entered into between the Association and (directly or indirectly) such provider. The Declarant, its affiliates and related parties may have an ownership interest of any kind in the provider. It is the intent as of the date of recordation of this Declaration that, if established, such Intranet shall provide "peer to peer" connectivity among Owners and Owners and occupants of the Community with appropriate firewall protections between commercial users and residents of the Community. If established, users of the Intranet may have access to, and be able to engage in commercial transactions with merchants or others who are participating in such Intranet through a local area network without having to access the Internet. Costs incurred by the Association in developing, maintaining and operating the Intranet will most likely be included in the Assessments payable to the Association by each Owner. If such costs are included, each Owner will be responsible for paying his or her portion of Assessments attributable to the Intranet regardless of whether such Owner intends to or actually uses or derives any significant benefit or consideration from the services offered by such Intranet; provided, however, that property located within a Multi-Family Area may be exempted

from paying such portion in the Supplemental Declaration therefor executed by Declarant. The development and establishment of the Intranet will be dependent on installation and integration of sophisticated Telecommunications Facilities, and accordingly, no representations or warranties are made in this Declaration by the Declarant or the Association regarding the actual network that may ultimately be established for the Community.

13.5 NATURE OF THE COMMUNITY. The Community are a master planned community being developed in accordance with rights granted to Declarant by the Area Plan and/or the Development Agreement. The Community is planned to be composed of many housing types and possibly other properties. Many, but possibly not all, of these properties will be encumbered by the Declaration and managed by the Association. The Declarant, in its discretion, will determine which properties are annexed to the real property encumbered by the Master Declaration and which properties are developed separately.

Completion of the Community will take many years. Buyer preferences, economic conditions and government approvals can change. Accordingly, Declarant cannot guarantee that the Community will be completed in the form originally proposed or in accordance with any interim modifications of the original planning concept. Declarant gives no assurance that any area presently planned for a particular housing type or use will actually be developed with that housing type or use or in accordance with any planned time schedule. Declarant has the right to build different housing types and different uses in connection with exercising Declarant's rights granted in the Area Plan and/or the Development Agreement, all of which can be amended but only with Declarant's consent and approval of the City. Declarant also has the right to construct energy projects at the higher elevations of the Community.

The form, nature and extent of all future development of both private and public facilities within the Community is subject to regulation by all applicable government agencies, which may or may not exercise their authority in accordance with the desires of Declarant and which are, in any case, not within the control of the Declarant. Accordingly, all plans, models, displays and other materials are illustrative only and do not constitute a representation on the part of Declarant that any particular improvements will, in fact, be built or, if built, that such Improvements will be of the type and in the location shown in any plans, models, displays and other materials.

Declarant only intends to sell to and buyers who (a) support construction and development of the Community, (b) understand that Declarant has the right to make changes to any plans for the Community or the Annexable Area without the consent of the Owners and buyers, (c) understand that Declarant has the right to exercise all rights granted under the Area Plan and/or the Development Agreement, in Declarant's sole discretion, and (d) agree that Declarant has relied on their representation to Declarant that they understand and agree to everything listed in this sentence. Owners agree that they will support and not oppose (a) future applications for government approvals or future development of the Community, which are consistent with Declarant's plan, as modified from time to time, and (b) future exercise of Declarant's rights granted under the Area Plan and/or the Development Agreement.

13.6 ASSOCIATION BUDGETS. Initial Association budgets are based on information available at the date of preparation. Budgets will change from time to time due to changing

maintenance requirements, geographic impacts that are not anticipated when the budgets were prepared, the demand by Owners for different, higher, or enhanced services or standards of maintenance and/or unforeseen or unanticipated circumstances. In addition, actual maintenance costs may vary from the costs allocated in the Declarant's Budget; therefore, there is no representation that the initial budgets reflect actual costs of operating the Association.

ARTICLE XIV GENERAL PROVISIONS

Communities are dynamic and constantly evolving as circumstances, technology, needs, desires and laws change, and as the surrounding area changes. The Community and the Governing Documents must be able to adapt to these changes while protecting the things that make the Community unique. This Article includes provisions that will allow the Community to adapt to different changes.

14.1 TERM. This Declaration continues in full force unless a Declaration of Termination satisfying the requirements of an amendment to the Declaration as set forth in Section 14.2 is Recorded.

14.2 TERMINATION AND AMENDMENT. Notice of the subject matter of a proposed amendment to, or termination of, this Declaration in reasonably detailed form shall be included in the notice of any meeting or election of the Association and Master Association at which a proposed amendment or termination is to be considered.

14.2.1 City Approval. N/A.

14.2.2 Member Approval. Any amendment terminating this Declaration or the Association, and any amendment that, by law, cannot be adopted with the approval of the Neighborhood Representatives, must be approved by the Members.

14.2.3 Mortgagee Approval. In addition to the required notice and consent of Members and Declarant, the Beneficiaries of fifty-one percent (51%) of the first Mortgages who have requested the Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees must approve the following amendments to the Governing Documents.

- (a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers and guarantors of first Mortgages in this Declaration.
- (b) Any amendment which would require a Mortgagee after it has acquired a Lot through foreclosure to pay more than its proportionate share of any unpaid Assessment accruing before such foreclosure.

- (c) Any amendment which would or could result in a Mortgage being canceled by forfeiture or in a not being separately assessed for tax purposes.
- (d) Any amendment relating to the insurance provisions as set out in Article X, or to the application of insurance proceeds as set out in Article IX, or to the disposition of any money received in any taking under condemnation proceedings.
- (e) Any amendment which would or could result in partition or subdivision of a in any manner inconsistent with this Declaration.
- (f) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Lot is proposed to be sold, transferred or otherwise conveyed.
- (g) Any amendment concerning:
 - (A) Reductions in reserves for maintenance, repair and replacement of the Association Property;
 - (B) Redefinition of boundaries of any unit;
 - (C) Reallocation of interests in the Association Property or rights to its use;
 - (D) Convertibility of Association Property into units into Association Property;
 - (E) Expansion or contraction of the Community or addition, annexation or de-annexation of real property to or from the Community;
 - (F) Restoration or repair of the Community (after damage or partial condemnation) in a manner other than that specified in this Declaration;

14.2.4 Termination. No termination of this Declaration is effective unless it is also approved in advance (a) by the review of the Tooele City Planning Commission and consent of the Tooele City Council and (b) either by fifty-one percent (51%) of the Beneficiaries of the first Mortgages on all of the Lots in the Community who have submitted a written request to the Association that they be notified of proposed actions requiring the consent of a specified percentage of such Beneficiaries (if termination is proposed due to substantial destruction or condemnation of the Community) or by sixty-seven percent (67%) of such Beneficiaries (if termination is for reasons other than such substantial destruction or condemnation).

14.2.5 Notice to Mortgagees. Each Mortgagee of a first Mortgage which is sent written notice of a proposed amendment or termination of this Declaration by certified or registered mail with a return receipt requested shall be deemed to have approved the amendment or termination if the Mortgagee fails to submit a response to the notice within thirty (30) days after the date of the mailing receipt.

14.2.6 Certification of Amendments. A copy of each amendment (excluding those amendments made pursuant to Section 14.2.7 and Section 14.2.8) shall be signed by at least two (2) Association officers. The amendment will be effective when a Certificate of Amendment is Recorded. The Certificate signed and sworn to by at least two (2) officers of the Association that the requisite number of Owners have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, is conclusive evidence of that fact. The Association shall keep in its files the record of all such votes or written consents for at least four (4) years. The certificate of any termination or amendment which requires the written consent of any of the Beneficiaries of first Mortgages must include a certification that the requisite approval of such first Mortgagees has been obtained. The certificate of any termination or amendment which requires the written consent of Declarant or is subject to Declarant's veto right must include Declarant's signature. The certificate of any termination or amendment which requires the written consent of Master Declarant or Master Association or is subject to Master Declarant's or Master Association's veto right must include Master Declarant's or Master Association's signature.

14.2.7 Amendment Before First Close of Escrow. Notwithstanding any other provisions of this Section 14.2, at any time prior to the first Close of Escrow for a Lot in the Residential Area, Declarant may amend or terminate all or a portion of this Declaration by (a) obtaining the review of the Tooele City Planning Commission and consent of the Tooele City Council; (b) obtaining the review and consent of the Master Declarant or Master Association; and (c) Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant alone.

14.2.8 Other Amendments. Notwithstanding any other provisions of this Section 14.2, Declarant (for so long as Declarant or a Neighborhood Builder owns any portion of the Community or the Annexable Territory) may amend all or a portion of this Declaration by Recording a written instrument signed by Declarant and reviewed by the Tooele City Planning Commission and consented to by the Tooele City Council and reviewed, consented to, and signed by the Master Declarant or Master Association in order to (i) conform this Declaration to applicable law, (ii) conform this Declaration to the guidelines or requirements of VA, FHA, FNMA, GNMA, FHLMC or the City, (iv) change any exhibit to this Declaration or portion of an exhibit depicting property that is not part of a Phase for which assessments have commenced.

14.2.9 Amendment by the Board. Notwithstanding any other provisions of this Section 14.2, the Board may amend this Declaration by Recording a written instrument signed by two officers of the Association certifying that the Board approved the amendment in order to (i) conform this Declaration to applicable law, (ii) correct

typographical errors, and (iii) change any exhibit to this Declaration or portion of an exhibit to conform to as-built conditions. So long as Declarant or a Neighborhood Builder owns any portion of the Community or the Annexable Territory, the Board must obtain Declarant's consent to any amendment the Board approves pursuant to this Section. So long as the Master Association exists, any amendment requires review, consent and signature of either the Master Association or Master Declarant, as applicable.

14.3 NO PUBLIC RIGHT OR DEDICATION. Nothing in this Declaration constitutes a gift or dedication of all or any part of the Community to the public, or for any public use.

14.4 CONSTRUCTIVE NOTICE AND ACCEPTANCE. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Community does consent and agree, and shall be conclusively deemed to have consented and agreed, to every limitation, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to the Governing Documents is contained in the instrument by which such Person acquired an interest in the Community.

14.5 NOTICES. Except as otherwise provided in this Declaration, notice to be given to an Owner must be in writing and may be delivered to the Owner or Mortgagee personally or by any system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. Delivery of such notice to one (1) or more co-owners of a Lot, to any general partner of a partnership or to a member of a limited liability company, constitutes delivery to all co-owners, the partnership or the limited liability company. Delivery of such notice to any officer or agent for the service of process on a corporation constitutes delivery to the corporation. Alternatively, notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner or Mortgagee at the most recent address furnished by such Owner or Mortgagee to the Association. If an Owner does not furnish an address, notice may be sent to the street address of an Owner's Lot. Such notice is deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Members or of the Board, in which case the notice provisions of the Bylaws control. Any notice to be given to the Master Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address fixed and circulated to all Owners or sent by any system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means to such address or telephone number as the Board may establish.

14.6 ADDITIONAL PROVISIONS. Notwithstanding the provisions contained in the Governing Documents, there may be provisions of various laws, including the federal Fair Housing Act codified at Title 42 United States Code, Sections 3601 et seq., which may supplement or override the Governing Documents. Declarant and the Neighborhood Builders make no representations or warranties regarding the enforceability of any portion of the Governing Documents.

14.7 MERGERS OR CONSOLIDATIONS. Upon a merger or consolidation of the Master Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, properties, rights and obligations of another association may, by operation of law, be added to the

properties, rights and obligations of the Master Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by the Governing Documents, together with the covenants and restrictions established upon any other property, as one (1) plan.

ARTICLE XV LAND CLASSIFICATIONS

Lexington Greens is composed of many different types of properties. This Article describes the different classifications of land in Lexington Greens. These classifications are used to establish use restrictions and various rights and obligations of the Owners of the different types of property in the Lexington Greens.

Lexington Greens, including the Community, and each portion of Annexed Territory of the First Subdivision described in a Supplemental Declaration, shall be assigned to one or more of the following land classifications: Residential Area, Multi-Family Area, Master Association Property, Common Area, Special Benefit Areas and Neighborhoods. The Master Declarant has the right to create other area designations in Supplemental Declarations.

The Community is comprised of the following land classifications: Townhomes.

ARTICLE XVI ANNEXATION OF ADDITIONAL PROPERTY

Because Lexington Greens may eventually be composed of many different properties, the Master Declarant and Declarant have reserved the right to annex additional property to the property subject to the Master Declaration. The Master Association is also given the power to add additional property to Lexington Greens subject to the Master Declaration. The Declarant and Association are given the power to add additional property to the Community subject to the Declaration.

Additional real property may be annexed to Lexington Greens and such additional real property may become subject to the Master Declaration pursuant to the terms of the Master Association.

Additional real property may be annexed to the Community and such additional real property may become subject to the Declaration as follows:

16.1 ANNEXATIONS. [Reserved]

ARTICLE XVII DECLARANT AND MASTER DECLARANT RIGHTS AND EXEMPTIONS

Master Declarant and Declarant reserves various rights in this Article to facilitate the smooth, orderly development of the Community and to accommodate changes in the development plan that inevitably occur as a community the size of the Community grows and matures.

17.1 INTEREST OF DECLARANT. This Community is a portion of a considerable amount of land which Declarant intends to develop into a master planned community. Master Declarant and Declarant, in cooperation with Tooele City, have created a comprehensive plan for the development of the Community which includes modern master-planning objectives which have been formulated for the common good within Lexington Greens and the broader community. Declarant intends, but is not obligated, to construct Residences and develop all of the Lots in the Community. The completion of that work and sale, resale, rental and other disposal of Lots is essential to the establishment and welfare of the Community as a quality master planned community. Each Owner of a Lot which is part of the Community acknowledges that Declarant has a substantial interest in assuring compliance with, and enforcement of, the covenants, conditions, restrictions, and reservations contained in this Declaration and any Supplemental Declarations. This Article supersedes and controls over all other provisions of the Governing Documents as applied to Declarant.

17.2 RIGHTS. Declarant has the following rights. Nothing in the Governing Documents limits and no Owner or the Association will interfere with Declarant's exercise of these rights. However, the rights are subject to compliance with the Master Declaration and state and Local Ordinances and standards unless specifically amended by the Development Agreement and/or the Area Plan.

17.2.1 Subdivision. To subdivide and re-subdivide any portion of the Community and the Annexable Territory, such right to include amending the plat of the subdivision which could increase or decrease, or change the location of any Association Property which may have been contemplated to be conveyed to the Association.

17.2.2 Sales. To sell, resell, rent or re-rent any portion of the Community and the Annexable Territory.

17.2.3 Development. To complete excavation, grading, construction of Improvements and other development activities on the Community and the Annexable Territory. Such activities may include, at Declarant's election, installing energy projects at the higher elevations of the Community and exempting those projects from any provisions of the Governing Documents that may limit the projects' operations.

17.2.4 Construction. Subject to approval of any applicable governmental agency, to alter construction plans and designs, to modify Improvements and to construct such additional Improvements as Declarant deems advisable.

17.2.5 Signs. To erect, construct and maintain on and in the Community such structures, signs and displays reasonably necessary for the conduct of the business of completing the work and disposing of the Community and the Annexable Territory.

17.2.6 Creating Additional Easements. At any time prior to acquisition of title to a Lot by a purchaser from Declarant, to establish on that Lot, additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as reasonably necessary to the proper development and disposal of the Community and the Annexable Territory.

17.2.7 Sales and Leasing. To use the Association Property for access to the sales and leasing facilities of Declarant by prospective purchasers, sales agents, and Declarant.

17.2.8 Models and Offices. To use any structures or trailers/mobile homes owned or leased by Declarant in the Community as model home complexes, real estate sales or leasing offices.

17.2.9 Modifications. To modify Declarant's development plan, without the consent of the Owners, for the Community, the Annexable Territory, or any portion thereof, including designating and re-designating Phases of Development and constructing Residences of larger or smaller sizes, values or of different types. However, any such proposed re-phasing or modification of a development plan or construction by a Declarant must be approved in advance by Master Declarant.

17.3 EXEMPTION. Declarant is exempt from all of the restrictions contained in Article II.

17.4 EXEMPTION FROM DESIGN RESTRICTIONS. Declarant and any Person Declarant designates in a Supplemental Declaration is not subject to Design Review Committee approval with respect to their construction or development activities. Declarant's approval rights in the preceding sentence are in addition to any other rights of Declarant under other written agreements between Declarant and Master Declarant. Declarant may exclude portions of the Community from jurisdiction of the Design Review Committee by Supplemental Declaration. Declarant may establish an additional design-review committee for any area exempted from the jurisdiction of the Design Review Committee.

17.5 ASSIGNMENT OF RIGHTS. All or any portion of the rights of Declarant or a Neighborhood Builder in the Governing Documents may be assigned by Declarant or such Neighborhood Builder (with Declarant's consent), to any successor in interest to any portion of Declarant's or Neighborhood Builder's interest in any portion of the Community or the Annexable Territory (including to any Neighborhood Builder) by an express written assignment which specifies the rights of Declarant or such Neighborhood Builder so assigned.

17.6 EASEMENT RELOCATION. Association Property easements over real property the fee title to which has not been made subject to the Declaration ("Interim Easement Area") may be relocated, modified or terminated by Declarant to accommodate the final plan of development for the future Phase in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. No such relocation, modification or termination shall prevent access to any Lot. Public utility easements may not be altered or relocated without the consent of the utility company that uses the easement.

17.7 DECLARANT'S REPRESENTATIVE. The Association shall give Declarant all notices and other documents to which a Mortgagee is entitled pursuant to this Declaration. Commencing on the date on which Declarant no longer has an elected or appointed representative on the Board, and continuing until the date on which Declarant no longer owns a Lot in the

Community or any portion of the Annexable Territory, the Association shall give Declarant written notice of all meetings of the Board as if Declarant were an Owner and Declarant shall be entitled to have a representative present at all such Board meetings (“Declarant’s Representative”). The Declarant’s Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

17.8 CONVERSION OF MULTI-FAMILY AREA. The Owner of a Multi-Family Area Lot or Lots, in its sole discretion, may elect to convert all or any portion of its Multi-Family Area to a portion of the Residential Area pursuant to then applicable laws. In such event, effective upon the first Close of Escrow for the sale of a Lot in each Phase of such converted Multi-Family Area, such Phase shall be deemed Residential Area; the Owners of Lots in such Phase of converted Multi-Family Area shall all be “Owners” as defined in this Declaration; such Lots shall be assessed in the same manner as other Residential Area Lots and; the Owners of such Lots shall have the same voting rights as other Owners of the same class of Members; and such Lots, and the Owners thereof, shall be subject to all of the provisions of this Declaration in the same manner as the other Lots and Owners in the Residential Area. The conversion of Multi-Family Area pursuant to this Section shall not require the approval of the Association or the Members, nor require modifications to existing Multi-Family Area Improvements in order to conform them with the portions of the Governing Documents applicable to the Residential Areas. Any such proposed conversion must be approved in writing by Declarant for so long as Declarant owns (or holds a Mortgage on) any part of the Community or Annexable Territory.

17.9 RELATIONSHIP TO OTHER RESTRICTIONS. If any portion of the Governing Documents conflicts with any provision of this Article, the provision of this Article shall control. Supplemental Declarations may add to the rights and exemptions created in this Article, but may not limit the rights and exemptions created in this Article.

17.10 REPURCHASE OPTION FOR CONSTRUCTION DEFECT CLAIMS. In the event any Owner shall commence action against Declarant or Declarant’ Related Entities for the purpose of constructing Residences on the Lot (collectively “Declarant”) in connection with any alleged construction defects in such Owner’s Lot, Declarant shall have the option, but not the obligation, to purchase such Lot on the following terms and conditions:

- (a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner’s warranty, in connection with the alleged defect:
 - (i) The purchase price paid by the original Owner of the Residence & Lot when originally purchased from Declarant;
 - (ii) The agreed upon value of any improvements made to the Residence by anyone other than Declarant; and
 - (iii) The Owner’s reasonable moving costs.
- (b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant’ intent to exercise the option herein.
- (c) Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.
- (d) Exercise of the repurchase option as provided for herein above shall constitute full and final satisfaction of all claims relating to the subject Residence and Lot. The Owner shall promptly execute and deliver any notice of dismissal or other

- document necessary or appropriate to evidence such satisfaction.
- (e) Declarant's option to repurchase granted herein with respect to any particular Residence and Lot shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Residence and Lot including all applicable tolling periods.

17.11 INCOME GENERATED FROM NEGOTIATION, INSTALLATION OR PROVISION OF CERTAIN UTILITIES AND AMENITIES FOR THE COMMUNITY. Declarant and/or Declarant Related Entities invest time, experience, infrastructure and/or capital in the negotiation, provision or installation of certain utilities and amenities (*e.g.*, internet, cable, fiber, phone, solar power, etc.) that provide services and benefits to owner in the Community that would not otherwise be available or at a reduced cost. Any income gained by these parties from these efforts may be retained by the Declarant, Declarant Related Entities, or their assigns, even after the Declarant Control Period. The Association may enter into contracts with third parties related to the provisions of such utilities and amenities for the benefit of Owners in the Subdivision, which utilities and amenities may be paid for through Assessments. Owners contracting separately with individual third-party providers will still be required to pay any normal and customary access fee for applicable bulk rate contract services entered into by the Association.

17.12 RIGHT TO MODIFY LOT BOUNDARIES AND INTERIOR BOUNDARY LINES. Declarant reserves the unilateral right to modify Lot boundaries and interior boundary lines and/or combine Lots or Residences so long as it owns the Lots; provided, however, such changes may not extensively alter the boundaries of the Common Area and facilities .

7.13 ASSOCIATION RULES. The Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing the community.

- (a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217.

[signature page follows]

This Declaration is dated for identification purposes October 27, 2022.

Building Dynamics, Inc. "Declarant"

By: [Signature]
Print Name: HAROLD B. IRVING
Title: PRESIDENT

STATE OF UTAH)
COUNTY OF Salt Lake) ss.

The foregoing instrument was acknowledged before me this 27th day of October, 2022, by Harold Irving, an individual residing in the State of Utah as a manager/ authorized representative of Building Dynamics, Inc. a Utah corporation. Said corporation acknowledged before me that he executed the foregoing on behalf of Building Dynamics, Inc., a Utah corporation.

[Signature]
Notary Public

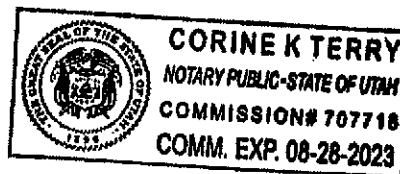


EXHIBIT A

PHASE 1

All of Lots 101-125, including common areas, located within Lexington Townhomes Subdivision, Phase 1.

Tax I.D. Nos. 22-011-0-0101 – 0125

22-011-0-00CA

EXHIBIT B

ARTICLES OF
INCORPORATION OF THE
ASSOCIATION

**ARTICLES OF INCORPORATION OF
LEXINGTON TOWNHOMES HOMEOWNERS ASSOCIATION, INC.
(A Neighborhood Association within Lexington Greens, a Master Community)**

The undersigned person, acting as incorporator of a non-profit corporation pursuant to the Utah Code § 16-6a-201(1), hereby adopts the following Articles of Incorporation (“Townhome Articles”) of Lexington Townhomes Homeowners Association, Inc. (“Townhome Association”).

These Townhome Articles have also been duly approved by the Master Declarant.¹

ARTICLE I – NAME, PRINCIPAL ADDRESS & DURATION

- 1.1 The name of the nonprofit corporation is Lexington Townhomes Homeowners Association, Inc.
- 1.2 The Townhome Association’s principal address shall be: 8703 Sandy Pkwy, Sandy, UT 84070. Such principal address may be modified at any time with the Utah Secretary of State by the Incorporator or Board of Directors without amendment to these Townhome Articles.
- 1.3 The duration of the Townhome Association shall be perpetual unless earlier dissolved pursuant to law.

ARTICLE II - DEFINITIONS

- 2.1 **Definitions.** All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Lexington Greens Townhome, a Neighborhood Association of the Lexington Greens, a Master Community to be recorded in the Official Records of the Tooele County Recorder’s Office (hereinafter “Townhome Declaration”), and as the same may be amended from time to time as therein provided. In addition, definitions within the Master Declaration may also be applicable in the event such definitions are not within the Townhome Declaration. The term “Member” shall mean and refer to those persons entitled to membership in the Townhome Association, as provided in the Townhome Declaration and these Townhome Articles.

ARTICLE III –REGISTERED AGENT & OFFICE

- 3.1 The address of the initial registered agent of the Townhome Association is:

¹ “Master Declarant” shall refer to the Declarant, as set forth in the Master Declaration. “Declarant” shall mean the Declarant, as set forth in the Townhome Declaration.

Building Dynamics, Inc.
c/o: Harold Irving
8703 Sandy Pkwy, Sandy, UT 84070.

Such agent and office may be modified at any time with the Utah Secretary of State by the Incorporator or Board of Directors without amendment to these Townhome Articles.

ARTICLE IV – INCORPORATOR

- 4.1 Pursuant to Utah Code §§ 16-6a-201(1) and 202, the name and address of the incorporator of the Townhome Association is as follows:
Building Dynamics, Inc.
8703 Sandy Pkwy, Sandy, UT 84070.

ARTICLE V – BOARD OF DIRECTORS & AUTHORIZED PERSONS

- 5.1 Declarant shall appoint three natural persons to serve as the initial Board of Directors. Until Period of Declarant Control ceases and is automatically converted to a Class A pursuant to the terms of the Townhome Declaration, Declarant, its successors and assigns, shall have the right to appoint, remove and replace all the members of the Board at any time in its sole discretion.
- 5.2 Pursuant to Utah Code § 16-6a-801(2)(b), these Townhome Articles hereby authorize Declarant, Building Dynamics, Inc. to exercise all powers and authority of the Board of Directors during the Period of Declarant Control. Declarant, in its sole discretion, may act for and on behalf of the Board and Townhome Association. Accordingly, during the Period of Declarant Control, the directors are relieved from such authority and duty.

ARTICLE VI – MEMBERSHIP SHARES AND VOTING RIGHTS

- 6.1 Membership/Shares. Every Owner shall be a Member of the Townhome Association. Declarant shall be deemed a Member of the Townhome Association, as set forth in the Townhome Declaration. Membership in the Townhome Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. The Townhome Association shall not issue shares of stock. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Townhome Association.

- 6.2 Voting Rights. The Members of the Townhome Association shall have voting rights, as set forth in the Townhome Bylaws and/or Townhome Declaration.
- 6.3 Membership List. The Townhome Association may for all purposes act and rely on the information concerning Members and Lot ownership that is obtained from the office of the County Recorder. The address of a Member shall be deemed to be the address of the residence situated on such Member's Lot unless the Townhome Association is otherwise advised in writing.

ARTICLE VII - POWERS AND PURPOSES

- 7.1 Purpose. The Townhome Association is organized and shall be operated as a nonprofit corporation for the purpose of enforcing the terms and conditions of Governing Documents and otherwise administering any Common Areas, Limited Common Areas, or facilities for the benefit of Members.
- 7.2 Powers. The Townhome Association shall have all of the powers conferred upon it by the Governing Documents, as amended, including all powers conferred by the Utah Revised Nonprofit Corporation and Utah Community Association Acts, and as otherwise allowed by law.
- 7.3 Non-Profit. The Townhome Association is not organized for pecuniary profit. No dividend shall be paid to any of its Members, Directors, Officers, or any other person.

ARTICLE VIII – MISCELLANEOUS

- 8.1 Amendment. Following the Period of Declarant Control, any amendment to these Townhome Articles shall require the consent of at least sixty-seven percent (67%) of all eligible votes. During the Period of Declarant Control, the Declarant, with approval of the Master Declarant, may amend these Townhome Articles in Declarant's sole discretion.
- 8.2 Dissolution. Dissolution may occur consistent with the Townhome Declaration and the Utah Revised Non-profit Corporation Act, which dissolution proposal must be approved by Members holding not less than seventy-five percent (75%) of the voting interest of the Townhome Association. During the Period of Declarant Control, dissolution shall also require the written consent of Declarant. Upon dissolution, the assets of the Townhome Association shall transfer or be divided among Members, as required by law.
- 8.3 Manager. Declarant (and the Board following the Period of Declarant Control) may utilize the assistance of professional community

management to carry out duties and functions authorized by these Townhome Articles.

- 8.4 Rules, Policies & Resolutions. The Townhome Association may adopt, amend, and repeal rules, policies and resolutions for the regulation and management of the affairs of the Townhome Association consistent with the Governing Documents and the Act.
- 8.5 Interpretation. The captions that precede the various portions of these Townhome Articles are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include all genders. The invalidity or unenforceability of any provision contained in these Townhome Articles shall not affect the validity or enforceability of the remainder hereof. These Townhome Articles have been prepared in conjunction with the Townhome Bylaws and Townhome Declaration and should be read and construed in light of that fact and liberally so as to affect all the purposes of these instruments.
- 8.6 Indemnification. No director, officer, managing agent, committee member, or authorized person acting on behalf of the Townhome Association shall be personally liable for any obligations of the Townhome Association or for any duties or obligations arising out of any acts or conduct of said person. The Townhome Association shall and does hereby indemnify and hold harmless each person who shall serve in such capacity, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a director, officer, managing agent, committee member or authorized person by reason of any action alleged to have been taken or omitted to have been taken by them in such capacity, and the Townhome Association shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability. The right of any person to be indemnified shall be subject always to the right of the Townhome Association, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Townhome Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ACKNOWLEDGMENT

In witness hereof and under penalty of perjury, I hereby acknowledge that I am authorized by the Incorporator to execute these Townhome Articles, which I have read and know the contents thereof, and the same are true to the best of my knowledge and belief.

DATED this 29th day of October, 2022.

Building Dynamics, Inc., INCORPORATOR

By (printed): HAROLD B. STANB
Its: PRESIDENT

EXHIBIT C

BYLAWS OF THE ASSOCIATION

**BYLAWS
OF
LEXINGTON TOWNHOMES HOMEOWNERS ASSOCIATION, INC.**

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**BYLAWS
OF
LEXINGTON TOWNHOMES HOMEOWNERS ASSOCIATION, INC.
ARTICLE I GENERAL PLAN**

The Lexington Townhomes Homeowners Association, Inc. (“Neighborhood Association”) is the homeowner’s association formed to manage and maintain the Association Property, enforce the Governing Documents and impose architectural control in the Properties. Each homeowner in the Properties will become a Member of the Neighborhood Association. The Board of Directors of the Neighborhood Association oversees its operations. Day to day activities are performed by the community manager, under the supervision and acting on behalf of the Neighborhood Association Board. Specific day-to-day responsibilities may also be assigned to the Neighborhood Association officers.

The Neighborhood Association is part of the Lexington Greens Homeowners Association (“Master Association”) for Lexington Greens. References to “Master Declaration” or “Master Association” or related terms refer to the Master Association which apply in addition to the Declaration of the Neighborhood Association and the Neighborhood Association itself.

Following the Declarant Control Period, certain decisions can only be made by a vote of the Members. Rules regarding Members decisions are in Article V of these Bylaws.

Responsibility for design review is delegated to the Design Review Committee. The Design Review Committee is responsible for reviewing plans for proposed architectural and landscaping modifications. Rules regarding operation of the Design Review Committee are in the Master Declaration of these Bylaws and Design Guidelines.

The Board also has the power to appoint a Nominating Committee. The Nominating Committee can assist the Board in its search for volunteers to serve as Board members or Neighborhood Representatives. The Nominating Committee is described in Section 2.14.2 of these Bylaws. The Board of Directors has the power to appoint other committees to assist in various aspects of operation of the Neighborhood Association.

Below is a chart showing the relationship of these different parties.

**BOARD OF DIRECTORS
Oversees All Operations**

<i>Officers</i>	<i>Committees</i>	<i>Members</i>
President Vice President Secretary Chief Financial Officer ■ <i>Assigned broad duties</i>	Design Review Committee Nominating Committee ■ <i>Have jurisdiction over specific matters</i>	■ <i>Receive benefits of Membership</i> ■ ■ <i>Encouraged to participate and responsible for complying with the Governing Documents</i> ■ <i>Vote on select issues</i>

These Bylaws establish the procedures to be followed by the Neighborhood Association Board, the community manager, the Neighborhood Association officers, committees, Neighborhood Representatives and Members as they operate the Neighborhood Association.

1.1. NAME. The name of the corporation is the Lexington Townhomes Homeowners Association, Inc. (hereinafter referred to as “**Neighborhood Association**”), a Utah non-profit corporation. The principal office of the Neighborhood Association shall be located at 8703 Sandy Parkway, Sandy, UT 84070.

1.2. DEFINITIONS AND INTERPRETATION. Unless otherwise provided in these Bylaws, the capitalized terms in these Bylaws have the same meanings as are given to such terms in the Declaration, as may be amended from time to time. These Bylaws shall be interpreted in accordance with Section 1.67 of the Declaration. All references in the Bylaws to the “Act” are to the Utah Revised Non-Profit Corporation Act.

1.3. NEIGHBORHOOD ASSOCIATION RESPONSIBILITIES. In accordance with the Declaration, the Neighborhood Association is responsible for the following:

- ✓ Administering the Properties,
- ✓ Maintaining the Association Property,
- ✓ Approving the Budget,
- ✓ Establishing and collecting all assessments authorized under the Master Declaration,
- ✓ Providing overall architectural and landscaping control in the Properties, and
- ✓ Enforcing the Governing Documents.

1.4. APPLICATION. These Bylaws are applicable to the Community, as defined in the Neighborhood Declaration, known as Lexington Townhomes, a planned unit development, a part of a phased master planned community known as Lexington Greens, located in Tooele City, Utah. All Persons occupying a Residence in the Properties or using the facilities of the Properties in any manner are subject to the Governing Documents. By acquiring, renting or occupying any Residence in the Properties the Person doing so signifies that the Person agrees to comply with the Governing Documents.

Initially, the Declarant controls the actions of the Neighborhood Association during what is referred to as the Declarant Control Period, or period of administrative control under the Act. Generally, the Board of Directors is responsible for overseeing the operations of the Neighborhood Association and making most of the decisions regarding Neighborhood Association operations. However, in some situations, Neighborhood Association decisions can only be made by the Members or the Neighborhood Representatives. Each of the following articles describes these various responsibilities. Article II describes how the Board of Directors operates. Article III describes the duties and responsibilities of the Neighborhood Association officers. Article IV describes how the Board makes decisions. Article V describes the process used to obtain Member decisions on issues.

1.5. LIMITS. The Neighborhood Association is organized and shall be operated in accordance with the Articles, these Bylaws and the Declaration.

1.5.1. Organization and Activity. The Neighborhood Association is a Utah non-profit corporation, created for the purposes, charged with the duties, and invested with the powers prescribed by law or set forth in the Governing Documents. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with the Declaration or Master Declaration. The Neighborhood Association may not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of the Neighborhood Association.

1.5.2. Political Activities. The Neighborhood Association shall not participate in or intervene in (including publishing or distributing statements) any political campaign on behalf of or in opposition to any candidate for political office or any proposed legislation. This provision may not be interpreted as prohibiting any individual member of the Neighborhood Association from participating in any political campaign or political issue.

1.5.3. Assets and Property. No part of the earnings of the Neighborhood Association shall ever inure to the benefit of any director, trustee, officer, shareholder or member of the Neighborhood Association or to the benefit of any private individual.

1.5.4. Not for Profit. The Neighborhood Association is not organized, and may not be operated, for pecuniary gain or profit.

1.5.5. Dissolution. On the winding up and dissolution of the Neighborhood Association, after paying or adequately providing for its debts and obligations, and after selling or otherwise conveying the Common Areas, any funds remaining in the Neighborhood Association

shall be distributed to the Members on a pro-rata basis consistent with the Members' Assessment obligations, as set forth in the Declaration.

1.6. MEMBERSHIP.

1.6.1. Classes of Membership/Voting Rights. The Membership of the Neighborhood Association shall consist of all Owners of any product types, as defined in the Declaration or Supplemental Declaration. At any meeting of the Neighborhood Association, each Owner shall be entitled to cast votes pursuant to the classes of voting memberships set forth herein. The classes of voting memberships shall be as follows:

Class A: Lot or Units in Residential Areas. The Owner of each single-family Lot in a Residential Area improved with a residence or designated for single-family residential use shall be authorized to cast one (1) vote for each Lot owned. Townhomes shall be classified as Lots in Residential Area and, therefore, the Owners of each townhouse may cast one (1) vote per townhouse owned.

Class B: Declarant. The Class B Member is Declarant. The Class B Member shall be authorized to cast votes as follows:

- (a) 5 votes for each Lot in a Single-family Residential Area;
- (b) 2 ½ votes for each townhome in a Residential Area; or
- (c) 35 votes for every one (1) acre of land designated for Apartments.

Notwithstanding the foregoing, the Class B member is entitled to appoint a majority of the Board of Directors, during the Declarant control period, as set forth in Sections 2.1.1 and 2.1.2 of these Bylaws. After the Declarant's control period ceases, the Class B Membership shall terminate and Declarant shall have the number of votes attributable to the product type of the unit or units owned.

1.6.2. Voting of Classes. As long as there is a Class B membership, any provision of the Governing Documents which expressly requires the vote or written consent of the Neighborhood Association's voting power before action may be undertaken shall require the approval of the Class B Member. On termination of the Class B membership, any provision of the Governing Documents which requires the vote or written consent of the Neighborhood Association's voting power before action may be undertaken shall then require the vote or written consent of the Neighborhood Association's total voting power.

ARTICLE II BOARD OF DIRECTORS

This Article describes the Board of Directors including the number of people who will serve on the Board, their term of office and how they are elected. This Article also establishes the powers and duties of the Board and limits on the Board's powers.

2.1. NUMBER. Until the first election of Directors, which shall occur at the time set forth in subsection 2.1.2 below, the Neighborhood Association's property, business and affairs shall be governed and managed by a Board of Directors composed of three (3) persons. Beginning with the first election of Directors, the property, business and affairs of the Neighborhood Association shall be governed and managed by a Board of Directors composed of five (5) persons. The authorized number of Directors may be changed by a duly adopted amendment to the Bylaws.

2.1.1. Declarant Control of the Neighborhood Association. Notwithstanding any other provision of the Declaration or of these Bylaws to the contrary and subject to subsection below, there shall be a Declarant control period during which the Declarant controls the Neighborhood Association and Declarant or a Person designated by the Declarant may appoint and remove all or some of the officers and directors of the Neighborhood Association. The Declarant control period terminates no later than the earlier of:

- (a) sixty (60) days after the conveyance by Declarant of one-hundred percent (100%) of the Lots or Units that may be created within the Properties to Owners other than the Declarant and Neighborhood Builders;
- (b) five (5) years after the Declarant has ceased to offer Lots or Units for sale in the ordinary course of its business; or
- (c) five (5) years after any right to annex new Lots or Units was last exercised by Declarant.

The Declarant may, but is not obligated to, voluntarily surrender the right to appoint and remove officers and Board members as provided herein before the termination period set forth above, provided that the Declarant may require that specified actions of the Neighborhood Association or the Board may require Declarant approval prior to becoming effective. Such surrender of rights shall only be by a recorded instrument.

2.1.2. Composition of the Board. Not later than sixty (60) days after conveyance by Declarant of fifty percent (50%) of the Lots or Units that may be created within the Properties to Owners other than Declarant and Neighborhood Builders, at least one (1) member of the Board and not less than twenty five percent (25%) of the members of the Board must be elected by Owners other than Declarant. Not later than sixty (60) days after conveyance by Declarant of seventy-five percent (75%) of the Lots that may be created within the Property to Owners other than Declarant and Neighborhood Builders, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Owners other than the Declarant. Upon expiration of the Declarant control period set forth in subsection 2.1.1 above, one hundred percent (100%) of the Board shall be elected by Owners.

2.2. QUALIFICATIONS.

For the purposes of this Section 2.2, a "Member in good standing" is a Member who does not have any unpaid and past due Assessments and has not has his or her voting privileges suspended for a violation of the Neighborhood Association Governing Documents.

2.2.1. Qualifications for Nomination. Anyone nominated to serve as a Director must be a natural person at least 18 years old who is one of the following:

- (a) An Owner of a Lot in the Residential Area who is a Member in good standing and not an officer or director of the Master or another Neighborhood Association; or
- (b) An Owner or agent of an Owner of a Lot in any area of the Properties that is not a part of the Residential Area who is a Member in good standing; or
- (c) An agent of Declarant or an agent of a Neighborhood Builder; or
- (d) An officer, employee, agent or director of a corporate Owner of a Lot(s) or units, a trustee or designated beneficiary of a trust that owns a Lot(s) or units, a partner of a partnership that owns a Lot(s) or units, a member or manager of a limited-liability company that owns a Lot(s) or units, and a fiduciary of an estate that owns a Lot(s) or units may be an officer or director of the Neighborhood Association. In all events where the person offering to serve as an officer or directors of the Board is not the record owner, he shall file proof in the records of the Neighborhood Association that:
 - (1) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and
 - (2) Identifies the Lot(s) or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

2.2.2. Qualifications for Holding Office. Directors must satisfy the following requirements while they serve in office:

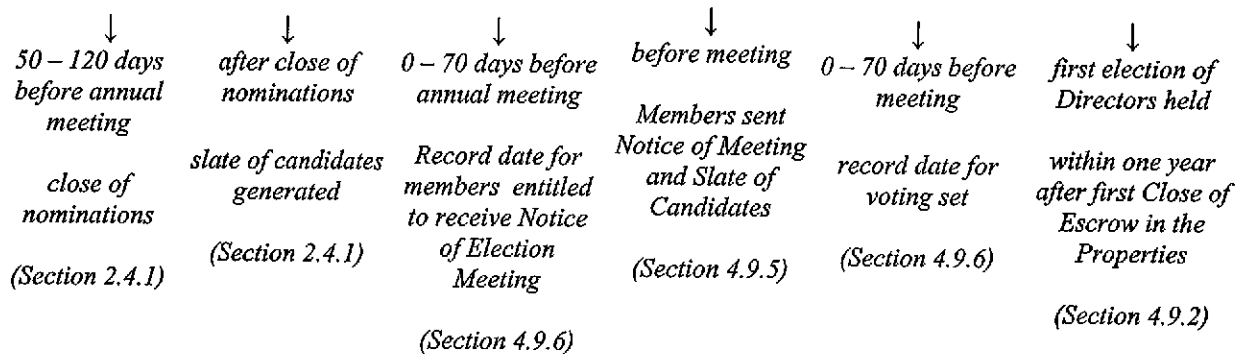
- (a) Not be absent from three (3) consecutive meetings of the Board;
- (b) Be a Member in good standing or agent of a Member in good standing.
- (c) If the person serving as an officer or director of the Board is doing so pursuant to Subsection 2.2.1(d), then the person must retain a position with the corporate owner, trust, partnership, limited-liability company or estate, throughout the individuals service that satisfies the eligibility requirement. Any Director who fails to satisfy these requirements is deemed to have resigned effective upon the date of a resolution adopted by the Board confirming that the Director did not satisfy all of the requirements of this Section 2.3.

2.3. TERM OF OFFICE. Each Director elected by the Owners (other than Declarant) during the Declarant control period shall serve a two (2) year term. Each Director shall hold office until his successor has been elected or until his removal.

At the first election after the Declarant control period terminates, regardless of any time remaining on a Directors term of office, the Owners shall elect all five (5) Directors. In order to establish staggered terms, the term of office of the three (3) Directors receiving the highest number of votes shall be two (2) years and the term of office of the two (2) Directors receiving the next highest number of votes shall be one (1) year. Thereafter, new Directors shall be elected or appointed to fill any vacancies. The term of office of each Director elected to fill a vacancy created by the expiration of the term of office of the respective past Director shall be two (2) years. The term of office of each Director elected or appointed to fill a vacancy created for any other reason shall be the balance of the unserved term of the Director’s predecessor. Any Director may be reelected. There is no limit on the number of terms which a Director may serve.

2.4. ELECTIONS. Directors will be elected by the Members after the Declarant control period terminates, and at their annual meeting. Prior to the annual meeting, the Nominating Committee will solicit nominations of candidates for the Board positions and generate a Slate of Candidates. The Slate of Candidates will be distributed to the Members (for information purposes only).

The following is a timeline showing the days for performing various tasks to be completed in connection with the first election of Directors.



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2.4.1. Nomination Procedure. The Nominating Committee, acting at the Board's direction, will seek volunteers to run for office. The Board may establish nomination procedures and reasonable time frames for receiving nominations in the Community Guidelines. The date set for close of nominations must be not less than thirty (30) nor more than one hundred twenty (120) days before the date of the Directors election (the "Election Meeting"). No nominations for the Board can be made after the date set for the close of nominations. A slate of candidates ("Slate of Candidates") must be prepared and distributed to the Neighborhood Representatives and Members based on the nominations that comply with the nomination guidelines established by the Board.

2.4.2. Cumulative Voting. Cumulative voting shall not be used in the election of directors.

2.5. VACANCIES. Until Declarant's right to appoint a majority of the Directors terminates, as set forth in subsection 2.1.1 of these Bylaws, a vacancy in the office of a Director who was appointed by the Declarant shall be filled only by an appointee of the Declarant. Any vacancies on the Board caused by any other reason may be filled by a vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Any vacancy not filled by the Directors may be filled by the Neighborhood Representatives.

A Director may resign at any time by giving written notice to the Neighborhood Association through its President, the Secretary or the Board. Any such resignation is effective on the date of receipt of such notice or at any later time specified in the resignation notice. Unless specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective. If a Director's resignation is effective at a later time, the Board may elect a successor to take office as of the date when the resignation becomes effective. A vacancy or vacancies on the Board shall exist on the occurrence of the following: (a) the death or resignation of any Director; (b) the declaration by resolution of the Board of a vacancy in the office of a Director who has failed to fulfill the requirements of Section 2.2.2 of these Bylaws; (c) the increase of the authorized number of Directors; (d) the failure of the Members to elect the number of Directors required to be elected at such meeting; (e) a Director is removed in a judicial proceeding, (f) a Director is removed by the vote of the Membership as set forth in Section 2.6 of these Bylaws, or (g) the occurrence of any other events resulting in a vacancy as provided under the Act.

2.6. REMOVAL OF DIRECTORS. Any Director, other than a Director appointed by Declarant, may be removed from the Board of Directors before the expiration of his terms of office, with or without cause, if at a removal election, the number of votes cast in favor of the removal constitutes:

- (a) At least 35 percent of the total number of voting Members of the Neighborhood Association; and
- (b) At least a majority of all votes cast in that removal election.

Any Director whose removal has been proposed must be given an opportunity to be heard.

2.7. GENERAL POWERS AND DUTIES. The Board has the powers and duties necessary to conduct, manage and control the Neighborhood Association's affairs. All of the

Neighborhood Association's powers, including those enumerated in Sections 3.2 and 3.3 of the Declaration, shall be exercised by its Board of Directors except those powers (I) reserved in specific provisions of the Articles, these Bylaws, the Declaration or any Supplemental Declaration, to the Members, or Design Review Committee or (ii) delegated by the Board pursuant to Section 2.8.8. All powers and duties of the Board shall be exercised in accordance with the standards established in Section 16-6a-822 of the Act.

Board Powers and Duties

Generally, the Board can exercise all powers of the Neighborhood Association that are not reserved exclusively to the Members. The Board is also granted the following specific powers and duties:

- *Select and remove officers, agents and employees*
- *Contract for services and maintenance*
- *Conduct, manage and control the Neighborhood Association*
- *Enforce the Governing Documents*
- *Delegate duties*
- *Grant certain easements or licenses*
- *Keep records of Neighborhood Association affairs*
- *Retain a Community Manager*
- *Change principal office, set meeting locations, adopt corporate seal*
- *Fix and levy assessments*
- *Contract and pay for insurance*
- *Adopt the Bylaws*
- *Sell a portion of the Neighborhood Association Property (see Section 2.8.12 of these Bylaws)*
- *Enter into agreements*
- *Appoint members of the Design Review Committee and create a Nominating Committee or other Committees the Board deems appropriate*

2.8. SPECIAL POWERS AND DUTIES. Without limiting the scope of the Board's general powers and duties, the Board is also granted the following powers and duties:

2.8.1. Officers, Agents and Employees. The power and duty to select, appoint and remove all Neighborhood Association officers, agents and employees, to prescribe such powers and duties for them as may be consistent with law and with the Governing Documents, to fix their compensation, to require from them security for faithful service when the Board deems advisable, and to contract to provide them with such indemnification from the Neighborhood Association as the Board determines is appropriate.

2.8.2. Contracts. The power to enter into contracts. This includes the power and duty to contract and pay for maintenance, landscaping, utilities, materials, supplies and services relating to the Association Property, to retain Persons necessary to operate the Properties, including legal and accounting services, to contract and pay for maintenance and installation of Improvements on the Association Property, and to contract to provide services to areas outside of the Properties when the Board determines that the Neighborhood Association will be appropriately compensated and providing the services will not unreasonably burden the Neighborhood Association. The contracts the Board is authorized to enter into on behalf of the Neighborhood Association include agreements for Telecommunications Services, agreements with any nonprofit corporations or Local Governmental Agencies and agreements with the Declarant, Neighborhood Builders, and the Owners regarding funding, maintenance or operation of the Properties.

2.8.3. Principal Office, Place of Meetings, Seal. The power but not the duty to change the Neighborhood Association's principal office from one location to another within Sandy City or Tooele City; to designate any place within Sandy City or Tooele for meetings of Members or Neighborhood Representatives; to adopt and use a corporate seal and to alter the form of such seal.

2.8.4. Assessments. The power and duty to fix, levy and collect Assessments, as provided in the Declaration. Subject to any limits imposed by the Governing Documents, the Board may incur expenditures for any permitted purpose and accumulate reserves. The funds collected by the Board from the Members for reserves, maintenance recurring less frequently than annually, and capital improvements, is at all times held in trust for the Members. Disbursements from reserve funds may only be made in accordance with the Master Declaration.

2.8.5. Enforcement. The power to enforce the Governing Documents and any agreements entered into by the Neighborhood Association and to impose sanctions against members for violations of the Governing Documents. Without limiting the foregoing, the Neighborhood Association shall have the power to impose liens on property of members of the Neighborhood Association for unpaid assessments that are imposed by the Neighborhood Association, and to foreclose those liens in accordance with applicable laws of the state of Utah, as amended from time to time.

2.8.6. Insurance. The power and duty to contract and pay for insurance in accordance with the Declaration.

2.8.7. Delegation. The power but not the duty to delegate its powers according to law, including the power to delegate collection, reimbursement, and distribution of Assessments and any other amounts owed by a Member or Owner, consistent with the Declaration, to the Neighborhood Association.

2.8.8. Governing Documents. The power to adopt these Bylaws and amend these Bylaws as authorized and limited in Section 6.1 of these Bylaws along with the power to adopt, amend or restate such other Governing Documents as authorized in the Governing Document.

2.8.9. Conveyances. The power but not the duty to grant or quitclaim exclusive or nonexclusive easements, licenses or rights of way in, on, or over the Association Property for purposes consistent with the intended use of the Properties as a master planned community.

2.8.10. Records. The power and duty to keep, or cause to be kept, a complete record of Neighborhood Association acts and corporate affairs.

2.8.11. Sale of Property. The power but not the duty to sell property of the Neighborhood Association; provided, however, that Neighborhood Representatives representing a majority of the voting power in the Neighborhood Association must approve any sale during any Fiscal Year of Neighborhood Association Property having an aggregate fair market value greater than five percent (5%) of the Neighborhood Association's budgeted gross expenses for that Fiscal Year.

2.8.12. Community Manager. The power to engage a community manager for the Neighborhood Association at a compensation established by the Board to fulfill such duties and provide such services as the Board authorizes.

2.9. BOOKS, AUDIT. The Board shall distribute to all Members (and any Beneficiary, insurer and guarantor of a first Mortgage upon request) the financial and other information required by Act Sections 16-6a-1601 *et. seq.* When appropriate, financial information for each Special Benefit Area and the General Assessment Component of Common Assessments shall be prepared separately.

2.10. COMPENSATION. Directors may not receive any salary or compensation for their services as Directors unless such compensation is approved by a vote of the members representing a majority of those voting on the issue; provided, however, that (I) nothing in these Bylaws precludes any Director from serving the Neighborhood Association in some other capacity and receiving compensation therefor, and (ii) any Director may be reimbursed for actual expenses incurred in performance of Neighborhood Association duties.

2.11. MEETINGS.

2.11.1. Attendance. Any meeting of the Board may be held by conference telephone or through use of any other communication equipment, so long as the requirements for attendance at a meeting through the selected method established by the Act are met. In these cases, all Directors will be deemed to be present in person at the meeting. All meetings of the Board

except executive sessions must be open to all Members to the extent of space available. Directors may not act by proxy.

2.11.2. Organization Meeting of Board. The first regular meeting of a newly elected Board (“Organization Meeting”) must be held within thirty (30) days of election of the Board, at such place as is fixed and announced by the Directors when such Directors were elected. At the Organization Meeting, the Directors shall organize, elect officers and transact other business.

2.11.3. Regular Meetings of Board. Regular meetings may be held at such time and place within the Properties as is determined by a resolution adopted by the Board; provided, however, that such meetings must be held no less than once every ninety (90) days, notice of regular meetings of the Board must be given in the manner set forth in Section 2.11.6.

2.11.4. Special Meetings of Board. Special meetings of the Board may be called by the President or by any two (2) Directors.

2.11.5. Executive Sessions. The Board may convene in executive session to discuss: (a) to and vote upon personnel matters, including any independent contractors, employees or agents of the Neighborhood Association; (b) to consult with the attorney for the Neighborhood Association on matters relating to proposed or pending litigation, arbitration or other dispute resolution; (c) to discuss and vote on any litigation, arbitration or other dispute resolution; (d) to discuss and vote on matters relating to the formation of contracts with third parties; (e) to discuss and vote on any alleged failure of an Owner to adhere to the Governing Documents and to determine the appropriate Member discipline for any such violation; and (f) any other matters the Board determines should be kept confidential. The general nature of any business to be considered in executive session must be announced in an open session held before or after the executive session and must be generally noted in the minutes of a Board meeting. In any matter relating to the discipline of a Member, the Board shall meet in executive session. The Member may attend the executive session.

2.11.6. Notice of Meetings.

Board Meetings. Regular meetings of the Townhome Board shall be held at least annually, or more frequently as determined by the Townhome Board. All notices shall be provided by email or other electronic means. Directors are required to provide an email or electronic address for purposes of notice of Townhome Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days. During the Class B Control Period, board meetings shall not be required but may be held in the sole discretion of Declarant.

- (a) Owners, and Owner representatives (if designated in writing in advance) may attend Townhome Board meetings and may be present for all discussions, deliberations, and decisions except when the Townhome Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Townhome Board may limit Owners’ comments and/or questions to a specific period of time within the meeting. The Townhome Board shall provide email notice to Owners that have requested, in writing, to be notified of Townhome Board Meetings and have provided a valid email address.

Owner Meetings. Notice of Meetings. Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices shall be given by, or at the direction of, the Townhome Board via

electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than sixty (60) days, to each Owner at the email or electronic address provided by the Owner. Said notice is effective upon sending the email or electronic communication. Notices provided by U.S. mail shall be sent via U.S. First Class Mail and effective upon deposit in the mail. Such notice shall specify the location, day and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

(a) Upon becoming an Owner of the Neighborhood Association, or upon the written request by the Neighborhood Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Neighborhood Association unless the Owner has opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Neighborhood Association, an Owner's Lot/Unit address shall be deemed to be their registered address for purposes of notice.

(b) The location of meetings may also occur virtually, telephonically, or through other available technology.

2.11.7. Waiver of Notice. Before or at any meeting of the Board, any Director may waive notice of such meeting in writing, and such waiver will be deemed equivalent to the giving of such notice to that Director. All such waivers will be filed in the records of the Neighborhood Association or made a part of the minutes of the meeting. Notwithstanding the foregoing, no Director may waive notice to the Membership of any Board meeting.

2.11.8. Telephonic Attendance. Directors may participate in a meeting through use of conference telephone or similar communications equipment, so long as the Director(s) attending telephonically can hear the other Directors attending the meeting and the Owners attending the meeting can hear the Director(s) attending telephonically. Participation in a meeting pursuant to this subsection constitutes presence in person at such meeting.

2.11.9. Meetings Minutes. Not more than thirty (30) days after any meeting of the Board, the Secretary or other officer or agent of the Neighborhood Association shall cause the minutes or a summary of the minutes of the meeting to be made available to the Members. A copy of the minutes or a summary of the minutes must be provided to any Member who pays the Neighborhood Association the cost of providing the copy.

2.12. ACTION WITHOUT MEETING. The Board may act without a meeting if the requirements of Act Section 16-6a-813, as amended, are met. Written consents must be filed with the minutes of the proceedings of the Board. Within thirty (30) days after the written consents of a majority of Directors have been obtained, an explanation of any action taken by written consent without a meeting must be communicated to the Members by any means the Board determines is appropriate.

2.13. QUORUM AND ADJOURNMENT. Except as otherwise expressly provided in these Bylaws, at all meetings of the Board, a majority of the Directors constitutes a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present are the acts of the Board. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting to another time.

2.14. COMMITTEES.

2.14.1. Generally. The Board may, by resolution, designate such advisory and other committees as it desires, and may establish the purposes and powers of each such committee. The resolution designating and establishing the committee must (a) provide for appointment of its members and a chairman, (b) state the purposes of the committee, and (c) provide for reports, termination and other administrative matters the Board deems appropriate. All committees are required to keep minutes of their meetings. Committee meeting minutes shall be maintained at the Neighborhood Association's principal office or at such other place as the Board may designate. Committee meetings must be open to Members to the extent of space available unless the Board authorizes the Committee to meet in executive sessions.

2.14.2. Nominating Committee. The Board may form a Nominating Committee to solicit volunteers to serve as Board members or fill other Neighborhood Association positions. At the Board's direction, the Nominating Committee will also be responsible for assisting candidates for Neighborhood Association offices in becoming familiar with their potential duties and responsibilities. The Nominating Committee may, at the Board's request, assist in preparing and distributing election materials. Any member of the Board, any Owner in the Properties and agents of Owners of Lots or units outside of the Residential Area may serve on the Nominating Committee. If a Nominating Committee is not formed, the Board shall perform the duties of the Nominating Committee.

2.14.3. Special Benefit Area Committee. The Board may delegate certain duties involving managing any Special Benefit Area to a committee composed of the Neighborhood Representatives for and Members of the Neighborhoods within the Special Benefit Area. The Board may make the committee responsible for oversight of all aspects of operation of the Special Benefit Area including preparing all financial information and contracting for services for the Special Benefit Area. The Board, at its option, may assign a representative of the community manager to act as the Special Benefit Area manager and assist the committee in performing its duties. The scope of the powers of the committee, procedures for operation and any other rules needed to operate the committee may be established by the Board in the Community Guidelines.

ARTICLE III OFFICERS

This Article describes the responsibilities of the different officers of the Neighborhood Association. Officers of the Neighborhood Association are elected annually by the Board of Directors and serve at the pleasure of the Board.

3.1. DESIGNATION. The Neighborhood Association's principal officers are a President, a Vice President, a Secretary, and a Chief Financial Officer, all elected by the Board. The Board may appoint an Assistant Secretary and such other officers as it determines to be necessary. Officers other than the President need not be Directors. Except for Declarant and Neighborhood Builder representatives, anyone serving as a Neighborhood Association board member or officer of a different Neighborhood Association or the Master Association cannot be a Neighborhood Association officer.

3.2. ELECTION OF OFFICERS. The Board shall annually elect the Neighborhood Association's officers at the new Board's Organization Meeting. Each officer shall hold his office at the pleasure of the Board, until he resigns, is removed, is otherwise disqualified to serve, or his successor is elected and qualified to serve.

3.3. REMOVAL OF OFFICERS. Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and his successor elected. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation is effective on the date of receipt of the resignation or at any later time specified in the resignation. Unless specified in the resignation, acceptance of the resignation by the Board is not necessary to make it effective.

3.4. COMPENSATION. Officers may not receive any salary or compensation for their services as officers unless such compensation is approved by the Neighborhood Representatives representing a majority of the voting power in the Neighborhood Association; provided, however, that (a) nothing in these Bylaws precludes any officer from serving the Neighborhood Association in some other capacity and receiving compensation therefor, (ii) any officer may be reimbursed for actual expenses incurred in the performance of Neighborhood Association duties, and (iii) no officer, employee or director of Declarant, a Neighborhood Builder or any affiliate of Declarant or Neighborhood Builder may receive any compensation for service as an officer of the Master Association.

3.5. PRESIDENT. The President is the chief executive officer of the Neighborhood Association and is responsible for the following:

3.5.1. Meetings. Presiding at all Neighborhood Association and Board meetings,

3.5.2. General Powers. Exercising all general powers and duties which are usually vested in the office of the President of a corporation,

3.5.3. Supervision. Subject to the control of the Board, exercising general supervision, direction and control of the Neighborhood Association's business, and

3.5.4. Other Powers. Exercising such other powers and duties as may be prescribed by the Board or Neighborhood Association Governing Documents.

3.6. VICE PRESIDENT. The Vice President shall take the President's place and perform the President's duties whenever the President is absent, disabled, refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as prescribed by the Board or these Bylaws.

3.7. SECRETARY. The Secretary is responsible for the following:

3.7.1. Minutes. Ensuring minutes and other records of all meetings of the Board, and Neighborhood Association committee meetings are taken and kept at the Neighborhood Association's principal office or such other place as the Board may direct,

3.7.2. The Seal. Keeping the Neighborhood Association's seal in safe custody,

3.7.3. Other Neighborhood Association Documents. Keeping charge of such books and papers as the Board may direct,

3.7.4. Notices of Meetings. Giving, or causing to be given, notices of meetings of the Members, Neighborhood Representatives and of the Board,

3.7.5. Records. Keeping the information required by Act Section 16-6a- 1601 and authenticating records of the Neighborhood Association,

3.7.6. Membership Register. Maintaining or causing to be maintained a record book of Members, listing the names, mailing addresses, e-mail addresses, and telephone numbers of the Members as furnished to the Neighborhood Association ("Membership Register") and recording or causing to be recorded the termination or transfer of ownership by any Member in the Membership Register, together with the date of the transfer, and

3.7.7. Miscellaneous. In general, performing all duties incident to the office of Secretary, and performing such other duties as prescribed by the Board or these Bylaws.

3.8. **CHIEF FINANCIAL OFFICER**. The Chief Financial Officer is responsible for Neighborhood Association funds. The Chief Financial Officer is responsible for the following:

3.8.1. Books of Account. Keeping, or causing to be kept, full and accurate accounts, tax records and records of business transactions of the Neighborhood Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Neighborhood Association,

3.8.2. Valuables. Being responsible for the deposit of all money and other valuable effects in the name and to the credit of the Neighborhood Association in such depositories as the Board designates,

3.8.3. Disbursements. Disbursing the Neighborhood Association's funds as ordered by the Board,

3.8.4. Accounting. Rendering to the President and Directors, upon request, an account of all transactions and of the Neighborhood Association's financial condition, and "against" the action in the same proportions as the votes cast by Members other than Declarant pursuant to subsection 4.8.1(c)(1).

ARTICLE IV ACTIONS BY NEIGHBORHOOD ASSOCIATION MEMBERS

This Article describes how the Members make decisions, the minimum quorum requirement for Member votes, the number of Members required to approve proposals and other procedures involved with seeking Member approval of matters. Because the Neighborhood Association may eventually have many Members, decisions to be made by the entire Membership may be made by

written ballot and not at meetings. In some circumstances, meetings of Members in a Neighborhood may be held.

The following is a summary of the issues that can be decided by the various parties.

<i>Board of Directors</i>	<ul style="list-style-type: none"> • <i>All issues that are not reserved exclusively to the Members and amendments to the Articles</i>
<i>The Entire Membership</i>	<ul style="list-style-type: none"> • <i>Certain amendments to the Bylaws and the Declaration</i> • <i>Litigation expenses the Neighborhood Association will incur as a plaintiff</i>
<i>Declarant</i>	<ul style="list-style-type: none"> • <i>Certain amendments to the Articles, Bylaws and the Declaration</i> • <i>Certain actions of the Neighborhood Association listed in Section 5.3 of the Declaration</i>
<i>First Mortgagees</i>	<ul style="list-style-type: none"> • <i>Items listed in Declaration Section 14.2.3</i>

4.1 VOTING RIGHTS. The Neighborhood Association's classes of voting Membership are set forth in Section 1.6.1 of these Bylaws.

4.2 ACTIONS BY THE ENTIRE MEMBERSHIP. The requirement for holding an annual meeting of the Members is eliminated. Any actions that must be taken by the entire Membership of the Neighborhood Association shall be taken by written ballot in accordance with the following procedure.

4.2.1 Quorum Requirement. Following the Declarant Control Period, unless otherwise specifically set forth in the Townhome Declaration, at any meeting of Owners, a quorum shall be established by those Owners present, in person or by proxy, at a properly noticed meeting. Notwithstanding, the Townhome Board remains the only authorized body to act for and on behalf of the Neighborhood Association. Further, a majority of those Owners present in person or proxy at such meeting may vote to reschedule the meeting based upon low attendance. Otherwise, the meeting shall proceed as scheduled.

4.2.2 Approval Requirement. Any action which may be taken by the Members of the Neighborhood Association must be approved by a majority of a quorum of the voting power of the classes of membership as required by Section 1.6.2.

4.2.3 Record Date. The Board may fix a date in the future as a record date for determining which Members are entitled to vote. The record date so fixed must be not more than seventy (70) days before the date of the vote. If the Board does not fix a record date for determining Members entitled to vote, Members on the date the written ballot is distributed who are otherwise eligible to vote are entitled to vote.

4.2.4 Action By Written Ballot. Ballots must be delivered to every Member entitled to vote. Solicitations for ballots must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, (c) the time by which ballots must be received to be counted, and (d) be accompanied by written information sufficient to permit the Member to reach an informed decision on the matter. The form of written ballot must set forth each proposed action and afford an opportunity to specify a choice between approval and disapproval of each matter.

4.2.5 Approval by Ballot. Receipt within the time period specified in the solicitation of (is) a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting, and (ii) a number of approvals which equals or exceeds the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast, constitutes approval by written ballot. Written ballots may not be revoked.

4.2.6 Distribution of Ballots. The Board will also provide copies of the ballots and accompanying materials to the Members. At the Board's request, the Neighborhood Representatives may assist in collecting written ballots from Members and returning written ballots to the Board.

ARTICLE V AMENDMENTS TO BYLAWS

5.2 BOARD APPROVAL. These Bylaws may be amended by a majority of the entire Board if the amendment is within the Board's power to adopt without Member approval pursuant to the Act. Any other amendment to these Bylaws requires approval by a majority of the entire Board and any other approvals required by Section 6.2.

5.3 NEIGHBORHOOD REPRESENTATIVE APPROVAL. Amendments to these Bylaws shall also require the approval of Declarant for so long as there is a Class B Member. Except as set forth in Subsection 6.1, these Bylaws may be amended or repealed by the vote of a majority of the Members or by the written assent of such Members, as represented and cast by the Neighborhood Representatives.

ARTICLE VI MISCELLANEOUS

6.1 CONFLICTING PROVISIONS. In case of any conflict between the Articles and these Bylaws, the Articles shall control; and in case of any conflict between the Declaration and these Bylaws, the Declaration shall control. In case of any conflict between the Articles and the Declaration, the Declaration shall control.

6.2 CHECKS, DRAFTS AND DOCUMENTS. All checks, drafts, orders for payment of money, notes and other evidence of indebtedness issued in the name of or payable to the Neighborhood Association must be signed or endorsed in the manner and by the person or persons the Board designates by resolution, subject to the requirements of these Bylaws for withdrawing money from the Neighborhood Association's reserve accounts.

6.3 EXECUTION OF DOCUMENTS. The Board may authorize any Person to enter into any contract or execute any instrument in the name and on behalf of the Neighborhood Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no Person may bind the Neighborhood Association by any contract or engagement or pledge its credit or render it liable for any purpose or in any amount.

6.4 USE OF TECHNOLOGY. Where allowed by applicable law, any information the Neighborhood Association, its Board of Directors, officers, Neighborhood Representatives, or other representatives is/are required to distribute can be distributed by any system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means.

6.5 AVAILABILITY OF MASTER NEIGHBORHOOD ASSOCIATION DOCUMENTS.

6.5.1 *Records To Be Maintained.* The Neighborhood Association shall maintain at its principal office (or at such other place within or near the Properties as the Board may prescribe) the Governing Documents, books of account, minutes of meetings of Members, Neighborhood Representatives, the Board and committees, the Membership Register and any other documents required by law to be maintained by the Neighborhood Association (collectively, the "Association Documents"), each of which shall be made available for inspection and copying by any Member or the Member's duly appointed representative in accordance with the Act.

6.6 FISCAL YEAR. The Board shall designate the Neighborhood Association's Fiscal Year. The Fiscal Year may be changed by the Board.

6.7 STATEMENTS IN ITALICS. The portions of these Bylaws printed in italics are provided as simplified, general explanations of the purposes of the Articles and Sections of these Bylaws and the scheme of governance for the Properties. The statements in italics are provided for convenience and may not be considered in resolving questions of interpretation or construction of the Governing Documents.

ARTICLE VII NOTICE AND HEARING PROCEDURE

If a Person believes a violation of the Governing Documents is being committed, the Person can report the violation to the Board. This Article establishes the procedure for submitting complaints. It also sets the procedure the Board will use when hearing complaints and determining if sanctions will be imposed.

7.1 INITIAL COMPLAINT. Persons who believe a violation of the Governing Documents has occurred may file a violation complaint in a form authorized by the Board with a Person designated by the Board. The Board will then begin the enforcement process. In its discretion, the Board can issue one or two violation letters to the Person alleged to have committed the violation ("**Respondent**") or set a hearing described in Section 8.2. The Board may direct the community manager or Neighborhood Association to assist the Board in any of the steps the Board chooses to take in enforcing the Governing Documents except that decisions made at hearings must be made by the Board itself.

7.2 SCHEDULING HEARINGS. A hearing before the Board to determine whether a sanction should be imposed may be initiated by the Board after receipt of at least one violation complaint. To initiate a hearing, the Board must deliver to the respondent a notice which includes all of the following:

7.2.1 Complaint. A written statement in ordinary, concise language describing the acts or omissions with which the respondent is charged,

7.2.2 Basis for Violation. A reference to the specific provisions of the Governing Documents which the respondent is alleged to have violated,

7.2.3 Hearing Schedule. The date, time and place of the scheduled hearing.

7.2.4 Sanctions. A list of sanctions which may be imposed at the hearing.

The date for the hearing may be no less than ten (10) days after the date the notice of hearing is mailed or delivered to the respondent. Notwithstanding the foregoing, if in the sole discretion of the Board, the alleged violation threatens the health, safety or welfare of the residents of the Neighborhood Association, then the hearing may be scheduled without ten (10) days' notice. Notice of the hearing must be sent by first class or certified mail sent to the last known address of the Member shown on the Neighborhood Association's records. In the alternative, the Board may hand deliver notice of the hearing. If the respondent attends the hearing, the respondent waives any objections related to the notice. The respondent is entitled to attend the hearing, submit a statement of defense to the Board in advance of the hearing, and present a statement of defense and supporting witnesses at the hearing. If the respondent does not attend the hearing, the respondent waives these rights.

7.3 CONDUCT OF HEARING. The Board shall conduct the hearing in executive session, affording the respondent a reasonable opportunity to be heard. Before any sanction is effective, proof of notice and the invitation to be heard must be placed in the minutes of a Board meeting. Such proof is adequate if a copy of the notice and a statement of the date and manner of delivery is entered in the Board's minutes by the Neighborhood Association officer or Board member who mailed or delivered such notice. The minutes of the meeting must contain a written statement of the results of the hearing and the sanction, if any, imposed.

7.4 IMPOSITION OF SANCTIONS. After affording the respondent an opportunity for a hearing, the Board may impose any one or more of the following sanctions: (a) levy a Compliance Assessment as authorized in the Declaration; (b) suspend or condition the respondent's right to use any recreational facilities Neighborhood Association owns, operates or maintains beginning on a date in the future selected by the Covenant Committee; (c) suspend the respondent's voting privileges; (d) enter upon a Lot or property owned by a Neighborhood Association or Master Association to remedy the violation of the Governing Documents, or (e) record a notice of noncompliance (if not prohibited by law). Any suspension of Membership privileges may not be for a period of more than thirty (30) days for any noncontinuing infraction. For continuing infractions (including nonpayment of any assessment), Membership privileges may be suspended for so long as the violation continues. Written notice of any sanction to be imposed

("notice of sanction") must be delivered to the respondent by first class or certified mail sent to the last address of the member shown on the Neighborhood Association's records. No action against the respondent arising from the alleged violation may take effect before five (5) days after the hearing.

7.5 LIMITS ON REMEDIES. The Board's failure to enforce the Governing Documents does not waive the right to enforce the same thereafter. The remedies provided by the Governing Documents are cumulative and not exclusive. However, any individual Member or Neighborhood Association must exhaust all available internal options the Neighborhood Association remedies prescribed by the Governing Documents before that Member may resort to a court of law for relief with respect to any alleged violation of the Governing Documents by another Member.

CERTIFICATE OF NEIGHBORHOOD ASSOCIATION

I, the undersigned, certify that:

- 1. We are the duly appointed officers of the Neighborhood Association, a Utah non-profit corporation; and
- 2. The foregoing Bylaws constitute the Bylaws of the said Neighborhood Association, duly adopted by the Board of Directors effective as of the date below.

IN WITNESS WHEREOF, we have hereunto subscribed my hand and affixed the seal of the Lexington Townhomes Homeowners Association, Inc. as dated below.

DATE: 10/26/2022



Print Name: Harold B. Sperry, President

DATE: 10/28/2022



Print Name: Harold B. Sperry Vice President

EXHIBIT D

DEPICTION OR DESCRIPTION OF ASSOCIATION
PROPERTY

