

WHEN RECORDED RETURN TO:  
Jack William Homes LLC  
1983 N. 1120 W.  
Provo, Utah 84604

ENT8990:2022 PG 1 of 42  
**Andrea Allen**  
**Utah County Recorder**  
2022 Jan 21 08:31 AM FEE 80.00 BY JG  
RECORDED FOR Invictus Title  
ELECTRONICALLY RECORDED

DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR ROOFTOPS SUBDIVISION

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This Declaration is made on the date executed below by Jack William Homes LLC, a Utah limited liability company with respect to the Jack William Homes Property described on Exhibit “A” and by Rooftops Salem Home Owners Association, a Utah non-profit corporation with respect to the Rooftops Salem Home Owners Association Property described on Exhibit “A” (the “Declarant”). For all purposes hereof except Rooftops Sale Home Owners Association’s submission of the Rooftops Sale Home Owners Association Property to this Declaration, Jack William Homes LLC shall be the Declarant and shall solely exercise all rights of the Declarant hereunder.

**RECITALS**

- A. Rooftop Subdivision is a townhouse project located in Salem City, Utah (the “Project”);
- B. The Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Project, subject to the following covenants, conditions, restrictions, easements and limitations herein set forth which are hereby declared to be for the benefit of the whole tract and all of the Project described herein and the owners thereof, their successors and assigns;
- C. All Owners, guests, invitees, agents, Persons upon the Project and Residents shall abide by the provisions of this Declaration;
- D. These covenants, conditions, restrictions, easements, and limitations shall run with the land described in Exhibit “A” and shall be binding on and burden all parties having or acquiring any right, title, or interest to the land or any part thereof and shall create servient tenements on the land. The covenants, conditions, restrictions, easements, and limitations shall also benefit all parties having or acquiring any right, title, or interest to the land and shall create dominant tenements on the land; and
- E. The Association has been incorporated as a Utah nonprofit corporation and is entitled to the rights, obligations, and benefits of the Utah Revised Nonprofit Corporation Act (Utah Code Ann. 16-6a-101, *et. seq.*) as amended from time to time. The Owners are Members of the Association.

NOW THEREFORE, for the benefit of the Project, the Declarant, the Owners, the Residents and all invitees, agent and Persons upon the Project thereof, the following covenants, conditions, restrictions, and easements shall apply to and be binding on the Project:

**1 DEFINITIONS**

Capitalized terms used in the Governing Documents (including recitals thereto) which terms are not otherwise defined in other portions of the Governing Documents shall also have the following meanings:

**1.1 Additional Land**

Additional Land means any property that may be annexed into the Project as provided in Article 2 below. Additional Land is described in Exhibit “B” and Article 2.

**1.2 Articles**

Articles mean the Articles of Incorporation for Rooftop Salem Home Owners Association, as amended from time to time.

**1.3 Assessments**

Assessments means the assessments defined in Article 6 of this Declaration as well as by the Act and the other Governing Documents.

**1.4 Association**

Association means Rooftop Salem Home Owners Association. The Association is a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. Any actions taken during any period of un-incorporation shall be binding.

**1.5 Board**

Board means the Board of Directors of the Association. The Board governs the Association itself including Project, business, and affairs of the Association.

**1.6 Bylaws**

Bylaws mean the bylaws of the Association, as amended or restated from time to time. The current Bylaws are attached to this Declaration as Exhibit “C.”

**1.7 Common Areas**

Common Areas mean all areas labeled as open space or common area on the Map and any improvements located thereon, including, private roads, parking spaces, green spaces, recreation areas, irrigation equipment, landscaping, and walkways. The Association owns all Common Areas.

**1.8 Common Expenses**

Common Expenses mean all sums spent to administer, maintain, or replace the Common Areas; expenses agreed upon as common expenses by a majority of a quorum of Owners; expenses authorized by the Governing Documents or the Community Association Act as common expenses; common utilities; communications services; and any other expenses necessary for the common benefit of the Owners.

**1.9 Community Association Act**

Community Association Act or Act shall mean Utah Code §§ 57-8a-101 *et seq.*, as amended or replaced from time to time.



**1.10 Declaration**

Declaration means this document, as amended, annexed, supplemented, or restated from time to time.

**1.11 Director**

Director means a member of the Board.

**1.12 Family**

Family means a person living alone, or any of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

1.12.1 Any number of people related by blood, marriage, adoption, or court sanctioned guardianship together with any incidental domestic or support staff who may or may not reside in the Living Unit;

1.12.2 Four unrelated people; or

1.12.3 Two unrelated people and any children related to either of them.

**1.13 Governing Documents**

Governing Documents mean the Declaration, Bylaws, Articles of Incorporation, Map, and rules and regulations adopted by the Association.

**1.14 Living Unit**

Living Unit means a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction such residence.

**1.15 Lot**

Lot means a separately numbered parcel of property as shown on the Map. Lots shall include the Living Unit, and all utility lines, and other installations exclusively serving the Lot whether under or over the Common Areas or not.

**1.16 Map**

Map means the plat map for The Rooftops Phase I Subdivision (together with all other phase maps recorded hereafter), on file with the Utah County Recorder and any amendments or supplements thereto or any plat maps recorded for additional phases.

**1.17 Member**

Member means an Owner. If an Owner is not a natural person, the Owner may designate in writing a person to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entities formative documents shall be its representative. The Members are the Persons entitled to vote in the Association.

**1.18 Nonprofit Act**

Nonprofit Act means the Utah Revised Nonprofit Corporation Act §§ 16-6a-101 *et seq.*, as amended or replaced from time to time.

**1.19 Owner**

Owner means a Person who is the owner of the fee in a Lot as shown in the real property records of Utah County. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner. However, the seller and buyer may otherwise agree but must inform the Board in writing of the alternative arrangement.

**1.20 Person**

Person means an individual, corporation, partnership, association, trustee, or other legal entity.

**1.21 Property or Project**

Property or Project means Rooftop Salem Home Owners Association, as shown on the Map and any expansions thereof. The Property or Project includes the land, buildings, improvements and structures, easements, rights, appurtenances, and articles of personal property intended for use in connection therewith. Exhibit "A" contains the legal description for the Property or the Project.

**1.22 Resident**

Resident means any Person living or staying at the Project. Residents include without limitation: Owners, tenants, lessees, family members of Owners and tenants, and guests staying more than a week. No more than three unrelated Persons may be tenants in each Living Unit at one time.

**1.23 Turnover Meeting**

Turnover Meeting means the meeting described in Section 9.1.

**2 SUBMISSION AND EXPANSION****2.1 Submission**

The Project is submitted to be bound by the Governing Documents, to provisions of the Community Association Act, and to the Nonprofit Act. All Owners shall take title subject to the Governing Documents, Community Association Act, and Nonprofit Act. All Residents and other users of the Project shall be subject to the Governing Documents and Community Association Act.

**2.2 Expansion**

At any time within seven years after this Declaration is recorded or any supplement is recorded, whichever is later, the Declarant shall have the right to annex and subject to this Declaration all or any portion of the Additional Land without the consent of any Owner or Person (other than the owners of the property to be annexed). The Declarant may, without the consent of the Owners, at any time prior to seven years after initial recordation of this Declaration, amend the description of Additional Land in Exhibit "B" to add property. The annexation of all or any portion of the Additional Land shall be affected by the Declarant recording a written supplement to this Declaration setting for the legal description of the Additional Land to be annexed and stating that the land described in the supplement is subject to the Governing Documents. A supplemental declaration may contain additional covenants and restrictions applicable only to the land be added by the supplemental declaration. A supplemental declaration shall describe the square footage of each Living Unit, for purposes of assessment and voting and shall contain and exhibit showing the percentage vote and assessment of all Living Units.

The Additional Land may be annexed as a whole, in one or more portions, or not at all. Property annexed by Declarant under this Section need not be contiguous with other property in the Project. The exercise of the right of annexation as to any portion of the Additional Land shall not bar the further exercise of the right of annexation as to any other portion of the Additional Land. The Declarant makes no assurances as to which part, if any, of the Additional Land will be annexed.

There is no limitation on the number of Lots that may be added to the Project.

### **2.3 Withdrawal**

Prior to the Turnover Meeting, the Declarant may withdraw any property (excluding, however, any Common Areas conveyed to the Association by the Declarant) from the Property. Such withdrawn property shall no longer be subject to the covenants and restrictions of this Declaration except for any easements, rights, reservations, exemptions, power or privileges reserved to the Declarant pursuant to this Declaration which burdens the withdrawn property for the benefit of any property which is subject to the Declaration. Such withdrawal shall be made by recording a supplement to this Declaration with the Utah County Recorder's Office, withdrawing the effect of the covenants and restrictions of the Governing Documents from the withdrawn property. Such withdrawn property may be utilized by the Declarant, or any successor, assign or transferee thereof, for any lawful purpose or use.

## **3 PROPERTY RIGHTS IN LOTS**

### **3.1 Use and Occupancy**

Except as otherwise expressly provided in the Governing Documents, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot and Living Unit. Each Lot shall be bound by, and the Owner and Residents shall comply with the Governing Documents for the mutual benefit of the Owners and Residents.

### **3.2 Easements Reserved**

In addition to the easements separately recorded, shown on the Map or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

**3.2.1 Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance and determining whether or not the Lot is in compliance with the Governing Documents. Except situations deemed by the Board to be emergencies, requests for entry shall be made in advance. Entry shall be made at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

**3.2.2 Easement for Encroachment.** If any part of the Common Areas encroaches on a Lot, an easement for the encroachment and for maintenance shall exist. If any part of a Lot encroaches upon the Common Areas, an easement for the encroachment and for maintenance

shall exist. Such encroachments will not be considered to be encumbrances to the Common Areas or Lots. Encroachment causes include, without limitation, errors in the original construction; errors in the Map; settling, rising, or shifting of the earth; or changes in position caused by good faith mistakes in the repair or reconstruction of the Project.

3.2.3 Utility Easements. The Association or any public utility provider shall have an easement over all Lots for the installation, maintenance and development of utilities and drainage facilities. As referenced below, the Declarant has reserved to itself or its affiliate an easement on all Property (including all Lots and Common Area) for utility installation, maintenance, service and repair that shall survive the termination of Declarant’s ownership of any Lots. The easement area of each Lot and all Improvements therein shall be maintained continuously by the Owner of the Lot and the Association in accordance with the terms of the Governing Documents, except for those improvements for which a public authority or utility provider is responsible.

**3.3 Easements Shown on the Map**

Lots shall be subject to the easements shown on the Map.

**4 PROPERTY AND USE RIGHTS IN COMMON AREA**

**4.1 Member’s Right of Enjoyment**

4.1.1 The Project will have Common Areas as designated on the Map for the benefit of all owners. Every Owner shall have a non-exclusive right and easement for the use, benefit and enjoyment in and to the Common Area and such nonexclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth.

4.1.2 Subject to the Governing Documents, each Resident, guest, or invitee has the right to ingress and egress across the Common Areas necessary for access to his Lot.

4.1.3 No portion of the Common Area may be used exclusively by any Owner or Owners for personal gardens, storage facilities, or for any other purpose.

4.1.4 The rights described in this Section are appurtenant to and pass with title to the Lot.

**4.2 Delegation of Right of Use**

Any member of the Association may delegate its rights to the use and enjoyment of the Common Area to Residents, all subject to such reasonable rules and regulations which the Association may adopt.

**4.3 Compliance with Covenants and Restrictions and Rules and Regulations**

Each Owner and Resident shall comply with the covenants and restrictions imposed by this Declaration and by the Bylaws and any rules and regulations adopted by the Association relating to the Common Areas. Further, each Owner and Resident shall fully and faithfully comply with

the Declaration, the Bylaws and any rules, regulations and restrictions adopted by the Association relating to the Common Areas.

## **5 MAINTENANCE**

### **5.1 Association Responsibility**

The Association shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore and maintain the Common Areas. The Association shall also maintain, repair, and replace the exterior finished surfaces of the walls, soffit, fascia, and roofs of the Living Units (excluding rooftop decks, which are the sole responsibility of the Owners), all driveways and walkways, and all landscaping, whether Common Area or Lot.

The Board, after notice and opportunity for hearing, or in the case of an emergency immediately, may assume the maintenance responsibility over a Lot or Living Unit if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, it shall not be liable for trespass or nuisance and shall have the right to levy an Individual Assessment to recover its maintenance costs.

### **5.2 Owner Responsibility**

Unless otherwise assigned to the Association in 5.1, all maintenance, repair, and replacement of the Lots, Living Units, and improvements shall be the sole responsibility of the Owner thereof, who shall maintain such Lot and Living Unit in good repair and in accordance with the Governing Documents. Maintenance, repair, and replacement responsibility shall include, by way of illustration only: all interior and structural components; rooftop decks; exterior doors, exterior door frames, exterior door casings, exterior door jambs, exterior door hardware, thresholds, and any weatherproofing required for the exterior doors; garage doors, garage door casing and molding, garage door hardware and openers; windows, window frames, window casing, window hardware, any weatherproofing required for the windows; driveways, walkways, patios, or any other concrete adjoining the Lot; exterior light fixtures, exterior electrical outlets, light bulbs; HVAC installations; plumbing installations; electrical installations; and any other component of the Living Unit or Lot not expressly assumed by the Association.

### **5.3 Party Walls**

Each wall used as the dividing line between Living Units is a party wall. Nothing in this section shall alter or limit the general rules of law regarding party walls and liability for damage due to negligence, or willful acts or omissions. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use the party wall in proportion to their use. If a party wall is destroyed or damaged by fire or other casualty, and is not a covered loss under insurance, either Owner may restore the wall and the other Owner shall contribute to the cost of restoration in proportion to the damage sustained by the Owner compared to all damage to the party wall. The right of an Owner to contribution from any other Owner for party wall costs shall be appurtenant to and run with the land and shall pass to an Owner's successor in title.

## **6 ASSESSMENTS**

### **6.1 Covenant for Assessment**

By accepting a deed or other conveyance, each Owner covenants and agrees to pay the Association all regular assessments, special assessments, supplemental assessments, Individual Assessments, late penalties, and collection costs (including attorney's fees) whether or not a lawsuit is commenced. No Owner may exempt themselves from liability for assessments by abandonment of their Lot, failure of the Association to maintain the Common Areas, or non-use of the Common Areas. Except for foreclosures, the personal obligation for all unpaid assessments including Special, Supplemental and Individual Assessments, late fees, interest, and collection costs, including lien recordation expenses and attorney's fees, shall pass to the successor in title. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior owner. The amounts set forth in the statement shall be binding upon the Association. If an Owner loses their Lot to foreclosure or voluntarily conveys it, they shall also remain personally liable for all unpaid assessments including Special, Supplemental and Individual Assessments, late fees, interest, and collection costs including lien recordation expenses and attorney's fees).

### **6.2 Declarant's Covenant for Assessments**

Declarant shall not be obligated to pay assessments. However, during the period that Declarant owns any Lots, it shall provide the difference between the Association's expenses and actual assessment collections. Declarant may provide the difference with money, services, or in kind.

### **6.3 Annual Budget**

The Board shall prepare an annual budget for the Association in accordance with the requirements of the Act. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new budget is adopted. In accordance with § 215 of the Community Association Act, the Board shall present the annual budget to the Owners at a meeting of the members. During the period of administrative control, the Owner's cannot disapprove a budget. After the period of administrative control, a budget may only be disapproved by the Owners in accordance with the Community Association Act.

### **6.4 Reserve Account**

The Association shall establish a reserve account to fund long-term maintenance and replacement items in the Project. The Board shall use reasonable efforts, subject to the Owners rights under the Community Associations Act, to fund the reserve account payable by Owners in regular installments rather than by Special Assessment. The Board shall only be required to conduct reserve fund analysis if deemed appropriate by the Board or if requested by at least fifty percent (50%) of the vote of the Members. The Board shall not be personally liable for failure to fund the reserve unless gross negligence or intentional misconduct is proven in a court of law.

### **6.5 Certain Association Fees**

If adopted by the Board, the Association may charge a fee not to exceed the amount allowed under § 106 of the Community Association Act for providing Association payoff information needed in connection with the financing, refinancing, or sale of a Lot.

### **6.6 Regular Assessment**

The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis. Written notice of the regular assessment amount and payment schedule shall be sent to Owners at least 30 days in advance of the beginning of the fiscal year for which the regular assessment will be due. Apart from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent.

### **6.7 Special Assessment**

The Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas or exteriors of Lots. The Association may levy a special assessment up to 50% of the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of a quorum of Owners.

### **6.8 Supplemental Assessment**

If the regular assessments are inadequate to pay the Common Expenses, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental assessment to fund the supplemental budget. The Association may levy a supplemental assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of a quorum of Owners.

### **6.9 Individual Assessment**

Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots and their Owners. Individual Assessments include, without limitation:

6.9.1 Assessments levied against a Lot and its Owner to reimburse the Association for costs incurred in paying for, correcting or remedying a violation of the Governing Documents;

6.9.2 Fines, late fees, interest, collection costs including lien expenses and attorney's fees;

6.9.3 Services provided to a Lot due to an Owner's or Resident's failure to maintain the Lot, or abide by the Governing Documents or to protect the health, safety, and welfare of adjoining Lots and Common Areas;

6.9.4 Reinvestment or transfer fees due at the transfer of a Lot; and

6.9.5 Any charge, expense, assessment or fee described as an Individual Assessment by this Declaration or allowed by the Governing Documents.

### **6.10 Apportionment of Assessments**

Regular, special, and supplemental assessments will be apportioned among the Lots based on the square footage of the Living Unit in proportion to the square footage of all Living Units. The

apportionment of the Lots will be maintained on the books and records of the Association and will be available for inspection by the Owners. Individual Assessments shall be apportioned exclusively to the Lots benefitted or affected in any manner deemed reasonable by the Board or the Association.

#### **6.11 Nonpayment of Assessment**

Assessments not paid within 10 days after the due date established by the Board will be late and subject to interest at 18% per annum on any delinquent balance and a \$25.00 late fee. Late fees may only be charged once per missed payment.

#### **6.12 Application of Payments**

Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.

#### **6.13 Acceleration**

If an Owner fails to pay their assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments due that year.

#### **6.14 Suspension of Voting Rights**

If an Owner has a delinquent assessment balance, the Association may suspend their right to vote.

#### **6.15 Lien for Assessment**

All assessments, late fees, interest, and collection costs (including attorney's fees) not timely paid shall be a charge and continuing lien upon each Lot against which the assessment is made. The Association shall file a notice of lien with the county recorder as evidence of nonpayment.

#### **6.16 Enforcement of Lien**

Without waiving its right to personally pursue an Owner for any unpaid assessments or damage, the Association may also foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

#### **6.17 Termination of Utilities/Access to Recreational Facilities**

If an Owner fails to pay their assessments, the Association may terminate utility and/or communication services paid in common and access to recreational facilities. The Board shall establish procedures for terminating utilities and access to recreational facilities, which shall comply with the Community Association Act.

#### **6.18 Collection of Rent from Tenant**

If an Owner rents their Lot and fails to pay their assessments, the Association may also demand that any Resident or any tenant to pay the Association any rent owed to the Owner. Payment of rent to the Association shall not be a violation of any lease by the tenant. The Board shall establish procedures for collecting rents from tenants, which shall comply with the Community Association Act.



**6.19 Appointment of Trustee**

The Owners hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-302 to a 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 the Declaration.

**6.20 Subordination of Lien**

A lien for assessments shall be subordinate to a first Mortgage now or hereafter placed upon a Lot. The sale of a Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments which became due prior to the foreclosure sale. A foreclosure will not relieve the purchaser's obligation to pay six months of assessments, late fees, and penalties.

**7 RESTRICTIONS ON USE****7.1 Use of Lots - Residential Use**

Each of the Lots in the Project is limited to single-Family, residential use only. No more than four (4) unrelated single persons may be Residents at one time in each separate Living Unit. Each Lot and Owner is subject to the uses and restrictions imposed by Salem City Zoning Ordinance or any other municipal ordinance governing use of the Lot (including any parking restrictions). To the extent that municipal ordinance conflicts with the Governing Documents, the more restrictive shall control.

**7.2 Initial Ownership Period**

To protect the values in the Project, the initial purchasers of the Lots must own the Lots for a minimum of 18 months from the date the deed is recorded before the Lot can be resold.

**7.3 No Obstruction of Common Areas**

There shall be no obstructions of the Common Areas by the Owners, Residents, and their tenants, guests or invitees without the prior written consent of the Board. The Board may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots or the Common Areas.

Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Board.

**7.4 Cancellation of Insurance, Illegal Activity**

Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would be a violation of the Governing Documents, any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste

of, the Common Areas or any part thereof shall be committed by any Person, any Owner or Resident or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the Owners harmless against all loss resulting from any such damage or waste caused by him, any Resident, or any Person that is his invitees.

## 7.5 Nuisances

No Owner or Resident shall create, maintain, allow or permit a nuisance in, on or about the Project. For purposes of this section a “nuisance” includes behavior which annoys, disturbs or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of the Property. A nuisance includes but is not limited to the following:

7.5.1 The occurrence of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

7.5.2 The storage of any item, property or thing that will cause any Lot or the Common Areas to appear to be in an unclean or untidy condition or that will be noxious, offensive or unpleasant to the senses.

7.5.3 The accumulation of personal property, rubbish, unsightly debris, garbage, equipment, or other things or materials so as to constitute an eyesore or offensive condition as reasonably determined by the Board or the Association;

7.5.4 The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of any other Resident at the Project;

7.5.5 The creation, allowance or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;

7.5.6 Actions, inactions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other Owner, Resident including any guests or invitees, particularly but not limited to the situation of the police, sheriff or the Association being called to restore order;

7.5.7 Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, offensive, threatening or of a nature that diminishes, damages or destroys the peaceful, quiet or reasonable enjoyment of the Property by other Residents, their guests or invites;

7.5.8 Excessive noise in, on or about any Lot or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;

7.5.9 Excessive traffic in, on or about any Lot or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;

7.5.10 Allowing a pet to be unleashed while outside of the Living Unit;

7.5.11 Barking, meowing, or other animal noises;

7.5.12 Allowing a pet to urinate or defecate on any Lot or failing to clean up immediately any feces deposited by a pet on any Lot or in the Common Area.

7.5.13 Owning or having a possession of a pet that bites, scratches, barks, attacks, threatens, harasses or unreasonably bothers any Resident or any Person.

### **7.6 Compliance with Governing Documents including Rules and Regulations**

No Owner or Resident shall violate any provision of the Governing Documents including, but not limited to, those provisions pertaining to the use of the Lots and of the Common Areas. An Owner or Resident shall be responsible to advise their guests and invitees about the Governing Documents and each Owner or Resident shall be responsible for their guests' and invitees' compliance with the Governing Documents.

### **7.7 Structural Alterations**

Except for initial construction and landscaping performed by an agent of Declarant, no improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon shall be made without the prior approval of the Board. No alterations to a Living Unit may be performed without the prior approval of the Board and the appropriate governmental entity. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Board.

### **7.8 Window Coverings**

The Board, by rule, may require that certain colors and types of window covering be used.

Under no circumstances shall any cardboard, newspaper, or tinfoil be used as window coverings in the Project. Additionally, no stickers or non-holiday decorations will be permitted in windows.

### **7.9 Signs**

No signs shall be erected or maintained upon any Lot or in the Common Areas without compliance with the Governing Documents including any rules and regulations adopted by the Association or, in the alternative, without the prior written consent of the Board.

### **7.10 Pets**

No animals, livestock, birds, insects, reptiles, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two domesticated dogs or cats (or a small number of fish kept in a fish tank in the residence) shall be allowed as long as said animals or fish do not bite, scratch, attack, threaten, harass, annoy, emit odors or unreasonably bother or constitute a nuisance to another Person and provided such animals are strictly kept or governed in compliance with the Governing Documents.

If a pet owner violates any of the rules and regulations of the Association, or contained in the Governing Documents, the Board shall have the authority to issue citations or levy assessments or damage or penalty, and enforce and collect these by seeking lawsuit, judgment, lien or foreclosure. The Board may also require that the Owner or Resident remove any pet or animal, livestock, bird, insect, reptile, insect or poultry from the premises.

### **7.11 Storage and Parking of Vehicles**

The driving, parking, standing, and storing of motor vehicles, boats, trailers, or vehicles of any kind in, on or about the Project shall be subject to the following:

7.11.1 The parking rules and regulations adopted by the Board from time to time.

7.11.2 No vehicles of any kind shall be permitted to be parked on any private street within the Project between the hours of 12:00 A.M. and 6:00 A.M.

7.11.3 No recreational, commercial or oversized boat, trailer or vehicle shall be allowed within the Project unless said boat, vehicle or trailer is kept at all times within the garage and the garage door is closed, or for purposes of loading or unloading passengers, personal property or supplies (for a period of time up to 8 hours).

7.11.4 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, boat or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or parking space or to create an obstacle or traffic or safety hazard.

7.11.5 Residents may park their operational motor vehicles in their individually owned driveways. No non-operational motor vehicle, or any boat or trailer may be parked for more than 8 hours in any driveway.

7.11.6 No resident shall repair or restore any vehicle, boat or trailer of any kind in a driveway or on a Lot (outside the garage), or in the Common Area, except for emergency repairs, and then only for no more than 8 hours and then to the extent necessary to enable movement thereof to a proper repair facility.

7.11.7 No garage may be altered in such a manner that the number of motor vehicles which reduces the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

Vehicles, boats, trailers or vehicles of any nature which are housed, parked, owned or operated in violation of the Governing Documents may be impounded or towed without further notice, and at the Owner's or Resident's sole expense.

### **7.12 Aerials, Antennas, and Satellite Dishes**

Aerials, antennas, and satellite dishes are prohibited except in accordance with rules and regulations adopted by the Association and uniform applied to the Owners. Aerials, antennas, and satellite dishes may not be installed on Common Areas.

### **7.13 Timeshares**

Timeshares and time-sharing of Living Units within the Project is prohibited, and under no circumstances shall any condominium be owned or used for time sharing, including but not limited to a "Timeshare Interest" as that term is defined in Utah Code Ann. § 57-19-2, as amended.

### **7.14 Temporary Structures, etc.**

No structure of a temporary character, or trailer, camper, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Board.

### **7.15 Repair of Buildings**

No buildings including any improvement upon any building or upon such Lot shall be permitted to become unsightly or to fall into disrepair, and each such improvement shall be at all times be kept in good condition and repair and adequately painted or otherwise finished.

**7.16 Subdivision of Lots**

No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with the Governing Documents.

**7.17 Clothes Drying Facilities**

Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property.

**7.18 Front Porches**

Front porches are required to be maintained in a clean and tidy fashion. Any outdoor furniture kept on the front porch shall be well maintained and in good condition. The Association may require worn furniture or personal property that detracts from the aesthetics of the Project to be removed from the front porch.

Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

**7.19 Off Road Vehicles**

No off-road motor vehicles, including but not limited snow mobiles, three wheelers or four wheelers may be driven on the roads, driveways, streets, footpaths, walkways, or Common Areas within the Project.

**7.20 Firearms and Projectile Weapons**

The use of firearms, airsoft guns, BB guns, pellet guns, archery equipment, or any other projectile weapon, however powered, is prohibited upon the Property except in cases of justified self-defense as allowed by Utah state law.

**8 MEMBERSHIP AND ASSOCIATION****8.1 Membership**

Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot. The classes of Members are described in the Bylaws.

**8.2 Voting Rights**

Voting is governed by the Bylaws.

**8.3 Status and Authority of Board**

The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Project and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

**8.4 Composition and Selection of Board**

The Bylaws govern how the Board is established and selected.

**8.5 Liability of Declarant and Board**

In accordance with § 57-8a-229 of the Community Association Act, the Association may not, after the period of administrative control, bring a legal action against Declarant, the Board, and Director, employee, independent contractor or agent of Declarant related to the period of administrative control unless:

(A) the legal action is approved in advance at a meeting where owners of at least 51% of the votes of the Members are present or represented by proxy;

(B) the legal action is approved by vote of person or proxy by the owners of (a) more than 75% of the voting interests of the Members present at the meeting; or (b) more than 51% of the allocated voting interests of the Members;

(C) the Association provides the Members with: (a) written notice that the Association is contemplating legal action; (b) after consultation with an attorney, a written assessment of (i) the likelihood that the legal action will succeed; (ii) the likely amount in controversy in the litigation, (iii) the likely cost of resolving the legal action to the association's satisfaction, and (iv) the likely effect the legal action will have on each Owner's ability to obtain financing for a Lot with the legal action is pending;

(D) the association establishes a trust funded with an amount equal to 10% of the cost estimated to resolve the legal action, not including attorney fees that the Association can only use to pay the costs to resolve the legal action; and

(E) the Association (i) notifies the person subject to the legal action of the legal action and the basis of the Association's claim, and (ii) gives the person subject to the claim a reasonable opportunity to resolve the dispute that is the basis of the proposed legal action.

**8.6 Adoption of Bylaws**

The Association has adopted Bylaws which are being recorded simultaneously with this Declaration.

**9 DECLARANT RIGHTS****9.1 Administrative Control of Association**

Declarant shall assume full administrative control of the Association through an appointed interim Board, which shall serve until the Turnover Meeting.

The Turnover Meeting shall be held at the Declarant's option and sole discretion but shall not be held later than five (5) years from the date the last Lot to be developed upon the Project is sold.

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

## 9.2 Other Rights

In addition to any other rights under the Governing Documents, as long as Declarant owns at least one Lot within the Property:

9.2.1 Sales Office and Model. Declarant shall have the right to maintain a sales office and model on one or more of the Lots which Declarant owns. Declarant and prospective purchasers and their agents shall have the right to use and occupy the sales office and models during reasonable hours any day of the week.

9.2.2 "For Sale Signs." Declarant may maintain a reasonable number of "For Sale" signs, the size of which may be determined by Declarant, at reasonable locations on the Property, including without limitation, the Common Property.

9.2.3 Declarant Exemption. Unless specifically and expressly bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents.

## 9.3 Easements Reserved to Declarant

Declarant hereby reserves to itself or assigns the following easements.

9.3.1 The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Map as "public utility easement," or otherwise designated as an easement area over any road or Common Area on the Project, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Map.

9.3.2 An easement for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located.

9.3.3 Easement granting the privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

9.3.4 The reservation to Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the project and the provision of utility services, and related services and facilities.

9.3.5 The Declarant further reserves unto itself, and its successors and assigns, the right to grant easements, rights-of-way and licenses to any person, individual, corporate body or municipality, to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto for public utilities, or quasi-public utilities or to grant such

other licenses or permits as the Declarant may deem necessary for the improvement of the Property in, over, through, upon and across any and all of the roads, streets, avenues, alleys, and open space and in, over, through, upon and across each and every Lot in any easement area set forth in this Declaration or as shown on the Map.

9.3.6 The Declarant further reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Map. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as laid down and shown on the Map, without the prior written approval of the Board.

9.3.7 Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

9.3.8 Declarant further reserves unto itself, for itself and any builder and their successors and assigns, the right, notwithstanding any other provision of the Declaration, to use any and all portions of the Property other than those Lots conveyed to Owners, including any Common Area which may have previously been conveyed to the Association, for all purposes necessary or appropriate to the full and final completion of construction of the Project.

The Declarant will take reasonable steps, and will ensure that any builder takes reasonable steps, to avoid unduly interfering with the beneficial use of the Lots by Owners.

## **10 COMPLIANCE AND ENFORCEMENT**

### **10.1 Compliance**

Each Owner, Resident of a Lot and all their guests, invitees, or any person coming onto the Project shall comply with the provisions of the Governing Documents and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for the assessment of liens, issuance of citations, fines and penalties including actions or suits maintainable by the Association or by any aggrieved Owner.

### **10.2 Remedies**

Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association, the right, in addition to any other rights set forth in the Governing Documents, or under law, to do, any or all of the following after giving notice and an opportunity to be heard:

10.2.1 To enter the Lot which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be



instituted before any items of construction may be altered or demolished. All expenses, costs and attorney's fees shall be an Individual Assessment;

10.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

10.2.3 To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board;

10.2.4 To terminate the right to receive utility services paid for out of assessments, if any, or, except for the right to an assigned parking space, to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation and/or payment of all Assessments has occurred; or

10.2.5 For any infraction of any of the Governing Documents, the right of the Association to suspend the voting rights and the rights to use of the Common Area after notice and a hearing for any period deemed reasonable by the Board or Association or until all Assessments are paid and violations of the Governing Documents are remedied; or

10.2.6 Assess and record liens, bring suit or action against the Owner or Resident on behalf of the Association and other Owners to collect damages against such Owner or Resident, collect any assessments and enforce the Governing Documents including any rules or regulations adopted pursuant thereto. Such associated expenses, costs and attorney's fees shall be an Individual Assessment.

### **10.3 Action by Owners**

Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition in violation of the Governing Documents by appropriate legal proceedings.

### **10.4 Injunctive Relief**

Nothing in this Section shall prevent an Owner, the Association or interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

### **10.5 Hearing**

The Board shall, by resolution, create procedures for hearings. When a hearing is requested or required, the hearing shall be conducted in accordance with the Board's resolution on hearings.

## **11 INSURANCE**

### **11.1 Types of Insurance Maintained by the Association**

11.1.1 Property and liability insurance as required by Community Association Act Sections 401 through 407, as amended or replaced from time to time;

11.1.2 Directors and officers for at least \$1,000,000.00; and

11.1.3 Fidelity bond or dishonest acts insurance for at least the value of the reserves and operating capital of the Association.

11.1.4. The Association may also obtain Worker’s Compensation Insurance and other insurance which it may deem legally required and/or desirable.

The Board may adopt insurance rules and policies to maintain the insurability of the Project, keep the premiums reasonable, and enforce responsibilities of the Owners.

### **11.2 Insurance Company**

The Association shall use well-rated insurance companies knowledgeable with community association insurance, which are licensed in Utah.

### **11.3 Premium as Common Expense**

The premiums for the Association’s various insurance policies shall be a Common Expense.

### **11.4 Insurance by Owner**

Owners shall obtain insurance for personal property, contents, and personal liability in minimum amounts as required by the Association. Owners shall also obtain loss assessment and dwelling coverage in the amount of the Association’s deductible. Owners shall annually show proof to the Association of such Owner’s maintaining such personal property, contents, personal liability, loss assessment and dwelling coverage.

### **11.5 Payment of Deductible**

The deductible on a claim made against an Association policy shall be allocated amongst the parties to the loss as described in Community Association Act Section 405(7)-(8), as amended or replaced from time to time.

### **11.6 Right to Adjust Claims**

The Association has the right and authority to adjust claims.

### **11.7 Damage to the Project/Insurance Proceeds**

If the Project is damaged or destroyed, the Association shall follow Community Association Act Section 407, as amended or replaced from time to time, to determine whether to rebuild and how to use insurance proceeds.

## **12 AMENDMENT AND DURATION**

### **12.1 Amendments**

12.1.1 Approval Required. Except as otherwise provided in this Declaration, this Declaration may be amended by approval of Owners holding sixty-seven percent (67%) of the

voting rights of the Association. However, the Board may amend this Declaration, without the consent of the Owners, to correct typographical and grammatical errors.

12.1.2 Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration is acknowledged and is recorded in the Utah County Recorder's Office, Utah.

12.1.3 Declarant's Right to Amend. Notwithstanding anything in this Declaration, so long as the Class B membership exists, the written consent of the Declarant is required to amend this Declaration or the Map. As long as Declarant owns any Lot, the Declarant shall have the unilateral right to amend the Declaration.

## **13 MISCELLANEOUS PROVISIONS**

### **13.1 Professional Management**

The Association may be managed by a professional management company. The Board may select the professional management company using criteria set by the Board and complying with Utah law.

### **13.2 Invalidity; Number; Captions**

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

### **13.3 Joint Owners**

In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

### **13.4 Lessees and Other Invitees**

Residents, lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

**13.5 Covenants Run with the Land**

The Declaration contains covenants which run with the land and create equitable servitudes. The Declaration shall be binding upon and inure to the benefit of the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Project, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner and Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner and Resident agrees to be bound by the Governing Documents.

**13.6 Waiver, Precedent and Estoppel**

No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.

**13.7 Notice of Sale, Mortgage, Rental, or Lease**

Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenants.

**13.8 Taxes on Lots**

Each Owner will pay all taxes which may be assessed against him or his Lot.

**13.9 Service of Process**

The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce.

If the corporate status of the Association expires, the president shall be the successor agent. The name and address of the president shall be kept with the Association's records at its principal place of business.

**13.10 Conflicts**

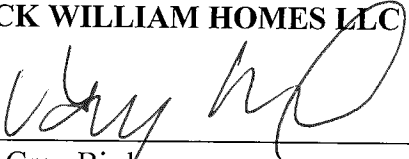
If the Declaration conflicts with the Community Association Act, the Community Association Act shall control. If the Declaration conflicts with the Map, the Map shall control. If the Declaration conflicts with the Bylaws, Articles, or rules, the Declaration shall control.

*[remainder of page intentionally left blank; signature page follows]*

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

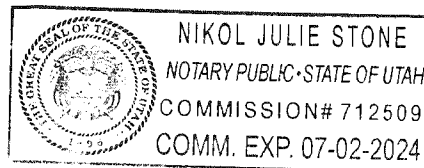
**DECLARANT:**

**JACK WILLIAM HOMES LLC**

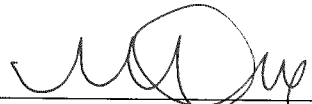


By: Greg Bird  
Its: Manager

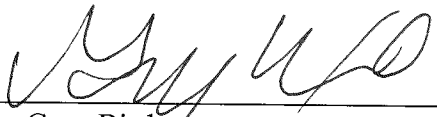
STATE OF UTAH            )  
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County of Utah            )



On this 20<sup>th</sup> day of January, 2022, personally appeared before me Greg Bird, who being by me duly sworn, did say that he is the Manager of Jack William Homes LLC and in such capacity is authorized to execute this Declaration.

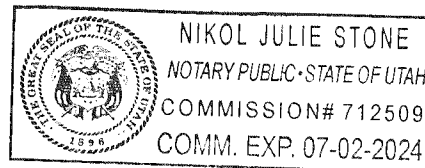
  
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NOTARY PUBLIC

**Rooftops Salem Home Owners Association**

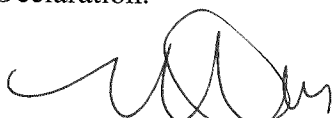


By: Greg Bird  
Its: President

STATE OF UTAH            )  
                                      :ss.  
County of Utah            )



On this 20<sup>th</sup> day of January, 2022, personally appeared before me Greg Bird, who being by me duly sworn, did say that he is the President of Rooftops Salem Home Owners Association and in such capacity is authorized to execute this Declaration.

  
\_\_\_\_\_  
NOTARY PUBLIC

**Exhibit A**  
**Legal Description**

Jack William Homes, LLC Property

The real property located in Utah County and more specifically described as follows:

Lots 1 through 28, Rooftops, Phase I, as described in Subdivision Plat as recorded with the Utah County Recorder as Entry No. 4147-2021 at Map Book 51, Map page 675 on March 4, 2021.

Serial Nos.

- 51-675-0001
- 51-675-0002
- 51-675-0003
- 51-675-0004
- 51-675-0005
- 51-675-0006
- 51-675-0007
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- 51-675-0024
- 51-675-0025
- 51-675-0026
- 51-675-0027
- 51-675-0028

Rooftops Salem Home Owners Association Property

The real property located in Utah County and more specifically described as follows:

Common Area, Rooftops, Phase 1, as described in Subdivision Plat as recorded with the Utah County Recorder as Entry No. 4147-2021 at Map Book 51, Map page 675 on March 4, 2021.

Serial No. 51-675-0030

**Exhibit B**  
**Additional Land**

The following property located in Utah County, Utah:

COM S 707.43 FT & W 144.24 FT FR N 1/4 COR. SEC. 35, T8S, R2E, SLB&M.; S 90 FT; W 42 FT; S 44 FT; ALONG A CURVE TO R (CHORD BEARS: S 44 DEG 59' 55" E 14.14 FT, RADIUS = 10 FT); S 75.23 FT; W 176.49 FT; S 325.46 FT; E 176.49 FT; S 77.23 FT; ALONG A CURVE TO R (CHORD BEARS: S 45 DEG 0' 0" W 11.31 FT, RADIUS = 8 FT); W 29.24 FT; S 129.7 FT; W 476.88 FT; N 347.46 FT; N 1 DEG 14' 8" W 407.14 FT; N 89 DEG 40' 35" E 253.13 FT; N 88 DEG 48' 3" E 100.36 FT; N 89 DEG 33' 1" E 201.44 FT TO BEG. AREA 7.593 AC.

Parcel No. 25-063-0039



## Exhibit C

### Bylaws of Rooftop Salem Home Owners Association

#### 1 BYLAW APPLICABILITY/DEFINITIONS

##### 1.1 Definitions

The capitalized terms used in the Bylaws shall have the same meaning given to them in the Declaration, unless otherwise specifically stated.

##### 1.2 Bylaw Applicability

The provisions of these Bylaws are binding upon the Association and the Members of the Association. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgment that the Owner has agreed to and ratified these Bylaws and will comply with them.

#### 2 ASSOCIATION

##### 2.1 Composition

All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Members of the Association. Except for matters specifically reserved for a vote of the Members, the Board, on behalf of the Members, shall administer the Association's affairs.

##### 2.2 Annual Meeting

Annual meetings shall be held once a year. The Board shall determine the date, time, and place of the annual meeting. The Association shall send notice of annual meetings at least 10 days but not more than 60 days in advance of the meeting. At the annual meeting the Association shall conduct the following business in any order the Board sees fit, including:

- 2.2.1 Roll call and verification of quorum;
- 2.2.2 Approval of minutes from preceding annual meeting;
- 2.2.3 Reports of officers;
- 2.2.4 Special committee reports; and
- 2.2.5 Election of Directors.

##### 2.3 Special Meeting

Special meetings of the Members may be held at any time for any purpose. A special meeting of the Members may be called by a majority of the Directors or upon petition of at least 20% of the votes of the Members in good standing. The Association shall schedule and send notice of a special meeting within 30 days of request. The notice of a special meeting shall state the date, time, place, and purpose of the meeting. The Association shall send notice of a special meeting at least 10 days in advance of the meeting. No business may be transacted at a special meeting except as stated in the notice.

## 2.4 Place of Meeting

Meetings shall be held at a place designated by the Board and stated in the notice of meeting. Meetings shall be held in Utah County or by means of telecommunication.

## 2.5 Conduct of Meeting

The President shall preside over all meeting of the Association. The Secretary shall keep the minutes of the meeting and take record of all resolutions adopted at the meeting.

## 2.6 Quorum

A quorum shall exist at any meeting of the Members if a majority of the votes entitled to be cast by the Members are present at the meeting.

## 2.7 Voting

The Association shall initially have the following two classes of Members, who shall be entitled to vote as follows:

2.7.1 **Class A.** Class A Members shall be all Owners other than the Declarant. Class A Members shall be entitled to one vote per Living Unit. The voting rights of the Class A Members shall be maintained on the books and records of the Association and shall be made available for inspection by the Class A Members.

2.7.2 **Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to 2 votes for every Lot owned by Declarant plus 2 votes for every vote of the Class A Members. The Class B Membership shall automatically cease and be converted to a Class A membership upon Declarant's last sale.

If a Lot is owned by more than one Person and multiple Owners are present at a meeting, the vote appertaining to that Lot shall be cast by agreement of a majority of the Owners. If a Lot is owned by more than one Person and a single Owner is present at a meeting, the vote appertaining to that Lot shall be cast by the Owner present. The Association may conclusively presume the consent of all a Lot's Owners when a vote is cast by a Lot with multiple Owners.

Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Member consent shall be approved at a meeting by majority vote of a quorum, and any decision adopted by written consent without a meeting may be adopted by the number of votes required to approve the decision.

## 2.8 Good Standing

A Member shall be in good standing if such Member has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees. A Member must have paid in full all assessments and remedied all violations of the Governing Documents at least three days prior to the meeting or action.

## 2.9 Proxies

A Member in good standing may vote or otherwise act by proxy. A Member may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the Association in person, by mail, or electronically. The proxy appointment form must name a proxy, be dated, and signed by the Member. Any proxy appointment form that does not contain

a proxy's name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Member's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Member, or the passage of 11 months.

#### **2.10 Mail-in Ballots**

Any action requiring a vote of the Members, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in the Utah Revised Nonprofit Corporation Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

#### **2.11 Written Consent in Lieu of a Meeting**

Any action requiring a meeting of the Members may be taken by written consent without a meeting. Action by written consent shall comply with the procedures set forth in the Utah §16-6a-707 of the Nonprofit Corporation Act, and shall only require the approval of the number of votes required to take the action approved. Written consents may be collected electronically.

#### **2.12 Record Date**

The record date for determining which people are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Members shown on the records of the Association on the record date shall be the people entitled to vote on an action.

#### **2.13 Meetings by Telecommunication**

All meetings of the Members may participate in annual, regular or special meetings of the Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting.

### **3 BOARD OF DIRECTORS**

#### **3.1 Number and Qualification of Directors**

There shall be three Directors who serve as members of the Board of Directors. Except for Directors appointed by Declarant, Directors must be Members in good standing.

#### **3.2 Selection and Term of Directors**

After the Turnover Meeting, Directors shall serve for a term of two years and shall serve until their successors have been elected. There is no limit on the number of terms any Member may serve as a Director. Director's terms shall be staggered as follows: (i) two Directors shall be elected in years ending with an even number; and (ii) one Director shall be elected in years ending with an odd number. At the initial election of the Directors, the newly elected Directors shall determine their terms.

#### **3.3 Vacancies**

After the Turnover Meeting, director vacancies, for any reason other than removal by vote of the Association, may be filled by vote of a majority of the remaining Directors unless the Members

fill such vacancy by a special meeting or written consent in lieu of a meeting (and the Members appointment shall have priority over any Board appointment) and such replacement Director shall serve until the end of the prior Director's term. If any position on the Board is vacated and a replacement is not appointed, then the position shall remain vacant until a replacement is appointed by the Members at the next annual meeting. While any position on the Board is vacant, the remaining Board members shall serve as though the number of Directors had been reduced to the number of Board members then-serving.

### **3.4 Removal of Directors**

After the Turnover Meeting, a Director may be removed with or without cause by vote of a majority of the vote of the Members. The replacement will serve the remaining term of the removed Director.

After the Turnover Meeting, any Director who allows his assessments to become more than 90 days past due or who allows any uncured violation of the Governing Documents to continue may be removed and replaced by vote of a majority of the Board. The Board shall give the Director 10 day written notice to cure the default prior to voting to remove the Director.

### **3.5 Organization Meeting**

The Directors shall hold a meeting following the annual Members meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board or may be conducted at a special meeting.

### **3.6 Regular Meetings**

The Board shall such meetings as are deemed appropriate by the Board. The Board shall determine frequency, times, and locations of regular meetings. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

### **3.7 Special Meetings**

A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

### **3.8 Conduct of Meetings; Open Meetings; Electronic Meetings**

The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions. All meeting of the Board shall be conducted in accordance with the open meeting requirements of § 57-8a-226 of the Nonprofit Act, as amended. The Board may hold meetings, and permit and Director to participate in any meeting, by the use of communication by which all Directors participating in the meeting may hear each other during the meeting.

### **3.9 Quorum**

A majority of the Board shall constitute a quorum. A quorum shall be required to conduct business at a meeting. If less than a quorum is present at a meeting, the majority of those present may adjourn the meeting until such time as a quorum is present. Once established, a quorum will be present even if Directors leave. Directors may attend a meeting by electronic means.

**3.10 Notice and Waiver of Meeting Notice**

Notice to Directors may be personally delivered, mailed, or delivered by any available electronic means, including, without limitation: text, email, fax, or posting on the website. Directors may waive notice of meetings in writing. A waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice, unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

**3.11 Action without Meeting**

Any action by the Board may be taken without a meeting if the Directors approve such action by written consent signed by the number of Directors required to approve such actions. submit a written vote either for, against, or abstaining from the action. The Association shall file actions by written consent with its record of minutes.

**3.12 Powers and Duties**

The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Utah Revised Nonprofit Corporation Act, or any other rule of law.

Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

- 3.12.1 Prepare an annual budget and establish what constitutes a Common Expense;
- 3.12.2 Adopt and amend Bylaws, rules, regulations, policies, and procedures in accordance with the Governing Documents including the governance of the Common Areas, administration of the Association, and to enforce and interpret the Governing Documents;
- 3.12.3 Delegate authority to a managing agent to act on behalf of the Association;
- 3.12.4 Provide for the maintenance, repair, and replacement of the Common Areas and exteriors of Living Units;
- 3.12.5 Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas, exterior of Living Units, and administration of Association business. Provide for the compensation of personnel. Purchase supplies, equipment, and materials for use in the Association;

- 3.12.6 Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;
- 3.12.7 Assess, file and record liens for damages, unpaid assessments, or violation of any provision of the Governing Documents, file lawsuits or initiate other legal proceedings on behalf of the Association;
- 3.12.8 Defend lawsuits, administrative actions, and other legal proceedings against the Association;
- 3.12.9 Pay costs of any services rendered to the Project or multiple Members;
- 3.12.10 Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Members as required by the Community Association Act and the Utah Revised Nonprofit Corporation Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;
- 3.12.11 Grant easements, licenses, or permission over, under, and through the Common Areas;
- 3.12.12 Upon approval by 67% of the votes of the Members, to convey Common Areas;
- 3.12.13 Create committees;
- 3.12.14 Procure and maintain adequate insurance coverage's;
- 3.12.15 Govern the issuance and management of all Assessments;
- 3.12.16 Any other act allowed by or required by the Governing Documents, the Community Association Act, or the Nonprofit Corporation Act;
- 3.12.17 Conduct, manage, govern, implement or carry out any act allowed, provided for or required by the Governing Documents in the name of the Association.

**3.13 Manager**

The Board shall employ a manager to perform such duties and services as the Board shall authorize. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents.

**3.14 Compensation**

Directors shall not be compensated for their work. However, Directors may seek reimbursement for actual costs and mileage incurred during their service.

**3.15 Limitation of Liability**

The Directors shall not be liable to the Members for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Director, unless the action constitutes willful misconduct or criminal conduct.

## **4 OFFICERS**

### **4.1 Election and Term of Officers**

The Board shall elect the officers of the Association. Officers shall be elected from the Directors. Officers shall serve one-year terms and shall serve until their successor is elected.

### **4.2 Removal of Officers**

The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

### **4.3 Offices**

The Association officers, who must be Directors, shall be president, secretary, and treasurer. The Board may appoint assistant officers, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

#### **4.3.1 President**

The president shall be the chief executive officer. He shall preside at meetings of the Association and the Board. He shall be an unofficial member of all committees. He shall have general and active management of Association business. He shall see that all resolutions and policies of the Association are executed.

#### **4.3.2 Secretary**

The secretary shall attend all meetings and take minutes thereof. He shall also make record of all resolutions, rule, policies, and procedures. He shall give or cause to be given notice of all meetings. He shall compile or cause to be compiled a complete list of the owners and their contact information.

#### **4.3.3 Treasurer**

The treasurer shall oversee the finances of the Association. He shall be responsible to ensure that the Association has full and accurate records of income and expenses. He shall give financial reports at regular Board meetings and the annual Members' meeting.

### **4.4 Delegation of Duties**

The Association officers may delegate any of their duties to a manager or to committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

### **4.5 Compensation**

Officers shall not be compensated for their work. However, officers may seek reimbursement for actual costs and mileage incurred during their service.

## **5 NOTICE**

### **5.1 Manner of Notice**

All notices and other communications required under the Governing Documents shall be in writing (which shall include electronic communications).

5.1.1 Notices to Members and Residents may be delivered using the following methods:

5.1.1.1 By professional courier service or First-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Member in writing to the Association;

5.1.1.2 By hand to the address of the Lot or to any other address designated by the Member or Resident in writing to the Association;

5.1.1.3 By posting on the Association website; or

5.1.1.4 By facsimile, e-mail, or any other electronic means to a Member's or Resident's number or address as designated by the Member or Resident in writing to the Association or used by the Member or Resident in prior transactions with the Association.

5.1.2 Notice to the Association may be delivered using the following methods:

5.1.2.1 By professional courier service or First-class U.S. mail, postage prepaid, to the principal office of the Association as designated in writing to the Members; or

5.1.2.2 By facsimile, electronic mail, or any other electronic means to the Association's official electronic contact as designated in writing to the Members.

5.1.2.3 Notices sent via courier or mail shall be deemed received 3 days after being sent. Notices hand delivered or sent via electronic means shall be deemed received upon delivery or being sent.

### **5.2 Waiver of Notice**

Whenever any notice is required under the Governing Documents, the Community Association Act, or the Utah Revised Nonprofit Corporation Act, a Member or Resident may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

## **6 FINANCES**

### **6.1 Fiscal Year**

The fiscal year of the Association shall be the calendar year.

### **6.2 Checks, Agreements, Contracts**

All checks, contracts, deeds, leases, and other instruments used for expenditures or obligations may be executed by any person authorized by the Board.

### **6.3 Availability of Records**

Association financial records shall be available as provided by the Community Association Act and Utah Revised Nonprofit Corporation Act.



## **7 AMENDMENT TO BYLAWS**

### **7.1 Amendments**

These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. These Bylaws may also be amended by a majority vote of a quorum of the Members.

### **7.2 Recording**

Any amendment to these Bylaws shall become effective on the date it is recorded in the Utah County Recorder's Office.

## **8 MISCELLANEOUS**

### **8.1 Office**

The principal office of the Association shall be located at any place within the State of Utah which may be designated from time to time by the Board.

### **8.2 Conflicts**

The Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Utah Revised Nonprofit Corporation Act, the Articles, the Map, or the Declaration. The Bylaws are superior to the rules, regulations, and policies of the Association.

### **8.3 Severability**

If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.

### **8.4 Waiver**

No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

### **8.5 Captions**

The captions contained in these Bylaws are for convenience only. The captions shall not be used to interpret, limit, or enlarge the provisions of these Bylaws.

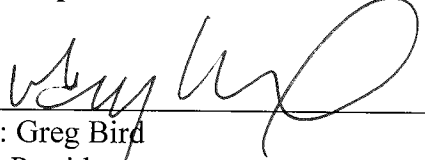
### **8.6 Gender, etc.**

Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

*[remainder of page intentionally left blank; signature page follows]*

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

**Rooftops Salem Home Owners Association**

  
\_\_\_\_\_  
By: Greg Bird  
Its: President

STATE OF UTAH                    )  
  :SS.  
County of Utah                    )

On this 20<sup>th</sup> day of January, 2022, personally appeared before me Greg Bird, who being by me duly sworn, did say that he is the authorized agent of Rooftops Salem Home Owners Association and is authorized to execute these Bylaws and did certify that these Bylaws were approved and adopted by the Board of Directors of Rooftops Salem Home Owners Association

  
\_\_\_\_\_  
NOTARY PUBLIC

