

After recording, return to:  
Boyer Ridgeview Commercial, L.C.  
101 S. 200 E., Ste. 200  
Salt Lake City, UT 84111

MASTER DECLARATION OF  
COVENANTS, CONDITIONS, AND  
RESTRICTIONS, AND RESERVATION OF  
EASEMENTS

FOR

RIDGEVIEW

IN

HIGHLAND, UTAH

THIS MASTER DECLARATION INCLUDES IMPORTANT SPECIAL DECLARANT RIGHTS IN SECTION 20, AND IMPORTANT CONFLICT AND LITIGATION AVOIDANCE AND RESOLUTION PROVISIONS, MEDIATION AND ARBITRATION REQUIREMENTS, AND WARRANTY LIMITATIONS AND DISCLAIMERS IN SECTION 21.

MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AND  
RESERVATION OF EASEMENTS  
FOR

**RIDGEVIEW**

RECITALS

- A. Boyer Ridgeview Residential LLC (“Boyer”) and Ivory Development, LLC (“Ivory”) are the respective the owners and developers of certain real properties located in Highland, Utah more particularly described on Exhibit A hereto (collectively, the “Property”). The Property has been or will be developed as a master-planned development with distinct neighborhood areas.
- B. Boyer and Ivory as the developers and Declarant, hereby establish and adopt this Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ridgeview, effective as of the date this instrument is recorded with the Office of Recorder for Utah County, Utah, to establish a governance structure and standards and procedures for the development, expansion, administration, maintenance, and preservation of Ridgeview as a master-planned community.
- C. The Project is a residential master-planned community which includes multiple types of housing and recreational amenities. An integral part of the development of the Project is the formation of a master community association, as a Utah nonprofit corporation, to own, operate and maintain various common areas, common elements, and community improvements, and to administer and enforce the Governing Documents consistent with the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act. The Terms and Conditions herein are established for the mutual benefit and burden of the Master Association, present and future Owners, Occupants, Lenders and others acquiring any interest in the Project.
- D. This Master Declaration is intended to and shall run with the land and shall be binding upon the Declarant, and the Owners and their respective successors and assigns, and any other Person that now, or hereafter, has any legal, equitable, or beneficial interest in any portion of the Project. By taking title to a Unit, an Owner joins in and accepts the intent, purpose, and objectives of the Master Declaration and agrees to be bound by it, and acknowledges the benefits received from its existence and from the Declarant’s development of the Project and accepts the burdens and responsibilities that accompany these benefits.
- E. Capitalized terms in this Master Declaration are defined in Article 1 herein, or in other sections of this Master Declaration.

**NOW, THEREFORE**, for the reasons recited above and subject to the Terms and Conditions set forth below, the Declarant hereby adopts this Master Declaration.

ARTICLE 1  
DEFINITIONS

As used herein, unless the context otherwise requires:

- 1.1 “Act” shall mean and refer to the Community Association Act codified beginning at Utah Code § 57-8a-101.

- 1.2 “Additional Covenants” shall mean and refer to any additional restrictions, conditions or covenants imposed on a Unit or Owner as part of a discrete Neighborhood within the Project. If the Additional Covenants are more restrictive than the provisions of this Master Declaration, the more restrictive provision shall control. The Master Association shall have standing and authority to enforce any such Additional Covenants.
- 1.3 “Allocated Interest” shall mean and refer to the voting interests in the Master Association and liability for the Common Expenses which are allocated equally among the Units subject to provisions in Section 20.6 herein.
- 1.4 “Articles” shall mean and refer to the Articles of Incorporation of the Master Association filed with the Utah Division of Corporations and Commercial Code.
- 1.5 “Assessment” shall mean and refer to any monetary charge imposed or levied on an Owner by the Master Association as provided for in this Master Declaration and shall include, without limitation, Benefitted Common Area Assessments and Service Area Assessments.
- 1.6 “Benefitted Common Area” shall mean and refer to any real property and improvements designated by the Declarant in this Master Declaration or in a Supplement to Declaration or Plat or in another recorded instrument (which designation is made in the sole and absolute discretion of the Declarant) for the purpose of establishing the right of exclusive use and the obligation to pay Benefitted Common Area Assessments attributable thereto, to more than one but less than all the Units in the Project . By way of illustration and not limitation, Benefitted Common Area might include such things as a shared private alley to access particular Units within a Neighborhood, Neighborhood-specific monuments or signage, or an amenity for the exclusive use and enjoyment by the Owners and Occupants of Units within a particular Neighborhood.
- 1.7 “Benefitted Common Area Assessments” shall mean and refer to assessments levied against the Units or Neighborhood assigned to a Benefitted Common Area, which may include amounts for reserves for capital repairs and replacements.
- 1.8 “Benefitted Common Area Expenses” shall mean and refer to the estimated and/or actual expenses which the Master Association incurs or expects to incur to operate, maintain, repair and replace a particular Benefitted Common Area, which may include amounts for reserves for capital repairs and replacements.
- 1.9 “Benefitted Neighborhood” shall mean and refer to one or more of the distinct neighborhood communities within the Project which includes Benefitted Common Area. A Benefitted Neighborhood may be comprised of more than one type of dwelling and may include noncontiguous Units.
- 1.10 “Builder” shall mean and refer to the initial bulk builder of the Units and Common Areas and Facilities.
- 1.11 “Board of Directors” or “Board” shall mean and refer to the body with primary authority to manage the affairs of the Master Association and also commonly referred to as a Management Committee.
- 1.12 “Board Member” shall mean and refer to a member of the Board of Directors, also commonly referred to as a Director.

- 1.13 “Bylaws” shall mean and refer to the Bylaws of the Ridgeview Master Association attached as Exhibit B, and all valid amendments and supplements thereto.
- 1.14 “City” shall mean and refer to Highland City, a political subdivision of the State of Utah, located in Utah County, Utah.
- 1.15 “Common Area and Facilities” shall mean and refer to the real and personal property for the common use and enjoyment of the Owners not dedicated to the City or designated as Benefitted Common Area, and, specifically, shall include, but not be limited to, the following: (a) all Common Area and Facilities designated as such the Plat, including any area designated as open space not dedicated to the City; (b) the Entry Monuments; (c) the Recreational Amenities; (d) all utility installations and all equipment connected with or in any way related to the furnishing of utilities for the common use and for the Common Area; (e) any fence or wall on common property; (f) any roadway, lane, alley or cul-de-sacs within the Project not dedicated to the City or designated as Benefitted Common Area; (g) and all other parts of the Project necessary or convenient to its existence, maintenance, and/or safety, or normally in common use, reserved for the exclusive use and enjoyment of the Owners and their respective family members, tenants, guests, and invitees. In accordance with the Plat, the Common Area and Facilities shall be owned and administered by the Master Association.
- 1.16 “Common Expenses” shall mean and refer to the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Common Area and Facilities which is maintained by the Master Association; (b) management and administration of the Master Association, including, but not limited to, compensation paid by the Master Association to managers, accountants, attorneys, consultants, and employees; (c) landscape maintenance, extermination, and other services; (d) insurance and bonds required or allowed by this Master Declaration; (e) the establishment of reserves; and (f) any other expenses of the Master Association arising from the operation of the Master Association and not otherwise defined or precluded by the Governing Documents or any applicable law.
- 1.17 “Community-Wide Standards” shall mean and refer to the standard of use, conduct, architecture, landscaping, and aesthetic matters generally prevailing in the Project or initially established by the Declarant consistent with the requirements of the Development Agreement and/or standards described in this Master Declaration, Design Guidelines, or Rules. The Community-Wide Standards may or may not be set forth in writing.
- 1.18 “Declarant” shall mean and refer to Boyer Ridgeview Commercial, L.C. and/or Ivory Development, LLC, and their respective affiliates, successors, and assigns.
- 1.19 “Declarant Control Period” shall mean and refer to the period of time during which the Declarant owns any land within the Project.
- 1.20 “Design Guidelines” shall mean and refer to the Ridgeview Design Guide established for the Project that have been or may be adopted by the Master Association, and any valid amendments thereto.
- 1.21 “Design Review Committee” shall mean and refer to the subcommittee of the Board responsible for review and approval of home and landscaping plans and construction and

installation of the improvements identified therein in conformance with the requirements of the Design Guidelines.

- 1.22 “Entry Monuments” shall mean and refer to any and all entry monument and markers and adjacent landscaped common area constructed at the entrances to the Project.
- 1.23 “Governing Documents” shall mean and refer to this Master Declaration, the Plat, the Bylaws, the Rules, any Articles, and any other written instrument by which the Declarant or Master Association may exercise power or manage, maintain, or otherwise affect the Project.
- 1.24 “Lender” shall mean and refer to a holder of a mortgage or deed of trust on a Unit.
- 1.25 “Lot” shall mean and refer to an individual lot created on the Plat on which an attached or detached single-family dwelling is or will be constructed and is included within the definition of Unit below. More than one Lot is referred to herein as “Lots.”
- 1.26 “Manager” shall mean and refer to the Person or Persons engaged by the Board to manage the Project.
- 1.27 “Master Association” shall mean and refer to the Ridgeview Master Association, the membership of which shall be comprised of all Owners of Units in the Project. The Master Association shall be incorporated as a Utah nonprofit corporation. Notwithstanding the foregoing, if the Owners are ever organized as another type of entity or if the Owners act as a group without legal organization, “Master Association” as used in this Master Declaration shall refer to that entity or group.
- 1.28 “Master Declaration” shall mean and refer to this Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Ridgeview, including all attached exhibits but excluding the Bylaws, and all valid supplements and/or amendments to this Master Declaration.
- 1.29 “Neighborhood” or “Neighborhoods” shall mean and refer to one or more of the distinct neighborhood communities which are or may be developed within the Project based on location and/or type of dwelling (*e.g.*, townhomes, carriage lots, cottage lots, and estate lots) and may include Benefitted Common Area.
- 1.30 “Occupant” shall mean and refer to a Person or Persons, other than an Owner, in possession of, using, or living in a Unit within the Project, including, without limitation, family members, tenants, and invitees of an Owner or an Occupant.
- 1.31 “Owner” shall mean and refer to the Person or Persons who are vested with record title to a Unit, and whose interest in the Unit is held (in whole or in part) in fee simple, according to the records of the Office of Recorder for Utah County, Utah. The term “Owner” shall not include a mortgagee or trustee or beneficiary under a deed of trust unless and until such party acquires title to a Unit pursuant to foreclosure or any arrangement or proceeding in lieu thereof. More than one Owner is referred to herein as “Owners.”
- 1.32 “Person” shall mean and refer to a natural person, corporation, estate, limited liability company, partnership, trustee, association, governmental subdivision or agency, or any other legal entity. More than one Person is referred to herein as “Persons.”

- 1.33 “Plat” shall mean and refer to the record of survey map or maps for Ridgeview and any portions thereof, recorded with the Office of Recorder for Utah County, Utah, and all recorded amendments and supplements thereto.
- 1.34 “Project” shall mean and refer to the Ridgeview development and all structures and improvements thereon including the Units and the Common Area and Facilities. The Project shall include any additional land made subject to the Master Declaration at such time the Supplement to Declaration and plat map for the additional land is recorded.
- 1.35 “Property” as previously defined herein, shall include all easements and rights appurtenant thereto.
- 1.36 “Recreational Amenities” shall mean and refer to any and all of the recreation improvements, if any, constructed in the Project which may include parks, playgrounds, and designated open space and trails, which shall be owned and maintained by the Master Association for the exclusive use and benefit of Owners and Occupants in the Project and which shall be subject to further Rules regarding use and fees, consistent with § 57-8a-218 of the Act.
- 1.37 “Rules” shall mean and refer to the rules and regulations adopted by the Master Association.
- 1.38 “Service Area” shall mean and refer to a group of Units designated as a separate Service Area pursuant to this Master Declaration for the purpose of receiving services or benefits from the Master Association which are not provided to all Units within the Project. A Service Area may be comprised of more than one type of dwelling and may include noncontiguous Units. A Service Area may or may not correspond to a particular Neighborhood. A Unit may be assigned to more than one Service Area.
- 1.39 “Service Area Assessments” shall mean and refer to assessments levied against the Units in a particular Service Area to pay for Service Area Expenses.
- 1.40 “Service Area Expenses” shall mean and refer to the estimated and actual expenses which the Master Association incurs or expects to incur for the benefit of Units within a particular Service Area, which may include amounts for reserves for capital repairs and replacements.
- 1.41 “Subdivision” shall mean and refer to the Ridgeview development, including all Units, Common Areas and Facilities, and other property within the Project as shown on the Plat covering the entire Property.
- 1.42 “Subdivision Improvements” shall mean and refer to all improvements that have or will be constructed or installed within the Subdivision not part of any Unit that are necessary to provide public road access and/or utility service to the Units, and includes such other and further construction or installations required to comply with any requirement of the City.
- 1.43 “Supplement to Declaration” shall mean and refer to any amendment or supplement to this Master Declaration to annex additional land into the Project and subject such additional land to the covenants, conditions and restrictions contained in the Master Declaration. A Supplement to Declaration shall also mean and refer to any recorded instrument designating Benefitted Common Area and assigning Units or a Neighborhood or Neighborhoods thereto. A Supplement to Declaration may also include Additional

Covenants applicable only to the annexed land or Benefitted Common Area or Service Area.

- 1.44 “Terms and Conditions” shall mean and refer to any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.
- 1.45 “Unit” shall mean and refer to a subdivided Unit or condominium unit, if any, within the Subdivision depicted as a separately identified parcel on the Plat, a survey, or condominium instrument, which may be independently owned and conveyed and is zoned or otherwise intended for development, use and occupancy as a residential unit. The term “Unit” refers to land, if any, which is part of a Unit, including the Lot, as well as to any structures or other improvements on the Unit. In the case of a Unit within a building, or other structure containing multiple residential dwellings, each dwelling shall be deemed to be a separate Unit. A parcel of land shall be considered a single Unit until a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Unit. The term “Unit” does not include Common Area and Facilities, Benefitted Common Area or property dedicated to the City or the public.

## ARTICLE 2 THE PROJECT

- 2.1 Binding Effect of Governing Documents. The Declarant hereby declares and Master Association hereby confirm that the Property is part of the Project and that the Project and all of the Units shall be held, transferred, mortgaged, encumbered, occupied, used, and improved subject to the Terms and Conditions, which Terms and Conditions, to the extent they are included in recorded documents, shall constitute equitable servitudes, covenants, and conditions running with the land and shall be binding upon and inure to the benefit of the Master Association, the Declarant, and each Owner, including his/her heirs, executors, administrators, personal representatives, successors and assigns. By acquiring any interest in a Unit, such Owner consents to, and agrees to be bound by, each and every Term and Condition in the Governing Documents.
- 2.2 Nature of the Project. The Project is a master-planned residential development, which may be developed and constructed in phases. The Project, when completed, will include the number of Units and Recreational Amenities depicted on the Plats, including all amendments and supplements thereto and any additional phases added to the Project pursuant to Section 2.6 of this Declaration. The Project includes several different types of housing product, including townhomes, carriage lots, cottage lots, and estate lots. The Project may include one or more active-adult communities subject to the Housing for Older Persons Act of 1995, 24 CFR Part 100. The Project is not a cooperative and is not a condominium.
- 2.3 Project Name. The Project is named “Ridgeview.” Notwithstanding, the name commonly used by the Master Association or others for the Project may be different than the name identified in this Master Declaration and on the Plat.
- 2.4 Modifying or Changing the Name of the Project. The name of the Project may be modified or changed pursuant to a lawful amendment to this Master Declaration and in accordance with applicable land use management codes.

- 2.5 Registered Agent. The registered agent of the Master Association shall be as provided for in entity filings of the Master Association.
- 2.6 Expansion or Contraction of Project. The Project may be expanded or contracted by the Declarant. Additional land, whether or not directly adjacent to the Project, may be developed and made part of the Project and subject to this Master Declaration by recording of a Supplement to Declaration or similar instrument, together with a plat map for the subject property.

### ARTICLE 3

#### DESCRIPTION OF THE UNITS AND ALLOCATED INTERESTS

- 3.1 The Unit.
- (a) The distinct Unit number that identifies the Unit or Lot on the Plat may or may not be consistent with the mailing address of the Unit.
  - (b) Generally, each Unit consists of all structures on or within the boundary of the Unit, including, but not limited to all interior and exterior walls, wall surfaces, floors, ceilings, roofs, foundations, and fixtures, and, in all walls shared with or abutting another Unit, the Unit shall extend to the center of the wall, which shall form the boundary of the Units sharing that wall. Subject to dividing lines between Units, any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Unit is part of the Unit if it: (i) is part of and an integral part of the Unit structure (such as bay windows, pop-outs, eaves, etc., not to include fences, or other appurtenant structures that merely connect to the Unit structure), or (ii) was constructed as part of the original construction of the Unit.
  - (c) All pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures lying inside the designated vertical boundaries of a Unit or located beyond the vertical boundaries of the Unit but designated and designed to serve only that Unit, shall be part of the Unit.
- 3.2 Allocated Interest of Each Unit in the Votes of the Master Association and the Common Expenses. Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Master Declaration and other Governing Documents. The Owner of a Unit shall be entitled to vote their Allocated Interest for all matters related to the Master Association that Owners are permitted or required to vote or approve, subject to the rights reserved to the Declarant during the Declarant Control Period as set forth in Article 20 herein. Similarly, each Unit is assigned an equal interest in and obligation for the Common Expenses. Any difference in square footage, location, size, value, or other aspect of any Unit shall not be a reason to alter or change any Allocated Interest.
- 3.3 Plat. The Plat and all dimensions, descriptions, and identification of boundaries therein shall be binding on the Project and the Master Association. If any conflict exists between the Plat and this Declaration, the more specific shall control except to the extent otherwise provided by the application of controlling law.

### ARTICLE 4

#### ORGANIZATION AND GOVERNANCE OF THE ASSOCIATION



- 4.1 Organization of Master Association. The Master Association shall serve as the organizational body for all Owners.
- 4.2 Legal Organization. The Master Association shall be organized as a non-profit corporation. In the organization, reorganization, or amendment of any documents related to the legal organization of the Master Association, the terms in all such documents shall, to the extent possible under the applicable law, be consistent with the terms in the Declaration and the Bylaws attached hereto or any lawful amendment thereto. If the legal entity should ever expire or be dissolved for any reason as required or permitted by law, in any reorganization or reinstatement of the entity, the Master Association shall adopt, to the extent possible and subject to any then-existing legal requirements, documents consistent with the terms of the Declaration and Bylaws.
- 4.3 Membership. Membership in the Master Association at all times shall be comprised exclusively of the Owners. Each Owner shall be a member of the Master Association so long as such Owner has an ownership interest in a Unit and such membership shall automatically terminate when the Owner ceases to have an ownership interest in a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held.
- 4.4 Records of the Master Association.
- (a) The Master Association shall make and keep such books and records as required under § 16-6a-1601 of the Utah Revised Nonprofit Corporation.
  - (b) Consistent with § 57-8a-227 of the Act, upon proper written request, the Master Association shall make available to the Owners copies of the Governing Documents and the corporate records as provided in the Act and §§ 16-6a-1601 through 1603, 16-6a-1605, and 16-6a-1606 of the Utah Revised Nonprofit Corporation Act. The Master Association may require that a request for records strictly comply with all provisions in § 57-8a-227(3)
  - (c) Subject to any legal requirements otherwise, the Master Association shall make available to Lenders and insurers of any Lender, copies of the Governing Documents and records of the Master Association required under § 16-6a-1601 of the Utah Revised Nonprofit Corporation Act within thirty (30) days of receipt of a written request.
- 4.5 Board of Directors. The governing body of the Master Association shall be the Board of Directors. The Board shall consist of an odd number of at least three (3) but not more than five (5) Board Members. Except as otherwise provided in this Master Declaration, Bylaws, or the Articles of Incorporation, the Board, in all instances, shall act on behalf of the Master Association. Any reference to an act, right, or obligation of the Master Association in the Governing Documents may only be exerted or complied with through an action of the Board. Except as may be specifically provided in this Master Declaration, Bylaws, Articles of Incorporation, or by applicable law, no Owner or group of Owners other than the Board may direct the actions of the Master Association.

4.6 Board Member Qualifications.

- (a) Except as provided in Section 20.2 herein during the Declarant Control Period, to serve on the Board, an individual must be an Owner, current on payment of Assessments, and at least eighteen years old. If the Owner of a Unit is a corporation, estate, limited liability company, partnership, trust, or other legal entity, an officer, principle, shareholder, partner, member, manager, trustee, or beneficiary of such Owner may serve as a Board Member.

4.7 Limitation on Authority of Owners, the Board, Board Members, and Officers.

- (a) Except as provided herein, in the Bylaws, neither any individual Board Member nor any individual Owner shall have authority to or is authorized to act on behalf of the Master Association to:
- (i) amend or terminate any Governing Document;
  - (ii) elect or remove members of the Board;
  - (iii) establish or change the qualifications, powers and duties, requirements, or terms of Board Members; or
  - (iv) authorize or agree to any deviation or exception from the Terms and Conditions.

4.8 No Estoppel or Reliance on Actions or Authorizations Contrary to Governing Documents.

No one may rely upon any authorization (from the Board or anyone else) contrary to the terms of the Governing Documents regardless of the circumstances under which it is given, and no claim or defense of estoppel or waiver or similar equitable or legal claim or defense may be raised by anyone related to any alleged reliance. It is the responsibility of anyone interacting with, visiting, occupying, or purchasing a Unit in the Project to verify that anything that the Master Association does, does not do, or authorizes related to the Project or the Master Association is in compliance with the terms of the Governing Documents.

- 4.9 Registration with the State. In compliance with § 57-8a-105 of the Act, the Master Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required under the Act.

## ARTICLE 5

### GENERAL RIGHTS AND RESPONSIBILITIES OF THE MASTER ASSOCIATION

- 5.1 Rights and Responsibilities of the Master Association. The Master Association shall have the rights and responsibilities set forth in this Article 5 in addition to any others set forth in the Governing Documents or provided by law.
- 5.2 Maintenance. The Master Association shall make provisions for completing all maintenance, repair, and replacement requirements and obligations of the Master Association. This shall include the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Area and Facilities or Benefitted Common Area. The Master Association shall do all such other and further acts that the Board deems necessary to preserve and protect the Benefitted Common Area, the

Common Area and Facilities and the Project, in accordance with the general purposes specified in this Declaration and the Community-Wide Standards.

- 5.3 Paying Expenses. The Master Association shall provide for the payment of Master Association expenses.
- 5.4 Setting and Collecting Assessments. The Master Association shall establish, collect, and account for Assessments as necessary to operate the Project consistent with the requirements of the Governing Documents.
- 5.5 Adopting and Enforcing Rules. The Master Association may adopt Rules for the regulation and operation of the Project. If Rules are adopted, they shall be consistently and uniformly enforced. The Rules may address any issues including those addressed in any other Governing Documents and may include restrictions and regulations specific to any Benefitted Common Area and to any Service Area. The Rules may supplement, clarify, amplify, and/or add detail to items or issues addressed in the other Governing Documents so long as the Rules do not contradict the same. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive, subject only to a judicial determination if any is timely sought.
- 5.6 Hiring Managers and Delegating Responsibilities. The Master Association shall engage a Manager to assist the Board in the management and operation of the Project and may delegate its powers and obligations in the Governing Documents to the Manager or other agents as the Board deems appropriate; provided, however, that only the Board shall have the right to approve Master Association budgets, and regular and special Assessments, and to provide a hearing requested to dispute a fine. Any powers and duties delegated to any Manager or other Person may be revoked by the Board at any time, with or without cause.
- 5.7 Enforcement Rights. In addition to any other remedies allowed or provided in the Governing Documents for any violation of the Governing Documents, the Master Association may: (a) impose fines; (b) collect rents directly from tenants if Owners fail to pay Assessments; (c) suspend voting rights; (d) suspend rights to utilize the Recreational Amenities; and (e) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.
- 5.8 Other Necessary Rights. The Master Association shall have any and all rights reasonably necessary to carry out the terms of the Governing Documents.
- 5.9 Discretion in Enforcement.
- (a) Subject to the discretion afforded in this section, the Board shall uniformly and consistently enforce and implement the Terms and Conditions in the Governing Documents.
  - (b) The Board shall use its business judgment to determine whether to exercise the Master Association's powers and authority granted herein and/or under the Act, including whether to (i) impose sanctions, (ii) pursue legal action for a violation of the Governing Documents, (iii) compromise a claim made by or against the Board or the Master Association; and (iv) pursue a claim for an unpaid Assessment.
  - (c) Consistent with Subsection (b) of this Section 5.9, the Master Association may not be required to take enforcement action if, after fair review and acting in good faith

and without conflict of interest, the Board determines that under the particular circumstances: (i) the Master Association's legal position does not justify taking any or further enforcement action; (ii) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (iii) a minor or technical violation has or may have occurred and the violation is not material as to a reasonable individual or does not justify expending the Master Association's resources; or (iv) it is otherwise not in the Master Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.

- (d) Subject to Subsection (e) of this Section 5.9, if the Board decides under Subsection (c) above to forego enforcement, the Master Association is not prevented from later taking enforcement action.
  - (e) The Board shall not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.
- 5.10 Reserve Fund. Subject to the exemptions in Section 20.16 herein during the Period of Declarant Control, the Master Association shall maintain a reserve fund and shall obtain and update a Reserve Analysis as required under the Act.
- 5.11 Establishing Hearing Procedures. The Board shall have the authority to create a reasonable hearing process applicable in case the Master Association shall take adverse action related to any particular Owner or group of Owners or in case a hearing process is required by law. The Board shall not be under any obligation to offer a hearing process, except as required by law or by the Governing Documents, and in any such process, shall have the authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process. The Board may establish the hearing process on an as-needed basis for particular matters as they arise or may set forth a process in the Rules applicable generally to such matters that it designates. Any such hearing process shall provide, at a minimum for: (a) at least two weeks' notice of the hearing to the Owners, and (b) a reasonable time period under the circumstances for the Owner(s) to present their own testimony, the testimony of others, argument, authority, evidence, and/or other information the Owner deems relevant to the disputed issue.
- 5.12 Annual Meeting. The Master Association shall arrange for and conduct an annual meeting of the Owners as provided for in the Bylaws and shall arrange for and conduct such other meetings of the Master Association as shall be properly requested pursuant to the Governing Documents or the law.
- 5.13 Payoff Information Fees. Consistent with § 57-8a-106 of the Act, the Master Association is specifically authorized to charge a fee to provide payoff information related to the transfer, refinance, or closing of a Unit. The amount of the payoff information fee shall be fifty dollars (\$50.00); however, the Board may increase or decrease the fee amount if the new amount is identified in the Rules and is consistent with Utah law.
- 5.14 Reinvestment Fee Covenant upon Sale or Transfer of Unit. The Board may require the transferor/seller or transferee/buyer to pay a fee related to the transfer of a Unit (a "Reinvestment Fee") as provided for in Utah Code § 57-1-46 in an amount to be determined by the Board and allowed by law. For purposes of this Section 5.14, a transfer is any change

in the ownership of the Unit as reflected in the records of the Office of Recorder for Utah County, Utah, regardless of whether it is pursuant to the a sale of the Unit or not but shall not include any transfer between the Declarant and a bulk purchaser of ten or more Units or Lots or between the Declarant and any affiliated entity. The amount shall be set forth by the Board in the Rules consistent with Utah Code § 57-1-46 or in the Notice of Reinvestment Fee Covenant. The value of the Unit for purposes of this Section shall be the higher of: (a) the purchase price paid for the Unit, related to the transfer; (b) the value of the Unit as determined by the property tax assessor on the date of the transfer of title; or (c) the value of the Unit on the date of the transfer of title as determined in an appraisal that may be obtained (in the discretion of the Board) and paid for by the Master Association using an appraiser selected by the transferee of the property from a list of three (3) appraisers selected by the Master Association. This reinvestment fee covenant may not be enforced against: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (v) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest Master Association's costs directly related to the transfer of the burdened property, not to exceed \$250 or such other amount as may be established by law. The Master Association shall have authority to record any notice required by law to effectuate this provision. The Master Association shall have the authority to enact Rules that may include: (1) requirements for Owners to provide sales and transfer documents; (2) requirements for the timing of responses to requests such as the selection of the appraiser; (3) default provisions if no selection is made such as allowing the Master Association to select the appraiser; and (4) other procedural requirements and rules as the Board deems appropriate to effectuate the terms of this provision in a prompt and reasonable manner.

## ARTICLE 6 BUDGETS & ASSESSMENTS

- 6.1 Purpose of Assessments. Money collected by the Master Association shall be used for the purposes of promoting the health, safety and welfare of the Owners; the management, maintenance, care, preservation, operation, and protection of the Project; enhancing the quality of life of the Owners in the Project; enhancing and preserving the value of the Project; and in the furtherance of carrying out or satisfying any other duty or power of the Master Association.
- 6.2 Budget and Regular Assessment.
- (a) The Board is authorized and required to adopt an annual budget for the following fiscal year prior to the beginning of each fiscal year. The Board may revise that budget from time to time as it deems appropriate.
  - (b) The budget shall estimate the total Common Expenses to be incurred for the next fiscal year (or that fiscal year for a revised budget), which shall be broken down into reasonably detailed expense categories. The budget shall include a line item that identifies the amount to be placed into the reserve fund and may include contingencies and other estimates as the Board deems appropriate.

- (c) The Board shall determine the amount of the regular Assessments to be paid by the Owners of each Unit by dividing the total budgeted amount for the Common Expenses by the Allocated Interest for each Unit, subject to the Declarant rights in Section 20.6 herein. For purposes of this Section 6.2(c), estimates of Benefitted Common Area Expenses for each Benefitted Neighborhood and Service Area Expenses for each Service Area should not be included in the total Common Expenses.
- (d) The Board shall present the adopted budget to the Owners at an annual or special Master Association meeting.
- (e) Except during the Declarant Control Period, a budget may be disapproved within forty-five (45) days after the date of the meeting at which the budget was presented if: (i) the holders of at least fifty-one percent (51) of the total Allocated Interests in the Master Association vote to disapprove the budget; and (b) such vote is taken at a special meeting called for that purpose in accord with the requirements set forth in the Bylaws.

6.3 Benefitted Common Area Assessments and Service Area Assessments. The Board shall determine the amount of Benefitted Common Area Assessments to be paid by the Owners of the Units in a Benefitted Neighborhood by estimating the Benefitted Common Area Expenses and then dividing the total budget amount of Benefitted Common Area Expenses by the number of Units in that Benefitted Neighborhood. Similarly, the Board shall determine the amount of Service Area Assessments to be paid by the Owners within each Service Area by estimating the Service Area Expenses and then dividing the total budget amount of Service Area Expenses by the number of Units assigned to each such Service Area.

6.4 Payment of Assessments. Unless otherwise established by the Board and communicated to each Owner, each Owner shall pay to the Master Association the Owner's regular Assessment, Benefitted Common Area Assessment and Service Area Assessment, as may be the case, annually or on such other quarterly or monthly installment basis as the Board or the Manager may determine.

6.5 Adjustments to Annual Budget and Regular Assessments. In the event the Board determines that the annual budget for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it may then revise the budget and each Owner's share of the new budget total based on the Owner's Allocated Interest. Upon notice of the adjustment, and unless modified by the Board, each Owner thereafter shall pay to the Master Association the Owner's adjusted regular Assessment.

6.6 Adjustments to Benefitted Common Area Assessments or Service Area Assessments. In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet Benefitted Common Area Expenses or Service Area Assessments, for any reason, the Board may then revise the appropriate budget and each Owner's share of the new budget total based on the Owner's proportional share of the Benefitted Common Area Expenses or the Service Area Expenses, as the case may be. Upon notice of the adjustment, and unless modified by the Board, each Owner thereafter

shall pay to the Master Association the Owner's adjusted Benefitted Common Area Assessment or adjusted Service Area Assessment.

- 6.7 Personal Obligation for Assessment. Each Owner of a Unit, by acceptance of a deed or other instrument creating the ownership interest required to be an Owner as defined herein, hereby personally covenants and agrees with each other Owner and with the Master Association to pay to the Master Association the Assessments as provided for in the Governing Documents, including any Benefitted Common Area Assessments and Service Area Assessments. Any and all Assessment, together with such interest, collection charges, and attorneys' fees and costs authorized by the Governing Documents, shall be the personal obligation of the Owner of such Unit.
- 6.8 Capital Improvements. Expenses for capital improvements may be included in the budget, paid for through special Assessments, or paid for in any other manner as determined by the Board.
- 6.9 Percentage Assessments. Except as otherwise provided herein, and except for special Assessments to individual Units, Benefitted Common Area Assessments and Service Area Assessments, Assessments shall be allocated to Owners based on the Allocated Interest of each Unit.
- 6.10 Rules Regarding Billing and Collection Procedures. The Board shall have the right and responsibility to adopt Rules setting forth procedures applicable to Assessments provided for in this Declaration and for the billing and collection of all Assessments, provided that such procedures are not inconsistent with the provisions herein. Such procedures and policies may include, but are not limited to, the date when Assessment payments are due and late, establishing late fees and collection charges, and establishing interest (per annum or compounded) that may be charged on unpaid balances. The failure of the Master Association to send a statement to an Owner or an error in any such statement (other than a Certificate of Payment) shall not relieve any Owner of liability for any Assessment or charge under the Governing Documents.
- 6.11 Certificate of Payment. Consistent with Utah Code § 57-8a-206, the Master Association, within ten (10) business days after receipt of written demand, shall furnish to any Owner liable for Assessments or such other Person for whom an Owner has given written permission in a form acceptable to the Master Association, a written statement or certificate, signed by an officer or authorized agent of the Master Association, setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. Each such certificate shall be conclusive in favor of a Person who relies on the written statement in good faith. The Board is authorized to charge a ten-dollar (\$10.00) fee for issuance of a certificate; provided, however, the Board may increase or decrease this fee amount if the new amount is identified in the Rules and is consistent with Utah law.
- 6.12 Special Assessments. Subject to any limitations in this Master Declaration for the particular type of expense, the Master Association is expressly authorized to set and collect special Assessments, payable as may be determined by the Master Association (in lump sums or over a period of time), to pay for any Common Expenses. Notwithstanding the wording or terms of any notice of special Assessment, a special Assessment shall be deemed assessed, for all purposes, on the date that the payment for the Assessment is due.

- 6.13 Special Assessments to a Particular Unit or Units within a Particular Neighborhood. Special Assessments may be levied by the Master Association against a particular Unit and its Owner or against Units within a Particular Neighborhood and their respective Owners for:
- (a) Costs incurred in bringing an Owner or Unit into compliance with the provisions of the Governing Documents;
  - (b) Any other charge not included in a Benefitted Common Area Assessment or Service Area Assessment designated by the Board or the Manager as pertaining to the individual Unit or to Units within a Particular Neighborhood consistent with the Governing Documents;
  - (c) Fines, late fees, collection charges, and interest; and
  - (d) Attorneys' fees, costs and other expenses relating to any of the above.
- 6.14 Acceptance of Materials or Services. In the event the Master Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Project or Benefitted Common Area or in a Service Area, which benefits an individual Unit, and which can be accepted or not by the Unit Owner, such Owner, in accepting such materials or services, agrees that the costs thereof may be a special Assessment pertaining to that Unit, as may be determined by the Board, in its discretion.
- 6.15 Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board, in its discretion, may apply the excess to reserves, credit the excess against future Assessments or refund the excess to the Owners in proportion to the Allocated Interests of each Unit in the Common Expenses of the Project, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Master Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year. In the event that amount budgeted for any Benefitted Common Area or Service Area proves to be excessive in light of the actual Benefitted Common Area Expenses or Service Area Expenses, the Board, in its discretion, shall either: (a) credit the excess against future Benefitted Common Area Assessments for the particular Benefitted Common Area with the excess, or (b) credit the excess against future Services Area Assessments for the particular Service Area that had an excess, as the case may be, or (c) refund the excess to the Owners of the Units assigned to the Benefitted Common Area that had the excess or assigned to the Service Area that had an excess, as the case may be.
- 6.16 No Offsets. All Assessments shall be payable at the time and in the amount specified by the Master Association, and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Board is not properly exercising its duties and power, a claim in the nature of offset or that the Master Association owes the Owner money, or that the Master Association is not complying with its obligations as provided for in the Governing Documents.



- 6.17 How Payments Are Applied. Unless otherwise provided for in the Rules, all payments for Assessments shall be applied to the earliest charges first. Owners shall have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts.

#### ARTICLE 7

#### NONPAYMENT OF ASSESSMENTS & JOINT AND SEVERAL LIABILITY OF OWNERS FOR ALL PAST UNPAID ASSESSMENTS

- 7.1 Delinquency. Assessments not paid within the time required shall be delinquent. Whenever an Assessment is delinquent, the Board may, at its option, invoke any or all of the remedies granted in this Article 7. The Master Association's choice of one remedy shall not prejudice or constitute a waiver of the Master Association's right to exercise any other remedy. Each Owner, by taking title to a Unit, vests in the Master Association, or its assigns, the right and authority to bring actions at law or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.
- 7.2 Collection Charges and Interest. If the Master Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply: The Assessments shall be due within thirty (30) days of invoicing. Payments received after thirty (30) days from invoicing may be charged an initial late fee of thirty-five dollars (\$35.00). Thereafter, an additional late fee charge of thirty-five dollars (\$35.00) per month may be added for each month that an Owner's account has an unpaid balance. In addition to late fees, interest shall accrue on all unpaid balances, including on any unpaid prior attorney fees and late charges, at the rate of two percent (2%) per month or such other amount as may be set forth by the Master Association in the Rules and allowed by law. Delinquent accounts may be turned over by the Master Association to attorneys or to a collection company and additional collection charges and attorneys' fees and costs may be added to the amounts owed.
- 7.3 Joint and Several Liability of Owner and Future Owners for All Past and Presently Accruing Unpaid Assessments. To the extent permitted by law, the Owner and any future Owners of a Unit are jointly and severally liable for all Assessments related to that Unit accruing prior to and during the time that an Owner is an Owner. An Owner is not liable for any Assessments accruing after he/she has lawfully transferred title to the Unit to another Owner; provided, however, that the recording of a deed to a Person that has not agreed to take ownership of the Unit shall not be considered a legal conveyance of title. The obligation imposed by this Section 7.3 is separate and distinct from any lien rights associated with the Unit.
- 7.4 Lien. The Master Association has a lien on each Unit for all Assessments, which include, but are not limited to, late fees, interest, collection charges, attorneys' fees, court costs, and other costs of collection (which shall include all costs and not be limited by those costs that may be awarded under the Utah Rules of Civil Procedure). This lien shall arise and be perfected as of the date of the recording of this Declaration and shall have priority over all encumbrances recorded after this Declaration is recorded, except as otherwise required by law. If an Assessment is payable in installments, the lien is for the full amount of the Assessment from the time the first installment is due, unless the Master Association provides otherwise in the notice of Assessment. The Master Association also has a lien on

each Unit for all fines imposed against an Owner by the Master Association. This lien shall arise and be perfected when (a) the time for appeal described in § 57-8a-208(5) of the Act has expired and the Owner did not file an appeal; or (b) the Owner timely filed an appeal under § 57-8a-208(5) of the Act and the district court issued a final order upholding the fine. The Master Association's lien shall have priority over each other lien and encumbrance on a Unit except only: (i) a lien or encumbrance recorded before this Declaration is recorded; (ii) a first or second security interest on the Unit secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Master Association; and (iii) a lien for real estate taxes or governmental assessments or charges against the Unit. The Master Association may, but need not, record a notice of lien on a Unit.

- 7.5 Action at Law. The Master Association may bring an action to recover a delinquent Assessment personally against the Owner obligated to pay the same. Any attorneys' fees and costs incurred in such action shall be assessed against the delinquent Owner and the Owner's Unit and added to the amount in delinquency (plus judgment interest and collection charges, if appropriate).
- 7.6 Foreclosure Sale. The Master Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. The Declarant appoints Melyssa D. Davidson as trustee, who qualifies under Utah Code § 57-1-21(1)(a)(i). The Declarant hereby conveys and warrants pursuant to Utah Code § 57-1-20 and 57-8a-302 to Melyssa D. Davidson, with power of sale, the Unit and all improvements to the Unit for the purpose of securing payment of Assessments under the terms of the Declaration. The Master Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.
- 7.7 Homestead Waiver. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration (whether such liens are now in existence or are created at any time in the future), the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.
- 7.8 Termination of Delinquent Owner's Rights. The Master Association shall have all rights provided for in the Act to terminate a delinquent Owner's right to vote and right to utilize the Recreational Amenities and other common facilities; provided, however, that before termination of such rights the delinquent Owner be provided at least fourteen (14) days prior notice, in accordance with the notice requirements in the Bylaws, of:
- (a) the impending termination of rights if payment is not received;
  - (b) the amount(s) past due, including any interest and late charges; and
  - (c) the right to request a hearing before the Board.

7.9 Requiring Tenant to Pay Rent to Master Association.

- (a) Pursuant to and as provided for in the Act, the Master Association shall have a right to demand and collect rent from any tenant occupying any Unit for which an Assessment is more than sixty (60) days late; provided, however, that before requiring a tenant to pay lease payments to the Master Association, the Owner be provided at least fifteen (15) days' prior notice, in accordance with the notice requirements in the Bylaws, of:
- (i) the Master Association's intent to demand the Owner's tenant pay his/her lease payments to the Master Association if payment is not received within fifteen (15) days;
  - (ii) the amount(s) past due, including any interest, late charges, collection costs and attorneys' fees; and
  - (iii) that any costs of collection, including, but not limited to attorneys' fees and other assessments that become due may be added to the total amount due and to be paid through collection of the tenant's lease payments;
- (b) If the Owner fails to pay the amount owing after fifteen (15) days, the Master Association may exercise its rights to collect the lease payments from the delinquent Owner's tenant by delivering written notice to the tenant, in accordance with the notice requirements in the Bylaws, that:
- (i) due to the Owner's failure to timely pay Assessments, the Master Association has notified the Owner of the Master Association's intent to collect all lease payments until the amount owing is paid, in full;
  - (ii) Utah law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the Master Association, until the amount owing is paid, in full; and
  - (iii) the tenant's payment of the lease payments to the Master Association does not constitute a default under the terms of the tenant's lease agreement with the Owner.
- (c) The Master Association shall mail to the Owner a copy of the notice to given to the tenant.
- (d) The tenant to whom notice under Section 7.9(b) is given shall pay to the Master Association all future lease payments as they become due and owing to the Owner beginning with the next monthly or other period payment until the Master Association notifies the tenant that the amount owed by the Owner is paid.
- (e) The delinquent Owner shall credit each payment that his/her tenant makes to the Master Association pursuant to this Section 7.9 against any obligation that the tenant owes to the Owner as though the tenant made such payment to the Owner and Owner may not initiate suit or other action against the tenant for failure to make any lease payment that the tenant pays to the Master Association as required under Section 7.9(d).

- (f) Within five (5) business days after the amount owing is paid, in full, the Master Association shall notify the tenant, in accordance with the notice provisions in the Bylaws, that the tenant is no longer required to pay future lease payments to the Master Association and a copy of said notice shall be mailed to the Owner.
- 7.10 Attorneys' Fees Incurred as a Result of a Default. In addition to any attorneys' fees and costs provided for herein, the Master Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner's failure to timely pay Assessments, including but not limited to attorneys' fees and costs incurred to: (a) obtain advice about a default; (b) collect unpaid Assessments; (c) file lawsuits or other legal proceedings related to a default in an effort to collect unpaid Assessments; (d) file pleadings, notices, objections, and proofs of claim in any bankruptcy proceeding; (e) examine the debtor or others related to collections; (f) monitor any bankruptcy proceedings including, but not limited to, regular monitoring of an Owner's progress in a chapter 13 plan for the duration of the plan; (g) file relief from stay motions, objections, or other adversary proceedings in bankruptcy (and all related activities including seeking and responding to discovery, taking depositions or examinations, introduce evidence, hiring and paying expert witnesses, filing motions and other pleadings, attending trials, hearings, or other court proceedings, including as reasonably necessary related to assert any non-dischargeability of debts, to assert claims against the bankruptcy estate or co-debtors, to challenge exemptions, to pursue any appropriate adversary proceeding, or for any other reason related to the ultimate attempt to collect unpaid Assessments); and (h) foreclose a lien, secure lien rights, or prepare any notice of lien. This provision is to be construed broadly to permit the Master Association to recover any reasonable fees and costs in any way related to an Owner's default in the payment of Assessments and the ultimate collection of those Assessments.
- 7.11 Master Association Responsibility after Foreclosure. If the Master Association takes title to a Unit pursuant to a foreclosure (judicial or non-judicial), the Master Association shall not be bound by any of the provisions related to the Unit that are otherwise applicable to any other Owner, including but not limited to: obligations to pay assessments or maintain the Unit.

## ARTICLE 8 DESIGN CONTROLS

- 8.1 Design Controls. To preserve and protect Declarant's design scheme for the Project, no improvements of any kind or modification of the natural condition of any land within the Project shall be permitted without prior review and written approval of the Design Review Committee. Notwithstanding the foregoing, development of the Project and construction or installation of improvements by or on behalf of Declarant on any of the land within the Project including, but not limited to, the construction of Subdivision Improvements and infrastructure, the initial construction of the Units by the Declarant, and plans of a bulk-builder that have been prep-approved by the Declarant, shall not be subject to the design review provisions in this Article 8 or Design Guidelines, if any are adopted.
- 8.2 Design Review Committee. Subject to the special Declarant rights in Section 20.3 during the Declarant Control Period, the Board shall establish a Design Review Committee which shall be composed of at least three (3), but not more than five (5),

individuals appointed by the Board. Persons serving on the Design Review Committee shall serve at the pleasure of the Board. The Board may remove a member of the Design Review Committee and appoint a new Design Review member at any time, provided that at all times there shall be a least three (3) persons serving. Members of the Design Review Committee may or may not be Board Members or members of the Master Association and may include one or more paid professionals, such as an architect, to perform such services. The Design Review Committee shall enforce the Design Guidelines and shall have and may exercise all the powers, duties and responsibilities set out in this Article 8.

- 8.3 Design Review Process. Subject to further specification in the Rules and/or Design Guidelines adopted by the Master Association, architectural designs, plans, and specifications showing the nature, kind, shape, color, size, materials, and location of all propose structures and improvements shall be submitted to the Design Review Committee for review and approval prior to the commencement of any construction or work.
- 8.4 Design Review Fees. The operating costs of the Design Review Committee, including the services of any paid architect or design professionals and/or other staff, shall be covered through a fee paid to the Design Review Committee by Owners applying for plan review and approval, consistent with § 57-8a-109(2) of the Act. The Design Review Committee shall make available to all Owners a current design review fee schedule, which may be modified from time to time in accordance with the Act.
- 8.5 General Design Standards. In its review and consideration of an Owner's design review application, the Design Review Committee shall evaluate, among other things: (a) the size, height, scale and placement of the dwelling or other structure on the Lot; (b) the materials to be used on the exterior of Unit; (b) exterior colors; (c) harmony of architectural elements and design with other Units within the particular Neighborhood and within the Project; (d) the topography of the Lot and finished grade elevations; € harmony of landscaping with the Unit and the particular Neighborhood; (e) impact of lighting (interior and exterior) on night skies and neighboring Units; and (f) consistency of all of the foregoing with the Community-Wide Standards and Design Guidelines, if any. Each Owner acknowledges, by taking title to a Unit, that determinations of the Design Review Committee with regard to esthetic matters are subjective and may change as the composition of the Design Review Committee changes.
- 8.6 Design Guidelines and Construction Rules. Declarant or the Master Association may promulgate, adopt, amend and/or replace Design Guidelines and construction rules and regulations necessary to implement design controls for the Project.
- 8.7 Building Permits and Other Approvals. Owners are reminded that the Design Review process provided for in this Article 8 is entirely different than and separate from the building permitting process and other City planning or building department approval processes that may be required under City ordinance or by any other governmental entity. All necessary building permits and approvals must be obtained prior to the commencement of any construction or work. Notwithstanding any other provision in this Article 8 or the Design Guidelines, the Design Review Committee shall not be responsible for: (a) determining that any construction or construction documents

conform to applicable building codes, zoning or other land-use regulations; (b) the accuracy or content of any construction documents or specifications prepared by any architect, engineer or any other Person; (c) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist; or (d) any failure to carry out any construction in accordance with plans or specifications.

- 8.8 No Liability. Neither the Design Review Committee, nor the Board, or the Master Association, or Declarant shall be liable to any Owner or any other Person by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove any design review application or plans. The Design Review Committee shall have no liability or responsibility for any representations made to any Owner or prospective owner by any realtor or third parties regarding design controls applicable to the Project.
- 8.9 Inspection and Compliance. The Design Review Committee shall have no duty or obligation to make inspections of any construction. Nothing herein, however, shall prevent the Design Review Committee from making inspections prior to, during, or after construction. Unless otherwise provided in the Rules, upon the completion of any work for which an approved plan and specifications are required, the Owner shall give written notice of completion to the Design Review Committee. Within thirty (30) days after receipt of such notice, the Design Review Committee may inspect the work to determine its compliance with the approved plan. If the Design Review Committee finds that the work was not done in substantial compliance with the approved plan, the Design Review Committee may issue written notice to such Owner specifying the non-compliance and requiring the Owner to cure such non-compliance within thirty (30) days or any extension thereof granted.
- 8.10 Enforcement. Any construction, alteration nor other work done or undertaken without first obtaining written approval from the Design Review Committee shall be deemed to be a violation of this Master Declaration. Upon written notice of a violation from the Design Review Committee or the Board, an Owner, at his/her/their sole expense, shall conform or remove the nonconforming construction, alteration, or other work and shall restore the Unit or the affected portion thereof to substantially the same condition as existed prior to the nonconforming construction alteration or other work within thirty (30) days or such extension thereof granted. If an Owner fails to timely remedy the violation as required hereunder to the reasonable satisfaction of the Design Review Committee, the Design Review Committee or the Board shall have the right to enter onto the Lot and may remedy the violation or remove the same or otherwise restore the Unit to substantially the same condition as existed prior to the violation without the same being deemed as trespass. Upon demand, the Owner shall reimburse the Master Association for all costs and expenses incurred by the Design Review Committee and/or the Board in taking corrective action, including attorneys' fees, regardless of whether a lawsuit was filed. The Owner shall be personally liable for all such costs and expenses, and the Master Association also shall have a lien against the non-complying Unit for the amount of all such costs and expenses. Any amounts not paid, without waiver of any other right or remedy, may be collected as an Assessment Lien as provided in Article 7. Such lien shall be (a) evidenced by a statement executed by the Master Association and notice of the lien recorded with the Office of Recorder for Utah

County, Utah, and (b) subject to foreclosure in the manner provided by law.

- 8.11 Variations. The Design Review Committee may authorize variances from the design control provisions of this Master Declaration and/or the Design Guidelines when circumstances such as topography, natural obstructions, hardship, esthetic or environmental considerations may require, subject to any City approval required by law. To be valid, a variance must be in writing, and approved by every member of the Design Review Committee. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Master Declaration or the Design Guideline shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of any variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular Unit and provision of the Design Guideline or hereof covered by the variance, and shall not affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Unit.
- 8.12 Appeal. A decision of the Design Review Committee may be appealed to the Board; provided, however that any exercise of the Design Review Committee's power by the Declarant pursuant to Section 20.3 herein on any design review matter shall be the final decision and shall not be appealable. The decision of the Board on any such appeal shall be final, subject only to judicial review as provided by law.

## ARTICLE 9

### GENERAL RIGHTS AND RESPONSIBILITIES OF OWNERS

- 9.1 Areas of Owner Responsibility. Except to the extent that maintenance, repair and upkeep of Unit exteriors and/or landscape maintenance has been assigned to the Master Association as part of a Benefitted Neighborhood or Service Area each Owner shall be responsible for the maintenance, repair, and upkeep of the Owner's Unit and Lot landscaping consistent with the Community-Wide Standards.
- (a) No Unsightly Items. Rubbish, debris, and unsightly materials shall not be allowed to accumulate on any Lot. Trash and recycling shall be properly and promptly disposed of. Except on pick up day, trash and recycling containers shall be kept inside the Unit's garage or otherwise screened from view of the other Units and Common Areas; Equipment, and/or machinery not a part of the Unit may not be stored outside of the Unit or the Unit's garage.
- (b) No storage on Common Area. Owners may not place or store anything on Common Area or on Benefitted Common Area.
- 9.2 Rights and Nonexclusive License to Use Common Area and Facilities. Subject to all other terms and conditions of the Governing Documents, each Owner shall have the right and a nonexclusive license for use and enjoyment of the Common Area and Facilities and to Benefitted Common Area to which the Owner's Unit is assigned, if any. Such rights and nonexclusive license shall be appurtenant to and shall pass with title to the Unit and in no event shall such appurtenant rights be separated therefrom. Authorized Occupants shall have the same access and use rights to the Common Area and Facilities and assigned Benefitted Common Area, if any, as the Owner whose Unit the Occupant is occupying. All such rights shall be subject to any Rules established by the Board.

ARTICLE 10  
CONDITIONS, RESTRICTIONS, AND EASEMENTS

- 10.1 Rules. The Master Association shall have authority to promulgate and enforce such reasonable Rules and procedures as may aid the Master Association in carrying out any of its functions to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners and Community-Wide Standards. Pursuant to § 57-8a-218(15) of the Act, the requirements of § 57-8a-218, subsections (1) through (12) of the Act, except subsection (1)(b)(ii), are hereby modified and shall not apply to the Master Association during the Declarant Control Period.
- 10.2 No Nuisance. No noxious or offensive activity shall be carried on upon the Project. No Owner or Occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule or regulation of any local, City, county, state or federal body. Violation of any provision of this Master Declaration or any other Governing Document may be deemed a nuisance and a violation of this provision.
- 10.3 Snow Removal and Snow Stockpiling. The Master Association may establish locations within the Project, which may change from time to time, to stockpile snow and ice accumulated during winter months which may encroach on Common Areas and Facilities, Benefitted Common Area, or Neighborhood Sub-Association property. No Owner, Occupant or invitee may block, obstruct, impair, impede, or otherwise interfere with any snow removal or snow stockpiling by the Master Association.
- 10.4 Residential Occupancy. No trade or business may be conducted from any Unit unless:
- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell, from any other Unit;
  - (b) the business activity conforms to all zoning and legal requirements for the Project and the business activity;
  - (c) the business activity does not involve solicitation of Occupants or Owners of the Project;
  - (d) the business activity does not create parking issues or increased vehicle traffic in the Project from clients, customers, vendors, service providers or other individuals coming into the Project who do not reside in the Project, as determined by the Board, in its sole discretion.
  - (e) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners and Occupants of the Project;
  - (f) the business activity is disclosed to the Board before business is commenced and a description of the business activity is provided, together with a statement of the amount of space required in the Home or on the Lot for such activity, and a description of any impact on the Project; and
  - (g) the Owner of the Unit resides in the Unit in which the business activity is proposed for the entire time any business activity is conducted.
- 10.5 Nonexclusive Easements. The Master Association shall have nonexclusive easements with the right of access over and across each Unit, to make inspections, to prevent or mitigate damage to Common Area and Facilities or Benefitted Common Area, and to maintain, repair, replace or effectuate the restoration of the Common Area and Facilities and any



other property or improvements for which the Master Association is responsible for maintaining, including any Benefitted Common Area or Service Area, which are accessible from such Unit. The Master Association shall have a nonexclusive right to grant permits, licenses, and easements upon, across, over, under, and through the Common Area and Facilities, Benefitted Common Area, and Service Area for purposes necessary for the proper operation of the Project.

- 10.6 Easements for Utilities. Easements and rights-of-way over, under and through the Project for the installation and maintenance of electrical lines, telephone lines, cable television lines, fiber optics, water lines, gas lines, sanitary sewer lines, drainage facilities, telecommunication fixtures and equipment, utility fixtures and equipment, and such other lines, fixtures, or equipment needed or determined by the Board to be helpful in serving the Project, the Units, or the Owners are hereby reserved to the Declarant and the Master Association, together with the right to grant, alter, and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use and enjoyment of the Common Area and Facilities and the Units by the Owners or Occupants. The Master Association shall have the power to grant and convey, in the name of the Master Association or for all of the Owners as their attorney-in-fact, to any Person, easements and rights-of-way in, on, over or under the Common Area and Facilities and Units for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, wireless transmission or reception equipment, conduits, or other devices for electricity, cable television, power, telecommunications, internet, telephone, public sewers, storm water drains and pipes, water systems, irrigation systems, water heating and gas lines or pipes and any other public, quasi-public, or private improvements or facilities. Each Owner, by taking title to a Unit, expressly consents to such easements and rights-of-way and authorizes and appoints the Master Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. Such Owner and those claiming by, through or under an Owner agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effect the same at the request of the Master Association. However, no easement or right of way can be granted pursuant to this paragraph if it would permanently and materially interfere with the use, occupancy or enjoyment by any Owner of such Owner's Unit.
- 10.7 Easements for Encroachments. If any portion of the Common Area and Facilities or any Subdivision Improvement encroaches upon any Unit, or if any Unit encroaches upon any other Unit or the Common Area and Facilities as a result of the manner in which the Subdivision Improvements are constructed or due to settling, shifting, alteration, replacement, repair or restoration by the Declarant or the Master Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement or structure.

## ARTICLE 11 INSURANCE

- 11.1 Applicable Law. It is the intent of the Declarant in this Article 11 to submit the Master Association to all applicable insurance requirements and provisions of Part 4 of the Act, and any amendments thereto enacted by law. It is further the intent of this Section that any

future changes to the insurance law applicable to community associations shall apply to this Master Association.

- 11.2 Required Insurance Coverage. The Master Association shall obtain insurance as required under Part 4 of the Act and by the provisions of this Article 11. The Master Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies.
- 11.3 Annual Insurance Report. Prior to each annual meeting of the Master Association, the Board shall obtain a written report by an independent and experienced insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Master Association), with specific knowledge and experience in the community association insurance industry, setting forth: (a) a summary description of the insurance coverage obtained by the Master Association, including the dollar amounts of any such coverage, and any material exceptions, exclusions, and limitations on such coverage; (b) whether, in the opinion of such broker or consultant, the insurance coverage in effect for the Master Association complies with the requirements of this Master Declaration and Utah law. The report shall also set forth any recommendations or suggestions from the insurance professional regarding current policy provisions, deductibles, and exceptions.
- 11.4 Property Insurance. The Master Association shall maintain property insurance covering attached Dwellings and Common Areas and Facilities in accordance with § 405 of the Act. The Master Association is not required to maintain property insurance for detached dwellings Units.
- (a) Master Association's Obligation to Segregate Property Insurance Deductible. The Master Association shall keep separate an amount equal to the Master Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
- (b) Notice Requirement for Deductible. The Master Association shall provide notice to each Owner of the Owner's obligation the Act for the Master Association's property insurance policy deductible and of any change in the amount of the deductible. If the Master Association fails to provide notice of the deductible, it may be responsible for the entire deductible in case of any loss. If the Master Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.
- (c) Property Insurance for Attached Dwellings in a Benefitted Neighborhood. To more fairly allocate property insurance costs among Owners, the Board, in its discretion, may allocated the cost of property insurance coverage for attached dwellings and common elements in a Benefitted Neighborhood to the Owners of the Units in that Benefitted.
- (d) Master Association's Right to Not Tender Claims that are under the Deductible. If, in the exercise of its business judgment, the Board determines that a covered loss

is likely not to exceed the Master Association's property insurance policy deductible, and until it becomes apparent the covered loss exceeds the Master Association's property insurance deductible and a claim is submitted to the Master Association's property insurance insurer: (i) the Owner's policy is considered the policy for primary coverage for any loss to the Owner's Unit, to the amount of the Master Association's policy deductible; (ii) the Association is responsible for any loss to any Common Area and Facilities; and (iii) an Owner who does not have a policy to cover the damage to that Owner's Unit is responsible for that damage and the Master Association may, as provided in section 11.3(b)(iii)(2), recover any payments the Master Association makes to remediate that Unit; and (iv) the Master Association need not tender the claim to the Master Association's insurer.

- (e) Master Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Master Association's property insurance policy shall be payable to the Master Association or an Insurance Trustee (defined below) if one is designated by the Board. An Insurance Trustee, if any is appointed, or the Master Association, shall hold any insurance proceeds in trust for the Master Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete, and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Master Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. The cost of repair or replacement of any Unit in excess of insurance proceeds and reserves is a Common Expenses to the extent the Master Association is required under this Declaration or the law to provide insurance coverage for the Unit. Each Owner hereby appoints the Master Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and appropriate disposition of all insurance proceeds, the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

- 11.5 Comprehensive General Liability (CGL) Insurance. The Master Association shall obtain CGL insurance insuring the Master Association, the agents and employees of the Master Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Area and Facilities and the Owner's membership in the Master Association. The coverage limits under such policy shall not be less than two million dollars (\$2,000,000) covering all claims for death of or injury to any one individual or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Master Association or another Owner.

- 11.6 Director's and Officer's Insurance. The Master Association shall obtain Directors' and Officers' liability insurance protecting the Board, the officers of the Master Association, and the Master Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (a) include coverage for volunteers and employees; (b) include coverage for monetary and non-monetary claims; (c) provide for the coverage of claims made under any fair housing law or similar state or federal statute or that are based on any form of discrimination or civil rights claims; and (d) provide coverage for defamation. In the discretion of the Board, the policy may also include coverage for any Manager and any employees of the Manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.

ARTICLE 12  
EMINENT DOMAIN

- 12.1 Taking of a Unit. If a Unit is taken by eminent domain, or sold under the threat thereof, or if a portion of a Unit is taken by eminent domain, or sold under the threat thereof, leaving the Owner with a remnant that may not practically or lawfully be used for any purpose permitted by this Master Declaration, the award shall compensate the Owner for the Owner's Unit and Allocated Interest, regardless of whether any Common Areas and Facilities are taken.
- 12.2 Taking of Common Area. If the Common Area and Facilities or Benefitted Common Area, or a portion thereof, is taken by eminent domain, or sold under threat thereof, the Board shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Master Association.
- 12.3 Taking of Entire Project. In the event the Project, in its entirety, is taken by eminent domain, or sold under threat thereof, the Project shall be terminated and the Board shall wind down the Master Association in accordance with applicable law.
- 12.4 Priority and Power of Attorney. Nothing contained in this Article 12 shall entitle an Owner to priority over any Lender under a lien encumbering the Owner's Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the Master Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Area, or any part thereof.

ARTICLE 13  
AMENDMENTS

- 13.1 General Amendment Requirements. Except as otherwise provided herein and subject to the rights and authority reserved to the Declarant in Article 20 herein and elsewhere in this Master Declaration, amendment of this Master Declaration shall require the approval of Owners holding Allocated Interests totaling not less than sixty-seven percent (67%) of the Allocated Interests in the Master Association.
- 13.2 Scope of Amendments. Subject to Article 20 herein, this Master Declaration may be amended to add new rights, restrictions, and obligations, or to remove or modify existing rights, restrictions, and obligations. The right to amend shall be broadly construed to permit

any change to the rights, restrictions, obligations, and other terms in this Master Declaration. This Master Declaration may be amended to make a particular section of the Act applicable to the Master Association, including a section that would not otherwise be applicable to the Master Association.

- 13.3 Execution and Effective Date of Amendments. An amendment that has been adopted as provided in Section 13.1 shall be executed by the President and the Secretary shall certify that the amendment has been approved and adopted and that the procedures and requirements necessary to amend the Master Declaration as set forth in this Article 13 have been complied with. The amendment shall be effective when it is recorded in the Office of the Recorder for Utah County, Utah.

ARTICLE 14  
BENEFITTED NEIGHBORHOODS

- 14.1 Designated Benefitted Neighborhoods. Declarant or the Master Association may designate Benefitted Neighborhoods or Services Areas as provided in Section 20.8 herein.

ARTICLE 15  
NOTICE

- 15.1 Notices. Any notice to be given to an Owner, a Lender, or the Master Association required or permitted by the Governing Documents shall be in writing and shall be deemed valid if provided by any of the below methods:
- (a) Notice to an Owner from the Master Association:
    - (i) by a written notice delivered personally to the Owner, which shall be effective upon delivery.
    - (ii) by a written notice placed in the United States mail, first-class postage prepaid, to the most recent address furnished by such Owner in writing to the Master Association for the purpose of giving notice, or, if no such address shall have been furnished, to the street address of such Owner's Unit. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit;
    - (iii) by email correspondence to an Owner: (1) sent to an email address provided by the Owner for the purpose of Master Association communications, or (2) emailed to an email address from which the Owner has communicated related to Master Association matters, and so long as no indication is received that the email may not have been delivered. Any notice sent by email shall be deemed delivered seventy-two (72) hours after it is sent; or
    - (iv) by any other method that is fair and reasonable given the circumstances and the subject matter of the notice or otherwise allowed by law.
    - (v) Notwithstanding anything to the contrary in this Section 15.1, the Master Association shall send all notices to an owner by U.S. Mail if such Owner, by written demand, demands to receive notices from the Master Association by mail. In the case of co-Owners, notice to one of the co-Owners is effective as notice to all such co-Owners. The Master Association shall not be required to give more than one notice per Unit. In case any two co-

Owners send conflicting notice demands, notice shall be proper if mailed by first-class mail to the Unit address.

- (vi) In case posting of a notice on the Unit is permitted, such posting is effective when posted on the front or primary access door to the Unit and any such posting may be removed by the Master Association the sooner of either (1) two (2) days after the event or action for which notice was given or (2) ten (10) days after the posting.
- (b) Notice to a Lender. Notice to a Lender shall be delivered by United States mail, first-class postage prepaid, to the most recent address furnished by such Lender in writing to the Master Association for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender. Any address for a Lender that is found on a document recorded on the title of a Unit shall be deemed an office of the Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.
- (c) Notice to Master Association from an Owner:
  - (i) by a written notice delivered personally to the Manager or President, which shall be effective upon delivery;
  - (ii) by a written notice placed in the United States mail, first-class postage prepaid, to the current registered business address of the Master Association. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit;
  - (iii) by written email correspondence to the Master Association: (1) that is sent to an email address provided by the Master Association in the prior twelve (12) months for the purpose of Master Association communications, or (2) that is emailed to an email address from which the Manager or the Board has communicated related to Master Association matters, and so long as no indication is received that the email may not have been delivered or received. Any notice sent by email shall be deemed delivered seventy-two (72) hours after it is sent; or

#### ARTICLE 16

#### ATTORNEYS' FEES AND COSTS

- 16.1 Recovery of Attorney's Fees and Costs by Prevailing Party. In any action to interpret or enforce this Master Declaration or the provisions of any other Governing Documents, the prevailing party shall be entitled to recover their reasonable attorney's fees and costs.
- 16.2 Owner Liability for Master Association Legal Costs Incurred in Enforcement. Notwithstanding anything to the contrary in Section 16.1 above or elsewhere in this Master Declaration, if, the Board determines, in its discretion, that the assistance of legal counsel is needed to enforce any Term and Condition against an Owner after notice to that Owner that the Master Association intends to enforce the Term and Condition or after an Owner communicates or demonstrates an intent not to comply with the Term and Condition, the Master Association may specially assess the Owner for attorneys' fees and costs incurred by the Master Association in connection with such enforcement, regardless of whether a lawsuit is initiated or not.

ARTICLE 17  
RESERVES

- 17.1 Requirement for Reserves. Subject to the exemptions provided under Section 20.18, the Master Association shall obtain a reserve analysis and shall maintain a reserve fund for the maintenance, repair, and replacement of the Common Area and Facilities, pursuant to the following provisions:
- (a) **Collection.** Reserve funds may be collected as part of regular or special Assessments.
  - (b) **Amount.** In formulating the Master Association's annual budget, the Master Association shall include a reserve fund line item for Common Area and Facilities in an amount the Board determines, based on the reserve analysis, to be prudent. For purposes of this Section 17.1, a reserve fund line item means the line item in the Master Association's annual budget that identifies the amount to be placed into the reserve fund.
  - (c) **Owner Veto.** Within 45 days after the day on which the Master Association adopts the annual budget, the Owners may veto the reserve fund line item by a fifty-one percent (51%) vote of the total Allocated Interests in the Master Association at a special meeting called by the Owners for the purpose of voting whether to veto a reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved annual budget of the Master Association that was not vetoed, the Master Association shall fund the reserve account in accordance with that prior reserve fund line item.
  - (d) **Surplus Monies Applied to Reserves.** The Master Association may retain surplus Master Association money as additional reserves rather than refund it to the Owners or credit it to future Assessments.
  - (e) **Segregation of Reserves.** The Master Association shall segregate money held for reserves from regular operating and other accounts.
  - (f) **Reserve Analysis.** The Master Association shall cause a reserve analysis with an onsite evaluation to be conducted no less frequently than every six (6) years. The Master Association shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) years. The Reserve analysis shall include, at a minimum: (i) a list of the components identified in the reserve analysis that will reasonably require reserve funds; (ii) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis; (iii) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis; (iv) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and (v) a reserve funding plan that recommends how the Master Association may fund the annual contribution set forth in the reserve analysis. The reserve analysis and updates shall project a minimum of thirty (30) years into the future.

(g) **Summary and Copies of Reserve Analysis.** The Master Association shall annually provide Owners a summary of the most recent reserve analysis or update and provide an opportunity for Owners to discuss reserves and to vote on how to fund the reserves and in what amount. The Master Association shall provide a copy of the complete reserve analysis or update to an Owner who makes a written request for a copy.

17.2 **Exceptions for Benefitted Common Area and Service Area Reserves.** The requirements set forth in Subsections 17.1 (b), (c), and (e), shall not apply to reserves, if any, for a Benefitted Common Area or Service Area. A reserve analysis prepared for any Benefitted Common Area or Service Area shall comply with Subsection 17.1(f) and a copy provided to the Owners of those Units assigned to the Benefitted Common Area or Service Area, as the case may be.

## ARTICLE 18 RENTAL RESTRICTIONS

- 18.1 **Rental Restrictions.** Subject to the restrictions in this Article 18, any Unit may be leased, provided, however, that the lease or other agreement for non-owner occupancy must be for an initial term of at least six (6) months and shall provide as a term of the lease that the Occupant shall comply with the Governing Documents and that any violation of the Governing Documents shall be a breach of the lease. If a lease or other agreement for non-owner occupancy does not include this provision it shall nonetheless be deemed to be a term of the lease and binding on the Owner and Occupant. Owners shall be responsible to ensure that the Occupants of the Owner's Unit comply with the Governing Documents and may be subject to enforcement action, including fines, for an Occupant's violation of any provision of the Governing Documents.
- 18.2 **No Short-Term Rentals.** No Unit may be leased for transient, short-term, or seasonal use, whether for pay or not.
- 18.3 **Lease of Entire Unit.** Except for Internal Accessory Dwelling Units as defined under the Act, no Owner may lease individual rooms or lease less than the entire Unit.
- 18.4 **Additional Rental Restrictions.** Consistent with § 57-8a-209 of the Act, the Master Association is empowered to adopt additional rules and regulations governing Unit rentals.



ARTICLE 19  
MISCELLANEOUS PROVISIONS

- 19.1 Enforcement of Terms and Conditions. Declarant, the Master Association and any Owner shall have the right to enforce, by proceedings at law or in equity, all Terms and Conditions, including the right to prevent the violation of any such Terms and Conditions and the right to recover damages and other sums for such violation, including, but not limited to attorneys' fees and costs incurred in conjunction with such enforcement.
- (a) Waiver of Security for Injunctive Relief. Each Owner, by taking title to a Unit, acknowledges and agrees that because a breach of the Governing Documents will result in immediate and irreparable injury to the Master Association and its other members for which they will not have an adequate remedy at law, the Master Association, if any such breach shall occur, be attempted, or be threatened, shall be entitled to an order of specific performance and to a temporary and permanent injunction enjoining such breach and to any and all other remedies to which the Master Association may be entitled pursuant to the Governing Documents or applicable law, without posting bond or furnishing other security and without proving special damages or irreparable injury, together with an award of attorneys' fees.
- 19.2 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in a Unit, each Owner and Occupant consents to the rights reserved to the Declarant and the Master Association in this Master Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and the Bylaws. By such acceptance, each Owner and Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same. Such acceptance shall be deemed an appointment of the Master Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf. Such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Master Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.
- 19.3 Views Not Guaranteed. Views from a Unit and the Project are not assured or guaranteed in any way. There is no warranty concerning the preservation of any view or view plane from the Project and each Owner and Occupant in such Owner's Unit acknowledges and agrees that there are no view easements or view rights appurtenant to the Unit or the Project.
- 19.4 Security. Neither the Declarant nor the Master Association shall, in any way, be considered an insurer, guarantor, or provider of security from criminal conduct within or relating to the Project. Neither the Declarant nor the Master Association shall be liable for any loss or damage by reason of criminal conduct arising, for any reason, including any failure to provide security or any ineffectiveness of security any measures undertaken. Each and every Owner and Occupant in the Project acknowledges that neither the Declarant nor the

Master Association has any duty to any Owner or Occupant related to security or to prevent criminal conduct. By taking title to a Unit and/or residing in the Project, each Owner and Occupant acknowledges and agrees that neither the Declarant nor the Master Association nor the Board are insurers of the safety or well-being of Owners or Occupants or any of their personal property as it relates to criminal conduct, and specifically waives any such claim and assumes all risks for loss or damage to Persons or property resulting from criminal conduct.

- 19.5 Reasonable Accommodations. Notwithstanding anything to the contrary in this Master Declaration, the Master Association may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate an Owner or Occupant with a disability (as defined by federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Unit, the Common Area and Facilities, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else. Owners and Occupants needing accommodations provided by the Fair Housing Act should contact the Board.
- 19.6 Interpretation of Master Declaration and Applicability of the Act. The Declarant intends that the Project shall be governed by the Act, except where (in compliance with the Act) specific provisions in this Master Declaration legally vary, supersede, or supplement provisions of the Act.
- 19.7 Cumulative Remedies. All rights, options, and remedies of the Master Association and the Owners in the Governing Documents are cumulative, and none shall be exclusive of any other, and the Master Association and the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief that may be provided by law; simultaneously, consecutively, or alternatively.
- 19.8 Severability. Invalidation of any one or a portion of the Terms and Conditions by judgment or court order shall in no way affect any other Terms and Conditions, all of which shall remain in full force and effect.
- 19.9 Liberal Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for development of a master-planned community, operation of the Master Association and maintenance of the Common Areas and Facilities. To the extent permitted by law, the provisions of the Governing Documents shall not be interpreted for or against or strictly for or against the Master Association, any Owner, or any other Person subject to their terms.

ARTICLE 20  
DECLARANT RIGHTS

- 20.1 Special Declarant Rights. Notwithstanding any other provisions in the Governing Documents to the contrary, the Declarant shall have the all rights and powers provided for in this Article 20. If any other article in this Declaration contains the words “notwithstanding anything to the contrary,” or words of similar import, the article shall all nonetheless be subject to the terms in this Article 20.
- 20.2 Right to Appoint the Board During Declarant Control Period. The Declarant shall have the right to appoint and remove all Board Members during the Declarant Control Period. In the appointment of Board Members, the Declarant shall not be bound by any qualifications for Committee Members in the Governing Documents. The Declarant may elect to have a Board of fewer than the required number of members until the Declarant Control Period ends. The Declarant may assume (and shall be presumed to have assumed unless Declarant notifies the Master Association otherwise) the powers of the Board without appointing Board Members pursuant to the rights granted in the Articles of Incorporation to the Declarant.
- 20.3 Declarant Retains All Rights and Authority During Declarant Control Period. During the Declarant Control Period, the Declarant shall retain control, power, and authority over, and all decision-making ability or authority for the Master Association and/or the Project. During the Declarant Control Period, the Declarant may also assume (and shall be presumed to have assumed unless the Declarant notifies the Master Association otherwise) the powers and authority of the Design Review Committee without the Board’s appointment of Design Review Committee Members. During the Declarant Control Period, the Declarant may pre-approve plans and/or waive design review fees for a bulk Unit builder. The Declarant shall determine whether to hire professional management during the Declarant Control Period.
- 20.4 Easement Rights. The Declarant shall have and hereby retains an easement for access over, under, across and through the entire Project and may utilize, allow anyone else to utilize, or may grant easements over, under across, and through any easement right reserved to anyone in the Declaration.
- 20.5 Right to Amend Plat. Subject to necessary approvals from any applicable municipality or government agency, during the Declarant Control Period, the Declarant shall have the right to amend, change, or modify any Plat, subject only to the requirement that the Declarant get approval from any Owner of a Unit that has any boundary modified by the Plat.
- 20.6 Assessment Exemption. The Declarant shall be exempt from any Assessments including any Regular Assessment, Benefitted Common Area Assessment, Service Area Assessments or special Assessment.
- 20.7 Right to Amend Master Declaration, Bylaws, Articles of Incorporation, and Rules. Until the expiration of the Declarant Control Period, the Declarant shall have the right to unilaterally amend, revise, and modify this Master Declaration, any Supplement to the Declaration establishing a Benefitted Common Area or Service Area or Additional Covenants, the Bylaws, the Articles of Incorporation, and the Rules in any way and at any time, including adding, removing, or changing substantive and material provisions, without any additional approvals from anyone including, but not limited to the Owners. Pursuant to § 57-8a-217(6) of the Act, the Declarant’s promulgation or amendment of any Rules shall be exempted from the Act’s rule-making process. Any amendment to the Bylaws or

this Master Declaration shall be effective upon the recordation of the amendment duly executed by an authorized officer of the Declarant. When recorded, any such amendment shall be binding upon the Project and all Persons having an interest therein including Owners. Without limiting the generality of the foregoing, the Declarant alone may amend or terminate this Master Declaration prior to the closing of a sale or transfer of any Unit.

- 20.8 Right to Designate Benefitted Common Area and Service Area and Modify Prior Designations. Until the expiration of the Declarant Control Period, the Declarant shall have the unilateral authority and sole right to designate Benefitted Common Area and Service Area and to designate the particular Units or Neighborhood assigned to such Benefitted Common Area or Service Area, as the case may be. During the Declarant Control Period, the Declarant shall have the unilateral authority and sole right to modify any previously designated Common Area or Service Area and to adjust or modify the assignments of Units or the Neighborhood or Neighborhoods respectively thereto.
- 20.9 Assignment of Special Declarant Rights. The Declarant, at any time, by recording a written notice, may assign or transfer all or some of its control, power, authority, or decision-making ability to the Master Association or any other Person prior to the end of the Declarant Control Period. In the case of the abandonment of the Project by the Declarant, the cessation of business by the Declarant, or the foreclosure of any undeveloped property that is subject to the provisions of this Declaration, the rights of the Declarant as provided for in this Declaration may be exercised by any owner of the undeveloped land within the project or to be expanded into the Project.
- 20.10 Exceptions from Use Restrictions. The Declarant shall not be bound by any use restriction in the Declaration as it relates to the Units owned by the Declarant.
- 20.11 No Modification of Declarant Rights. Any Declarant Rights in the Governing Documents and, specifically, in this Article 20, may not be substantively or procedurally altered during the Declarant Control Period without the written consent of the Declarant. Any document or amendment purporting to do so without the proper consent shall be void *ab initio*.
- 20.12 Use of Units and Common Areas and Facilities for Sales Activities. During the Declarant Control Period, the Declarant shall have the right to use any Unit owned by it, and any part of the Common Areas and Facilities and any part of any Benefitted Common Area in furtherance of any activities designed to accomplish or facilitate construction, improvement and sale of all Units owned by the Declarant or to be added to the Project, and the construction and improvement of all Common Areas and Facilities and Benefitted Common Area as the Declarant, from time to time, may desire. The Declarant shall have the right to maintain one or more sales offices. Such offices may be located on any Unit with the permission of the Owner of that Unit, who may be the Declarant, or in one or more separate structures, trailers, or facilities placed in the Project for the purpose of aiding the Declarant's sales efforts, or any combination of the foregoing. The Declarant shall also have the right to maintain any number and size of promotional, advertising, or directional signs, banners, or similar structures or devices at any place or places in the Project. The Declarant shall also have the right to designate by signs or otherwise any street or other parking as parking for sales only or to otherwise restrict and use any Common Area parking. The Declarant shall have the right from time to time to relocate, move, remove,

or add to any of its sales offices, parking restrictions, signs, banners or similar structures or devices.

- 20.13 Facilities Open to the Public. The Declarant shall have the right to establish certain facilities and areas within the Project for the use and enjoyment of the public. Such facilities and areas may include, by way of example, open space, trails, paths, parks and other neighborhood areas conducive to public gatherings. The Declarant may designate such facilities and areas as open to the public at the time the same is made the responsibility of the Master Association or the Board may so designate at any time thereafter.
- 20.14 Right to Use Common Area and Facilities for Special Events. The Declarant may use the Common Area and Facilities and Benefitted Common Area to sponsor special events for charitable, philanthropic, political, or marketing purposes, subject to the following conditions: (a) the availability of the Common Area and Facilities; (b) payment of costs and expenses incurred and indemnification of the Master Association against any loss or damage resulting from the special event; (c) return of the Common Area and Facilities in the same condition as existed prior to the special event.
- 20.15 Declarant Rights Do Not Impose Obligations. The Declarant Rights provided for in this Article 20 shall not be construed to impose any obligation, legal or equitable, related to any matter or issue to which they might apply. The Master Association and each Owner, by taking title to a Unit, waive and disclaim any such duty and affirmatively acknowledge that no such duty exists or should be imposed as a result of the Special Declarant Rights.
- 20.16 Declarant Exemption from Statutory Obligations. Pursuant to § 57-8a-217(6) of the Act, Declarant is hereby exempt from the provisions of § 57-8a-217 of the Act. Pursuant to § 57-8a-211(10) of the Act and Article 17 herein, § 57-8a-211(2)-(9) of the Act shall not apply or have any effect during the Declarant Control Period and, as allowed specifically by law, the Declarant shall have no duty whatsoever to obtain a Reserve Analysis or to fund any Reserve Fund during the Declarant Control Period.

ARTICLE 21  
DISPUTE RESOLUTION AND LIMITATION ON LITIGATION  
AND COVENANT NOT TO SUE

- 21.1 Statement of Intent. Every Owner is capable of obtaining an inspection and is permitted to perform any inspection on any Lot that Owner is purchasing or may otherwise be acquiring and on any aspect of the Project. Having had the ability to inspect prior to purchasing, it therefore is acknowledged that it is unfair and improper thereafter to seek to have Declarant or Builder or any other contractor or subcontractor performing work in the Project to change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, each Owner, by taking title to a Lot, and Declarant acknowledge and agree that litigation is an undesirable method of resolving certain conflicts in that it is slow, expensive, uncertain, and can often negatively impact the value, sale, and ability to obtain financing for the purchase of a Lot for years, unfairly prejudicing those Owners who must sell or who want to sell their respective Lots during any period when litigation is pending. For this reason, each Owner, by taking title to a Lot, and Declarant agree and acknowledge that certain disputes simply shall not be pursued, to the extent permitted by law, and that other disputes shall be pursued only through certain specific alternative dispute resolution mechanisms and only after full disclosure, right to cure periods, and knowing approval of the Owners. Consistent with this desire to avoid litigation but, nevertheless, to ensure a reasonable avenue for recovery against a Person responsible for faulty construction, Declarant, or either of them, may obtain and provide warranties to the Association from the Builder and/or subcontractors that the Association may enforce related to the development and construction of the Project. It is the intent of the parties hereto, as agreed to by each Owner by and upon taking title to a Lot, that these warranties (from the Builder and/or subcontractors), if they are obtained, whatever they might cover and whomever they are from, are the exclusive remedy to the extent permitted by law, in case of any defects or damages of any kind arising from or related to construction or development of the Project. It is also intent of this Article to eliminate, to the extent possible, claims against or involving Declarant and/or the Builder and claims related to the construction of Project improvements, the Common Area, and the Units in the Project, and, when and if any such claim is permitted as a matter of law or pursuant to this Declaration, to ensure that every opportunity is made to resolve the claim outside of litigation. This effort shall include, but not be limited to, the right to cure and the requirements for mediation and arbitration.
- 21.2 Disclaimer of Warranties. The Master Association and Owners accept all Common Area and Units "AS IS," with all faults and with no warranties of any kind except as otherwise required by law. DECLARANT SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR OF HABITABILITY, TO THE FULL EXTENT ALLOWED BY LAW.
- 21.3 Waiver of Subrogation and Release. The Association and each Owner, by and upon taking title to a Lot, waives any right to subrogation against Declarant and/or the Builder. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against Declarant or the Builder (including their respective principles, officers, managers,

shareholders, members, employees, agents, and representatives). To the full extent permitted by law, the Association and Owners hereby release Declarant and the Builder (including their respective principles, officers, managers, shareholders, members, employees, agents and representatives) from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or the Builder or their respective principles, officers, managers, shareholders, members, employees, agents and representatives.

21.4 Declarant Litigation. An Owner may only make a claim against Declarant and/or the Builder, to the extent allowed herein and by law after all of the following efforts at dispute resolution have been completed:

- (a) **Right to Cure.** The Owner shall provide to Declarant and/or to the Builder, as may be applicable, a Notice of Claim (defined below) and permit Declarant and/or the Builder, as the case may be, one hundred eighty (180) days to cure or resolve the claim or defect or to try to get its contractor or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any lawsuit, claim, or dispute resolution process.
- (b) **Mediation:** if the dispute is not resolved within the 180-day Right to Cure period, the parties agree to mediate the dispute prior to taking further action. If additional, different, or modified claims, causes of action or legal theories for recovery (including damages, damage calculations) are added or asserted against that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this Section shall be triggered and any pending action, including any mediation or arbitration, shall be stayed for the 180-day period to facilitate Declarant's and/or the Builder's right to cure such additional, different, or modified claims.
- (c) **Arbitration.** For any claim allowed by law or by this Declaration, the parties agree to binding arbitration of all claims asserted against Declarant, the Builder and/or any other contractor or subcontractor by either the Association or any Owner, with the initiating party advancing all arbitration costs, subject to assignment of those costs by the arbitrator in a final decision on the merits. In the event the parties are unable to agree regarding an arbitration service, the American Arbitration Association shall administer the proceedings and the rules applicable to construction disputes shall apply. The arbitration rules shall be subject to the requirements of this Declaration and shall be modified accordingly in case of any conflict between the Rules and this Declaration.
- (d) **Notice of Claim.** For purposes of this Section, a Notice of Claim shall mean and include the following information: (i) the nature of the claim; (ii) a specific breakdown and calculation of any alleged damages; (iii) a detailed description of the claim along with any supporting opinions, information, or other factual evidence upon which the claim is based; (iv) photographs of any alleged defect or condition, if applicable; (v) samples of any alleged defective materials; (vi) a recitation of all efforts taken to avoid, mitigate, or minimize the claim and alleged damages arising

therefrom; and (vii) the names and contact information of every Person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

- (e) Owner Meeting. If otherwise allowed by law notwithstanding the terms of this Article, prior to the Association making any demand or commencing any mediation, arbitration, or litigation (any "action") against Declarant or the Builder or any other contractor or subcontractor involved in the original construction of the Project, other than a claim made solely upon an Association Warranty against a subcontractor, the Association must have a properly noticed meeting of the Owners, with all attorneys, experts, and other Persons expected to be involved in the claim present at the meeting. Those Persons present, including the Board, must permit discussion among the Owners and questions from the Owners and must respond to all reasonable questions of the Owners related to the proposed claims. The notice for the aforesaid meeting must include the following information:
- (i) a statement must be made on the first page of such notice in bold, stating that **"The Association is contemplating serious and potentially time-consuming and expensive litigation against the Declarant of this Project. This litigation could cost you money in the form of increased assessments and will likely impact the resale value of your Lot and your ability to sell your Lot while this litigation is pending. This litigation could take years to resolve. You should think seriously about this issue and attend the meeting on this issue;**
  - (ii) a budget and reasonably detailed breakdown of all costs and legal fees reasonably estimated to be caused by the expected litigation including a breakdown of any costs and fees to be advanced by anyone including any attorney or other representative of the Association under any contingency arrangement, and all those costs and fees to be paid directly by the Association, all of which shall assume the litigation will last five years (unless it is reasonably expected to last longer in which case the longer period shall be used for this estimate) and require a trial on the merits (the "Claim Budget");
  - (iii) a detailed explanation of where any money to be paid by the Association will be obtained including a per Lot breakdown of all costs and fees per year, assuming the litigation will last five (5) years;
  - (iv) a legal opinion on the likelihood of success of any such litigation or arbitration from an attorney or law firm with at least ten (10) years' experience with such litigation who is anticipated to bring any such action, analyzing the applicable law, Governing Documents, and all relevant and known factual information;
  - (v) the terms of the agreement between the Association and the attorney or law firm prosecuting the action including a copy of any engagement letter, contract, or agreement related to that representation; and



- (vi) a detailed description of the alleged claims against Declarant and of all efforts by the Association to resolve those claims prior to commencing any action.
  - (f) **Vote of Owners Required.** In addition to the requirements above and before commencing any action, the Association must obtain the approval of seventy-five percent (75%) of the Total Votes of the Association (not 75% of those Owners present), by vote, at a properly noticed special meeting for that purpose only. Any such a special meeting must occur no sooner than thirty (30) days and not later than sixty (60) days after the meeting required above.
  - (g) **Collection of Funds.** The Association shall collect funds from the Owners by special assessment or otherwise equal to at least one half (1/2) of the Claim Budget. The Association shall not use any reserve funds to fund any such action or to pay for any costs associated with any such action.
- 21.5 Effect on Time-Barred or Otherwise Limited Claims. The existence of procedures and/or requirements in this Article applicable to claims against Declarant or the Builder and/or any other contractors or subcontractors that are barred or limited in other provisions of this Declaration shall not be construed as permitting any such claims or as contradictory to a prohibition or limit on such claims in other provisions in this Declaration. The procedures and requirements to assert a claim (including, but not limited to, the right to cure requirements, the meeting and Owner approval requirements, the mediation requirement, and the arbitration requirements) that are prohibited by this Declaration are provided solely in case any such claim is permitted by law notwithstanding the terms of this Declaration.
- 21.6 Provisions in Addition to Requirements of the Act. The provisions of this Article are in addition to the provisions governing liability of Declarant and Board during the Declarant Control Period in the Act.





**EXHIBIT A  
LEGAL DESCRIPTION**

The Units, Lots, and real property referred to in the foregoing Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Ridgeview are located in Highland Utah in Utah County, Utah and are described more particularly as follows:

**PLAT A:**

*A Tract of Land, located in the SE1/4 of Section 1 of Township 5 South, Range 1 East, Salt Lake Base and Meridian. Entire Tract Comprised of part of Parcels identified by Utah County Tax Id. Numbers 12:004:0017 & 12:0047:0018, being more particularly described as follows:*

Beginning at a point N00°06'11"W 1,265.52 feet along the section line and S89°53'49"W 1,757.40 feet from the Southeast Corner of Section 1, Township 5 South, Range 1 East, Salt Lake Base and Meridian, and running thence Southeasterly along the arc of a non-tangent curve to the right having a radius of 19.00 feet (radius bears: S56°58'45"W) a distance of 15.72 feet through a central angle of 47°24'28" Chord: S9°19'01"E 15.28 feet; thence S57°00'00"W 266.26 feet; thence along the arc of a curve to the right with a radius of 561.00 feet a distance of 64.00 feet through a central angle of 06°32'11" Chord: S60°16'05"W 63.96 feet to the northerly line of a perpetual easement for the Jordan Aqueduct, Reach 4 in favor of The United States of America, Department of the Interior, Bureau of Reclamation as defined in a land purchase contract, recorded at Entry No. 33524:1983 in the Utah County Recorder's Office; thence along said perpetual easement line the following two (2) courses: (1) Northwesterly along the arc of a non-tangent curve to the right having a radius of 475.00 feet (radius bears: N31°43'49"E) a distance of 47.86 feet through a central angle of 05°46'22" Chord: N55°23'00"W 47.84 feet; thence (2) N52°29'50"W 162.66 feet to the easterly line of a Special Warranty Deed as recorded at Entry No. 113623:1998 in the Utah County Recorder's Office, said point being the southwest corner of said entire tract; thence along said deed line and westerly line of said entire tract the following nine (9) courses: (1) N10°55'32"E 191.06 feet; thence (2) N18°31'39"E 65.08 feet; thence (3) N14°03'39"E 69.73 feet; thence (4) N10°09'13"E 53.70 feet; thence (5) N02°22'21"W 33.89 feet; thence (6) N26°09'40"W 20.29 feet; thence (7) N43°06'40"W 24.56 feet; thence (8) N43°54'14"W 22.14 feet; thence (9) N29°37'46"W 26.24 feet; thence N59°56'15"E 125.36 feet; thence Southeasterly along the arc of a non-tangent curve to the left having a radius of 478.00 feet (radius bears: N59°56'15"E) a distance of 24.68 feet through a central angle of 02°57'30" Chord: S31°32'30"E 24.68 feet; thence S33°01'15"E 542.31 feet to the point of beginning.

Contains: 3.73 acres+/-

**PLAT B-1:**

*A Tract of Land, located in the SE1/4 of Section 1 of Township 5 South, Range 1 East, Salt Lake Base and Meridian. Entire Tract Comprised of part of Parcels identified by Utah County Tax Id. Number 12:004:0017, being more particularly described as follows:*

Beginning at a point N00°06'11"W 1,485.34 feet along the section line and S89°53'49"W 1,213.93 feet from the Southeast Corner of Section 1, Township 5 South, Range 1 East, Salt Lake Base and Meridian, and running thence Westerly along the arc of a 589.00 feet radius non-tangent curve to the left (radius bears: S00°17'00"W) 342.15 feet through a central angle of 33°17'00" (chord: S73°38'30"W 337.36 feet); thence S57°00'00"W 190.32 feet; thence Northwesterly along the arc of a non-tangent curve to the right having a radius of 19.00 feet (radius bears: N09°27'39"E) a distance of 15.76 feet through a central angle of 47°31'06" Chord: N56°46'48"W 15.31 feet; thence S56°58'45"W 56.00 feet; thence N33°01'15"W 542.31 feet; thence along the arc of a curve to the right with a radius of 478.00 feet a distance of 60.60 feet through a central angle of 07°15'49" Chord: N29°23'21"W 60.56 feet; thence N64°14'34"E 59.00 feet; thence Easterly along the arc of a non-tangent curve to the left having a radius of 16.00 feet (radius bears: N64°14'34"E) a distance of 27.00 feet through a central angle of 96°41'51" Chord: S74°06'22"E 23.91 feet; thence N57°32'43"E 30.12 feet; thence along the arc of a curve to the right with a radius of 771.00 feet a distance of 436.73 feet through a central angle of 32°27'17" Chord: N73°46'22"E 430.91 feet; thence East 271.38 feet; thence S00°00'21"W 204.97 feet; thence N89°59'39"E 94.08 feet; thence S01°03'40"W 99.52 feet; thence S19°44'40"W 29.63 feet; thence S00°17'00"W 110.00 feet to the point of beginning.

Contains: 8.60 acres+/-

**PLAT B-2:**

***A Tract of Land, located in the SE1/4 of Section 1 of Township 5 South, Range 1 East, Salt Lake Base and Meridian. Entire Tract Comprised of part of Parcels identified by Utah County Tax Id. Number 12:004:0017, being more particularly described as follows:***

Beginning at a point N00°06'11"W 1,415.20 feet along the section line and S89°53'49"W 673.20 feet from the Southeast Corner of Section 1, Township 5 South, Range 1 East, Salt Lake Base and Meridian, and running N80°52'42"W 73.00 feet; thence Southerly along the arc of a non-tangent curve to the right having a radius of 3,960.00 feet (radius bears: N80°52'42"W) a distance of 7.65 feet through a central angle of 00°06'39" Chord: S09°10'37"W 7.65 feet; to a point of compound curvature; thence along the arc of a curve to the right with a radius of 19.00 feet a distance of 14.88 feet through a central angle of 44°52'36" Chord: S31°40'14"W 14.50 feet; thence Westerly along the arc of a non-tangent curve to the right having a radius of 1,961.00 feet (radius bears: N06°27'28"E) a distance of 211.93 feet through a central angle of 06°11'32" Chord: N80°26'46"W 211.83 feet; thence N77°21'00"W 128.08 feet; thence along the arc of a curve to the left with a radius of 589.00 feet a distance of 127.13 feet through a central angle of 12°22'00" Chord: N83°32'00"W 126.88 feet; thence N00°17'00"E 110.00 feet; thence N19°44'40"E 29.63 feet; thence N01°03'40"E 99.52 feet; thence S89°59'39"W 94.08 feet; thence N00°00'21"E 204.97 feet; thence East 580.35 feet; thence along the arc of a curve to the left with a radius of 19.00 feet a distance of 29.07 feet through a central angle of 87°39'43" Chord: N46°10'09"E 26.32 feet; thence S87°39'43"E 69.00 feet; thence S02°20'17"W 52.00 feet; thence S01°53'34"E 50.03 feet; thence Southerly along the arc of a non-tangent curve to the right having a radius of 4,033.00 feet (radius bears: N86°57'11"W) a distance of 427.58 feet through a central angle of 06°04'28" Chord: S06°05'04"W 427.38 feet to the point of beginning.

Contains: 6.73 acres+/-

**PLAT C:**

Ridgeview Plat C, Lots 201 through 231, inclusive, as shown on the official subdivision plat on file and of record in the Office of Recorder for Utah County, Utah and recorded on June 14, 2021 as Entry No. 108371:2021 and all appurtenant Common Area shown thereon.

**PLAT D:**

Ridgeview Plat D, Lots 232 through 279, inclusive, as shown on the official subdivision plat on file and of record in the Office of Recorder for Utah County, Utah and recorded on June 14, 2021 as Entry No. 108372:2021 and all appurtenant Common Area shown thereon.

EXHIBIT B  
**BYLAWS  
OF THE  
RIDGEVIEW MASTER ASSOCIATION**

**BYLAWS  
OF THE  
RIDGEVIEW MASTER ASSOCIATION**

Consistent with § 57-8a-216 of the Act, the Declarant has established and adopted these bylaws as the Bylaws of the Ridgeview Master Association (the "Master Association"). These Bylaws and any valid amendments thereto shall be effective upon recording with the Office of Recorder for Utah County, Utah and shall be binding on the Declarant, the Master Association, and all present and/or future Owners and Occupants of the Project.

**ARTICLE 1  
DEFINITIONS**

- 1.1 Definitions. Unless otherwise defined herein, capitalized terms in these Bylaws are defined in the Master Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Ridgeview ("the Declaration") shall have the same defined meanings when used in these Bylaws.
- 1.2 Notice. Notice as required in these Bylaws shall be accomplished as provided for in the Declaration.

**ARTICLE 2  
ASSOCIATION MEMBERS**

- 2.1 Annual Meetings.
- (a) Requirement. An annual meeting of the Owners shall be held no less than once each calendar year.
  - (b) Date and Time. The date, time and location of the annual meeting shall be determined by the Board, in its discretion.
  - (c) Purpose. The Annual Meeting shall be held for the following purposes.
    - (i) electing members of the Board after termination of the Declarant Control Period.
    - (ii) review of the annual budget promulgated by the Board.
    - (iii) transacting such other business as may properly come before the meeting.
  - (d) Approval of Minutes. The minutes of the annual meeting may be approved by the Owners at the next annual meeting, or, in the Board's discretion, by the Board at a subsequent meeting of the Board.
  - (e) Election of Board Members. If the election of Board Members cannot be held at the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be conducted by written ballot without a meeting consistent with § 16-6a-709 of the Utah Revised Nonprofit Corporation Act, or at a special meeting of the Owners, to be convened as soon thereafter as may be convenient, or by such other means as may be permitted under applicable law. The use of online, email, or other electronic ballots is permitted to the fullest extent permitted by law.



2.2 Special Meetings.

- (a) **Who May Call.** Special meetings of the Owners may be called by the Board, the President, or upon the written request of Owners holding not less than twenty-five percent (25%) of the total Allocated Interests of the Master Association.
- (b) **Requirements for Request for Special Meeting by Owners.** Any written request for a special meeting by Owners shall include a clear statement of the purpose of the requested special meeting and the signature of each Owner affirmatively supporting such request. Such written request shall be delivered to the Manager, or the President, who shall then call, provide notice of, and conduct a special meeting within sixty (60) days of receipt of a proper request. The special meeting shall be limited to the purpose identified on the request. No other issues may be discussed and/or decided upon at that special meeting.

2.3 Place of Meetings, Use of Teleconferencing and Video Conferencing. The Board may designate the office of the Manager or any place within the City as the place of meeting for any annual or special meeting. Alternatively, meetings may be held telephonically or via video conferencing (e.g., Skype, Zoom, FaceTime), provided meeting participants are able to hear and communicate with each other in real time.

2.4 Notice of Meetings. The Board shall cause written notice of the time and place, and, in the case of a special meeting, the purpose, for all meetings of the Owners (whether annual or special) to be delivered, not more than thirty (30) nor less than ten (10) days prior to the meeting.

2.5 Owners of Record. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may designate a record date, which shall not be more than thirty (30) or less than ten (10) days prior to the meeting. If no record date is designated prior to sending notice of the meeting, the first date on which a notice of the meeting is sent shall be deemed to be the record date for determining Owners entitled to notice of or to vote at the meeting. The Person appearing in the records of the Master Association on such record date as the Owners of record of Units in the Property shall be deemed to be the Owners of record entitled to notice of and to vote at the meeting of the Owners.

2.6 Quorum. Those Owners and the holders of proxies entitled to cast votes present at an annual or special meeting shall constitute a quorum for the transaction of business.

2.7 Proxies. At any meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by the Owner's attorney when duly authorized in writing and delivered prior to the start of the meeting to the Secretary of the Master Association or to the Manager or such other officer or individual who has been authorized by the Master Association to accept proxies at the meeting. If a Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any joint Owner of such Unit and such proxy holder may exercise the vote for the jointly-owned Unit, provided, however, that if written objection is made

by the other joint Owner(s) and delivered to the Master Association within ten (10) days of the vote at issue, the vote exercised by such proxy holder shall be invalidated.

- 2.8 Voting. With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, one vote for each Unit of such Owner, provided such Owner is current on all Assessments. The exercise of an Owner's voting right may be restricted by the Board if the Owner is delinquent on their Assessment obligation. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting shall be necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by these Bylaws, the Declaration, the Act, or the Utah Revised Nonprofit Corporations Act. When a Unit is jointly owned, any joint Owner may exercise the vote for such Unit on behalf of all joint Owners of the Unit. In the event of two conflicting votes by joint Owners of one Unit, no vote shall be counted for that Unit. In no event shall fractional votes be exercised in respect to any Unit.
- 2.9 Ballots and Written Consent. The Master Association may utilize written consents and/or ballots consistent with the requirements of the Revised Nonprofit Corporation Act. The use of online, email, or other electronic ballots or consents is permitted to the fullest extent permitted by law.
- 2.10 Minutes of Meetings. The secretary shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (a) the identification of the Persons present at the meeting in person and by proxy; (b) the date of the meeting; (c) the identification of any issue that is voted on or decided in the meeting; (d) the number of votes cast for and against any issue decided upon; and (e) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this Section 2.10 does not invalidate any action taken at a meeting. Draft meeting minutes for each meeting of the Owners shall be made available upon request consistent with Section 4.4 of the Declaration.

### ARTICLE 3 BOARD OF DIRECTORS

- 3.1 Number, Tenure, Qualifications, and Election.
- (a) **Number of Board Members.** The Board shall be composed of an odd number of at least three (3) but no more than five (5) individuals meeting the qualifications stated in the Declaration and Section 3.1(b) below, subject to the Declarant Rights set forth in the Declaration.
- (b) **Board Member Term.** Except during the Declarant Control Period, and except for the terms of one (1) of the Board Members of the initial Board elected by the Owners at the end of the Declarant Control Period to create staggered terms, the term of a Board Member shall be two (2) years. In the interest of maintaining institutional knowledge, the Board Members of the initial Board elected by the Owners at the end of the Declarant Control Period may determine among themselves who will serve a one (1) year term and who will serve a two (2) year term so as to create staggered Board Member terms going forward.

- (c) **Term Limits.** Except during the Declarant Control Period, a Board Member may serve no more than two (2) consecutive terms. An individual who has served two (2) consecutive terms (i.e., four (4) years) must sit out at least two (2) years before seeking another term as a Board Member.
- (d) **Nominations.** At or before the annual meeting or any subsequent meeting at which the election is held, an Owner may submit his/her/their own name or the name of any other individual willing and otherwise qualified person to serve on the Board.
- (e) **Disqualification.** If any Board Member is alleged to not meet the qualification requirements in the Declaration and any Board Member is notified of or discovers this alleged lack of qualification, the Board shall promptly investigate and verify whether the Board Member is qualified or not, and during this period shall not make any further decisions. If the Board Member is not qualified, the Board Member's membership on the Board shall terminate automatically retroactive to the date that written notice of an alleged lack of qualification was provided to the Master Association or, if no notice was provided, to the date that the Board established that the Board Member was not qualified. If a Board Member becomes unqualified or was not qualified under the Governing Documents, but was nonetheless elected to or permitted to remain on the Board, the decisions and actions of the Board and that Board Member are not subject to challenge on this basis up to the time that the Master Association is notified in writing as provided for in this Section.
- (f) **Removal for Failure to Participate.** If any Board Member shall fail to appear at three (3) successive regular Board meetings in a row or fifty percent (50%) or more of the regular Board meetings within any calendar year, after having received proper notice of the meetings and after the Board has attempted in good faith to schedule meetings consistent with all of the Board Members' schedules, the other Board Members may by unanimous vote remove that member and appoint a new Board Member to serve the remainder of the term of the Board Member removed.

### 3.2 Board Meetings.

- (a) **Regular Meetings.** The Board shall hold regular meetings at least quarterly, and more often in its discretion.
- (b) **Who Is Entitled to Attend.** Consistent with § 57-8a-226 of the Act, Owners may attend meetings and may be present for all discussion, deliberation, and decisions except when the Board is in executive session.
- (c) **Special Meetings.** Special meetings of the Board may be called by or at the request of any two Board Members or the President. Notice of any special meeting shall be given at least 48 hours prior thereto to each Board Member. Except as provided by law, no notice of special meetings is required to be provided to Owners, although any Owner may attend a special meeting if the Owner appears at the physical location of the meeting in person.
- (d) **Quorum and Manner of Acting.** A majority of the Board Members shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Board Members present at any meeting at which a quorum is present and for which proper notice was provided to the Board Members shall be the act of

the Board. The Board Members shall act only as a Board, and individual Members shall have no powers as such.

- (e) **Place and Notice of Meetings.** The Board may designate any place in the City as the place of meeting for any regular meeting called by the Board but shall in good faith attempt to hold meetings at the office of the Manager or in as close a proximity to the Project as reasonably possible. All Board Members and Owners shall be given at least ten (10) days' notice of regular meetings.
- (f) **Use of Teleconferencing and Video Conferencing.** If reasonably available and convenient for the Board, regular and/or special Board meetings may be held telephonically or via video conferencing (e.g., Skype, Zoom, FaceTime), provided Board members and Owners, if any, are able to hear and communicate with each other in real time.
- (g) **Executive Session.**
  - (i) The Board or a Subcommittee may, by motion and a vote, continue deliberations and discussions in executive session and, if they enter executive session, shall discontinue any executive session by motion and a vote.
  - (ii) The discussions in executive session shall be confidential and shall not be disclosed to anyone outside of the meeting except as authorized by the Board or the Subcommittee. Documents analyzed in executive session may be confidential for other reasons provided for by law or in the Governing Documents, but they are not confidential merely as a result of having been discussed or presented in executive session.
  - (iii) Executive sessions may be held to discuss and make decisions related to the following matters:
    - (1) Pending or prospective legal proceedings and issues related to the Master Association, its operations, or its governance, including but not limited to meetings with the Master Association's counsel;
    - (2) Contracts and purchases related to the Master Association, including but not limited to the negotiations, potential breaches, reviews of contracts, and the terms of any purchases;
    - (3) Master Association personnel issues, including reviews, discipline issues, termination issues, compensation issues, and the terms of engagement; and
    - (4) Rule violations by Owners or Occupants, including but not limited to the discussion of complaints and whether to impose fines or utilize any particular remedy to address particular violations.

### 3.3 Informal Action and Action by Board Members without a Meeting.

- (a) Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting if each and every Board Member, in writing, either:
  - (i) votes for the action; or

(ii) votes against or abstains from voting and does not exercise their right to demand that action not be taken without a meeting.

(b) An action taken by writing pursuant to this Section must include a description the action to be taken and shall be effective on the date the Association receives writings reasonably describing or referencing the action taken or reply thereto signed by each Board Member and not revoked (the "Effective Date").

(c) Action taken under this Section is effective only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the Board Members then in office were present and voted.

(d) A Board Member may revoke consent to any action given pursuant to this section by a written revocation describing the action and stating that the member has changed their vote. To be effective, the revocation must be received before the Effective Date.

(e) Action taken pursuant to this Section shall be considered as effective as an action taken at a meeting of the Board.

(f) For purposes of this Section, "signed" or "signature" is any indication on the document (whether paper or electronic) that the document is from and consented to by the person who is purported to have sent it. For example, a signature block or typed name at the bottom of an email satisfies the requirement for a signature.

3.4 Compensation. No Board Member shall receive compensation for any services that he/she may render to the Master Association as a Board Member ; provided, however, that a Board Member may be reimbursed for expenses incurred in the performance of his/her duties as a to the extent such expenses are unanimously approved by the Board.

3.5 Resignation and Removal. A Board Member may resign at any time by delivering a written resignation to any member of the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. An oral resignation attempt is not effective. Any Board Member may be removed and replaced at any time, with or without cause, by the affirmative vote of at least fifty percent (50%) of the Allocated Interest of the Master Association at a special meeting of the Owners duly called for such purpose.

3.6 Vacancies. If vacancies shall occur in the Board by reason of the death, resignation, removal for failure to attend meetings, or disqualification of a Board Member, the Board Members then in office shall continue to act, and such vacancies shall be filled by a vote of the Board Members then in office, even though less than a quorum may be available. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election by the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his/her/their predecessor.

ARTICLE 4  
OFFICERS

- 4.1 Officers. The officers of the Master Association shall be a president or chairperson (the "President"), vice-president or vice chairperson ("Vice-President"), secretary (the "Secretary"), and treasurer (the "Treasurer").
- 4.2 Election, Tenure and Qualifications. The officers of the Master Association shall be chosen by the Board annually at the first meeting of the Board following the annual meeting. Each such officer shall hold such office until a successor has been elected or until such officer's death, resignation, disqualification, or removal, whichever first occurs. A Board Member may hold more than one office during the Declarant Control Period and during any period in which there are only three (3) Board Members, except the President shall not also serve as the Vice President or Secretary. All officers must be Board Members during the entire term of their respective offices.
- 4.3 Subordinate Officers. The Board may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine. Subordinate officers need not be members of the Master Association.
- 4.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Board Member or to the Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by the Board at any time, with or without cause.
- 4.5 Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting. During the time that any office is vacant, and no other officer is available to perform the duties of that office as required below, the Board shall ensure that the duties and responsibilities of the office are performed.
- 4.6 The President. The President shall preside at meetings of the Board and at meetings of the Owners. At all meetings, the President shall have all authority typically granted to the person presiding over a meeting including but not limited to: (a) the right to control the order of the meeting; (b) the right to arrange for the removal of any disruptive persons who may include but not be limited to any person who (i) refuses to abide by rules or requests of the presiding person related to the order of the meeting and when speaking is permitted, or (ii) engages in vulgar, threatening, or otherwise inappropriate language or gestures; (c) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order"; and (d) the right to designate the Manager or any other person to preside over any meeting at which the President is present. The President shall sign on behalf of the Master Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board. The President shall have the general authority to implement decisions of the Board and shall oversee the operations of the Master Association. The President shall have authority in case of emergency to take action without Board approval as is necessary and prudent to preserve and protect property. The President shall be responsible for the duties of any other office while that office is vacant.

- 4.7 The Vice President. The Vice President shall also act in the place and stead of the President in the event of the President's absence or inability or refusal to act. The Vice President shall perform such other duties as required by the Board.
- 4.8 The Secretary. The Secretary shall keep the minutes of the Master Association and shall maintain such books and records as these Bylaws, the Declaration, the law, or any resolution of the Board may require such person to keep. The Secretary shall also act in the place and stead of the President in the event of the President and Vice President's absence or inability or refusal to act. The Secretary shall perform such other duties as required by the Board.
- 4.9 The Treasurer. The Treasurer shall have the custody and control of the funds of the Master Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Master Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall have authority and obligation to generally implement the requirements of governing documents as it relates to the funds of the Master Association. The Treasurer shall also act in the place and stead of the President in the event of the President, Vice President, and Secretary's absence or inability or refusal to act. The Treasurer shall perform such other duties as required by the Board.
- 4.10 Compensation. No officer shall receive compensation for any services rendered to the Master Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

## ARTICLE 5

- 5.1 Designation of Subcommittees. The Board may from time to time by resolution designate such committees (each a "Subcommittee") as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers, including, without limitation, a Design Review Committee and Neighborhood Committees. The membership of each such Subcommittee designated hereunder shall include at least one (1) Board Member. A Subcommittee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate any Subcommittee at any time.
- 5.2 Proceedings of Subcommittees. Each Subcommittee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such Subcommittee may from time to time determine. Each such Subcommittee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.
- 5.3 Quorum and Manner of Acting. At each meeting of any Subcommittee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such Subcommittee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such Subcommittee. The members of any Subcommittee designated by the Board hereunder shall act only as a Subcommittee, and the individual members thereof shall have no powers, as such. A Subcommittee may exercise the authority granted by the Board.

- 5.4 Resignation and Removal. Any member of any Subcommittee designated hereunder by the Board may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such Subcommittee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any member of any Subcommittee designated by it thereunder.
- 5.5 Vacancies. If any vacancy shall occur in any Subcommittee designated by the Board due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the Subcommittee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

## ARTICLE 6 INDEMNIFICATION

- 6.1 Indemnification. No Board Member, officer, or member of a Subcommittee (including any member of the Design Review Board) shall be personally liable for any obligations of the Master Association or for any duties or obligations arising out of any acts or conduct of said Board Member, officer, or Subcommittee member performed for or on behalf of the Master Association. The Master Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer of the Master Association, or a member of a duly formed Subcommittee, 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 Board Member, officer of the Master Association, or member of a Subcommittee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Board Member, officer, or Subcommittee member, and shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Master Association shall have the right, in its sole discretion, to defend such person from all suits or claims; provided further, however, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's gross negligence or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Master Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted.
- 6.2 Other Indemnification. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be provided under any statute, agreement, vote of disinterested Board Member's, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. The indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, Subcommittee member, or employee, and shall inure to the benefit of the heirs, executors, and administrators of any such person.



- 6.3 Settlement by Master Association. The right of any person to be indemnified shall be subject always to the right of the Master Association by the Board, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Master Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

#### ARTICLE 7 AMENDMENTS

- 7.1 Amendments. Except as permitted specifically herein or required by the Act, these Bylaws may be amended by the affirmative vote of Owners holding at least sixty-seven percent (67%) of the Allocated Interest in the Master Association at a meeting called for that purpose provided, however, that during the Declarant Control Period, any such amendment shall require the approval of Declarant. Nothing in this Section 7.1 shall be construed to limit the Declarant's unilateral right to amend these Bylaws (or the Declaration or Rules) during the Declarant Control Period as set forth in the Declaration.
- 7.2 Execution of Amendments. Upon obtaining the required vote, an amendment shall be signed by the President and Secretary of the Master Association, who shall certify that the amendment has been properly adopted to as required by these Bylaws. An amendment complying with the requirements of these Bylaws and the Declaration shall be effective when the amendment has been recorded in the office of the County Recorder of Utah County, Utah.

#### ARTICLE 8 WAIVER OF IRREGULARITIES

- 8.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of ascertaining persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:
- (a) if the objecting person was in attendance at the meeting, they are waived if no objection to the particular procedural issue is made at the meeting.
  - (b) if the objecting person was not in attendance at the meeting but has proper notice of the meeting, they are waived if no objection to the particular procedural issue is made within sixty (60) days of the date the meeting is held,
  - (c) if the objecting person was not in attendance at a meeting, did not have proper notice of the meeting, but had actual notice of the meeting before it occurred, they are waived if no objection to the particular procedural issue is made within ninety (90) days of the date of the meeting,
  - (d) if the objecting person was not in attendance at the meeting and did not have actual and proper notice of the meeting before it occurred, within ninety (90) days of receiving actual notice of the occurrence of the meeting or of any decision that was made at the meeting.

(e) for any action, vote, or decision that occurred without a meeting, within one hundred and twenty (120) days of receiving actual notice of the occurrence of the action, vote, or decision.

8.2 Requirements for Objections. All objections except those made at a meeting shall be in writing. Whenever made, objections must be specific, shall include identification of the specific provision of the Governing Document or other Law that has been violated, and shall include a brief statement of the facts supporting the claimed violation.

8.3 Irregularities that Cannot Be Waived. The following irregularities cannot be waived under the prior subsection:

(a) Any failure to comply with the provisions of the Declaration.

(b) Any failure to obtain the proper number of votes required to pass a particular measure.