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WHEN RECORDED, RETURN TO:

JF Sky Landing Partners, LLC
c/o Chad Bessinger
1216 W. Legacy Crossing Blvd., Suite 300
Centerville, Utah 84014

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# AMENDED AND RESTATED
# DECLARATION OF COVENANTS, CONDITIONS
# AND RESTRICTIONS
# FOR
# TLS AT WOODS CROSS

(Including Bylaws)

06-435-0001 thru 0039

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# AMENDED AND RESTATED

# DECLARATION OF CODES, COVENANTS

# AND RESTRICTIONS

# FOR

# TLS AT WOODS CROSS

THIS AMENDED AND RESTATED DECLARATION OF CODES, COVENANTS AND RESTRICTIONS FOR TLS AT WOODS CROSS ("Declaration") is effective when recorded with the Davis County Recorder's Office by JF Sky Landing Partners, LLC, a Utah limited liability company ("Declarant"), pursuant to the Utah Community Association Act, Utah Code Ann. §57-8a-1 *et seq.* (as amended from time to time, the "Act").

## RECITALS

A. The real property situated in Woods Cross ("City"), Davis County ("County"), State of Utah, described in Exhibit A attached hereto, together with all buildings and improvements previously, now, or hereafter constructed in the Project, and all easements and rights appurtenant thereto, to a planned unit development project consisting of commercial units and related Common Area (as defined below) pursuant to the Act (the "Project").

B. Declarant is the owner of the real property subject to this Declaration, which real property is currently subject to that certain Declaration of Codes, Covenants and Restrictions for TLS at Woods Cross, recorded on May 19, 2021 as entry number 3383738 according to the official records of the David County Recorder's Office (the "Original Declaration"). By signing this Declaration, (a) Declarant is amending and restating in entirety the Original Declaration by this Declaration, and (b) Declarant consents to subjecting the Project to the terms, covenants and restrictions contained herein.

C. Declarant desires by this Declaration to establish for the mutual benefit of all future Owners or occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments, and liens as set forth herein, which shall run with and be a burden upon each Unit within the Project.

D. Declarant desires to create an association of unit owners entitled the TLS at Woods Cross Owners Association (the "Association"), which entity shall possess the power to maintain and administer the Common Areas, collect and disburse assessments and charges hereinafter provided for, and administer and enforce the provisions of this Declaration. It is intended that this Declarant serve as a binding contract between the Association and each Owner; however, nothing herein is intended to create a contractual relationship between Declarant and the Association or Declarant and any Owner, or to inure to the benefit of any third party. Additionally, it is not intended that this Declaration be read in conjunction with any deed or real estate purchase contract to create privity of contract between Declarant and the Association.

E. Declarant intends that the Owners, occupants, lenders, lessees, and all other persons hereafter acquiring any interest in the Project shall at all times enjoy the benefits of, and shall hold their interest subject to this Declaration, which is recorded in furtherance of establishing a general plan for establishing rules for the use, occupancy, management, and enjoyment thereof.

F. Some or all of the Project is located within the Skypark Airport (the "Airport") in the City of Woods Cross (the "City"), Davis County ("County"), and accordingly, some or all of the Project is subject to that certain "Declaration Concerning Airport Operation and Maintenance", dated as of January 8, 1985, originally executed by Woods Cross Air Park, a Utah limited partnership, and Mountain Fuel Supply Company, a Utah corporation, describing a certain "Entire Tract" which includes the property and pertaining to (among other things) operation and maintenance of certain "Airport Facilities" (as defined therein) and payment of cost thereof, recorded on June 28, 1985, as Entry No. 705902 in Book 1041 at Page 209 in the official records of the County Recorder of the County (as amended or may be amended, the "Airport Declaration").

G. Declarant expressly reserves for itself the option in the future to expand the Project.

# ARTICLE I - DEFINITIONS

The following words when capitalized in this Declaration shall have the following meanings:

***1.1 "Act"*** means the Utah Community Association Act (Section 57-8a-1 et seq., Utah Code Annotated, 1953), as the same has been or may be amended from time to time.

***1.2 "Assessment"*** means any charge imposed or levied by the Association on or against an Owner or Unit pursuant to the terms of this Declaration, the Bylaws or applicable law.

***1.3 "Association"*** has the meaning set forth above.

***1.4 "Bylaws"*** means the Amended and Restated Bylaws of the Association, as they may be amended from time to time and are attached hereto in their current form as Exhibit B.

***1.5 "Common Area"*** means, refers to, and includes: (a) the real property, excluding all Units as defined herein, and interests in the real property which this Declaration submits to the terms of the Act; (b) the real property, excluding all Units as defined herein, and interests which comprise the Project; (c) all common areas and facilities designated as such on the Plat; (d) all Limited Common Areas and facilities (except when the context otherwise requires for maintenance or use purposes); (e) all foundations, roofs, columns, girders, beams, supports and perimeter walls constituting a portion of or included in the improvements which comprise a part of the Project; (f) all installations for and all equipment connected with the furnishing of the project's utility services, such as electricity, gas, water and sewer, except as otherwise provided herein; (g) in general, all apparatus, installations and facilities included within the Protect and existing for common use; (h) all portions of the Project not specifically included within the individual Units; (i) all other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; and (j) all common areas as defined in the Act, whether or not enumerated herein, but excluding Limited Common Areas when the context requires for maintenance or use purposes.

***1.6 "Common Expenses"*** means and refers to sums which are required by the Management Committee to effect the purposes of the Association and to perform or exercise its functions, duties, or rights under the Act and the Governing Documents.

***1.7 "Community"*** means the Property or Project.

***1.8 "Community Wide Standard"*** means the standard of conduct, maintenance, or other activity generally prevailing in the community, as set forth in this Declaration, the Bylaws and as defined by the Management Committee from time to time.

***1.9 "Eligible Holder"*** shall mean any holder, insurer, or guarantor of a first Mortgage who makes a written request to the Association to receive any of the notices provided to Eligible Holders under this Declaration. The written request shall state the name and address of the Eligible Holder and the Unit number to which the Eligible Holder's mortgage interest applies.

***1.10 "Governing Documents"*** shall mean and refer to a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the

jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, and Rules and Regulations.

***1.11 "Improvements"*** means every structure or improvement of any kind, including but not limited to landscaping, Units, decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish authorized in accordance with the Declaration).

***1.12 "Limited Common Areas"*** means all of the real property identified as limited common area on the plat map for the Project and maintained pursuant to the terms of this Declaration and the following, if designated to serve a single Unit but located outside the Unit's boundaries: patios, entrance ways, shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, fences, storage areas, atriums, an exterior door, an exterior window, and any other fixture. Limited Common Areas are Common Areas limited to the use of certain Units to the exclusion of other Unit Owners. If an Owner's Limited Common Area is not depicted on the Plat, or there is a dispute over its boundaries, the Board shall have the authority and discretion to determine Limited Common Area boundaries and the Board's decision shall be binding.

***1.13 "Management Committee" or "Committee"*** shall mean and refer to the Management Committee of the Association vested with the authority to manage the Community and to enforce this Declaration, Bylaws and Rules and Regulations. The term Management Committee is synonymous and interchangeable with the term "Board of Directors" as that term may be used in the governing documents of the Association or the Utah Nonprofit Corporation Act.

***1.14 "Manager" or "Managing Agent"*** shall mean and refer to the person or entity that may be retained from time to time by the Association to manage the Property at the option and according to the direction of the Management Committee.

***1.15 "Mortgage"*** means any mortgage or deed of trust encumbering any Unit and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust or other form of security instrument, and an instrument evidencing any such other form of security arrangement, has been recorded among the Recorder's Office.

***1.16 "Mortgagee"*** means the person or entity secured by a Mortgage.

***1.17 "Notice"*** including any requirements for notice hereunder shall be defined and carried out as set forth in the Bylaws.

***1.18 "Owner"*** means the person, persons or other entity owning any Unit, as such ownership is reflected in the records of the County Recorder, but does not include a tenant or holder of a leasehold interest or person holding only a security interest in a Unit.

***1.19 "Percentage Interest"*** means and refers to the percentage of undivided ownership interest of each Unit Owner in the Common Areas as set forth in Section 2.5.

***1.20 "Period of Declarant Control"*** shall mean the period of time during which the Declarant may appoint and remove members and directors of the Association as set forth in the Act. The Period of Declarant Control shall commence on the recording date of this Declaration and shall

terminate on the occurrence of the earliest of the following events: (i) the Declarant executes and records a written waiver of its right to control the Association, or (ii) the date on which Declarant transfers fee title ownership of the last Unit located within the Project to a third-party purchaser. The expiration of the Period of Declarant Control has no effect on the termination of all other Special Declarant Rights set forth in this Declaration.

***1.21 "Plat" or "Map" or "Record of Survey Map"*** (these terms may be used interchangeably herein) means the record of survey map entitled, "TLS At Woods Cross" recorded, or to be recorded, at the Recorder's Office of Davis County, state of Utah, as the same may be amended or substituted.

***1.22 "Property" or "Project"*** means those units described in the Plat, together with the Common Area and Limited Common Area located therein.

***1.23 "Quorum"*** means the number of directors or Owners that when duly assembled at a meeting (whether such meeting is held in person, via telephone conference, electronic video conference or otherwise) or when represented by casting a written ballot in an action without a meeting is legally competent to transact business.

***1.24 "Rules and Regulations"*** means and refers to those rules and regulations adopted by the Management Committee from time to time that are deemed necessary by the Committee for the enjoyment of the Property.

***1.25 "Unit"*** means and refers to all Units described on the Plat, intended for independent use and ownership, consisting of rooms and spaces located within a building structure. Subject to this section, each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes shown on the Plat, and all interior partitions and other fixtures and improvements within such boundaries shall be part of the Unit. Mechanical equipment and appurtenances located within any one Unit or located outside of said Unit but designated and designed to serve only that specific Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning or air cooling apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of floors and ceilings; and all wallboard or drywall, paneling, tiles, wallpaper, paint, flooring, carpeting and tile. The vertical boundaries of each Unit shall be the interiors of the unfinished walls located on the perimeter lines of the respective Units as shown on the Plat. All windows and doors forming part of the vertical boundaries of a Unit, including thresholds and door jams; all pipes, shut-off valves, breaker boxes, wires, conduits, public utility lines or installations serving only a specific Unit; and any structural features or any other property of any kind, including fixtures and appliances within any Unit which are removable without jeopardizing the soundness, safety, or usefulness of the remainder of the structure or building within which the Unit is situated shall be considered part of the Unit.

The Units include the following: (a) the "**Future Commercial Unit**" as depicted as Lot 38 in the Plat and/or related drawings; (b) the "**Hangar Units**" as depicted as Lots 24 to 38 in the Plat and/or related drawings; and (c) the "**Office Units**" as depicted as Lots 1 to 22 in the Plat and/or related drawings. Unless the context requires otherwise, reference to a "Unit" or "Units" herein shall refer to all such types of Units.

***1.26 "Taxiways"*** means the portions of the Common Area that are intended, designed, and

surfaced for use as aircraft taxiways as shown on the Plat.

## ARTICLE II - PROPERTY DESCRIPTION

***2.1. Recitals; Project.*** The recitals above are hereby incorporated into this Declaration by this reference. The Project contemplates the Property described in Section 1.22 above.

***2.2. Property Subject the Declaration, Bylaws and the Act.*** It is hereby confirmed and acknowledged that the Project (as defined below) is submitted and subject to the Act and shall be transferred, held, sold, conveyed, used, occupied and improved subject to, and the rights and obligations of all parties interested in the Project shall be governed and controlled by, this Declaration, the Governing Documents, and all agreements, decisions and determinations made by the Committee or Association, and the Act and any amendments thereto as codified from time to time, and, to the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control. This Declaration and covenants, conditions and restrictions herein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and to any other person who may in any manner use the Property or any part thereof submitted to the provisions of this Declaration, and shall inure to the benefit of the Association each Owner thereof. The Project is not a cooperative, and no Unit shall be converted into cooperate or another similar type of entity without the prior written consent of the Board. Additionally, the Project is not a condominium, and no Unit shall be converted into a condominium or another similar type of entity without the prior written consent of the Board.

***2.3. Relationship with Airport Declaration.*** The Project shall be owned, conveyed, hypothecated, encumbered, used, occupied and improved subject to the Airport Declaration. In the event of any conflict between the provisions of the Governing Documents and the provisions of the Airport Declaration and related governing documents, the provisions of the Airport Declaration shall govern. All Owners, and their respective guests, tenants, and other visiting parties, shall be subject in all respects to the Airport Declaration, if and as it applies to any given Unit within the Project, including the obligation to fund any assessments thereunder, if any.

***2.4. Description of Improvements.*** The primary improvements include all structures related to the Future Commercial Unit, the Hangar Units, the Office Units, and all Common Areas, Limited Common Areas, and other improvements related thereto.

***2.5. Description and Legal Status of Units.*** The Plat shows the Units and building designations, their locations, dimensions from which its areas may be determined, those Limited Common Areas which are reserved for such use, and the Common Areas to which it has immediate access. All Units shall be capable of being independently owned, encumbered, and conveyed.

***2.6. Ownership Interest in Common Areas, Percentage Interests.*** The percentages of undivided ownership interest of the Unit Owners in the Common Areas are equal and shall be calculated based upon each Units square footage as listed on the Plat in proportion to the total square footage of all Units within the Project. If any Units are legally added to or withdrawn from

the Project, the undivided interests shall be recalculated in accordance with the formula set forth above. The common profits of the Property shall be distributed among, the common expenses shall be charged to, and the voting rights shall be available to, the Unit Owners according to their respective percentage of undivided interests in the common areas and facilities. Neither the percentage interest in the Common Areas nor the right of exclusive use of the Limited Common Areas shall be separated from the Unit to which it appertains, and even though not specifically mentioned in the instrument of transfer, the percentage interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

*2.7 **No Right of First Refusal.*** The right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restriction.

## ARTICLE III – USE AND RESTRICTIONS ON USE

***3.1 General Use Restrictions.***
Each Unit shall be used for purposes which are permissible under (a) then-applicable zoning and other related ordinances of the governmental authority having jurisdiction, (b) this Declaration, and (c) the Airport Declaration. Further, any hazardous materials must be used and stored according to all applicable land use and other governmental regulations. Except as otherwise set forth in this Declaration, all Owners shall have the non-exclusive right and easement of enjoyment of all Common Areas located within the Project. No Owner shall unreasonably interfere with another Owner's permissible use of a Common Area or Limited Common Area.

(a) Use of Taxiways; Easement over Taxiways. Use of all Taxiways located within the Project shall be limited to use by the Owners of the Hangar Units. Each of the Hangar Units shall have a non-exclusive right and easement of enjoyment and use of the Taxiways. Each of the Units shall have appurtenant thereto and be benefited by and subject to and burdened by a non-exclusive right-of-way and easement for ingress and egress by aircraft, vehicular, and pedestrian traffic over the Taxiways. Such right-of-way and easement for ingress and egress shall be in common with any easements related to or arising under the Airport Declaration, including those in common with Skypark Airport, Inc. ("SAI") and its successors and assigns, with such parties as may have theretofore acquired a right of ingress and egress by SAI or its successors or assigns, and by such parties as may hereafter be granted or otherwise provided such a right-of-way and easement by SAI or its successors or assigns.

(b) Parking Stalls. All Owners shall have the non-exclusive right and easement of enjoyment of all parking stalls located within the Project, irrespective of whether such parking stalls directly abut any given Unit (whether a Hangar Unit or an Office Unit), provided Declarant reserves the right to limit use by the Owners of the Hangar Units and Office Units of parking located within the Commercial Unit. No Owner shall use any parking stall for continued overnight storage or parking of any vehicle or material and all vehicles shall be in good work condition. The Association shall not have an affirmative duty to implement monitoring procedures of to inspect and two vehicles in violation of this subsection, provided the Association reserves the right, in its sole discretion, to do so.

(c) Loading Docks. As depicted in the Plat and related documents, certain loading

docks exist that abut certain Office Units within the Project. Use of any given loading dock shall be limited to only the Owner(s) whose Office Unit(s) directly abuts such loading dock.

(d) Use of Airport Facilities. Each of the Hangar Units shall have appurtenant thereto and shall be benefited by a non-exclusive right-of-way and easement for use and utilization in common with others, of the airport facilities, in accordance with such rules, regulations and requirements as may from time to time be established by SAI, by its successors and assigns, via the Airport Declaration or otherwise. Such right of way and easements shall for such use shall be in common with SAI and its successors and assigns with such parties as may have heretofore acquired such a right of use, and with such parties as may hereafter be granted or otherwise provided such a right or use by SAI or its successors and assigns. Such a right-of-way and easement for such use shall be used and enjoyed and enjoyed only so long as, and on the condition that, they are fully and timely performed and observed, by and on behalf of the Owner of a Hangar Unit benefited by such right-of-way and easement, all of the obligations and conditions which under this Declaration are required to be performed and observed by such Owner or with respect to such Hangar Unit.

(e) Future Commercial Unit. Declarant reserves full discretion to determine the future use of the Commercial Unit, so long as it complies with then-applicable zoning ordinances of the governmental authority having jurisdiction. If and as necessary, Declarant reserves the right to either (a) vacate this Declaration as to the Commercial Unit and record a new declaration of codes, covenants, and restrictions related specifically to the Commercial Unit (if required by the City or County), (b) amend and restate or otherwise modify or supplement this Declaration to accommodate the use and specific provisions required by such use to be incorporated into this Declaration, (c) limit use by the Owners of the Hangar Units and/or the Office Units of any common areas located in or around the Commercial Unit, or (d) otherwise take any action that is consistent with then-applicable zoning ordinances of the governmental authority having jurisdiction.

(f) Delegation of Use. Any Owner may delegate, in accordance with the Bylaws and this Declaration, such Owner's use and enjoyment of the Common Areas or Limited Common Areas to tenants, successors, or assigns.

### *3.2 Leasing of Units.*

Any lease agreement between an Owner and a lessee must be in writing, and must provide, among other things, that the terms of the lease shall in all respects be subject to the provisions of the Declaration, the Articles of Incorporation of the Association, the Bylaws, and the Rules and Regulations. Within 10 days of a Unit being rented, the Owner must provide the Association with a copy of the signed lease agreement and the name(s) of all tenants and the Owner must keep such information updated with the Association within 15 days of any change. The Management Committee may regulate rentals within the Project in a manner consistent with the purposes of the Project.

### *3.3 Commercial Use.*

Units shall be used for commercial purposes that are in full compliance with all rules and regulations enacted by the governmental authority having jurisdiction, including any zoning,

business licensing, and other related ordinances. Additionally, such uses shall be in full compliance with and subject to the Governing Documents. Units shall not be used for permanent residential use. Owners of the Hanger Units or their tenants will not compete, directly or indirectly, with any airport-related function, activity, service, or use now or hereafter conducted at the Airport, such as, but not limited to, selling or purchasing aviation fuel or jet fuel (whether for use by third parties or by the Owners of the Hanger Units), giving flying lessons, operating a flight school, providing charter or rental flights, renting aircraft, selling aircraft or aircraft-related items, or providing (for compensation) repair and maintenance services for aircraft or aircraft-related items. The Owners of the Hanger Units acknowledge that Skypark Airport Association may, in its sole discretion, give written approval for the conduct of any of the activities listed above.

### *3.4 Offensive Activities, Prohibited Behavior and Use.*

No noxious, offensive or unsightly conditions, including, but not limited to, the placement or storage of inoperable vehicles, car parts and appliances, or activities shall be permitted in any Unit or portion of the Common Areas, nor shall anything be done in or placed upon any Unit or Common Area which interferes with or jeopardizes the enjoyment of other Units or which is a source of annoyance to Owners. Owners may not disturb other Owners and shall exercise due care about making noises or the use of musical instruments, radios, televisions, amplifiers and any other device that emits sound. Owners may be fined for this and other offensive behavior. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Nothing shall be done or kept within any Unit or on the Common Areas which will increase the cost of insurance to the Association or to other Owners or which will result in cancellation of insurance on any Unit.

### *3.5 Rubbish and Trash.*

No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container as specified by the Association.

### *3.6 Restrictions on Attachments.*

No Unit Owner shall cause or permit anything, including, without limitations, an awning, flag, hanging plant or any exterior attachments or attachments visible from outside of a Unit to hang, be erected, be displayed, or be visible or otherwise be placed on any part of the Project without the prior written consent of the Committee. If the Committee consents to the erection of any such attachment, the same shall be removed promptly at the request of the Committee.

### *3.7 Modifications to Unit or Common Area.*

No interior changes to a Unit shall be performed unless a building permit is first obtained, if one is required by a local authority, and a copy of which is provided to the Committee. No exterior changes whatsoever shall be commenced, erected, maintained, made or done without the prior written approval of the Committee. No structural changes whatsoever to any Unit, and no plumbing, electrical and similar work within the Common Area, shall be commenced, erected, maintained, made or done without the prior written approval of the Committee. By way of illustration but not limitation the following are considered interior structural changes: moving, removing, adding, or altering walls, doorways, and the like. No Unit Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the property, reduce its value or impair any easement or hereditament, without in every such case obtaining the

consent of the other Unit Owners as required by the Act.

### *3.8 Signs.*

Unless written approval is first obtained from the Management Committee, no advertisement, sign, banner or poster of any kind may be posted in or upon the Properties, except the following may be displayed to the public view within a Unit, unless and until prohibited or otherwise limited by the Management Committee by rule: (1) customary business signs, (2) not more than one "for sale" sign, not exceeding 17" by 22," (3) political signs, (4) professional security system signs, and (5) other signs expressly allowed by the Management Committee by rule from time to time.

### *3.9 Antennas and Service Facilities.*

Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite ("DBS") antennas (dishes) one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed only to the extent and in locations allowed herein and by local, state or federal law.

(a) Satellite dishes may only be installed inside the Owner's Unit or on Limited Common Area over which the owner has exclusive use and control under the terms of this Declaration. No owner may install a satellite dish on the exterior, roof, or restricted areas of any building, or in the Common Area of the building or Project without the prior written consent of the Association. No satellite dish may extend beyond balcony railings. Owners need to be aware that their Unit may not be in a proper location to receive satellite broadcast signals even if they install a satellite dish. Prior to installation, owners should check with a qualified and reputable company to determine if they are able to receive adequate signals at their unit. Owners shall notify the Committee in writing prior to any installation. Such notice shall include a description of the location for the satellite dish and the installation (attachment) method. No owner may drill holes in walls, doors or window frames in order to install the satellite dish or run cable from the dish to the television. All installations must be performed in such a manner as not to cause legitimate safety concerns. These would include, but not be limited to, danger of falling, danger of permanent damage to the building or proximity to power lines.

(b) Owners are responsible for any injury or damage to persons or property caused by their satellite dish. All installations must be performed in complete compliance with all applicable statutes, rules and regulations. If permits are required, Owner will obtain all such permits prior to installation. These rules are meant to comply with 47 CFR § 1.4000, as may be amended from time to time. All requirements of such section are hereby incorporated herein. In the event any portion of this section is held to conflict with applicable law, those portions shall be deemed stricken and all other portions of this Installation Policy will remain in full force and effect.

(c) No portion of the Installation Policy may be waived or changed by the Committee verbally. Any such waiver or change will be effective only when in writing. If any owner receives the benefit of any waiver or change of the Installation Policy, it shall be that owner's responsibility and obligation to keep and safeguard the written waiver or change and to produce it upon any future request of the Committee.

(d) In the event of a violation of this Section, the Association may bring an action for declaratory and/or injunctive relief and the Owner is subject to a $50.00 fine for each violation.

If the violation is not corrected within a reasonable length of time as determined by the Committee, additional fines of $10.00 per day will be imposed for each day that the violation continues. The foregoing fine amounts are subject to change by resolution of the Committee from time to time. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Section.

***3.10 Association Rules and Regulations.***

In addition to the restrictions and requirements above, the Management Committee from time to time may adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation, aesthetics and use of the Units and Common Areas, including Limited Common Areas, as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property and the accomplishment of the purposes of the Association and the Project, as determined by the Committee. Reasonable fines may be levied and collected as an assessment for any violation of the Governing Documents. A schedule of fines may be adopted by the Management Committee specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

***3.11 Animals.***

No animals, livestock, insects, fish, or fowl of any kind shall be raised, bread or kept in any Unit or in the Common Area.

## ARTICLE IV - MAINTENANCE OBLIGATIONS

***4.1 Owner's Responsibility.***

(a) Units. Maintenance of the Units shall be the sole responsibility of the Owner(s) thereof, who shall maintain such Unit in good repair and in a clean and sanitary condition, all so as to not interfere in any way with other Owner's Units or the Common Areas. Each Owner at his or her sole expense shall maintain, repair, replace, paint, re-paint, tile, paper or otherwise re-finish or decorate: (1) the interior surfaces of the walls, ceilings, and floors forming the boundaries of his or her Unit; (2) all walls, ceilings, floors, windows and doors within such boundaries; (3) all windows and doors (and all parts thereof) forming part of the vertical boundaries of a Unit, including thresholds, frames, door jams and hardware; and (d) any garage or other type of entrance doors, including specifically to the Owners of the Hangar Units, the garage doors facing the Taxiways used for aircraft and other related entry. In addition to decorating and keeping the interior of his or her Unit in good repair and in a clean and sanitary condition, he or she shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, air conditioners and air cooling units of any type, lighting fixtures, equipment, toilets, or other appliances or fixtures that may be in, connected with, or servicing solely his or her Unit. Each Unit shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Unit. Units being left vacant for two or more consecutive weeks during the winter shall have water lines drained and turned off.

(b) Limited Common Area. Each Unit Owner shall, at his or her own cost, keep his or her Limited Common Areas in a clean, sanitary and attractive condition at all times, but the Association shall be responsible to maintain, repair and replace the Limited Common Areas,

except the interiors of the garages consisting of the concrete floor and the interior surfaces of the walls, ceilings, windows, and doors/door frames forming the boundaries of the garage. The finished surface of the exterior of the rolling garage door shall be the responsibility of the Association to maintain. All other parts of the garage door shall be the responsibility of the Owner.

***4.2 Maintenance by Association.***

The Association shall maintain the Common Areas, including the Limited Common Areas as stated above. The Committee shall determine, in its sole discretion, the appropriate maintenance of the Common Areas and Facilities. If the Common Areas are damaged by the willful misconduct of an Owner, their guests, tenants, or invitees, the Owner shall be responsible for all such damage, and the cost to repair such shall be an assessment against that Owner and that Owner's Unit.

Additionally, the Association, by and through the Committee, may, but shall not be obligated to, assume the Owner's general maintenance responsibility over a Unit and Limited Common Area, or take such other action as necessary if, in the opinion of the Committee, the Owner is unwilling or unable to adequately provide such maintenance, or if an Owner shall fail to observe any Association covenant, restriction or rule. Before assuming such maintenance responsibility, the Committee shall provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action with ten (10) days after mailing of such written notice, then the Association may proceed to maintain the Unit. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall be levied and collected in the same manner as assessments pursuant to this Declaration.

## ARTICLE V - ASSESSMENTS

***5.1. Covenant for Assessments.*** Each Owner, by acceptance of a deed conveying any Unit to such Owner, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments, as provided for and defined below: Annual Assessments, Special Assessments, and Individual Assessments. No member may exempt itself from liability for Assessments by abandonment of any Unit owned by such member. No offsets against Assessment amounts shall be permitted for any reason, including, without limitation, a claim that the Association or Committee is not properly exercising its duties and powers.

***5.2. Reserve Funds.***

5.2.1. The Association shall establish and maintain a reserve fund for maintenance, repair and replacement of the Common Areas and for any emergency, unforeseen, unusual, or unanticipated expenditures and for any other purpose determined from time to time by the Management Committee by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Management Committee or of an amount and in the manner as may be required by law. The fund shall be conclusively deemed to be a Common Expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Management Committee, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

5.2.2. The Association may establish such other reserves for such other purposes as the Management Committee may from time to time consider to be necessary or appropriate.

5.2.3. The proportional interest of any member of the Association in any reserve fund established under this section shall be considered an appurtenance of such Owner's Unit and shall not be separated from the Unit to which it appertains and shall be deemed to be transferred with the Unit.

***5.3. Annual Budget and Assessment.***

5.3.1. Adoption of Budget. The Management Committee shall prepare, or cause the preparation of, an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management and operation of the Association. If the Management Committee fails to adopt an annual budget, the last adopted budget shall continue in effect.

5.3.2. Determination of Annual Assessment.

A. The Management Committee shall fix the amount of the annual assessment ("Annual Assessment") against each Unit for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period, or thirty (30) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

B. The omission by the Management Committee, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

C. If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred by the Association for any reason, including nonpayment of any Owner's Assessments on a current basis, the Management Committee may determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget and establishes the equitable change in the amount of the Annual Assessment.

**5.4.** ***Apportionment of Assessments.*** All Units shall pay a pro rata share of the Annual Assessment and Special Assessments commencing upon the date the Units are made subject to this Declaration. The pro rata share shall be based upon the percentage of undivided ownership interests of Units. Individual Assessments shall be apportioned exclusively against the Units benefitted or to which the expenses are attributable as provided for below. Notwithstanding the foregoing, if certain Assessments primarily or solely benefit a specific type of Unit (e.g., Hangar Units, Office Units, or the Commercial Unit), the Association reserves the right, in its sole

discretion, to allocate such Assessments primarily or solely to the Owners of such beneficial type of Unit.

**5.5.** ***Purpose of Assessments.*** The Assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Community and carrying out the purposes and obligations of the Association, including, but not limited to: (a) the improvement, maintenance, operation, care, and services related to the Common Areas; (b) the payment of insurance premiums; (c) the costs of utilities and other services which may be provided by the Association for the Community; (d) the cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) the cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements; and (f) any other items properly chargeable as a Common Expense of the Association.

**5.6.** ***Special Assessments.*** In addition to the Annual Assessments authorized in this article, the Association may levy a special assessment from time to time ("Special Assessment") for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot be paid for through other types of Assessments. The Management Committee may authorize a Special Assessment for any lawful purpose.

**5.7.** ***Individual Assessments.*** Any expenses benefitting or attributable to fewer than all of the Units may be assessed exclusively against the Units affected or benefitted ("Individual Assessments"). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Unit to reimburse the Association for costs or attorney fees incurred in bringing the Unit or its Owner into compliance with, or to otherwise defend or uphold, or carry out, the provisions of the Governing Documents and for fines or other charges, including attorney fees, imposed pursuant to this Declaration for violation of the Governing Documents; (2) Expenses incurred by the Association relating to the cost of maintenance, repair, or replacement of the individual Units.

**5.8.** The Association shall have the right (but shall not be required) to establish a Reinvestment Fee assessment in accordance with this section and Utah Code Ann. §57-1-46. If established, the following terms and conditions shall govern Reinvestment Fees:

5.8.1. Upon the occurrence of any sale, transfer, or conveyance of any Unit as reflected in the office of the County recorder, regardless of whether it is pursuant to the a sale of the Unit or not (as applicable, a "Transfer"), but excluding the initial sale or Transfer by or to Declarant or an affiliate or successor of Declarant, the party receiving title to the Unit (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount to be established by the Board in the Rules, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.

5.8.2. The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted by Utah Code § 57-1-46, including Transfers resulting from foreclosure by a Lender and any subsequent Transfer from such Lender to a new Owner.

5.8.3. Transfers to the Declarant, or a Declarant related entity, affiliate, or successor shall not be subject to a Reinvestment Fee. The Declarant shall have the sole discretion to determine whether such Transferee is a related entity and if a Reinvestment Fee applies.

5.8.4. The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

**5.9.** ***Nonpayment of Assessments.*** Unless otherwise provided by resolution of the Management Committee, the Annual Assessments shall be levied and due and payable on a monthly basis on the first calendar day of each month and shall be delinquent if not paid within fifteen (15) days after the due date.

5.8.1. Interest. Delinquent payments shall bear interest from the sixteenth ($16^{th}$) day of the month, or such other date established by the Committee (the "date of delinquency"), at the rate of 18% per annum, or such other rate established by resolution of the Management Committee from time to time, not to exceed the maximum permitted by law.

5.8.2. Late Charge. Each delinquent payment shall be subject to a late charge of Twenty-Five Dollars ($25.00) or such other amount established by the Management Committee from time to time.

5.8.3. Acceleration. If the delinquent installments of Annual Assessments and any charges thereon are not paid in full, the Committee, or its authorized agent, may declare all of the unpaid balance of the Annual Assessment to be immediately due and payable upon not less than ten (10) days' written notice to the Owner, and may enforce the collection of the full Annual Assessment and all charges thereon in any manner authorized by law and this Declaration. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Committee otherwise decides acceleration is not in its best interest, the Committee, at its option and in its sole discretion, may elect to decelerate the obligation.

5.8.4. Rent Payments by Tenant to Association. If the Owner of a Unit who is leasing the Unit fails to pay an assessment for more than 60 days after the assessment is due, the Management Committee may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly other periodic payment, until all amount dues to the Association are paid. Such demand to the tenant shall be made in accordance with the law and the written procedures of the Association. The Committee, or its agent, shall give the Owner written notice of its intent to demand full payment from the tenant and such notice shall be made in accordance with the law and the written procedures of the Association.

5.8.5. Termination of Common Service and Facility Use. If an Owner fails or refuses to pay an assessment when due, the Management Committee may, after giving notice and an opportunity to be heard in accordance with the law and the written procedures of the Association, terminate an Owner's right: (1) to receive any service paid as a common expense, including but not limited to utility services; and (2) of access and use of recreational facilities. If a hearing is requested, utility services or right of access and use of the recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been rendered by the Committee. In the event that the Association incurs costs to terminate any such utility service, the

defaulting Owner shall be responsible for all such costs. Upon payment of the assessment due, including any interest, late charge, and costs of collection, the Committee shall immediately take action to reinstate the terminated utility services to the Unit.

5.8.6. Remedies under the Act and Other Law. The Association shall have each and every remedy for collection of assessments provided in the Act, as amended from time to time, and in Utah Code Title 12, and such remedies and provisions shall be deemed to be fully set forth herein. A collection fee shall be imposed upon any delinquent account turned over to an attorney or collection agency for collection, in accordance with Utah Code § 12-1-11, in addition to any other amount owed to the Association.

**5.9.** ***Lien.*** The Annual Assessment and all other Assessments and charges imposed, together with damages, fines, interest, costs of collection, late charges, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for enforcement of the Governing Documents shall be a charge and continuing lien upon each of the Units against which the Assessment is made and shall be construed as a real covenant running with the land. The recording of this Declaration constitutes record notice and perfection of the lien established herein. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

**5.10.** ***Personal Obligation and Costs of Collection.*** Assessments imposed under this Declaration, together with interest and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Unit and in a voluntary conveyance, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

**5.11.** ***Appointment of Trustee.*** By acceptance of a deed for a Unit, each Owner as Trustor conveys and warrants to Trustee in trust for the Association, as Beneficiary, with power of sale, the Owner's Unit and all improvements thereon for the purpose of securing payment of all Assessments (including basis of collection) provided for in this Declaration. For purposes of this Section, the Act, and Utah Code Ann. §§57-1-19, et seq., as amended from time to time, the Trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the Trustee, or substitution thereof, by recording an appointment or substitution of trustee in the records of the local County Recorder. Each Owner hereby also grants to the Association and Trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§57-1-19, *et seq*.

**5.12.** ***Enforcement of Lien.*** The lien provided for in this Article may be enforced by the Management Committee by causing a Unit to be sold through nonjudicial foreclosure as though the lien were a deed of trust, or by foreclosing the lien through a judicial foreclosure, all in the

manner provided by the Act and by the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts or the law for the foreclosure of a mortgage, as the case may be. The Association shall have the power to bid on the Unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, the defaulting Owner shall be required to pay the reasonable rental value of such Unit during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner, and an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit, the costs and attorney fees associated with which shall be awarded to the Association or the purchaser, as the case may be. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

**5.13.** ***Subordination of Lien to Mortgages.*** The lien provided for in this Article has priority over each other lien and encumbrance on a Unit except a first or second security interest on the Unit secured by a mortgage or deed of trust that is recorded before a recorded notice of lien by or on behalf of the Association, or a lien for real estate taxes or other governmental assessments or charges against the Unit. The sale or transfer of any Unit pursuant to mortgage or deed of trust foreclosure (but not a proceeding in lieu thereof) shall extinguish the lien provided for herein as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Unit from liability or lien for any Assessments or charges thereafter becoming due, and shall not relieve any Owner of his or her personal obligation for such amounts.

**5.14.** ***Statement of Unpaid Assessment & Payoff Information.***

5.14.1. The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments have been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge, determined by the Management Committee, may be levied in advance by the Association for each certificate so delivered.

5.14.2. The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of a lot owner's sale of the owner's lot up to the maximum amount allowed by law.

## ARTICLE VI - PROPERTY RIGHTS AND EASEMENTS

***6.1 Use and Occupancy.*** Except as otherwise provided in Governing Documents from time to time, the Owner(s) of a Unit shall be entitled to the exclusive use and benefits of ownership of such Unit. Each Unit, however, shall be bound by, and the Owner, occupants and guests, shall comply with, the restrictions contained herein and all other provisions of the Governing Documents for the mutual benefit of the Owners.

***6.3 Restriction on Unit Division.*** All Owners are prohibited from dividing any and all Units subject to this Declaration except through an amendment to this Declaration properly adopted as provided herein. However, Owners' allocated ownership interests in the Common Areas may not be altered without the consent of sixty-seven percent (67%) of all Owners.

***6.5 Easements Reserved.*** In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) Right of Entry. The Association and any person authorized by the Association (including the Declarant during the Period of Declarant Control) may at any reasonable time, and from time to time at reasonable intervals, enter upon any Unit for the purpose of performing maintenance as set forth herein and determining whether or not the Unit is in compliance with this Declaration and Bylaws or whether the use of the Unit is causing damage or harm to the Common Areas or Limited Common Areas. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Unit.

(b) Utility Easements. The Association (including the Declarant during the Period of Declarant Control) and any public utility provider shall have an easement through all Units and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary. Each Unit Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Units and serving his or her Unit. The Committee may grant or create from time to time, on behalf of the Association and on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Area.

(c) Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas which right and easement shall be subject to compliance by the Owner with the provisions of the Governing Documents and the right of the Association to limit the number of guests of residents. Except as to rights of ingress and egress to a Unit, any Owner not residing on the Property shall be deemed to have delegated his or her right of enjoyment and use of and to the Common Area facilities and amenities to any tenants, contract purchasers, or other occupants of the Unit who actually reside on the Property and no person other than residents and their guests (up to the number established by rule from time to time) may use any Common Area facility or amenity.

***6.6 No Encroachment.*** No Unit shall encroach upon an adjoining Unit. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Management Committee or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non disturbance of the Structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

## ARTICLE VII – THE ASSOCIATION

***7.1 Organization.*** The Association has been or will be organized as a nonprofit corporation under the nonprofit corporation laws of the state of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time). In the event the Association is at any time administratively dissolved by the State of Utah, the Committee may re-incorporate the Association without a vote of the Owners. The affairs of the Association shall be governed by a Management Committee as provided herein and in the Bylaws.

***7.2 Membership.*** Each Owner during the entire period of Owner's ownership of one or more Units within the Community shall be a member of the Association. The membership shall commence, exist and continue by simply virtue of the ownership, shall expire automatically upon termination of ownership and need not be confirmed or evidenced by any certificate or acceptance of membership.

***7.3 Voting Rights.*** The method of voting shall be as provided in the Bylaws and each Owner shall have such vote in matters of the Association for each Unit owned equal to the percentage of undivided interest in the Common Areas and facilities appertaining to such Unit, as set forth in Article II.

***7.4 Powers and Authority of the Association.*** The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation, the Bylaws and any applicable statute, as such statute may be amended to expand the scope of association powers, together with its general powers as a corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments and fines as provided in this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Committee may delegate by resolution or contract to the Managing Agent any of its powers under this Declaration; provided, however, that the Committee cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of Five Thousand Dollars ($5,000.00).

(b) The Association may borrow money, provided the assent of a majority of all Owners is obtained prior to mortgaging, pledging or hypothecating any or all of the Association's real property as security.

(c) Telecommunications/Fiber Optic/Related Contracts. Provided the Association already provides such service to the Units, the Committee shall have the power, in its own discretion and subject to federal law, to enter into, accept an assignment of, or otherwise cause the Association to comply with contracts with Telecommunication Service providers and Telecommunication Facilities owners (both, a "Telecommunication Provider"), pursuant to which the Telecommunication Provider serves as the exclusive provider of Telecommunication Services and/or Telecommunication Facilities to each Unit in the Properties, as well as the power to enter into or contract on behalf of the Association for similar bulk rate service contracts of any nature deemed in the Association's best interests. If such service(s) is not already provided to the Units,

the prior approval of the Owners shall by obtained by a vote where a majority of the votes cast are cast in favor of the service.

## ARTICLE VIII - COMPLIANCE AND ENFORCEMENT

***8.1 Compliance.*** Each Owner, tenant or occupant of a Unit shall comply with the provisions of the Governing Documents and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

***8.2 Remedies.*** The voting rights of any Owner more than 60 days' delinquent in his or her account with the Association shall be automatically suspended until the account is brought current. Violation of any provisions of the Governing Documents (including failure to timely pay an assessment) or of any decision of the Association made pursuant to such documents, shall give the Management Committee acting on behalf of the Association, the right, but not the obligation, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do any or all of the following after giving notice:

(a) Subject to the provisions of this Declaration, to enter the Unit as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Management Committee shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy fines, and any violation of any express rule, regulation, covenant, restriction, or term of any of the Governing Documents shall be subject to a fine in the amount of $50 for a first offense and $100 for subsequent offenses of the same violation or $10 a day for a continuing violation, or such other amount or amounts as may be determined by the Committee from time to time by resolution. A subsequent violation of the same specific type occurring within 12 months of a prior violation shall be deemed the same violation for the purpose of notice and shall be subject to an immediate fine without further warning or notice. Any hearing to protest or dispute a fine shall be conducted in accordance with the standards promulgated by resolution of the Committee from time to time, or if none, in accordance with the standards determined by the Committee at the hearing itself (which need not be written);

(d) To terminate the right to receive utility or other services paid for by the Association, and to terminate the right of access to and use of recreational and service facilities of the Association until the correction of the violation has occurred;

(e) To suspend the voting rights of a Member, but not for longer than 60 days except in the case of a continuous violation;

(f) To bring suit or action against the Owner on behalf of the Association and other Owners to enforce the Governing Documents and the Association shall be entitled to recovery of

its attorneys' fees and costs in such case.

***8.3 Action by Owners.*** Subject to any limitation imposed under this Declaration, the Bylaws, or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy a thing or condition by appropriate legal proceedings.

***8.4 Injunctive Relief.*** Nothing in this section shall prevent an Owner, the Association, or other interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate. In such an action, the violation of any covenants or restrictions in the Governing Documents shall be presumed to cause irreparable harm to the Association and its members.

***8.5 Notification of First Mortgagee.*** The Management Committee shall notify in writing any first Mortgagee of any individual Unit of any default in performance of the terms of this Declaration by the Unit Owner which is not cured within sixty (60) days provided such Mortgagee has requested in writing to be so notified.

## ARTICLE IX - INSURANCE

### *9.1 Association Insurance.*

9.1.1. Property and Liability Insurance. The Association shall maintain a master insurance policy which includes: (1) blanket property insurance with not less than 100% of the full replacement cost for the physical structures in the project, including common areas and facilities, limited common areas and facilities, and units, and including fixtures, improvements and betterments to a unit made by a unit owner, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and (2) liability insurance having at least a One Million Dollar ($1,000,000.00) limit per total claims that arise from the same occurrence, including medical payments insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas and facilities.

A. The Association's property insurance shall include coverage for any fixture, improvement, or betterment installed by a Unit Owner to a Unit or to a Limited Common Area, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a Unit or to a Limited Common Area element associated with a Unit.

B. Each unit owner is an insured person under the Association's property insurance policy. Each unit owner is an insured person under a liability insurance policy that the Association obtains, but only for liability arising from: (i) the unit owner's ownership interest in the common areas and facilities, (ii) maintenance, repair, or replacement of common areas and facilities, and (iii) the unit owner's membership in the Association.

9.1.2. Fidelity Insurance or Bond. The Association shall obtain and maintain adequate fidelity coverage to protect against dishonest acts by its officers, members of the Committee, employees, and all others who are responsible for handling funds of the Association, including any property manager. Such fidelity coverage shall: (i) name the Association as an obligee; (ii) not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or managing agent, as the case may be, at any given time, and shall in no event be in an amount less than three months assessments on all Units plus reserves; (iii) contain an appropriate endorsement(s) to the policy to cover any persons who serve without compensation if the policy would not otherwise cover volunteers, and to cover the Association's management agent, if the Association has delegated some or all of the responsibility for the handling of funds to a management agent; (iv) provide that coverage may not be canceled or substantially modified (including cancellation for nonpayment of premiums) without at least ten (10) days prior written notice to the Association or any insurance trustee.

9.1.3. Flood Insurance. If any portion of the Project is deemed to be located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program, the Association shall be required to obtain and pay the premiums upon a "master" or "blanket" policy of flood insurance on the buildings and any other property covered by the required form of policy in an amount deemed appropriate by the Association but not less than the lesser of: (a) the maximum coverage available under the NFIP for all buildings and other insurable property within the project to the extent that such buildings and other insurable property are within an area having special flood hazards; or (b) 100% of current replacement cost of all such buildings and other insurable property within such area.

9.1.4. Directors and Officers (D&O) Insurance. The Association shall purchase and maintain insurance on behalf of any person who was or is a Committee member or officer of the Association, and any other person the Association is required by law or contract to indemnify, against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the laws of the State of Utah, as the same may hereafter be amended or modified.

9.1.5. Other Insurance. The Association shall obtain such other insurance if and to the extent required by law or as the Committee deems necessary from time to time, such as workers' compensation insurance.

9.1.6. Loss Not Exceeding Deductible. If, in the exercise of the business judgment rule, the Management Committee determines that a covered loss is likely not to exceed the policy deductible of the Association and until the covered loss exceeds the deductible of the property insurance of the Association and a claim is submitted to the property insurance insurer of the Association: (i) for a unit to which a loss occurs, the unit owner's policy is considered the policy for primary coverage for the damage to that unit; (ii) the Association shall pay for any loss for any common areas and facilities for which a loss occurs; (iii) a unit owner who does not have a policy to cover the damage to that unit owner's unit is responsible for that unit damage and the Association may, as provided herein, recover any payments the Association makes to remediate that unit, and (iv) the Association need not tender the claim to the Association's insurer.

9.1.7. The Association shall set aside an amount equal to the amount of the association's property insurance policy deductible or $10,000, whichever is less.

9.1.8. An insurer under a property insurance policy issued to the Association shall adjust with the Association a loss covered under the Association's policy.

9.1.9. Loss Due to Fault of Another. This Declaration does not prevent a person suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a person at fault for the loss, except that, notwithstanding the foregoing, an insurer under a property insurance policy or liability insurance policy obtained by the Association waives the insurer's right to subrogation under the policy against: (a) any person residing with the unit owner, if the unit owner resides in the unit, and (b) the unit owner.

9.1.10. Power of Attorney, Insurance Trustee. The Association may enter into an insurance trust agreement with a trustee (the "Insurance Trustee") who shall thereafter have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. By purchasing a Unit, all Owners appoint the Association or any Insurance Trustee designated by the Association as attorney-in-fact for the purpose of purchasing and maintaining the insurance specified in this section, including: (1) the collection and appropriate disposition of the proceeds thereof; (2) the negotiation of losses and execution of releases of liability; (3) the execution of all documents; and (4) the performance of all other acts necessary to accomplish such purpose. By purchasing a Unit, all Owners appoint the Association or any trustee designated by the Association as attorney-in-fact for the purpose of representing the Owners in condemnation proceedings or negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Areas, or part thereof, by the condemning authority.

9.1.11. The Association, or insurance trustee if any, shall to hold any proceeds of insurance in trust for unit owners and their first mortgage holders as their interests may appear. The policies required herein for the Association must provide that they may not be cancelled or substantially modified without at least ten (10) days prior written notice to the Association and to each holder of a first mortgage listed as a scheduled holder of a first mortgage in the policies. No policies shall require that contributions or assessments may be made against borrowers, FNMA, FHLMC, or the designee of FNMA or FHLMC. Loss payments shall not be contingent upon action by the carrier's board of directors, policyholders, or members. The policies shall include: (1) a waiver of the right of subrogation against unit owners individually, (2) that the insurance is not prejudiced by any act or neglect of individual unit owners which is not in the control of such owners collectively.

9.1.12. The Association shall use generally acceptable insurance carriers.

***9.2. Unit Owner Insurance Responsibility.*** For units, the Association's policy is primary but the unit owner is responsible for the deductible as follows:

9.2.1. If a loss occurs that is covered by the Association's policy and by a unit owner's policy, the Association's policy provides primary insurance coverage, but the unit owner is responsible for the deductible of the association of unit owners, and Coverage A of the unit owner's policy applies to that portion of the loss attributable to the policy deductible of the Association.

9.2.2. If a unit, or limited common area element appurtenant to a unit, suffers damage as part of a covered loss, the unit owner is responsible for an amount calculated by applying the percentage of total damage resulting in a covered loss that is attributable to unit damage for that unit to the amount of the deductible under the Association's policy. If a unit owner does not pay the amount required within 30 days after substantial completion of the repairs to, as applicable, the unit or the limited common area appurtenant to the unit, the Association may levy an assessment against a unit owner for that amount.

9.2.3. The deductible amount under the Association's policy is subject to change from time to time by the Management Committee without amendment of this Declaration. The Association shall provide notice to the unit owners of any change in the amount of the deductible.

9.2.4. The Association's policy does not cover the contents of a unit or a unit owner's personal property. Each unit owner is strongly encouraged to obtain insurance coverage for contents of their unit, as well as for coverage in the event the owner has to pay the Association's deductible as provided above

## ARTICLE X – AMENDMENT, DURATION AND SPECIAL DECLARANT RIGHTS

***10.1 Amendments.*** Except as provided in Section 10.2 below, any and all of the conditions, restrictions, charges and terms contained in this Declaration may be annulled, waived, changed, modified or added to through a duly adopted amendment to this Declaration.

(a) How Proposed. Amendments to the Declaration shall be proposed to the membership only by the Management Committee, either on its own initiative or after it receives a written request to do so signed by Owners holding twenty percent (20%) or more of the voting rights of the Association. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval of, or consent to, the amendment.

(b) Approval Required. This Declaration may be amended if such amendment is approved by Owners holding sixty percent (60%) of the voting rights of the Association, subject to the approval of Eligible Holders as required herein. Notwithstanding anything herein to the contrary, the Governing Documents may be amended by the Management Committee without approval of the Members if necessary to comply with FHA or other regulatory or lending guidelines or restrictions in order to facilitate the ability to secure financing for the sale of Units.

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

***10.2 Duration and Termination.*** This Declaration and the Project shall continue and remain in full force and effect until there is recorded an instrument directing the termination of this Declaration after the vote and approval of (i) seventy-five percent (75%) of all of the Owners of the Units, and (ii) sixty-seven percent (67%) of the votes of Eligible Holders. Any such termination shall become effective only if a certificate of the president and secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the County Recorder's Office.

***10.3 Amendment by Declarant.*** Notwithstanding any provision located herein to the contrary, so long as the Declarant owns one or more Units in the Project, the Declaration and the Plat may be amended solely by the Declarant without any additional approval required. In addition, no other amendment shall be valid or enforceable without the Declarant's prior written consent so long as Declarant owns one or more Units in the Project.

***10.4 Other Special Declarant Rights.*** Notwithstanding any provision located herein to the contrary, Declarant hereby reserves the followings special rights:

(a) Improvements. Declarant hereby reserves the right, but not the obligation, to construct:

(i) Any improvements shown on the Plat (as may be amended) or included in the Project;

(ii) Any Units upon all or any portion of any additional land which Declarant elects to utilize in expanding the Project by annexation thereof; and

(ii) Any other buildings, structures, or improvements that Declarant desires to construct in the Project, or any other real estate owned by Declarant, regardless of whether the same every become part of the Project.

(b) Expandable PUD. In accordance with the provisions of the Act, the Declarant hereby expressly reserves the right and option to expand the Project by annexation of additional land or portions thereto and Units to be constructed thereon.

(c) Declarant Control Rights. During the Period of Declarant Control, the Declarant shall have the following rights:

(i) The right to appoint or remove members of the Board, or act as the Board.

(ii) The right to exert any right allowed to the Board or the Association pursuant to the Act and this Declaration.

(iii) The right to make and adopt Association Rules or modify any Governing Documents.

(iv) The right to set all Assessments for the Association, including annual, special and individual assessments, and the right to incorporate a reinvestment fee.

(v) The right to set all fines and fees for the Association including but not limited to collection fees, reinvestment fee, architectural review fees, as applicable, and fines or violations of Association rules.

(vi) The right to implement an architectural review committee to review and approve any proposed architectural designs of any Units or improvements related thereto.

(vii) The right to deny any matter or action voted upon by the Owners. Any Owner action during the Period of Declarant Control shall not become effective unless the matter of action is approved in writing by the Declarant.

(d) Special Declarant Rights. Special Declarant Rights are those rights reserved for the benefit of the Declarant in this Declaration and the Governing Documents and shall include, among others, and regardless of anything in the Declaration to the contrary, the following rights which shall remain in effect for the maximum period allowed by law, which may exceed the Period of Declarant Control:

(i) The right to maintain sales offices, model Units, and signs advertising the Project or any Unit at any location in the Project until all of Declarant's Units in the Project are sold to third parties.

(ii) The right to use easements throughout the Common Areas and the Project as set forth in this Declaration, until all of Declarant's Units in the Project are sold to third parties.

(iii) The right to create or designate additional Common Area or Limited Common Area within the Project.

(iv) Nothing contained in this Declaration shall be deemed to affect or limit in any way whatsoever the right of the Declarant, its successors or assigns, to sell or to change the location, design, method of construction, grade, elevation, or any other part or feature of a Unit prior to the contracting for the conveyance of the Unit to a purchaser.

(v) Until such time as the earlier of the following events occur: (a) seven (7) years after the Declaration is recorded, or (b) such time as Declarant chooses, neither the Association nor the Board shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally constructed or created by the Declarant.

(vi) So long as Declarant owns one or more Units in the Project, any amendments to the Declaration and Bylaws shall require the consent of the Declarant.

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

(viii) The right to exert any right allowed to the Board or the Association pursuant to the Act and this Declaration during the Period of Declarant Control.

(e) Exercising Special Declarant Rights. Declarant may exercise its Special Declarant Rights until the expiration of the earlier of the maximum period allowed by law, or the maximum period set forth in this Declaration. The Declarant may execute and record a written waiver of its Special Declarant Rights, which rights may be waived in whole or in part. Declarant may exercise

its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise them. If Declarant exercises any Special Declarant Right with respect to any portion of the Project, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Project. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Declaration, without the consent of the Association or any of the Owners.

(f) Interference with Special Declarant Rights. Neither the Association nor any Owner may take any action or adopt any Rule that interferes with or diminishes any Special Declarant right contained in this Declaration without Declarant's prior written consent. Any action taken in violation of this Section shall be null and void and have no force or effect.

(g) Transfer of Declarant Rights. The Declarant may transfer, convey, or assign its rights created or reserved under this Declaration to any Person in whole or in part. The Declarant's successor shall enjoy any and all Declarant rights set forth in the Declaration regardless of whether such rights are stated to be transferable. All references in the Governing Documents to Declarant shall equally apply to its successor. A contract transferring a Declarant's rights may, but shall not be required to, be recorded in the office of the County Recorder.

(h) Easement Reserved to Declarant.

(i) The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Plat as "Public Utility Easement," or otherwise designated as an easement area over any road or Common Area on the Project, and over those strips of land running along the front, rear, side and other lot lines of each building or Unit shown on the Plat.

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

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

(iv) The Declarant reserves unto itself and its successors and assigns, the right to dedicate all roads, streets, alleys, rights of way, or easements, including easements in the areas designated as "open space" and storm water management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right of way or easement shall be

laid out or constructed through or across any building or Unit in the Project except as set forth in this Declaration, or as shown on the Plat, without the prior written approval of the Declarant.

(i) No Modification of Declarant Rights. The Declarant Rights and Easements in this Declaration or other Governing Documents, and specifically in this Article, shall not be substantively or procedurally altered, amended, or removed without the written consent of the Declarant until at least six (6) years have passed after the Period of Declarant Control has ended, at which time the Declarant's approval shall no longer be required. Any document or amendment attempted without obtaining proper consent shall be void ab initio to the extent it attempts to alter the rights of the Declarant or any provision of this Article without the consent of the Declarant.

## ARTICLE XI – MORTGAGEE RIGHTS

***11.1 Approval Required.*** In addition to any other approvals required by this Declaration or the Bylaws, the prior approval of fifty-one percent (51%) of the Eligible Holders (based upon one vote for each Mortgage owned) must be obtained for the following:

(a) The abandonment, termination, or removal of the Property from the provisions of this Declaration, except when provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) The addition of Common Property;

(c) Any material amendment to this Declaration or the Bylaws. Except for an amendment to the Declaration or Bylaw if its purpose is to correct technical errors or to clarify, a change to the following would be considered as material: (1) Voting rights; (2) The funding of reserves for maintenance, repair, and replacement of the Common Areas; (3) Changing general responsibility for maintenance and repairs (excluding minor changes); (4) Redefinition of any Unit boundaries; (5) Convertibility of Units into Common Property or vice versa; (6) Expansion or contraction of the project, or the addition, annexation, or withdrawal of property from the project; (7) Insurance or fidelity bond; (8) Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration or the Bylaws; (9) Any action to terminate the legal status of the project after substantial destruction or condemnation occurs; (10) Assessments, assessment liens, or subordination of such liens; (11) Rights to use of Common Areas; (12) The interest in the general or limited Common Area; (13) Leasing of Units; (14) Imposition of any right of first refusal of similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit; (15) Change by the Association from professional management to self-management and vice versa; and/or (16) Any provisions that expressly benefit mortgage holders, insurers, or guarantors; or

(d) Use of hazard insurance proceeds for losses to any planned community property, whether to Units, for other than the repair, replacement, or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units.

***11.2 Additional Rights.*** In addition to the approvals required above, each mortgagee (or beneficiary of a trust deed or vendor and including guarantors) shall have the following rights:

(a) Right to Examine Books and Records. All mortgagees shall have the right to examine the books and records of the Association upon reasonable notice and at reasonable times;

(b) Right to Annual Reports. All mortgagees shall, upon written request, be entitled to receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association; and

(c) Right to Receive Written Notice of Meetings.

The Association shall give all mortgagees, upon written request, written notice of all meetings of the Association, and such mortgagees shall be permitted to designate a representative to attend all such meetings.

***11.3 Request for Approval of Mortgagees.*** If an Eligible Holder's consent is a condition for amending the Declaration or Bylaws, then, subject to Subsection (4) of this Article, the Eligible Holder's consent is presumed if: (a) written notice of the proposed amendment or action is sent by certified or registered mail to the Eligible Holder's address provided to the Association by such Eligible Holder; (b) 60 days have passed after the day on which notice was mailed; and (c) the person designated for receipt of the response in the notice has not received a written response from the Eligible Holder either consenting to or refusing to accept the amendment or action.

***11.4 Rights of Eligible Holders.*** In addition to the approvals required and the rights provided above, each Eligible Holder shall have the following rights:

(a) Right to Receive Written Notice of Meetings. The Association shall give all Eligible Holders written notice of all meetings of the Association, and such Eligible Holders shall be permitted to designate a representative to attend all such meetings.

(b) Right to Notice of Proposed Amendments. All Eligible Holders, upon written request to the Association, will be entitled to timely written notice of any proposed amendment effecting a change in: (1) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (2) the interests in the general or limited Common Areas appertaining to any Unit or the liability for common expenses appertaining thereto; (3) the number of votes in the Association appertaining to any Unit; or (4) the purposes to which any Unit or the Common Areas are restricted.

(c) Other Rights to Notice. All Eligible Holders, upon written request to the Association, will be entitled to timely written notice of: (1) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which the Eligible Holder holds a Mortgage interest; (2) any delinquency in the payment of assessments or charges owed by the Owner of a Unit subject to a Mortgage of the Eligible Holder, where such delinquency has continued for a period of 60 days; or (3) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

## ARTICLE XII - MISCELLANEOUS PROVISIONS

***12.1 Premises Liability.*** The Association and the Management Committee are and shall remain wholly free and clear of any and all liability to, or claims by, all Unit Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the

occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities and a Unit Owner shall defend, indemnify and hold harmless the Association and Management Committee against such claim, loss or liability asserted by such Unit Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Unit Owner and user of the Common Area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

***12.2 Priority of Governing Documents.*** To the extent possible under the law and in light of the requirement of the Act that organizational documents for a nonprofit corporation shall not conflict with the rights and obligations found in the declaration and bylaws, in the event of any conflict between or among this Declaration and any other Governing Document, the document in the highest priority beginning with the first document listed hereinafter shall prevail (as to any such conflict) over any later listed document: this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations.

***12.3 Interpretation.*** All questions of interpretation or construction of any of the covenants or restrictions in the Governing Documents shall be resolved by the Management Committee, and its decision shall be final, binding and conclusive on all parties affected for all purposes. The covenants, restriction and terms of this Declaration are to be interpreted broadly to give effect to the Association's role as the governing body of the Community and to grant all the powers necessary for management of the common property, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Committee except where powers are expressly restricted.

***12.4 Recovery of Costs and Attorney Fees.*** The Association shall be entitled to recover its costs and attorney's fees incurred for enforcement of this Declaration regardless of whether any lawsuit or other action is commenced. Such costs and attorney's fees shall automatically be and constitute an assessment against the Owner and the Unit. Additionally, the prevailing party shall be entitled to its attorney fees and costs in any dispute concerning any Governing Document, including an action dealing with the declaration of rights and obligations thereunder with or without a defaulting party, whether such costs and expenses are incurred with or without suit; before or after judgment; in any appeal; in any bankruptcy or receivership proceeding; or in connection with any alternative dispute resolution proceeding.

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

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

***12.7 Lessees and Other Invitees.*** No damage to, or waste of the Common Areas or any part thereof shall be committed by any Owner or any Unit occupant, guest, invitee, lessee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by any such person. Lessees, invitees, guests, Unit occupants, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Unit and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

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

***12.9 Notice of Sale or Lease.*** Immediately upon the sale, rental or other conveyance of any Unit, the Owner shall promptly inform the secretary or manager of the name and address of said grantee or tenant. The Management Committee may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it and the address of each Owner shall be deemed for all purposes to be the address of the Unit owned by such Owner unless the Management Committee is otherwise advised in writing.

***12.10 Person to Receive Service of Process.*** The person designated to receive service of process on behalf of the Project, in the cases provided by the Act, is the registered agent of the Association, as that agent may be designated by the Association from time to time and as reflected in the records of the Utah Division of Corporations and Commercial Code.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, JF Sky Landing Partners, LLC, a Utah limited liability company, has executed this Declaration this 29th day of December, 2021.

**JF SKY LANDING PARTNERS, LLC,**
a Utah limited liability company

By: Owen Fisher
Its: manager

STATE OF UTAH )
)ss:
County of DAVIS )

The foregoing instrument was acknowledged before me on this 21st day of December, 2021 by Owen Fisher, the Manager of the above-referenced entity.

Notary Public - State of Utah
KAILA JOHNSON
Comm. #711263
My Commission Expires
April 25, 2024

Notary Public for Utah

# Exhibit A

## Legal Description

TLS AT WOODS CROSS SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF REDWOOD ROAD, SAID POINT BEING EAST 72.00 FEET FROM THE WEST QUARTER CORNER OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, (BASIS OF BEARINGS BEING SOUTH 01°32'09" EAST FROM SAID WEST QUARTER CORNER TO THE SOUTHWEST CORNER OF SAID SECTION 35) AND RUNNING THENCE NORTH 00°35'00" WEST 161.45 FEET; THENCE EAST 459.96 FEET; THENCE SOUTH 00°35'00" EAST 162.44 FEET; THENCE SOUTH 809.50 FEET TO THE NORTHERLY LINE OF 2600 SOUTH STREET; THENCE SOUTH 89°54'12" WEST 422.24 FEET ALONG SAID NORTHERLY LINE; THENCE NORTH 00°12'20" EAST 7.15 FEET; THENCE NORTH 44°47'40" WEST 36.87 FEET; THENCE SOUTH 89°32'04" WEST 3.86 FEET TO A POINT ON SAID EASTERLY LINE OF REDWOOD ROAD; THENCE NORTH 00°35'00" WEST 777.96 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

# EXHIBIT B

# AMENDED AND RESTATED

# BYLAWS

# OF

# TLS AT WOODS CROSS OWNERS ASSOCIATION

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## ARTICLE 1 – DEFINITIONS, APPLICABILITY

The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws. These Amended and Restated Bylaws of TLS at Woods Cross Owners Association amend and restate in entirety the Bylaws recorded on May 19, 2021 as entry number 3383738 according to the official records of the David County Recorder's Office.

## ARTICLE 2 – ASSOCIATION MEETINGS, VOTING, QUORUM

2.1 Place of Meeting. The Association shall hold meetings at such suitable place as may be

designated by the Management Committee from time to time. Meetings shall not be required during the Period of Declarant Control, but the Declarant may hold meetings in its discretion. All meetings and elections may be held by telephone conference or electronic video conference means.

2.2 Annual Meetings. Each regular annual meeting of the members shall be held each year on the day and at a time and place within the state of Utah selected by the Management Committee. Annual meetings shall not be required during the Period of Declarant Control, but the Declarant may hold meetings in its discretion.

2.3 Special Meetings. The Association, by and through the Management Committee, shall notice, hold and conduct a special meeting of its members on call of (1) the Management Committee, or (2) if the Association receives one or more written demands for the meeting that state the purpose or purposes for which the meeting is to be held, and are signed and dated by members in good standing holding at least 25% of the voting rights of the Association. When a special meeting is demanded by the members, the Committee shall set the time and date for the meeting so that the meeting occurs within 65 days of receipt of the demand and if notice of the meeting is not given by the Committee within 30 days after the date the written demand is delivered to an Association officer, a person signing the demand may set the time and place of the meeting and give notice pursuant to the requirements herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting. During the Period of Declarant Control, Special Meetings may only be called by the Declarant.

2.4 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, in a fair and reasonable manner, including by delivering a copy of such notice to each member entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws, and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Committee. Notice shall always be deemed fair and reasonable if given 10 days before the meeting, but shorter notice may also be fair and reasonable when all the circumstances are considered. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the members and, in the case of a special meeting, the purpose of the meeting.

2.5 Voting. Each Unit shall be allocated such vote in the affairs of the Association equal to the percentage of undivided interest in the Common Areas and facilities appertaining to such Unit. The Management Committee shall be entitled to vote on behalf of any Unit which has been acquired by or on behalf of the Association, except the Management Committee shall not be entitled to vote such Units in any election of Committee members.

than eleven (11) months after the date of execution. No proxy shall be valid if it purports to be revocable without notice. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting, or to the Committee if a vote is being conducted by written ballot in lieu of a meeting. Every proxy shall automatically cease upon sale of the Unit.

2.6.2 Absentee Ballots. A vote may be cast by absentee ballot.

2.6.3 Mortgagee Rights. An Owner may pledge or assign the owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the owner is entitled hereunder and to exercise the owner's voting rights from and after the time that the Mortgagee shall have given written notice of the pledge or assignment to the Management Committee. Any first Mortgagee may designate a representative to attend all or any meetings of the Association.

2.7 Fiduciaries and Joint Owners.

(a) Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Unit owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Unit in such capacity.

(b) Joint Owners. Whenever any Unit is owned by two or more persons jointly, according to the records of the Association, the vote of the Unit may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Unit shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.8 Quorum of Owners.

(a) At any regular annual meeting of the Association (whether such meeting is held in person, via telephone conference, electronic video conference or otherwise), the Members that are represented for any purpose at the annual meeting shall constitute a quorum, except for matters requiring a higher quorum as provided in the Declaration or these Bylaws. For any other meeting of the Association, including special meetings or action by written ballot, and except as otherwise provided in the Declaration or these Bylaws, Members holding thirty-three percent (33%) of the voting rights, represented in person, by proxy, or by written ballot, shall constitute a quorum. If any meeting or vote of Members cannot be organized because of a lack of quorum, the meeting may be adjourned to a time at least 48 hours from the time of the meeting at which a quorum was not present and Members holding twenty percent (20%) of the voting rights, represented in person, by proxy, or by written ballot, shall constitute a quorum at such adjourned meeting or vote.

(b) The subsequent ratification of an Owner of the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of an Owner.

2.9 Binding Vote. Action on a matter other than the election of directors is approved and shall be binding upon all owners for all purposes if a quorum exists and the votes cast favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes is required by the Governing Documents.

2.10 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the President, and by way of example, may include the following: (a) Calling of the roll and certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading of minutes of preceding meeting; (d) Reports of officers; (e) Reports of committees, if any; (f) Election of Committee members; (g) Unfinished business; (h) New business; and (i) Adjournment.

2.11 Meeting Procedure. Rules of order may be adopted by resolution of the Management Committee, otherwise, the President shall conduct meetings according to the procedure he or she deems fit and shall have absolute authority to fix the period of time allowed for the registration of Owners and the filing of proxies, to determine the order of business to be conducted at such meeting and to establish reasonable rules for expediting the business of the meeting (including any informal or question and answer portions thereof). A decision of the Association may not be challenged on the basis that appropriate rules of order were not used. All informalities or irregularities in calls or notices of meetings and in the manner of voting, credentials, and methods of ascertaining those present shall be deemed waived by those present if no objection is made at the meeting.

2.12 Election Inspectors. The Committee, in advance of any meeting of the Members, may appoint an election inspector or inspectors to act at such meeting (and at any adjournment thereof). If an election inspector or inspectors are not so appointed, the President may, or upon request of 10% of the Members entitled to vote at the meeting will, make such appointment. If any person appointed as an inspector fails to appear or to act, a substitute may be appointed by the President. If appointed, the election inspector or, inspectors (acting through a majority of them if there be more than one) will determine the Members entitled to vote, the authenticity, validity and effect of proxies and the number of Members represented at the meeting in person and by proxy; they will receive and count votes, ballots and consents and announce the results thereof, which announcement of results, as reflected in the minutes of the meeting, shall be conclusive evidence of such results for all purposes; they will hear and determine all challenges and questions pertaining to proxies and voting; and, in general, they will perform such acts as may be proper to conduct elections and voting with complete fairness to all Members.

2.13 Action by Written Ballot in Lieu of a Meeting. Any action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association causes to be delivered a written ballot to every Member entitled to vote on the matter not less than fourteen (14) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the

number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Committee members, there shall be space on the ballot to write in nominations. Action taken under this section has the same effect as action taken at a meeting of Members and may be described as such in any document. The Management Committee may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) a secrecy envelope; (2) a return identification envelope to be signed by the owner; and (3) instructions for marking and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

2.14 Action without Notice and a Meeting. Any action required to be taken or which may be taken at a meeting of Members may be taken without a meeting and without prior notice if one or more consents in writing, setting forth the action so taken, are signed by Members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty day period. Any such writing may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date.

## ARTICLE 3 - MANAGEMENT COMMITTEE – SELECTION, TERM OF OFFICE

3.1 Number, Term and Qualifications.

(a) The affairs of the Association shall be governed by a Management Committee composed of three (3) Committee members.

(b) Members of the Management Committee shall serve for a term of two (2) years. The terms shall be staggered so all Committee members are never elected in the same year. During the Period of Declarant Control, terms for Members of the Management Committee shall be determined exclusively by Declarant

(c) During the Period of Declarant Control, Committee member qualification requirements of these Bylaws shall not apply, and the Declarant may exercise all powers of the Board as permitted by law.

3.2 Vacancies. If vacancies occur in the Board during the Period of Declarant Control, the Declarant shall appoint a Member to fill the vacancy. Vacancies on the Management Committee, caused by any reason other than the removal of a Committee member by a vote of the Association,

shall be filled for the balance of the term by vote of a majority of the remaining Committee members even though they may constitute less than a quorum. Each person so elected shall be a Committee member until a successor is elected upon expiration of the term for which the person was elected by the other Committee members to serve.

3.3 Removal of Committee members.

(a) At any annual or special meeting, any one or more of the Committee members, other than interim Committee members, may be removed, with or without cause, by a majority of the voting interests of the Members. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state th

any, shall consist of a chairman, who shall be a member of the Management Committee; and one or more members of the Association.

4.2 Election. During the Period of Declarant Control, Management Committee members shall be appointed by Declarant. After the Period of Declaration Control, the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE 5 - MEETINGS OF MANAGEMENT COMMITTEE

5.1 Organizational Meeting.

(a) Location, Date and Time. The first meeting of a newly-elected Management Committee shall be held within fourteen (14) days of election at such place (or using a designated conference call number or video conference link), date and time as shall be fixed by the Committee members at the meeting at which the Committee members were elected and no notice shall be necessary to owners or to the newly elected Committee members in order to legally hold the meeting providing a majority of the elected Committee members are present.

(b) Procedure and Business. Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary, regardless of whether the outgoing president or secretary is as member of the newly constituted Committee. At the organizational meeting, the Management Committee shall elect officers in accordance with Section 7.2 below and may conduct any other Association business.

5.2 Regular Meetings. Regular meetings of the Management Committee shall be held at such place (or using a designated conference call number or video conference link) and hour as may be fixed from time to time by the Committee, and if so fixed, no notice thereof need be given. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at another date and time agreed upon by the Management Committee with notice to all members of the Management Committee. During the Period of Declarant Control, Board Meetings shall be held at the discretion of the Declarant so long as at least one Board Meeting is held each year and a Board Meeting is held each time the Association increases a fee or raises an Assessment.

5.3 Special Meetings. Special meetings of the Management Committee shall be held when called by the president of the Association, or by any two (2) Committee members, after not less than three (3) days notice to each Committee member by mail, electronic mail, telephone, or facsimile, unless waived pursuant to 5.7 below. The notice must state the time, place, and purpose of the meeting.

5.4 Meeting Procedure. Unless other rules of order are adopted by resolution of the Management Committee: (a) Meetings of the Management Committee shall be conducted by the President; (b) A decision of the Management Committee may not be challenged because the appropriate rules of order were not used; (c) A decision of the Management Committee is deemed valid without regard to any procedural errors related to the rules of order unless the error appears on the face of a written instrument memorializing the decision.

5.5 Open Meetings; Executive Sessions.

5.5.1 Open Meetings. Following the Period of Declarant Control, except as provided in subsection 5.5.2, all meetings of the Management Committee shall be open to Unit Owners. However, no Owner shall have a right to participate in the Management Committee meeting unless the Owner is also a member of the Committee. The president or Committee shall have the authority to exclude an Owner who disrupts the proceedings at a Committee meeting. During the Period of Declarant Control, meetings of the Management Committee may be closed to the Owners, unless the Management Committee, in its sole discretion and without obligation, determines to open the meeting (or a portion thereof) to the Owners.

5.5.2 Executive Sessions. In the discretion of the Committee, the following matters may be considered in executive session:

(a) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;

(b) Personnel matters, including salary negotiations and employee discipline;

(c) The negotiation of contracts with third parties;

(d) Collection of unpaid assessments; and

(e) Other matters of a sensitive, private, or privileged nature at the discretion of the Committee.

5.5.3 Executive Session Procedure. Except in the case of an emergency, the Management Committee shall vote in an open meeting whether to meet in executive session. If the Committee votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

5.6 Meetings by Telephonic or Electronic Communication. In the event of an emergency, or by decision of the Committee, meetings of the Management Committee may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Management Committee participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

5.7 Waiver of Notice. Any Committee member may, at anytime, waive notice of any meeting of the Management Committee in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a Committee member at any meeting of the Committee shall constitute a waiver of notice by the Committee member, except where the Committee member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Committee members are present at any meeting of the Committee, no notice to Committee members shall be required and any business may be transacted at the meeting.

5.8 Quorum and Acts. At all meetings of the Management Committee a majority of the existing Committee members shall constitute a quorum for the transaction of business and the acts of the majority of the Committee members present shall be the acts of the Management Committee. If, at any meeting of the Management Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Committee member may be considered to be present at a meeting and to vote if the Committee member has granted a signed written proxy: (i) to another Committee member, or other person, who is present at the meeting; and (ii) authorizing the other Committee member or person to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy (a directed proxy).

## ARTICLE 6 - POWERS, RIGHTS, AND DUTIES OF THE MANAGEMENT COMMITTEE

6.1 General Powers and Duties. The Management Committee shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

6.2 Specific Powers. In addition to powers granted by the Declaration, these Bylaws or by resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, the Management Committee shall have the power to: (a) declare the office of a member of

Management Committee.

9.1 General Records.

(a) The Management Committee and managing agent or manager, if any, shall keep records of the actions of the Management Committee and managing agent or manager; minutes of the meetings of the Management Committee; and minutes of the meeting of the Association.

(b) The Management Committee shall maintain a Book of Resolutions containing the rules, regulations, and policies adopted by the Association and Management Committee.

(c) The Management Committee shall maintain a list of Owners. The list of Owners may specify whether the Owner is an Owner in Good Standing or a Suspended Owner.

(d) The Association shall retain within this state, all records of the Association for not less than the period specified in applicable law.

9.2 Records of Receipts and Expenditures. The Management Committee or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Community, itemizing the maintenance and repair expenses of the Common Area or Association property and any other expenses incurred.

9.3 Assessment Roll. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. The account shall designate the Unit number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.4 Financial Reports and Audits.

(a) An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Management Committee to all Owners and to all mortgagees of Units who have requested the same in writing within ninety (90) days after the end of each fiscal year.

(b) From time to time, the Management Committee, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Mortgagees of Units.

9.5 Inspection of Records by Owners.

(a) Except as otherwise provided in Section 9.6 below, all records of the Association shall be reasonably available for examination by an Owner and any Mortgagee of a Unit pursuant to rules adopted by resolution of the Management Committee or if no such resolution has been adopted, pursuant to the Utah Revised Nonprofit Corporation Act.

(b) The Management Committee shall maintain a copy, suitable for the purposes of

duplication, of the following: (1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association; (2) The most recent financial statement prepared pursuant to Section 9.4 above; and (3) The current operating budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an owner, shall furnish the requested information required to be maintained under Subsection (b) of this section, subject to a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

(d) The Management Committee, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.6 Records Not Subject to Inspection. Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

(a) Personnel matters relating to a specific identified person or a person's medical records.

(b) Contracts, leases and other business transactions that are currently under negotiation to purchase or provide goods or services.

(c) Communications with legal counsel that relate to matters specified in subsections (a) and (b) of this section, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege.

(d) Disclosure of information in violation of law.

(e) Documents, correspondence or management or Committee reports compiled for or on behalf of the Association or the Management Committee by its agents or committees for consideration by the Management Committee in executive session held in accordance with these Bylaws.

(f) Documents, correspondence or other matters considered by the Management Committee in executive session held in accordance with these Bylaws and the minutes of any executive session.

(g) Files of individual Owners, other than those of a requesting Owner or requesting mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

## ARTICLE 10 - AMENDMENTS

So long as the Declarant owns one or more Units in the Project or any additional land annexed into the Project, the Declarant acting alone may amend the Bylaws for any reason, without Owner approval. Declarant's unilateral amendment right as designated herein may continue past the

expiration of the Period of Declarant Control. No other amendment shall be valid or enforceable during the period Declarant owns at least one Unit or any additional land annexed into the Project, unless the Declarant has given written consent to such amendment. Any amendment during the period Declarant owns at least one Unit or any additional land annexed into the Project shall be executed by Declarant on behalf of the Association and shall become effective upon recordation in the office of the County Recorder.

After Declarant has sold all of the Units and additional land annexed into the Project to third parties and after expiration of the Period of Declarant Control, approval of a majority of the voting rights of the Members is required for approval of any amendment to these Bylaws, except that the approval of members representing at least 60% of the total voting rights of the Association and the approval of 51% of the Eligible Holders shall be required for any amendment or change to the material provisions of the Bylaws pertaining to voting rights. An amendment shall not be effective until certified by the president of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the County Recorder's Office. No action to challenge the validity of an adopted amendment may be brought more than two (2) years after the amendment is recorded.

## ARTICLE 11 - MISCELLANEOUS

11.1 Notices.

11.1.1 Association. All notices to the Association or the Management Committee shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Management Committee may hereafter designate from time to time.

11.1.2 Owners.

(a) Notice by Electronic Means. In any circumstance where notice is required to be given to the Members, the Association may provide notice by electronic means, including text message, email, or an Association website, if the Management Committee deems the notice to be fair and reasonable. A Member may require the Association, by written demand, to provide notice to the Member by mail. The Management Committee is authorized to promulgate rules and procedures facilitating the implementation of this section as it deems fit from time to time, including requiring members to furnish the Association with a current email address.

(b) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Management Committee, or if no address has been designated, then to the Owner's Unit.

(c) If a Unit is jointly owned or the Unit has been sold under a land sale contract, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Unit shall be sufficient.

11.2 Affairs, Electronic Means. Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the member if the Association, through the Committee, does so in good faith and has no reason to believe it is not the act of the member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a Member or by the Association.

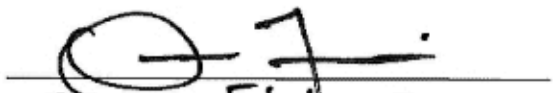
11.3 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number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

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

11.5 Fiscal Year. The fiscal year of the Association shall be determined by the Committee in its discretion.

11.6 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officer on this 29th day of December, 2021.

(Sign): 

(Print Name): Owen Fisher