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Gary W. Ott
Recorder, Salt Lake County, UT
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BY: eCASH, DEPUTY - EF 6 P.

When Recorded Return To:
Eric Saxey
Everest Builders
676 Markea Ave, #9
Salt Lake City, Utah 84102

**THIRD AMENDMENT TO DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
DRAPER CREEKSIDE TOWNHOMES**

A Planned Unit Development

THIS THIRD AMENDMENT TO DECLARATION of Covenants, Conditions and Restrictions of Draper Creekside Townhomes is made and executed this 22 day of JUNE, 2016, by DRAPER CREEKSIDE LLC, a Utah limited liability company, with its principal place of business located in Salt Lake City, State of Utah (hereinafter referred to as "Declarant").

RECITALS:

A. Draper Creekside LLC, is the Declarant as identified and set forth in that certain Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, dated as of May 23, 2014, and recorded in the office of the Salt Lake County Recorder on May 23, 2014, as Entry No. 11854363, in Book 10232, beginning at page 9418 (the "Declaration").

B. The Declaration applies to DRAPER CREEKSIDE Townhomes, a Planned Unit Development (the Subdivision, as defined in the Declaration). The Subdivision is located in Salt Lake County, Utah, and is more particularly described on the attached Exhibit A.

C. Exhibit B to the Declaration was amended to more accurately express the size, percent interest and the number of votes for each Lot within the Subdivision pursuant to that certain First Amendment to Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, which was recorded in the Office of the Salt Lake County Recorder on December 9, 2014, as Entry No. 11958579, in Book 10280, page 4935 (the "First Amendment").

D. The Declaration was then amended to harmonize the Declaration with Utah law concerning reinvestment fee covenants, to refine certain provisions concerning limited common areas, the expiration of the Class B Membership, to remove the rental cap set forth in the original Declaration, and to update the pet restriction provision pursuant to that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, which was recorded in the Office of the Salt Lake County Recorder on April 22, 2016, as Entry No. 12265037, in Book 10423, page 7497 (the "Second Amendment").

E. The Declarant now desires to further clarify the duration of the Development Period, and the scope of the Class B Member's control during the Development Period.

NOW, THEREFORE, Declarant in consideration of the recitals set forth above, the Declarant hereby declares and certifies as follows:

1. **Amendment to Paragraph 2.2.** Paragraph 2.2 of the Declaration is hereby amended to read as follows:

Annexation by Association. The Association may annex real property to the Development only after obtaining written approval of such annexation from (a) the owner or owners of the real property to be annexed, and (b) the written consent of the Declarant, so long as the Class B membership exists. Following the termination of the Class B membership, the affirmative vote of at least two-thirds (2/3) of all Class A membership votes, which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose, shall be required for the annexation of real property to the Development, in addition to the prior, written approval of the owner(s) of the real property to be annexed.

2. **Amendment to Paragraph 3.2.** Paragraph 3.2 of the Declaration is hereby amended to read as follows:

Voting Rights. The Association shall have the following described two classes of voting membership:

Class A. Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to the number of votes appurtenant to each respective Living Unit which shall be equal to the product of the Percentage Interest set forth in Exhibit B attached to the First Amendment (as the same may be revised as the result of minor adjustments as provided in Section 1.15) multiplied by Ten Thousand (10,000). The number of votes appurtenant to each Unit as set forth in said Exhibit B (subject to revisions the result of minor adjustments as provided in Section 1.15) shall have a permanent character and shall not be altered without the unanimous written consent of all Owners expressed in a duly recorded amendment to this Declaration. The number of votes appurtenant to each Unit may not be divided between multiple Owners of such Unit or between matters which require the vote of Owners.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to the number of votes appurtenant to each respective Living Unit which shall be equal to the product of the Percentage Interest set forth in Exhibit B attached to the First Amendment (as the same may be revised as the result of minor adjustments as provided in Section 1.15) multiplied by Four Hundred and Forty Thousand (440,000). The Class B Membership shall automatically cease sixty (60) days after the closing of the sale of the last Unit in the Development. Otherwise, the Class B Membership shall automatically and be converted to a Class A membership upon the expiration of Seven (7) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

3. **Amendment to Paragraph 11.2.** Paragraph 11.2 of the Declaration is hereby amended to read as follows:

Amendment. Subject to the provisions of Section 2 of Article VIII above, and, so long as the Construction Lender (as defined in paragraph 11.13 hereafter) has an interest in the Property, subject to the prior written consent of the Construction Lender, which consent will not be unreasonably withheld, this Declaration may be amended by the Declarant, in its sole and separate capacity, and in its sole and separate discretion, until all of the townhomes in the property have been sold to one or more Owners,

those sales have closed, and the affected townhomes are occupied by the Owner or Owners (the "Development Period"). Thereafter, following the termination of the Class B membership, any amendment hereto shall require (i) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes, which Members present in person or represent by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all votes of the Class A Membership shall constitute a quorum. If the quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3), at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held less than seven (7) nor more than forty-five (45) days following the immediately preceding meeting. During the Development Period, any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Declarant. After the Development Period, any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by two Officers of the Association. In such instrument two Officers of the Association shall certify that the vote required by this Section for amendment has occurred.

4. **Amendment to Paragraph 11.13.** Paragraph 11.13 of the Declaration is hereby amended to read as follows

Lender's Agreement of Subordination. By its execution of this Declaration, Bank of American Fork, a Utah corporation (hereinafter "Construction Lender"), agrees, covenants and declares that this Declaration shall be senior in priority to that Construction Deed of Trust made as of January 28, 2014, between Everest Builders, L.L.C., and Aaron LeGrande Sadler as "Trustor," and Bank of American Fork as "Trustee" and Construction Lender as "Beneficiary" (hereinafter "First Deed of Trust"), which First Deed of Trust was recorded on January 30, 2014, as Entry No. 11797554, in Book 10208, beginning at page 4383 of the Official Records of Salt Lake County, and that said First Deed of Trust shall be subordinate to and subject to this Declaration notwithstanding the fact that this Declaration is recorded later in time than the First Deed of Trust.

Likewise, by its execution of this Declaration, Construction Lender agrees, covenants and declares that this Declaration shall be senior in priority to that Construction Deed of Trust made as of January 28, 2014, between Everest Builders, L.L.C., and Aaron LeGrande Sadler, as "Trustor," and Bank of American Fork as "Trustee" and Construction Lender as "Beneficiary" (hereinafter "Second Deed of Trust"), which Second Deed of Trust was recorded on January 30, 2014, as Entry No. 11797599, in Book 10208, beginning at page 4622 of the Official Records of Salt Lake County, and that said First Deed of Trust and Second Deed of Trust shall be subordinate to and subject to this Declaration notwithstanding the fact that this Declaration is recorded later in time than the First Deed of Trust and the Second Deed of Trust.

In the event of a transfer of any right, title or interest of Declarant in all or any portion of the Development pursuant to foreclosure of the First Deed of Trust (or pursuant to a deed in lieu of such foreclosure or other disposition under the First Deed of Trust), as of the date of such transfer all of the rights and interests which Declarant (as "Declarant" under this Declaration) has or hereafter may have reserved and identified in this Declaration, as amended, supplemented, or replaced from time to time (the "Declarant Rights"), shall vest automatically in the transferee (whether Construction Lender or a third party) (the "Successor Declarant"). The Successor Declarant does not assume any prior (i.e. before the date of the transfer) obligations or liabilities

of Declarant, including without limitation: home warranties; express or implied warranties; defects in the design or construction of the Common Areas, Lots, or any improvements constructed thereon; unpaid monetary obligations; completion of the Common Areas; or prior breaches or defaults by Declarant under this Declaration. Any "reinvestment fee covenant" shall not apply to any transfer described in this Section 11.13. The Successor Declarant, in its sole discretion, may assign the Declarant Rights which have vested in the Successor Declarant. This Section 11.13 shall not be modified, replaced or deleted without Construction Lender's prior written consent.

5. Representations of Declarant. Declarant represents as follows:

a. This amendment is made pursuant to and complies with paragraph 11.2 of the Declaration, as it appears in the Second Amendment, as the Subdivision is still in the Development Period.

b. This amendment has occurred with the consent and approval of the Construction Lender, who has a secured interest in the Lots at issue.

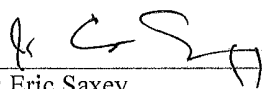
6. Incorporation of Prior Terms. It is expressly agreed that this Amendment is supplemental to the Declaration, as previously amended, which is by reference made a part hereof, and all the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment and are made a part of this Amendment as though they were expressly rewritten, incorporated and included herein. In the event of any conflict, inconsistency or incongruity between the provisions of this Third Amendment and any of the provisions of the Declaration, as previously amended, the former shall in all respects govern and control.

7. Effective Date. This Third Amendment shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

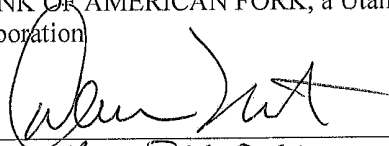
EXECUTED the day and year first above written.

DRAPER CREEKSIDE LLC,
a Utah Limited Liability Company

By: Everest Builders, L.L.C.

By: 
Name: Eric Saxey
Title: Manager

CONSTRUCTION LENDER:
BANK OF AMERICAN FORK, a Utah
corporation

By: 
Its: VICE PRESIDENT

ACKNOWLEDGEMENTS

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 22 day of JUNE, 2016, personally appeared before me **James Eric Saxey**, who being by me duly sworn did say that he is the Manager of Everest Builders, L.L.C., and that Everest Builders, L.L.C., is the Manager of **Draper Creekside LLC**, that the within and foregoing instrument was signed in behalf of said limited liability companies by authority of resolutions of its members or in accordance with the terms of its operating agreements and said James Eric Saxey duly acknowledged to me that said limited liability companies executed the same.

Jill Stapley
NOTARY PUBLIC



STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 22 day of JUNE, 2016, personally appeared before me **DARREN NATE**, who being by me duly sworn did say that he is the **VICE PRES.** of **BANK OF AMERICAN FORK**, a Utah corporation and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its members or in accordance with the terms of its operating agreement and said **DARREN NATE** duly acknowledged to me that said corporation executed the same.

Jill Stapley
NOTARY PUBLIC



EXHIBIT A
LEGAL DESCRIPTION

Beginning at a point which is South 89°51'15" East, along the section line 68.23 feet and South 00°08'45" West, 124.85 feet from the Witness Monument marking the Northwest Corner of Section 6, Township 4 South, Range 1 East, Salt Lake Base and Meridian (said witness monument on record being North 89°59'24" East, 144.94 feet from the said Northwest Corner of Section 6); and running thence along the record deed line (Entry 11625785 in Book 10131 at Page 459) the following three (3) courses: East, 82.50 feet, thence South, 5.00 feet; thence East, 565.77 feet to a point on a westerly boundary of the Smith Properties Survey (Record survey# S96-04-0244); and running thence along said Smith Survey the following course: South 00°06'15" East, 201.00 feet; thence North 89°59'58" West, 371.43 feet; thence South 00°16'38" East, 174.50 feet; thence North 68°40'59" West, 11.06 feet; thence North 58°31'00" West, 28.72 feet; thence South 52°38'00" West, 34.60 feet; thence South 78°28'00" West, 25.00 feet; thence South 30°46'00" East, 24.43 feet; thence South 51°51'00" West, 17.80 feet; thence North 67°03'00" West, 46.15 feet; thence North 57°06'00" West, 11.91 feet; thence West, 6.00 feet; thence North 57°05'00" West, 8.34 feet; thence South 36°19'00" West, 24.82 feet; thence North 86°59'00" West, 13.60 feet to a point of intersection with UDOT deed (Entry 6640451 in Book 7663 at Page 267); thence along said UDOT right of way for the following three (3) courses: North 36°19'00" East, 13.35 feet; thence North 22°46'26" East, 26.00 feet; thence North 67°13'34" West, 62.59 feet to a point of intersection with UDOT deed (Entry 6640452 in Book 7663 at Page 629) and running thence along said UDOT right-of-way the following three (3) courses: North 11°13'41" West, 145.66 feet to a point on a 1610.42 foot radius curve to the right; thence 169.10 feet along said curve through a central angle of 06°00'59" (chord bears North 08°13'19" West, 169.03 feet); thence (5) North 05°12'46" West, 40.80 feet to the point of beginning.

Contains: 3.90 Acres

The Property is also described as follows:

All of Lots 1 through 44, contained within DRAPER CREEKSIDE Townhomes, A Planned Unit Development, as the same is identified in the Plat recorded as Entry No. 11851974 in Book 10231, at Page 9648, and in the "Declaration of Covenants, Conditions and Restrictions of Draper Creekside Townhomes, A Planned Unit Development," recorded on May 23, 2014, as Entry No. 11854363, in Book 10232, beginning at page 9418 of the official records of the Salt lake County Recorder.

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas and Private Streets described and provided for in said Declaration of Covenants, Conditions and Restrictions and in the Record of Survey Map in the official record of the Salt Lake County Recorder