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WHEN RECORDED, RETURN TO:

D.R. Horton, Inc.
12351 South Gateway Park Place, Suite D-100
Draper, Utah 84020
Attn: Boyd A. Martin

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07/26/2018 02:01 PM \$342.00
Book - 10696 Pg - 9663-9743
ADAM GARDINER
RECORDER, SALT LAKE COUNTY, UTAH
D R HORTON, INC
12351 S GATEWAY PARK PL #D-100
DRAPER UT 84020
BY: DKP, DEPUTY - WI 81 P.

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR SOUTH HILLS POD 2**

July 23, 2018

Parcels:

Plat 1A

33-08-452-002-0000 to 33-08-452-018-0000; 33-08-452-053-0000; 33-08-453-001-0000 to 33-08-453-033-0000; 33-08-454-001-0000 to 33-08-454-041-0000; 33-08-455-001-0000 to 33-08-455-022-0000

Plat 1B

33-08-403-008-0000 to 33-08-403-024-0000; 33-08-404-001-0000 to 33-08-404-003-0000; 33-08-451-017-0000 to 33-08-451-023-0000; 33-08-457-001-0000 to 33-08-457-011-0000; 33-08-458-001-0000 to 33-08-458-014-0000; 33-08-459-001-0000 to 33-08-459-007-0000

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR SOUTH HILLS POD 2**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOUTH HILLS POD 2, is made effective as of this ____ day of July, 2018, by D.R. HORTON, INC., a Delaware corporation, (referred to herein as "Declarant"), with respect to the following:

RECITALS:

A. Declarant owns certain parcels of real property located in the City of Herriman, Salt Lake County, Utah, which parcels of real property are more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Property") and certain additional real property located adjacent to or in the vicinity of the Property, which adjacent real property is described on Exhibit B attached hereto and by this reference made a part hereof (the "Additional Land"). Declarant Alpine desires to develop, in phases, the Property and the Additional Land as a master planned development known, solely for purposes of this Declaration, as South Hills Pod 2.

B. As the various phases of development of the Property and some or all of the Additional Land proceed, Declarant intends, without obligation, to record various Plats; to dedicate portions of the Property and some or all of the Additional Land to the public for streets, roadways, utilities, and improvements for drainage and flood control; and to record this Declaration covering the Property and various Supplemental Declarations covering some or all of the Additional Land.

C. As part of the development of the Property, Declarant may, without any obligation to do so, sell Lots or Parcels to various Merchant Builders.

D. Declarant desires to form the Association as a non-profit corporation for the purpose of benefiting the Property and its Owners and Residents, which non-profit corporation will (a) acquire, construct, operate, own, manage, and maintain a variety of Community Areas and other areas within the Property; (b) establish, levy, collect, and disburse the Assessments and other charges imposed hereunder; and (c) as the agent and representative of the Members of the Association and the Residents of South Hills Pod 2, administer and enforce all of the provisions hereof and enforce the use and other restrictions imposed on various parts of the Property.

E. Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners, Mortgagees, Residents, lessees, occupants, and other holders of an interest in the Property, or any part thereof, certain mutually beneficial covenants, restrictions and obligations with respect to the proper development, use and maintenance of the Property.

F. Declarant desires and intends that the Owners, Mortgagees, Residents, lessees, occupants and other holders of an interest in the Property and other persons hereafter acquiring any interest in or otherwise utilizing portions of the Property shall at all times enjoy the benefits of the Property and shall hold their interest therein subject to the rights, privileges, covenants and restrictions set forth in this Declaration, all of which are declared to be in furtherance of a plan to promote and protect the aesthetic and cooperative aspects of South Hills Pod 2 and are

established for the purpose of enhancing the value, desirability and attractiveness of South Hills Pod 2.

G. Declarant therefore desires to subject all of the Property to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, and reservations set forth in this Declaration.

H. In order to cause this Declaration and the Covenants to run with the Property and to be binding upon the Property and the Owners, Mortgagees, Residents, lessees, occupants, and other holders of an interest therein from and after the date this Declaration is Recorded, Declarant hereby makes all conveyances of the Property, whether or not so provided therein, subject to this Declaration; and by accepting deeds, leases, easements, or other grants or conveyances to any portion of the Property, the Owners and other transferees for themselves and their heirs, executors, administrators, board of directors, personal representatives, successors, and assigns, agree that they shall be personally bound by this Declaration (including but not limited to the obligation to pay Assessments) hereinafter set forth, except to the extent such persons are specifically excepted herefrom and that all portions of the Property acquired by them shall be bound by and subject to this Declaration.

NOW, THEREFORE, Declarant hereby declares, covenants and agrees as follows:

ARTICLE I DEFINITIONS

The following words, phrases or terms used in this Declaration (including that portion hereof headed "Recitals") shall have the following meanings:

1.1 "Additional Land" shall mean, refer to and consist of that certain real property located in the City of Herriman, Salt Lake County, Utah, described in Exhibit B attached hereto and by this reference made a part hereof, which Additional Land is owned by Declarant and is located adjacent to or in the vicinity of the Property. This Declaration is not intended to create and shall not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any portion of the Additional Land, unless and until the Additional Land or any portion thereof is added to the then existing South Hills Pod 2 in accordance with the provisions of Article XIX of this Declaration.

1.2 "Articles" shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

1.3 "Assessable Property" shall mean all Lots, Units or Parcels, or other portions of the Property, except such part or parts thereof as may from time to time constitute Exempt Property.

1.4 "Assessments" shall mean:

- (a) the Community Areas Assessments;
- (b) with respect to a Townhome Lot, the Townhome Assessments;

- (c) the Individual Assessments;
- (d) the Special Assessments; and
- (e) the Reinvestment Fees;

all of which may be determined and assessed by the Board and which shall be payable by an Owner of a Lot, Unit, or Parcel (other than Exempt Property) pursuant to the terms of this Declaration.

1.5 “Assessment Lien” shall mean the lien created and imposed by Article VII.

1.6 “Assessment Period” shall mean the term set forth in Section 7.8.

1.7 “Association” shall mean the Utah nonprofit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers, and duties set forth in this Declaration, the Articles, the Bylaws, and any other Governing Document and the successors and assigns of such nonprofit corporation. Declarant hereby reserves the exclusive right to cause such Association to be incorporated. Declarant shall name the Association “SOUTH HILLS POD 2 OWNERS ASSOCIATION, INC.”

1.8 “Association Land” shall mean such part or parts of South Hills Pod 2, together with the buildings, structures, and Improvements thereon, and other real property which the Association now or hereafter owns in fee for as long as the Association is the owner of the fee.

1.9 “Association Use” shall mean the use by the Association of those portions of South Hills Pod 2 intended for the use and benefit of the Association including, without limitation, amenities provided by the Association for the use and enjoyment of the Members and Residents.

1.10 “Board” shall mean the Board of Directors of the Association.

1.11 “Budget” shall mean the proposed budget of Expenses prepared by the Board each year, as the basis for the calculation of the Assessments, as provided in Section 7.3.3.

1.12 “Building” shall mean and refer to any of the structures constructed within South Hills Pod 2.

1.13 “Bylaws” shall mean the Bylaws of the Association, as the same may from time to time be amended or supplemented. A copy of the Bylaws is attached hereto as Exhibit D.

1.14 “Certificate of Amendment” shall mean an amendment to this Declaration Recorded by the Association pursuant to Section 17.2.1 of this Declaration and/or shall mean an amendment to this Declaration Recorded by the Declarant pursuant to Section 17.2.2 of this Declaration.

1.15 “City” shall mean the City of Herriman, a body corporate and political subdivision of the State of Utah.

1.16 “Common Area” and “Common Areas” shall mean and refer to all real property described and identified on a specific Plat as Common Area or Common Areas in which the Association owns an interest for the common use and benefit of some or all of the Owners of the Lots or Units identified on such Plat, their successors, assigns, tenants, families, guests and invitees, including, but not limited to, the following items:

1.16.1 The real property and interests in real property subjected to the terms of this Declaration, including the entirety of the land and all Improvements constructed thereon, except for and specifically excluding therefrom the individual Lots and Units;

1.16.2 All Common Areas designated as such on the Plat;

1.16.3 All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Units identified on a specific Plat and intended for the common use of all Owners of the Units identified on such Plat, including without limitation utility services such as telephone, electricity, natural gas, water, and sewer;

1.16.4 The outdoor grounds, detention basins, landscaping, street lighting, perimeter and preservation fences, sidewalks, trails, walking paths, parking spaces, private streets and alleys identified on such Plat;

1.16.5 All portions of the Project identified on a specific Plat that is not specifically included within the individual Units identified on such Plat; and

1.16.6 All other parts of the Project identified on a specific Plat that is normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation, or management of the land owned by the Association for the common benefit of the Owner of the Units identified on such Plat.

1.17 “Community Area” and “Community Areas” shall mean (a) all Association Land designated from time to time by the Board for use by the Members, Residents, lessees, occupants and their guests, including entry monument areas and the entry monuments related to projects within South Hills Pod 2 constructed by Declarant; (b) all areas identified as open space on any Plat, which may or may not be dedicated to the public or to a Municipal Authority, but only until such open space is dedicated to a Municipal Authority; (c) all land within South Hills Pod 2 which the Declarant, by this Declaration or other Recorded instrument, makes available for use by Members of the Association including enhanced parkways and median strips and areas between roadways and Improvements, even if owned by a Municipal Authority; (d) all land within South Hills Pod 2, which the Declarant indicates on a Plat is to be used for landscaping, drainage, and/or flood control for the benefit of South Hills Pod 2 and/or the general public and is to be dedicated to the public or a Municipal Authority upon the expiration of a fixed period of time, but only until such land is so dedicated; (e) all land or right-of-way easements within South Hills Pod 2, which are dedicated to the public or to a Municipal Authority, but which such Municipal Authority or other governmental agency requires the Association to maintain; (f) roadways, walkways, bridges, culinary or secondary water system components, tunnels and storm drain pipes within the existing and subsequent phases of South Hills Pod 2; (g) other public infrastructure within South Hills Pod 2; and (h) certain specified areas within South Hills

Pod 2 that are available for the use by all of the Owners of Lots and Units within South Hills Pod 2 or for the use of one or more specific categories of Lots or Units within South Hills Pod 2, including without limitation those areas identified on a specific Plat as either Common Areas or Limited Common Areas in relation to the Lots or Units identified on such Plat.

1.18 “Community Areas Assessments” shall mean the allocation of the Community Expenses to the Owners of all Lots by the Board pursuant to Section 7.3.

1.19 “Community Expenses” shall mean and refer to those costs and expenses incurred by or on behalf of the Association arising out of or connected with the maintenance, improvement, and operation (including capital repairs and replacements) of South Hills Pod 2 and the operation of the Association as described in Article VII hereof, other than Townhome Expenses.

1.20 “Covenants” shall mean the covenants, conditions, restrictions, assessments, charges, rights, obligations, servitudes, liens, reservations, and easements set forth in this Declaration, as amended or supplemented from time to time.

1.21 “Declarant” shall mean D.R. Horton, Inc., a Delaware corporation, and the successors and assigns of Declarant’s rights and powers hereunder. Declarant shall also include any Person or Persons that have been assigned and have agreed to assume certain of Declarant’s rights and/or obligations in this Declaration pursuant to Section 18.1 effective upon the Recording of a written instrument signed by the Declarant and such Person or Persons that evidences such assignment and assumption.

1.22 “Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions for South Hills Pod 2, as amended or supplemented from time to time.

1.23 “Deed” shall mean a deed or other instrument conveying the fee simple title in a “Lot,” “Unit,” or “Parcel.”

1.24 “Development Agreement” shall mean that certain South Hills Development, Master Development Agreement, which was Recorded on April 6, 2009 as Entry No. 10666381 in Book 9706 at Page 6054, as amended by that certain First Amendment to the Master Development Agreement for the South Hills Master Planned Community Recorded on February 8, 2016 as Entry No. 12218663 in Book 10401 at Page 3956, and as further amended by that certain Second Amendment to the Master Development Agreement for the South Hills Master Planned Community Recorded on April 18, 2016 as Entry No. 12261844 in Book 10422 at Page 1490, as the same may be subsequently amended from time to time, which pertains to the Property. Copies of the Development Agreement are available at the offices of the City.

1.25 “Drainage Control Features” shall mean the term set forth in Section 3.4.

1.26 “Dwelling Unit” shall mean any building or portion thereof situated upon a Lot, Unit, or Parcel designed for use and occupancy as a residence by a Single Family.

1.27 “Eligible Mortgagee” shall mean and refer to a Mortgagee which has requested notice of certain matters from the Association in accordance with Section 16.1 of this Declaration.

1.28 “Exempt Property” shall mean the following parts of South Hills Pod 2:

1.28.1 All land and Improvements owned by or dedicated to and accepted by the United States, a Municipal Authority, or any political subdivision thereof, for as long as any such entity or political subdivision is the owner thereof or for so long as said dedication remains effective, including all Municipal Authority Property and all property utilized for General Public Uses;

1.28.2 All Association Land, for as long as the Association is the owner thereof.

1.28.3 Each other property, including each Lot, Unit or Parcel, while owned by Declarant or a Declarant related developer entity, until the earliest to occur of (i) the acquisition of its record title by a Person other than Declarant or a Declarant related developer entity, or (ii) the 10th anniversary of the date on which the real property comprising such Exempt Property is subjected to this Declaration. Declarant or a Declarant related developer entity may expressly waive its right to an exemption from Assessments as to some or all Exempt Property of which it is then the Owner, by delivering a written notice to the Association identifying such Exempt Property, which written notice is signed by Declarant. In such event, such exemption shall terminate as to each such identified Exempt Property when the Association receives such written notice from Declarant. Any such waiver shall run with the title to each such Exempt Property and shall bind its subsequent Owners, including Declarant and any Declarant related developer entity.

1.28.4 All Exempt Property described herein shall be exempt from Assessments and Membership in the Association (provided, however, the Declarant or a Declarant related entity shall remain a Member in the Association at all times as a Class B Member with voting rights, notwithstanding its temporary exemption status from required Assessments payments) and its associated privileges and responsibilities, but shall nevertheless be subject to all other provisions of this Declaration, including but not limited to, the use restrictions and architectural controls. Provided, however, at the sole and exclusive option of Declarant, property described in Sections 1.29.1 shall be fully exempt from all of the terms and provisions of this Declaration.

1.29 “Expenses” shall mean and refer to the combination of Community Expenses and Townhome Expenses, as described and defined in Section 7.3.

1.30 “FHA” shall mean and refer to the Federal Housing Administration.

1.31 “FHLMC” shall mean the Federal Home Loan Mortgage Corporation.

1.32 “First Mortgage” means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.33 “First Mortgagee” means any person named as a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage.

1.34 “FNMA” shall mean and refer to Federal National Mortgage Association.

1.35 “General Public Uses” shall mean those types of uses designated by the Community Plan as General Public Uses, including but not limited to open spaces and trails, conveyed, assigned, or transferred by Deed or other written instrument to a Municipal Authority.

1.36 “Governing Documents” shall mean the Development Agreement, this Declaration, the Bylaws, the Articles, the South Hills Pod 2 Rules, the Board’s resolutions, and the Recorded Plats.

1.37 “Improvement(s)” shall mean any improvement now or hereafter constructed in South Hills Pod 2 and includes anything which is a structure for purposes of applicable Municipal Authority law, including but not limited to any building, structure, shed, covered patio, fountain, pool, radio or television antenna or receiving dish, tree, shrubbery, paving, curbing, landscaping, tank, fence, mailbox, sign, any excavation or fill having a volume exceeding ten (10) cubic yards, and any excavation, fill, ditch, diversion, dam, or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash, or drainage channel.

1.38 “Land Use Classification” shall mean the classification to be established by the Declarant pursuant to Section 4.1, which designates the type of Improvements which may be constructed on a Lot, Unit, Parcel, or Association Land and the purposes for which such Improvements and surrounding land may be utilized.

1.39 “Lease” shall mean a written lease or sublease for the leasing or rental of any Lot or Dwelling Unit.

1.40 “Limited Common Areas” shall mean and refer to those portions of the Common Areas which may be designated and identified from time to time by the Board as “Limited Common Area” and which are thereby allocated for the exclusive use of one or more Units but fewer than all of the Units within the Project, including, but not limited to driveways and backyards. Limited Common Areas shall include any window well for a Dwelling Unit that is located outside the boundary of a Lot and within a Common Area.

1.41 “Lot” shall mean any area of real property within South Hills Pod 2 designated as a Lot on any Plat Recorded or approved by Declarant and limited to Residential Use.

1.42 “Manager” shall mean such Person retained by the Board to perform certain functions of the Board pursuant to this Declaration or the Bylaws. The Manager for the Association shall carry out certain responsibilities of the Association as required herein, by the Development Agreement, and by any other Governing Document.

1.43 “Member” shall mean any Person holding a Membership in the Association pursuant to this Declaration as an Owner of a Lot, Unit, or Parcel.

1.44 “Membership” shall mean a Membership in the Association and the rights granted to the Owners and Declarant pursuant to Article VI to participate in the Association.

1.45 “Merchant Builder” shall mean a Person who acquires Lots or Parcels in South Hills Pod 2 for the purpose of improving and constructing Dwelling Units or other Improvements thereon for resale to the general public; provided, however, that the term “Merchant Builder” shall not mean or refer to Declarant or its successors as the Declarant under this Declaration.

1.46 “Mortgage” shall mean any mortgage, deed of trust, or other document encumbering any portion of a Lot, Unit or Parcel or interest therein, including without limitation a leasehold interest, as security for the payment of a debt or obligation.

1.47 “Mortgagee” shall mean a beneficiary of a deed of trust that is included within the definition of a Mortgage as well as a named mortgagee under a Mortgage.

1.48 “Municipal Authority” shall mean the applicable governmental entity or municipality which has jurisdiction over some part of South Hills Pod 2 including, without limitation, the City.

1.49 “Municipal Authority Property” shall mean all real property which is from time to time conveyed, assigned, or transferred by Deed, a grant of a perpetual easement or other written instrument to the applicable Municipal Authority, which may include, without limitation, public streets including medians and enhanced parkways, retention basins and drainage facilities, and open space areas.

1.50 “Neighborhood” shall mean one or more Lots, Units or Parcels (as designated by Declarant or by the Board) with interests other than those common to all Lots, Units or Parcels, as more particularly described in Section 6.4. By way of illustration and not limitation, a subdivision of Single Family Lots and Townhome Lots created by one or more Plats, might each be designated as separate Neighborhoods. In addition, each Parcel intended for development shall constitute a Neighborhood, subject to division by Declarant into more than one Neighborhood upon development. Declarant shall initially establish Neighborhood boundaries, which boundaries may be modified by Declarant or by the Board, as provided herein.

1.51 “Neighboring Property” is any property or street within South Hills Pod 2 (including annexed property) other than the specific property in reference.

1.52 “Owner” shall mean (a) any Person(s) who is (are) record holder(s) of legal, beneficial, or equitable title to the fee simple interest of any Lot, Unit or Parcel including, without limitation, one who is buying a Lot, Unit or Parcel under a Recorded contract or Recorded notice of such contract, but excluding others who hold an interest therein merely as security, and (b) any Person(s) entitled to occupy all of a Lot, Unit or Parcel under a Lease or sublease for an initial term of at least ten (10) years, in which case the fee owner or sublessor of the Lot, Unit, or Parcel shall not be deemed the Owner thereof for purposes of this Declaration during the term of said Lease or sublease.

1.53 “Parcel” shall mean a portion of the Property limited by the Governing Documents to one or more specific uses, but any such areas shall cease to be a Parcel upon the

Recording of a Plat covering the area and creating Lots, Units and related amenities. A Parcel shall not include a Lot or a Unit but, in the case of staged developments, shall include areas not yet included in a Plat or other Recorded instrument creating Lots, Units, and related amenities. Declarant shall have the right, subject to the requirements of any applicable Municipal Authority, to identify and create and/or reconfigure the boundaries of any Parcel of which Declarant is the Owner.

1.54 “Period of Declarant Control” shall mean the term as defined in Section 6.3.3.

1.55 “Person” shall mean a natural individual, a corporation, limited liability company, partnership, or any other entity with the legal right to hold title to real property.

1.56 “Plat” shall mean any Recorded subdivision plat affecting South Hills Pod 2, as such may be amended from time to time.

1.57 “Project” shall have the same meaning as the defined term, “South Hills Pod 2.”

1.58 “Property” shall mean the real property described on Exhibit A and any portion of the Additional Land added to South Hills Pod 2 by Declarant pursuant to Article XIX.

1.59 “Record” or “Recording” shall mean placing an instrument of public record in the Office of the Recorder of Salt Lake County, Utah, and “Recorded” shall mean having been so placed of public record.

1.60 “Reinvestment Fee” shall mean the charge which may be levied and assessed by the Association in the event of a Transfer of a Lot, pursuant to Section 7.6 hereof. The Reinvestment Fee assessed, if any, shall be in compliance with Section 57-1-46 of the Utah Code, as such Section of the Utah Code may be amended, supplemented or replaced from time to time.

1.61 “Reserve Fund” shall mean the fund created or to be created by the Association pursuant to Section 7.3.12 for the purposes provided in Section 9.1.

1.62 “Resident” shall mean:

1.62.1 Each buyer under a contract of sale covering any part of the Assessable Property, regardless of whether the contract is Recorded, and each tenant or lessee actually residing on any part of the Assessable Property; and

1.62.2 Members of the immediate family of each Owner, lessee, tenant, or buyer referred to in Section 1.76.1 actually living in the same household with such Owner, lessee, tenant, or buyer.

Subject to the South Hills Pod 2 Rules (including the imposition of special non-resident fees for use of the Association Land if the Association shall so direct), the term “Resident” also shall include the on-site employees, guests, or invitees of any such Owner, lessee, buyer, or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.63 “Residential Areas or Residential Development or Residential Use” shall mean Lots in a subdivision that have been approved by the City pursuant to the Governing Documents and platted as Single Family Lots and Townhome Lots for the construction thereon of Dwelling Units, together with related areas intended for the use and enjoyment of the Owners and Residents of such Lots.

1.64 “Shared Components of a Building” shall mean all portions of a Building that are shared by or are reasonably necessary for the use and enjoyment of one or more Units within a Building including, without limitation, party walls, footings and foundations, structural components, roofs and common sanitary sewer laterals and other shared utilities.

1.65 “SHDRC” shall mean the South Hills Design Review Committee that has been created pursuant to the terms of the Development Agreement and that has authority to perform and enforce the duties delegated to the South Hills Design Review Committee pursuant to the Development Agreement.

1.66 “Single Family” shall mean a group of one or more persons, each related to the other by blood, marriage or legal adoption, or a group of persons not all so related, who maintain a common household in a Dwelling Unit.

1.67 “Single Family Lots” shall mean those Lots within a Single Family Neighborhood.

1.68 “Single Family Neighborhoods” shall mean those Lots designated by Declarant or by the Board for the development and improvement of Single Family Lots.

1.69 “South Hills Pod 2” shall mean, refer to, and consist of the Property and the development to be completed thereon pursuant to the Governing Documents, commonly known as South Hills Pod 2.

1.70 “South Hills Pod 2 Rules” shall mean the rules for South Hills Pod 2 adopted by the Board pursuant to Section 5.3.

1.71 “Special Assessment” shall mean any assessment levied and assessed by the Board pursuant to Section 7.4.

1.72 “Special Assessment Limit” shall have the meaning set forth in Section 7.4.1.

1.73 “Special Use Fees” shall mean the term set forth in Section 3.1.5.

1.74 “State” shall mean the State of Utah.

1.75 “Supplemental Declaration” shall mean an amendment or supplement to this Declaration filed by the Declarant identified as a Supplemental Declaration and Recorded pursuant to Article XIX of this Declaration, for the purpose of subjecting any portion of the Additional Land to this Declaration.

1.76 “Timeshare/Fractional Share Development or Timeshare/Fractional Share Use” shall mean any such development as defined under Utah Code Ann. § 57-19-2(18) or successor statutes. Notwithstanding anything to the contrary contained in this Declaration, Declarant has decreed that no portion of the Property shall be utilized or subjected to any Timeshare/Fractional Share Development or Timeshare/Fractional Share Use.

1.77 “Townhome Assessments” shall mean the allocation of the Townhome Expenses to the Owners of the Townhome Lots by the Board pursuant to Section 7.3.

1.78 “Townhome Expenses” shall mean that portion of the Expenses applicable only to the Townhome Lots, as determined from time to time by the Board.

1.79 “Townhome Lots” shall mean those Lots within a Townhome Neighborhood.

1.80 “Townhome Neighborhoods” shall mean those Lots designated by Declarant or by the Board for the development and improvement of Townhome Lots.

1.81 “Transfer” shall have the meaning set forth in Section 7.6.1.

1.82 “Transferee” shall have the meaning set forth in Section 7.6.1.

1.83 “Unit” shall mean a Dwelling Unit constructed on a Townhome Lot.

1.84 “Use” shall mean one or more specific types of property development and classification as set forth in Section 4.1 of this Declaration.

1.85 “VA” shall mean the Veterans Administration.

1.86 “Visible From Neighboring Property” shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall standing on Neighboring Property, on the level of the base of the object being viewed.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

2.1 General Declaration Creating South Hills Pod 2. Declarant hereby declares that the Property, is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon, or otherwise used, improved, or transferred, in whole or in part, subject to this Declaration as amended or modified from time to time. Declarant intends to develop the Property by subdivision into various Lots, Units, and Parcels and to sell such Lots, Units, and Parcels. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement, and sale of the Property and is established for the purpose of enhancing the value, desirability, and attractiveness of South Hills Pod 2 and every part thereof. This Declaration shall run with the Property and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and Residents, and their successors in interest. Nothing in this Declaration shall be construed to prevent Declarant from modifying any of the Governing Documents or any portions thereof as to which a Plat has not been Recorded. This Declaration shall not be construed to prevent Declarant from dedicating or conveying portions of the

Property, including but not limited to streets or roadways, for uses other than as a Lot, Unit, Parcel, or Association Land, subject to the provisions of Section 4.1. South Hills Pod 2 is not a cooperative.

2.2 Association Bound. Upon filing of the Articles with the Utah Division of Corporations and Commercial Code, the Covenants shall be binding upon and shall benefit the Association.

2.3 Municipal Authority Property. From time to time, the Declarant may, in its sole and exclusive discretion and without the vote of the Members, convey, assign, or transfer (or may cause the Association to convey, assign or transfer) by Deed, grant of easement or other written instrument certain portions of the Community Areas to the applicable Municipal Authority. Once any such Community Areas are conveyed, assigned or transferred to a Municipal Authority or subjected to an easement for the benefit of a Municipal Authority, they shall be Exempt Property and shall constitute Municipal Authority Property. It is contemplated that from time to time certain open space areas and other real property and facilities, may be conveyed, assigned, or transferred by Deed or encumbered by a grant of easement or other written instrument in favor of a Municipal Authority, which conveyances and granting of easements are hereby authorized pursuant to this Declaration.

ARTICLE III EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMUNITY AREAS

3.1 Easements of Enjoyment. Every Member shall have a right and nonexclusive easement of enjoyment in and to the Community Areas, as such areas are dedicated for use by Declarant, which shall be appurtenant to and shall pass with the title to every Lot, Unit and Parcel, subject to the following provisions:

3.1.1 The right of the Association to suspend the voting rights of any Member and the right to the use of the Community Areas by any Member (i) for any period during which any Assessment against such Member's Lot, Unit, or Parcel remains delinquent; (ii) for a period not to exceed sixty (60) days for any infraction by such Member of this Declaration, the South Hills Pod 2 Rules or any of the other governing Documents; and (iii) for successive sixty (60)-day periods if any such infraction by such Member is not corrected during any prior sixty (60)-day suspension period.

3.1.2 The right of the Association to dedicate or transfer all or any part of the Association Land to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association.

3.1.3 The right of the Association to regulate the time, place and manner of use of the Community Areas through South Hills Pod 2 Rules and to prohibit access to those Community Areas, such as maintenance buildings, landscaped rights-of-ways, and other areas not intended for use by the Members. The South Hills Pod 2 Rules shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Community Areas or the safety and convenience of the users thereof, or otherwise shall serve to promote the best interests of the Owners and Residents.

3.1.4 The right of the applicable Municipal Authority and any other governmental or quasi-governmental body having jurisdiction over South Hills Pod 2 to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within South Hills Pod 2 for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal service.

3.1.5 The right (but not the obligation) of the Association to charge special use fees ("Special Use Fees") for the use of the Community Areas. The Special Use Fees, if any, shall be set by the Board from time to time, in its discretion. Special Use Fees shall be charged only for actual entry upon or use of those portions of the Community Areas, if any, selected by the Board to be subject to a Special Use Fees, and shall be imposed only where the Board deems it appropriate to collect revenue from the actual users of such selected portions of the Community Area so that all of the costs of operating such selected portions of the Community Area are not borne by all of the Owners through Assessments, but rather are borne, at least in part, by the Owners, Residents and other Persons using such selected portions of the Community Area.

3.2 No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Community Areas, nor shall any Owner sell, convey, transfer, assign, hypothecate, or otherwise alienate all or any of such Owner's right and nonexclusive easement of enjoyment in the Community Areas or any funds or other assets of the Association except in connection with the sale, conveyance, or hypothecation of such Owner's Lot, Unit or Parcel (and only with respect to the right and nonexclusive easement of enjoyment that is appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property.

3.3 Easements for Encroachments. If any part of a Lot, Unit or Parcel or any Improvement built in substantial accord with the boundaries for such Lot, Unit or Parcel as depicted on a Plat (or in other approved documents depicting the location of such on the Lot, Unit or Parcel) encroaches or shall encroach upon the Community Areas or upon an adjoining Lot, Unit or Parcel, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of the Community Areas encroaches or shall encroach upon a Lot, Unit or Parcel or an Improvement, an easement for such encroachment and for the maintenance of the same shall and does exist. Each Owner shall have an unrestricted right of ingress or egress to and from its Lot, Unit or Parcel.

3.4 Easements for Drainage Maintenance and Flood Water. Various Community Areas, Lots, Units and Parcels have or may have ditches, diversions, drainage channels, swales, depressions, berms, retention basins, detention basins, bulkheads, walls, dams, or other structures retaining water or other similar features on, under, or through the soil that are designed to carry water away from any Community Area, Lot, Unit or Parcel, as depicted upon a Recorded Plat, or otherwise found on such properties (collectively, "Drainage Control Features"). All Owners of Lots, Units or Parcels wherein Drainage Control Features are located shall remove trash and other debris therefrom and fulfill their maintenance responsibilities with respect to such Owners'

Lot, Unit or Parcel as provided in this Declaration. Notwithstanding the foregoing, the Declarant reserves for itself and its successors, assigns, and designees, a perpetual, nonexclusive right and easement, but not the obligation, to enter upon the Drainage Control Features located within any Community Area, Lot, Unit or Parcel for the purpose of maintaining, repairing, cleaning, or altering drainage and water flow, and shall have an access easement over and across any Community Area, Lot, Unit or Parcel (but not the Dwelling Units or other buildings thereon) abutting or adjacent to any portion of any Drainage Control Features to the extent reasonably necessary to exercise their rights under this Section 3.4. Any or all of Declarant's rights and easements provided for in this Section 3.4 may be transferred by Declarant to a Municipal Authority at Declarant's election by a written instrument and shall be transferred automatically to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. All persons entitled to utilize these easements shall use reasonable care in, and repair any material damage resulting from, the use of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, excessive spring run-off, or natural disasters. Owners or Residents are strictly prohibited from disrupting the drainage pattern and shall not interfere with, obstruct, rechannel, construct upon, alter, build-in, fill-in, or impair any Drainage Control Features or the drainage pattern over his or her Lot, Unit or Parcel from or to any other Lot, Unit or Parcel as that pattern may be established by a Municipal Authority or by Declarant, a Merchant Builder, or another developer.

3.5 Easements for Utilities. There is hereby created an easement at specific locations approved by Declarant upon, across, over and under the Community Areas for reasonable ingress, egress, installation, replacement, repair or maintenance of all emergency access roads, all utilities, including, but not limited to, gas, water, sanitary sewer, telephone, storm drain, cable television and electricity, and all Drainage Control Features. By virtue of this easement, it shall be expressly permissible for the providing utility company to install and maintain the necessary equipment at such locations on the Community Areas, but no sanitary sewers, electrical lines, water lines, storm drain lines, or other utility or service lines may be installed or located on the Community Areas, except as designed, approved and/or constructed by the Declarant or as approved by the Board.

3.6 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Community Areas. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Residents of the Lots, Units and Parcels and their guests, families, tenants, and invitees. There is also hereby created an easement upon, across and over the Community Areas and all private streets, private roadways, private driveways and private parking areas within the Property for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all such easements from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of the City or any other governmental body or agency having jurisdiction

including in particular, but without limitation, the easements granted herein for police, fire, medical, and other emergency vehicles and personnel).

3.7 Delegation of Use. Each Member shall, in accordance with this Declaration and the other Governing Documents and the limitations therein contained, be deemed to have delegated his or her right of enjoyment in the Community Areas or from time to time portions of the Association Land to the members of his or her family, his or her tenants or lessees, his or her guests or invitees, or to his or her tenant's family, guests, or invitees.

3.8 Transfer of Title. Declarant agrees that it shall convey to the Association the Association Land subject to certain easements, this Declaration, and the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities within a reasonable period of time after the closing of the last sale of a Lot, Unit or Parcel within South Hills Pod 2, or at such earlier time as Declarant determines in its sole discretion.

ARTICLE IV LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

4.1 Land Use Classifications. As portions of the Property are readied for development and/or sale to Owners or to Merchant Builders, the Land Use Classifications, restrictions, easements, rights-of-way, and other matters, including new or different uses and restrictions therefor and including any number of subclassifications thereof for any special uses, shall be fixed by Declarant and may be disclosed on the Plat which shall be Recorded for that portion of the Property. The Land Use Classifications for Lots, Units or Parcels and Association Land established pursuant to the Governing Documents shall not be changed except as specifically permitted by the Governing Documents. The current contemplated Land Use Classifications are as follows:

- 4.1.1 Residential Use, which may designate specific Lots for development as a Single Family Lot or Townhome Lot;
- 4.1.2 Association Use, which may include Community Areas; and
- 4.1.3 General Public Uses approved by the Declarant.

Unless otherwise specifically provided in the Governing Documents, the definitions and characteristics of such Land Use Classifications, and specific permitted and prohibited uses in such Land Use Classifications, shall be within the complete discretion of Declarant. This Declaration shall be subject to the zoning, land use, and development laws, ordinances, rules and regulations and policies of the applicable Municipal Authority, and subject to the other Governing Documents.

4.2 Covenants Applicable to All Land Use Classifications. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots, Units and Parcels, the Owners and lessees thereof, and all Residents, regardless of the Land Use Classification of such property.

4.2.1 Architectural Control. Pursuant to the Development Agreement, the approval of the SHDRC must be obtained prior to the construction or performance of certain new Improvements and/or modifications to existing Improvements upon both Single Family Lots and Townhome Lots. In addition to the approvals required to be obtained from the SHDRC, no Improvements on any Townhome Lot (whether temporary or permanent), alterations, repairs, excavation, grading, landscaping, or other work which in any way alters the exterior appearance of any of the Townhome Lots, or the Improvements located thereon, from its natural or improved state existing on the date this Declaration is Recorded shall be made or done without the prior written approval of the Board pursuant to Article XI and in compliance with the design guidelines set forth in the Development Agreement, except as otherwise expressly provided in this Declaration. No Building, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, altered, or made upon a Townhome Lot without the prior written approval of the Board pursuant to Article XI. All subsequent additions to or changes or alterations in any Building, fence, wall, or other structure upon a Townhome Lot, including exterior color scheme, and all changes in the grade of Townhome Lots, shall be subject to the prior written approval of the Board pursuant to Article XI. No changes or deviations in or from the plans and specifications once approved by the Board shall be made without the prior written approval of the Board pursuant to Article XI.

4.2.2 Animals. No animal, bird, or fish, other than a reasonable number of generally recognized house or yard pets as determined solely by the Board, shall be maintained on any Lot, Unit or Parcel and then only if they are kept and raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept within a Lot or within a Dwelling Unit or on a leash at all times. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing, or confinement of any animal or bird shall be maintained so as to be Visible From Neighboring Property, unless otherwise approved by the Board. Enclosures, kennels, runs, and the leash areas must be kept clean and sanitary and must be located not less than fifteen (15) feet from any property line on such Owner's Lot. If a pet defecates on any portion of the Community Areas, the Owner of such pet shall immediately remove all feces left upon the Community Areas by such Owner's pet. If an Owner or Resident fails to abide by the rules and regulations and/or covenants applicable to pets, the Board may bar such pet from use of or travel upon the Community Areas. The Board may subject ingress, egress, use, or travel upon the Community Areas by a Person with a pet to a Special Use Fee, which may be a general fee for all similarly-situated Persons or a specific fee imposed for failure of an Owner or Resident to abide by the rules, regulations, and/or covenants applicable to pets. In addition, any pet which endangers the health of any Owner or Resident of a Lot, Unit or Parcel or which creates a nuisance or an unreasonable disturbance or is not a common household pet, as may be determined in the sole discretion of the Board, must be permanently removed from the Property upon seven (7) days' written notice by the Board. Upon the written request of any Owner or Resident, the Board shall conclusively determine, in its sole and absolute subjective discretion, whether for the purposes of this Section 4.2.2, a particular animal, fish, or bird is a generally recognized house or yard pet, whether such a pet is a nuisance or whether the number of animals, fish, or birds on any such property is reasonable. Any

decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein.

4.2.3 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete Building, tent, shack, garage or barn, and no temporary Buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Subject to the Governing Documents, temporary Buildings or structures may be used during the construction of any structure on any property.

4.2.4 Landscaping. Unless otherwise approved by the Board, the initial Owner that purchases from Declarant or from any Merchant Builder a Dwelling Unit on any Single Family Lot shall be responsible to install, within eight (8) months after initial occupancy, landscaping and irrigation on such Lot pursuant to a landscape plan that shall be approved in advance by the Board. All such landscape plans shall contain requirements for the commencement and completion of all such landscape improvements. The required minimum landscaping for all Lots shall be as set forth in the Governing Documents. In addition, the Development Agreement contains guidelines and requirements pertaining to landscaping on Lots within the Project, including a recommended plat list.

4.2.5 Maintenance of Landscaped Areas.

4.2.5.1 After the landscaped Improvements on any portion of the Property are initially completed, the Association shall care for, maintain, and repair all landscaped portions of the Community Areas within South Hills Pod 2, and the costs and expenses to care for, maintain, and repair all landscaped areas that are cared for, maintained, and repaired by the Association shall be Community Expenses.

4.2.5.2 The Owner of each Single Family Lot shall be responsible to care for, maintain, and repair all landscaped areas on such Owner's Single Family Lot.

4.2.5.3 All landscaping within a portion of the Project developed as Townhome Lots shall be maintained and cared for by the Association, except that the Owner of each Townhome Lot shall be responsible to care for, maintain, and repair all landscaped areas on the Limited Common Areas located on such Owner's Townhome Lot.

4.2.5.4 Owners shall not modify the landscaping, green space, sod, plant and flower beds, sprinkling system, or drainage in, on, or about the Common Areas without the prior written consent of the Board, except that Owners of Townhome Lots shall have the right to plant flowers in approved and planned flower beds.

4.2.5.5 Specific guidelines and restrictions on landscaping may be established by the Board from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead

lawn, trees, ground cover or shrubbery shall be removed and replaced within immediately or as soon as reasonably practicable, as determined by the Board in its sole discretion. All lawn areas shall be neatly mowed, and trees, shrubs and bushes shall be properly pruned and trimmed.

4.2.6 Nuisances. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, Unit or Parcel, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity thereof or to the Residents of such other property, as determined by the Board on a reasonable, good faith basis. No other nuisance shall be permitted to exist or operate upon any Lot, Unit or Parcel so as to be offensive or detrimental to any other property in the vicinity thereof or to its Residents, as determined by the Board on a reasonable, good faith basis. Without limiting the generality of any of the foregoing provisions, except as specifically provided in this Section 4.2.6, no exterior speakers, horns, whistles, firecrackers, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any such property.

4.2.7 Construction Activities. All construction activities and parking in connection with the building of Improvements on any Lot, Unit or Parcel shall be subject to the Governing Documents and approved by the Board pursuant to Article XI. The Board in its sole discretion shall have the right to determine the existence of any nuisance arising out of construction and any activities related thereto. The Board has the right to impose fines related to violations of the Governing Documents. The Governing Documents may require submittal to the Board of site specific construction mitigation plans prior to the commencement of any construction activities.

4.2.8 Diseases and Insects. No Owner shall permit anything or condition to exist upon any Lot, Unit or Parcel which shall induce, breed, or harbor infectious plant diseases or noxious insects.

4.2.9 Repair of Improvements. No Improvement on any Lot, Unit or Parcel shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof, unless otherwise provided in this Declaration. In the event any Improvement is damaged or destroyed, then, subject to the approvals required by Section 4.2.1 above, such Improvement shall be immediately repaired, rebuilt, or demolished by the Owner thereof, unless otherwise provided in this Declaration. If any Improvement should be demolished, then the Owner shall at all times maintain the vacant Lot, Unit or Parcel in a clean and sightly condition, and shall clear and shall continue to clear the Lot, Unit or Parcel of any weeds, debris, garbage, tree prunings, or like items.

4.2.10 Antennas, Satellite Dishes, and Flag Poles. To the full extent permissible under state and federal law, no television, radio, shortwave, microwave, satellite, flag, or other antenna, pole, tower, or dish shall be placed, constructed, or maintained upon any Lot, Unit, Parcel or other part of the Property unless such antenna,

pole, tower, or dish is fully and attractively screened or concealed so as not to be Visible From Neighboring Property, which means of screening or concealment shall be subject to the Governing Documents and the regulation and prior approval of the Board. Notwithstanding the foregoing, the Board may allow, pursuant to the Governing Documents, the placing on a Lot, Unit or Parcel of a flag pole and a flag thereon that complies with the City's ordinances and the requirements of the Development Agreement pertaining to flag poles and flags, for the purpose of displaying the national flag of the United States of America.

4.2.11 Mineral Exploration. No portion of the Property shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, gas, earth, or any earth substance of any kind. No derrick or other structure designed for use in boring for water, oil, or other hydrocarbons or minerals of any kind or nature shall be erected, maintained, or permitted on any portion of the Property.

4.2.12 Signs. No signs (including, but not limited to commercial, political, "for sale," "for rent," and similar signs) which are Visible from Neighboring Property shall be erected or maintained on any Lot, Unit or Parcel without the prior written consent of the Board except:

4.2.12.1 The Owner of a Dwelling Unit may display one "For Sale" or "For Rent" sign in one window of such Owner's Dwelling Unit, provided that the dimensions of such sign shall not exceed 18 inches by 24 inches in size.

4.2.12.2 Signs erected and maintained by Declarant (or the Association pursuant to Section 10.1.4) pursuant to this Declaration.

4.2.12.3 Signs required by law.

4.2.12.4 Residence identification signs, provided the size, color, content and location of such signs have been approved in writing by the Board.

4.2.12.5 Signs of Merchant Builders approved from time to time by the Board as to number, size, color, design, content, location, and type.

4.2.12.6 Such construction job identification signs and subdivision identification signs which are in conformance with the requirements of any Municipal Authority and which have been approved in writing by the Board as to number, size, color, design, content, and location.

4.2.12.7 Signs identifying the entry way to distinct Neighborhoods or locations of special interest, provided the size, color, content and location of such signs have been approved in writing by the Board.

4.2.13 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, Unit or Parcel, except in covered containers of a type, size, and style

approved by the City and approved by the Board. In no event shall such containers be maintained so as to be Visible From Neighboring Property, except to make the same available for collection within a 24-hour period. All rubbish, trash and garbage shall be removed from the Lots, Units and Parcels and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot, Unit or Parcel.

4.2.14 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed, or maintained on any Lot, Unit or Parcel or other property so as to be Visible From Neighboring Property.

4.2.15 Outdoor Play Apparatus, Sculptures and Art. No outdoor play apparatus, structures or devices including, without limitation, basketball goals, backboards, swimming pools, tennis courts and swing sets, sculptures, or outdoor art shall be erected, placed, or maintained on any Lot, Unit or Parcel without the prior written approval of the Board (including, without limitation, approval as to appearance and location).

4.2.16 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Lot, Unit or Parcel except (i) such machinery or equipment as is usual and customary (such as small household items of equipment and machinery, including without limitation yard maintenance equipment) in connection with the use, maintenance, or construction (such as woodworking equipment during the period of construction) of a Building, appurtenant structures, or other Improvements; (ii) that which Declarant or the Association may require for the operation and maintenance of the Property; or (iii) that which is used or displayed in connection with any business permitted under this Declaration.

4.2.17 Restriction on Further Subdivision, Property Restrictions, and Rezoning. No Lot, Unit or Parcel shall be further subdivided or separated into smaller Lots, Units or Parcels or interests by any Owner, and no portion less than all of any such Lot, Unit or Parcel, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Declarant (or the Board following the expiration of the Period of Declarant Control), which approval must be evidenced on the Plat or other instrument creating the subdivision, easement, or other interest. This provision shall not apply to transfers of an ownership interest in the whole of any Lot, Unit or Parcel. Further, this provision shall not, in any way, limit Declarant from subdividing or separating into Lots, Units or Parcels the Property, which has not previously been platted or subdivided into Lots or Units. No further covenants, conditions, restrictions, or easements shall be Recorded by any Owner or other person against any Lot, Unit or Parcel without the provisions thereof having been first approved in writing by the Declarant (or the Board following the expiration of the Period of Declarant Control), and any covenants, conditions, restrictions, or easements Recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Lot, Unit or Parcel, and no applications for variances or use permits, shall be filed with a Municipal Authority, unless the proposed use of the Lot, Unit or Parcel complies with this Declaration.

4.2.18 Utility Easements. There is hereby created a blanket easement upon, across, over and under each Lot, Unit and Parcel for ingress to, egress from, and for the installation, replacing, repairing and maintaining of, all utility and service lines and systems, including, but not limited to storm drain, water, sewer, gas, telephone, electricity, television cable or communication lines and systems, as such utilities are installed in connection with the initial development of each Lot, Unit or Parcel and the construction of the Improvements thereon and also to the extent deemed necessary thereafter by the Declarant or the Board, provided that the location of any such easements shall not unreasonably interfere with the intended use of such Lot, Unit or Parcel by the Owner thereof. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the Property and affix and maintain wires, circuits and conduits on, in, and under the roofs and exterior walls of buildings on the Lots, Units and Parcels. Notwithstanding anything to the contrary contained in this Subsection, no sewers, storm drain lines, electrical lines, water lines, or other utilities or service lines may be installed or relocated on any Lot, Unit or Parcel except as approved by the Declarant (or the Board following the expiration of the Period of Declarant Control).

4.2.19 Fences and Walls. Unless otherwise specifically authorized and approved by Declarant (or by the Board following the expiration of the Period of Declarant Control), no perimeter fences or walls shall be constructed or otherwise allowed within South Hills Pod 2, except for fences constructed of white vinyl fencing materials, which fences must comply with the City's ordinances and the fencing requirements and limitations set forth in the Development Agreement.

4.2.20 Utility Service. No lines, wires, or other devices for communication or for the transmission of electric current or power, including telephone, television and radio signals, and cable information highways, shall be erected, placed, or maintained anywhere in or upon any Lot, Unit or Parcel, unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on Buildings or other structures as approved by the Declarant (or the Board following the expiration of the Period of Declarant Control), except for:

4.2.20.1 overhead power poles and lines to perimeter areas of the Property as approved by Declarant (or the Board following the expiration of the Period of Declarant Control); and

4.2.20.2 boxes on the ground for electrical or communication connections, junctions, transformers, and other apparatus customarily used in connection with such underground lines, wires, and other devices as approved by the Declarant (or the Board following the expiration of the Period of Declarant Control).

4.2.21 Overhead Encroachments. Except as provided for herein, no tree, shrub, or planting of any kind on any Lot, Unit or Parcel shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, or other area from ground level to a height of eight (8) feet without the prior approval of the Board.

Notwithstanding the foregoing, if any part of a healthy tree or shrub shall encroach upon the Community Areas, or upon an adjoining Lot, Unit or Parcel, an easement for such encroachment and for the maintenance of the same shall and does exist, provided such encroachment does not create a hazardous, dangerous, unsafe, or unsightly or otherwise objectionable condition, as determined by the Board in its sole discretion. Upon consent of the Owner of the adjoining Lot, Unit or Parcel, an encroaching Owner shall have the right to access the adjoining Lot, Unit or Parcel to the extent reasonably necessary to maintain an encroaching tree or shrub.

4.2.22 Trucks, Trailers, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding one ton, nor any mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Townhome Lot, and such vehicles may be parked on an Single Family Lot provided that such vehicles are parked behind a fence or other barrier so as not to be Visible From Neighboring Property or visible from the Community Areas or the streets.

4.2.23 Motor Vehicles, Parking and Towing.

4.2.23.1 No automobile, motorcycle, motorbike, snowmobile, snow cat, personal watercraft, boat, boat trailer, motorcycle, motorbike, motor scooter, mini-bike, all-terrain vehicle, moped, off-road vehicle, recreational vehicle, or other similar equipment or vehicle or other motor vehicle shall be stored, constructed, reconstructed or repaired upon any Lot, Unit, Parcel or street in South Hills Pod 2, and no inoperable vehicle may be stored or parked on any such Unit, Parcel or street, so as to be Visible From Neighboring Property or to be visible from streets; provided, however, that the provisions of this Section 4.2.23 shall not apply to (i) emergency vehicle repairs; (ii) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Board; (iii) the parking of such vehicles during normal business hours in areas designated for parking in a non-Residential Use Land Use Classification; (iv) vehicles parked in garages on Lots, Units or Parcels so long as such vehicles are in good operating condition and appearance and are not under repair; and (v) vehicle repair within a garage which is closed except as necessary for ingress and egress.

4.2.23.2 On-street parking is expressly prohibited on all private streets within South Hills Pod 2. Vehicles of all Owners and Residents, and of their employees, guests and invitees, are to be kept in garages and residential driveways of the Owner and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot, Unit or Parcel; provided, however, this Section 4.2.23 shall not be construed to permit the parking in the above described areas of any vehicle whose parking on the Property is otherwise prohibited or the parking of any inoperable vehicle. Recreational vehicles shall be parked in covered garages except for limited periods not to exceed forty-eight (48) consecutive hours in

Residential driveways or other designated parking areas as determined by the Board and promulgated as part of the South Hills Pod 2 Rules, or as otherwise provided in the Governing Documents. All guest parking areas within South Hills Pod 2, as identified and designated by Declarant or by the Board by appropriate signage, shall be reserved for the parking of the guests of Owners.

4.2.23.3 Residents may only park their motor vehicles within their garages and on their driveways. For purposes of this Declaration, the term "driveway" shall mean an exterior concrete area located upon a Lot that is at least eighteen (18) feet in length. In order to assure that the garage located on each Townhome Lot shall have adequate space for the parking of motor vehicles, no garage on a Townhome Lot shall be used for the storage of excessive personal items that would preclude the parking within the garage of motor vehicles. This restriction and prohibition is intended to prevent an Owner of a Townhome Lot from utilizing the Owner's garage for storage to the degree that precludes the parking within the Owner's garage of the number of motor vehicles that could have been reasonably parked in such garage as originally designed and constructed. The Board of Directors shall have the right to levy an Individual Assessment, in the nature of a fine, against Owners of Townhome Lots found to be in violation of this provision.

4.2.23.4 The Board has the right, without notice, to have any vehicle which is parked, kept, maintained, constructed, reconstructed, or repaired in violation of Section 4.2.23 towed away at the sole cost and expense of the owner of the vehicle. Any expense incurred by the Association in connection with the towing of any vehicle must be paid by the owner of the vehicle to the Association upon demand. If the vehicle is owned by an Owner or Resident, any amounts payable to the Association will be secured by the Assessment Lien against that Owner's or Resident's Lot, Unit or Parcel, and the Association may enforce collection of those amounts in the same manner provided for in this Declaration for the collection of Assessments.

4.2.24 Roofs. To the full extent permissible under the Governing Documents or under state and federal law, no apparatus, structure, or object shall be placed on the roof of a Dwelling Unit or other Improvement without the prior written consent of the Board. Any apparatus, structure, or object approved by the Board for placement on the roof of a Dwelling Unit shall be mounted on the rear of the roof so that such apparatus or object is below the highest ridge on the roof and is not Visible From Neighboring Property and is not visible from any street by a Person standing anywhere on the curb or street in front of the Dwelling Unit or other Improvement or at the rear or sides of Lots, Units or Parcels backing upon any open space or public right of way. No air conditioning units or evaporative coolers extending from windows or protruding from roofs are permitted, except as installed by Declarant or as approved by the Board.

4.2.25 Drainage. No Owner or Resident shall interfere with or obstruct the drainage pattern over his or her Lot, Unit or Parcel from or to any other Lot, Unit or Parcel as that pattern may be established by Declarant, a Merchant Builder, or any other

developer or as described in Section 3.4 hereof with respect to Drainage Control Features.

4.2.26 Garage Openings. All garages shall be fully enclosed. No carports shall be permitted. No garage door shall be open except when necessary for access to and from the garage, or for cleaning, maintenance, or repair.

4.2.27 Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other Resident or occupant of a Lot, Unit or Parcel, any member of the Board or any authorized representative of the Board, shall have the right to enter upon and inspect any Lot, Unit or Parcel and the Improvements thereon, except for the interior portions of any completed Dwelling Unit, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

4.2.28 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant or by Merchant Builders or their duly authorized agents, of structures, Improvements, or signs necessary or convenient to the development or sale of the Property, if those structures, Improvements, or signs have been approved by the Board.

4.2.29 Health, Safety and Welfare. In the event any uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety, or welfare of Owners and Residents, the Board may make rules restricting or regulating their presence within South Hills Pod 2 as part of the South Hills Pod 2 Rules.

4.2.30 Model Units. The provisions of this Declaration which, in certain instances, prohibit non-Residential use of Lots, Units and Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model Dwelling Units by persons engaged in the construction of Dwelling Units within South Hills Pod 2 and parking incidental to the visiting of such model Dwelling Units so long as the location of such model Dwelling Units and the opening and closing hours are approved by the Board and so long as the construction, operation and maintenance of such model Dwelling Units otherwise comply with all of the provisions of this Declaration. The Board may also permit areas within South Hills Pod 2 to be used for parking in connection with the showing of model Dwelling Units so long as such parking and parking areas are in compliance with the ordinances of the governing Municipal Authority and with the Governing Documents. Any Dwelling Units constructed as model Dwelling Units shall cease to be used as model Dwelling Units at any time the Owner thereof is not actively engaged in the construction and sale of Dwelling Units within South Hills Pod 2, and no Dwelling Unit shall be used as a model Dwelling Unit for the sale of Dwelling Units not located at South Hills Pod 2.

4.2.31 Incidental Uses. The Declarant or the Board may approve uses of property within a Land Use Classification which are incidental to the full enjoyment by the Owners of the property within that Land Use Classification. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use,

as the Declarant or the Board may wish to impose, in its sole discretion, for the benefit of South Hills Pod 2 as a whole.

4.2.32 Violations of Law. Any activity which violates local, state, or federal laws or regulations is prohibited; however, the Board shall have no obligation to take enforcement action in the event of a violation.

4.2.33 Easement for Development. Declarant hereby reserves an easement throughout the Property for the purpose of completing all Improvements contemplated by this Declaration. Declarant shall be entitled to use all Community Areas, roadways, and other facilities located in, on, or under the Property in order to make Improvements thereto and to continue with the development of the Property.

4.2.34 Sales and Management Offices. Declarant hereby reserves the right to maintain sales offices, management offices, and signs advertising South Hills Pod 2 and models in any areas of South Hills Pod 2 owned by the Declarant. Declarant may relocate sales offices, management offices and models to other locations within South Hills Pod 2 (such as the clubhouses) at any time. Further, the Association may maintain administrative and management offices in the clubhouses located within South Hills Pod 2.

4.2.35 Tanks. Unless otherwise approved by Declarant or the Board, no tanks of any kind (including tanks for the storage of fuel) shall be erected, placed, or maintained on any Lot, Unit or Parcel, unless such tanks are buried underground. Nothing herein shall be deemed to prohibit use or storage upon any Lot, Unit or Parcel of an above ground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace or a spa or "hot tub," so long as any such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Governing Documents or as otherwise approved by the Board, so as not to be Visible From Neighboring Property. Notwithstanding the foregoing, Declarant or a Merchant Builder shall have the right to use above-ground tanks during the course of construction and related activities in the development of South Hills Pod 2 as otherwise authorized by applicable Municipal Authorities.

4.2.36 Shared Components of a Building. Owners of Units in the same Building shall each have the right to the use and enjoyment of the Shared Components of a Building, provided that such use does not interfere with the use and enjoyment thereof by any other Owner. To the extent not covered by the insurance required to be maintained by the Association, in the event that any portion of the Shared Components of a Building is damaged or destroyed through the act of an Owner or resident or any of their guests, it shall be the obligation of such Owner to rebuild and repair the Shared Components of a Building without cost to the Association or the adjoining Owner or Owners.

4.3 Covenants Applicable to Property within Residential Use Land Use Classifications. The following covenants, conditions, restrictions, and reservations of rights shall

apply only to Dwelling Units and the Owners and Residents thereof lying within a Residential Use Land Use Classification:

4.3.1 General. Property classified as a Residential Use Land Use Classification may be used only for the construction and occupancy of Dwelling Units together with common recreational facilities and other Community Areas. All property within such Land Use Classification shall be used, improved and devoted exclusively to Residential Use.

4.3.2 Business Activities. Property classified for the purposes set forth in Section 4.3.1 shall not be used for any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or Resident may conduct business activities within the Dwelling Unit so long as: (a) the Owner or Resident obtains all necessary licenses and permits; (b) the activity conforms to applicable laws, including all zoning requirements for South Hills Pod 2; (c) the activity is consistent with the Residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Residents of the Property, as may be determined in the sole discretion of the Board; (d) the Owner or Resident obtains the prior written consent of the Board; and (e) the Owner or Resident complies with restrictions and notification requirements pertaining to business activities within the Project set forth in the Development Agreement. This Section 4.3.2 shall not apply to any activity conducted by Declarant or a Merchant Builder approved by Declarant with respect to its development and sale of the Lots, Units or Parcels or its use of any Dwelling Units which it owns within South Hills Pod 2.

4.3.3 Energy Conservation Equipment.

4.3.3.1 To the fullest extent permissible under state and federal law, no solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed by an Owner on any Building or Dwelling Unit located on a Single Family without the prior written consent of the Board. Solar energy collector panels, attendant hardware, and other energy conservation equipment must be an integral and harmonious part of the architectural design of a structure, as determined by the Board in its sole discretion.

4.3.3.2 To the full extent permissible under state and federal law, no solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed by an Owner on any Building or Dwelling Unit located on a Townhome Lot.

4.4 Covenants Applicable to Townhome Lots. The following covenants, conditions, restrictions, and reservations of rights shall apply only to the Dwelling Units and the Owners and Residents thereof within a Neighborhood designated for development as Townhome Lots. All Townhome Lots and the Common Areas within the Neighborhoods identified on any Plat pertaining to such Lots shall be maintained by the Owners and the Association as follows:

4.4.1 Area of Common Responsibility. The Association shall maintain, repair and replace, as needed from time to time, all roofs, foundations, footings, columns, girders, beams and exterior walls and surfaces of all Buildings, the Common Areas, and certain Improvements constructed or installed thereon and in, on, or about the Units, private streets within such portion of the Project, open parking spaces, street lighting, common sidewalks, storm drain inlets, storm water lines, detention basins for storm water drainage, drainage swales, the landscaped portions of the Community Areas identified on the Plat or as otherwise specified in Section 4.2.5 above, curbs and gutters, pavement and central utility systems for power, light and water. The Association shall be responsible for maintenance and clean out of sewer laterals of the main sewer line. The Association shall be responsible for the maintenance and repair of the master water metering equipment. The foregoing items are referred to as the "Area of Common Responsibility."

4.4.2 Area of Personal Responsibility. Each Owner shall maintain, repair and replace all interior spaces and improvements constituting a part of such Owner's Unit. The following items are expressly included in the Area of Personal Responsibility: all interior walls and spaces of any Unit and its appurtenant garage, all individual utility services such as power, light, gas, hot and cold water, heating, refrigeration and air conditioning systems, fixtures, windows, doors, patios, balconies and decks, window wells, garage doors and garage door systems. If an item is not included in the foregoing description of Area of Common Responsibility and it is located within a Unit, then it shall be the responsibility of the Owner, unless otherwise determined in writing by the Board ("Area of Personal Responsibility").

4.4.3 Changes to Areas of Personal or Common Responsibility. The Board may, in its sole discretion, add items to or subtract items from the Areas of Personal or Common Responsibility within a particular Neighborhood upon at least thirty (30) days prior written notice to the Owners within such Neighborhood.

4.4.4 Draperies and Window Coverings. The color of all draperies, window coverings and window treatments in all Dwelling Units located on Townhome Lots shall, at all times, be off-white or alabaster as specified by Declarant (or by the Board following the expiration of the Period of Declarant Control), and the color of such draperies, window coverings and window treatments shall not be altered, nor shall such draperies, window coverings or window treatments be removed, without the written authorization of Declarant (or the Board after the expiration of the Period of Declarant Control).

4.4.5 Snow and Ice Accumulations. The Association shall cause to be taken reasonable steps to clear ice and snow accumulations only from the public sidewalks, trails, and walking paths within the Common Areas. The Association shall have no duty or responsibility to clear ice and snow accumulations from driveways and sidewalks connecting to a Unit located on a Townhome Lot. The Board shall have the right to designate certain areas within the Project that are to be reserved for snow storage during the period of time beginning on November 1 and continuing through the subsequent March 1. During such period of time, there shall be no overnight parking within such designated snow storage areas. Each Owner shall be responsible to clear ice and snow accumulations from all locations on such Owner's Lot, including but not limited to from

all driveways and sidewalks located on such Lot and from all walkways (and steps) to the Dwelling Unit's entrances and from all walkways and steps to the sides and to the rear of the Dwelling Unit, and also from all decks, patios, and landings located on such Lot

4.4.6 Garbage Removal. Each Owner shall be responsible to remove all garbage, debris, and refuse from his Unit, and deposit it in an approved trash container. Trash containers shall be kept out of sight and inside the garage except on days when the trash is collected within the Project.

4.4.7 Utilities. The Association shall arrange for the provision by appropriate utility providers of any utility services not separately metered and billed to the individual Owners by the provider. The costs for all such utility services arranged by the Association shall be a Community Expense.

4.5 Alterations to the Common Areas. Anything to the contrary notwithstanding and until the occurrence of the Events, the Declarant may make changes to the Common Areas without the consent of either the Association or the Board; provided, however, no Owner or resident may make any structural alterations, modifications, changes, or improvements to the Common Areas, including but not limited to any additions, extensions, enclosures, fencing, decks, patios, walkways, structures or sheds not shown on the approved plans and specifications, without the prior consent of the Board.

4.6 Variances. Subject to the provisions of the Governing Documents, the Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in Article IV of this Declaration or in the other Governing Documents, if the Board determines in its discretion (a) either (i) that a restriction would create an unreasonable hardship or burden on an Owner which hardship is not self-imposed by such Owner, or (ii) that a change of circumstances since the date this Declaration is Recorded has rendered such restriction obsolete; and (b) that the activity permitted under the variance will not have any substantial adverse effect on the Owners and Residents of South Hills Pod 2 and is consistent with the high quality of life intended for Owners and Residents of South Hills Pod 2.

ARTICLE V ORGANIZATION OF ASSOCIATION

5.1 Formation of Association. The Association shall be a Utah nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of at least three (3) directors and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws, as the same may be amended from time to time. The initial Board shall be composed of three (3) directors appointed by Declarant, which initial Board shall be controlled by Declarant until the expiration of the Period of Declarant Control. At the first meeting after the expiration of the Period of Declarant Control, three members of the Board shall be elected by the Owners. Two members of the Board shall be

elected for two-year terms and one member of the Board shall be elected for a one-year term. Thereafter, all members of the Board shall be elected for two-year terms. The Board may also appoint various committees and may appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the Manager. The Board's responsibilities shall include, but shall not be limited to, the following:

- 5.2.1 administration;
- 5.2.2 preparing and administering an operational Budget;
- 5.2.3 establishing and administering an adequate Reserve Fund;
- 5.2.4 scheduling and conducting the annual meeting and other meetings of the Members;
- 5.2.5 collecting and enforcing the Assessments;
- 5.2.6 accounting functions and maintaining records;
- 5.2.7 promulgation and enforcement of the South Hills Pod 2 Rules;
- 5.2.8 maintenance of the Community Areas; and
- 5.2.9 all the other duties imposed upon the Board pursuant to the Governing Documents, including the enforcement thereof.

5.3 South Hills Pod 2 Rules. By a majority vote, the Board may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "South Hills Pod 2 Rules." The South Hills Pod 2 Rules may restrict and govern the use of any area of South Hills Pod 2 by any Member or Resident, by the family of such Member, or by any invitee, licensee, or tenant of such Member; provided, however, that the South Hills Pod 2 Rules shall not discriminate among Members and shall be consistent with the rest of the Governing Documents.

5.3.1 Notwithstanding any provision in this Declaration to the contrary, no rule, regulation, or action of the Association, Board, or Manager shall unreasonably impede Declarant's right to develop the Property.

5.3.2 ALL OWNERS ARE GIVEN NOTICE THAT THE USE OF THEIR LOT, UNIT OR PARCEL AND THE COMMUNITY AREAS IS LIMITED BY THE GOVERNING DOCUMENTS AS AMENDED, EXPANDED, AND OTHERWISE MODIFIED FROM TIME TO TIME. EACH OWNER, BY ACCEPTANCE OF A DEED, ACKNOWLEDGES AND AGREES THAT THE USE AND ENJOYMENT AND MARKETABILITY OF HIS OR HER LOT, UNIT OR PARCEL CAN BE AFFECTED BY THIS PROVISION AND THAT THE GOVERNING DOCUMENTS MAY CHANGE FROM TIME TO TIME. ALL PURCHASERS OF LOTS, UNITS OR PARCELS ARE ON NOTICE THAT DECLARANT AND/OR THE BOARD MAY

ADOPT CHANGES TO THE GOVERNING DOCUMENTS FROM TIME TO TIME. COPIES OF THE GOVERNING DOCUMENTS MAY BE OBTAINED FROM THE ASSOCIATION.

5.4 Personal Liability. No member of the Board of the Association, no member of any committee of the Association, no officer of the Association, and no Manager or other employee of the Association shall be personally liable to any Member or to any other person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the Manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section 5.4 shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

5.5 Professional Management. The Association shall carry out through the Manager those of its functions which are properly subject to delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing South Hills Pod 2 for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself. Any such management agreement may be terminated by the Declarant without cause at any time during the Period of Declarant Control. In addition, any such management agreement may be terminated by the Association without cause upon giving reasonable notice at any time after the expiration of the Period of Declarant Control.

5.6 Implied Rights. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Members. The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Community Areas, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty of the Board to institute litigation on behalf of or in the name of the Association or its Members. In exercising the Association's rights and powers, making decisions on behalf of the Association, and conducting the Association's affairs, members of the Board shall be subject to, and their actions shall be judged in accordance with, the standards set forth in the Articles and Bylaws. All final decisions of the Board shall be nonappealable.

ARTICLE VI MEMBERSHIPS AND VOTING

6.1 Owners of Lots, Units and Parcels. Every Person who is the Owner of Assessable Property (whether a Lot, Unit or a Parcel) shall be subject to Assessments and shall be a Member of the Association (provided, however, Declarant as a Class B Member shall be and shall remain a Member of the Association at all times with voting rights, notwithstanding its temporary

exemption status from required Assessments payments). Each such Owner shall have the following number of Memberships:

6.1.1 One Membership for each Lot or Unit owned by the Member.

6.1.2 In the case of the Owner of a Parcel designated for development as Residential Use, one Membership for each Lot or Unit. If a Plat or other instrument creating Lots or Units is Recorded covering all or part of the area within such Parcel, the Parcel shall be reduced in size by the area so platted, and the number of Memberships held by the Owner, as the Owner of the portion of the Parcel so platted, shall be the number of Lots or Units on the Recorded Plat. All Memberships attributable to the Parcel shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been platted or otherwise dedicated to the public and no unplatted area remains within the Parcel.

6.1.3 No Memberships shall be allocated to Community Areas, Exempt Property (except as otherwise provided regarding Declarant), or property utilized for General Public Uses.

6.1.4 Each such Membership shall be appurtenant to and may not be separated from ownership of the Lot, Unit or Parcel to which the Membership is attributable. As provided in this Section 6.1. there shall be only one Membership for each Lot or for each Unit, which Memberships shall be shared by any joint Owners of, or Owners of undivided interests in a Lot, Unit or Parcel.

6.2 Declarant. The Declarant shall be a Member of the Association for so long as the Declarant holds a Class B Membership pursuant to Section 6.3 below or for so long as Declarant owns any Lots, Units or Parcels within South Hills Pod 2.

6.3 Voting.

6.3.1 The Class A Memberships shall be all Memberships other than the Class B Memberships held by the Declarant. Each Owner shall be entitled to one (1) vote for each Class A Membership held by the Owner, subject to the authority of the Board to suspend the voting rights of the Owner for violations of this Declaration in accordance with the provisions hereof. Notwithstanding the foregoing, no vote shall be cast or counted for any Class A Membership not subject to Assessment.

6.3.2 The Class B Memberships shall be held only by the Declarant and any successor of Declarant who takes title to any Lot, Unit or Parcel from Declarant for the purpose of development and sale and who is designated to be the owner of a Class B Membership in a Recorded instrument executed by Declarant. The Declarant shall initially be entitled to ten (10) votes for each Lot or Unit owned by Declarant. The Class B Memberships shall cease and shall be converted to Class A Memberships on the basis of the number of Lots, Units and Parcels then owned by the Declarant, on the happening of the first of the following events (herein referred to as the "Event" or "Events"):

6.3.2.1 Four (4) months after all of the Lots, Units and/or the Parcels owned and developed by Declarant within South Hills Pod 2 and on any of the Additional Land that may be subjected to this Declaration and that may become part of South Hills Pod 2, pursuant to Article XIX hereof have been sold; or

6.3.2.2 Seven (7) years after Declarant and any successor in interest to the rights of Declarant as the Declarant under this Declaration has ceased to offer Lots and/or Dwelling Units for sale in the ordinary course of business; or

6.3.2.3 When, in its sole discretion, Declarant so determines. If and when Declarant elects to relinquish control of the Association, Declarant shall send written notice of such relinquishment to the Board. The notice shall state the effective date of the relinquishment, which date shall be the effective date of the Event.

6.3.3 From and after the happening of such Events, whichever occurs first, (i) the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot, Unit and/or Parcel owned, or (ii) the Board shall call an annual or special meeting, as applicable, in the manner described in the Bylaws to (A) advise the Owners of the termination of the Class B Member status, and (B) elect a new Board in accordance with Section 5.2 above. The "Period of Declarant Control" under this Declaration shall commence upon the Recording of this Declaration and shall terminate upon the happening of an Event described in Sections 6.3.2.1, 6.3.2.2 or 6.3.2.3.

6.3.4 During the Period of Declarant Control, Declarant, as holder of the right to vote the Memberships owned by Declarant, shall have the sole right to appoint all of the Directors as provided in this Declaration.

6.3.5 Except as otherwise expressly provided in this Declaration or in any of the other Governing Documents, any issue put to a vote by ballot without a meeting or at a duly called meeting of the Members at which a quorum is present shall be decided by a simple majority of all votes represented in person or by valid proxy at such meeting.

6.3.6 Declarant shall have the right to delegate certain of its rights and responsibilities under this Declaration (including, but not limited to, management of the Association) to the Owners without terminating the Period of Declarant of Control. If and when Declarant elects to delegate rights and responsibilities to the Owners, Declarant shall send written notice of such delegation to the Board. Notwithstanding anything herein to the contrary, the termination of the Period of Declarant Control shall only occur upon the happening of an Event.

6.4 Neighborhoods. Every Lot, Unit and Parcel shall be located within a Neighborhood (as designated by Declarant or by the Board following the expiration of the Period of Declarant Control). Each Supplemental Declaration recorded to subject any portion of the Additional Land to this Declaration shall initially assign the portion of the Additional Land

described therein to a specific Neighborhood by name, which Neighborhood may be then existing or newly created. Declarant (or the Board following the expiration of the Period of Declarant Control) may unilaterally amend this Declaration or any amendment to this Declaration to redesignate Neighborhood boundaries, provided that all of the Lots within a specified Neighborhood shall be the same type of Lot, meaning either all Single Family Lots, and/or Townhome Lots.

6.5 Membership Rights. Each Member shall have the rights, duties and obligations set forth in this Declaration and such other rights, duties and obligations as are set forth in the Governing Documents, as the same may be amended from time to time. In any situation in which a Member is entitled personally to exercise the vote appurtenant to such Member's Lot or Unit and there is more than one Owner of a particular Lot or Unit, the vote for such Lot or Unit shall be exercised as such co-Owners determine among themselves and as they then advise the Board. Absent such advice, the Lot's or Unit's vote shall be suspended if more than one Person seeks to exercise it.

6.6 Transfer of Membership. The rights and obligations of the Owner of a Membership in the Association shall not be assigned, transferred, pledged, designated, conveyed, or alienated in any way, except upon the transfer of ownership to an Owner's Lot, Unit or Parcel and then only to the transferee of ownership to such Lot, Unit or Parcel. A transfer of ownership to a Lot, Unit or Parcel may be effected by Deed, intestate succession, testamentary disposition, foreclosure of a Mortgage, or such other legal process as is now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any transfer of ownership to a Lot, Unit or Parcel shall automatically operate to transfer the Membership(s) appurtenant to said Lot, Unit or Parcel to the new Owner thereof.

ARTICLE VII COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

7.1 Creation of Lien and Personal Obligation of Assessments. Declarant, for each Lot, Unit and Parcel hereafter established within South Hills Pod 2, hereby covenants and agrees, and each Owner by acceptance of a Deed or other conveyance of a Lot, Unit or Parcel (whether or not it shall be so expressed in such Deed or conveyance) is deemed to covenant and agree, to pay to the Association Assessments as provided in this Declaration. Notwithstanding the foregoing sentence and notwithstanding any other provisions in this Declaration to the contrary, Exempt Property shall not be subject to Assessments assessed by the Association. All Assessments shall be established and collected as hereinafter provided. No diminution or abatement of Assessments nor any decrease, offset or deduction shall be claimed or allowed by reason of any alleged failure of the Association or the Board to take some action or to perform some function required to be taken or performed by the Association or the Board under this Declaration or any of the Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association or the Board to comply with any law, ordinance, or with any order or directive of any Municipal Authority or other governmental authority. The obligation to pay Assessments shall be deemed to be a separate and independent covenant on the part of each Owner. The Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot, Unit or Parcel and shall be a continuing servitude and lien upon the Lot, Unit

or Parcel against which each such Assessment is made, except that Exempt Property shall not be subject to the Assessments. The Assessments, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of the Lot, Unit or Parcel at the time when the Assessments fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner, unless expressly assumed by them. However, the lien upon the applicable Lot, Unit or Parcel for any unpaid Assessments existing at the time of any transfer shall continue, notwithstanding such transfer, until the Assessments have been paid in full.

7.2 Property Assessable Upon Recording of Deed. ALL OWNERS ARE GIVEN NOTICE THAT THEIR LOT(S), UNIT(S) AND/OR PARCEL(S) SHALL BE SUBJECT TO FULL ASSESSMENT IN ACCORDANCE WITH THE TERMS OF THIS DECLARATION UPON ACCEPTANCE OF A DEED, REGARDLESS OF WHETHER OR NOT SUCH LOT(S), UNIT(S) AND/OR PARCEL(S) HAVE BEEN IMPROVED, EXCEPT AS OTHERWISE PROVIDED IN THIS DECLARATION. At the time a Deed is Recorded conveying a Lot, Unit or Parcel to an Owner, such Lot or Unit shall thereupon be subject to the Assessments, and the Board shall levy such Assessments upon the Owner of the Lot, Unit or Parcel within 30 days after the Recording of such Deed. If applicable, the Assessments shall be prorated for the remaining portion of the assessment year. In any dispute, question or controversy regarding whether property is Assessable Property or Exempt Property, the Board shall have the exclusive power and authority to decide such dispute, question or controversy, and any decision regarding the foregoing shall be conclusive and binding on all interested parties. All final decisions of the Board regarding the foregoing shall be nonappealable.

7.3 Assessments. Assessments shall be computed and assessed against all Lots, Units and Parcels (other than Exempt Property) as follows:

7.3.1 Purpose of Assessments. The Assessments provided for herein are assessed and collected by the Board for the purpose of obtaining from the Owners the funds necessary to enable the Association to pay the Expenses incurred by the Association in the performance of the responsibilities and duties of the Association as set forth in the Governing Documents.

7.3.2 Creation of Assessments.

7.3.2.1 The Community Areas Assessments shall pay for the Community Expenses as may be from time to time specifically authorized by the Board.

7.3.2.2 The Townhome Assessments shall pay for the Townhome Expenses as may be from time to time specifically authorized by the Board.

7.3.3 Budget. At least annually the Board shall prepare and adopt a budget for the Association (the "Budget"):

7.3.3.1 Itemization. The Budget shall set forth an itemization of the anticipated Expenses for the 12-month calendar year, commencing with the following January 1. The Budget shall include (A) a sub-budget for the

Community Expenses, which sub-budget shall be subject to the disapproval of the Owners of all Lots; and (B) a sub-budget for the Townhome Expenses, which sub-budget shall be subject to the disapproval of the Owners of Townhome Lots (but not the Owners of the Single Family Lots).

7.3.3.2 Basis. The Budget shall be based upon advance estimates of cash requirements by the Board to provide for the payment of all estimated Expenses, including separate sub-budget estimates for the Community Expenses and the Townhome Expenses, which estimates shall be based upon the beneficial uses to be available to and derived by: (A) the Owners of all of the Lots, and (B) only the Owners of Townhome Lots, as determined by the Board, which determination of beneficial uses to be available to and derived by the Owners of the various categories of Lots shall be binding upon all of the Owners of all of the Lots and which determination of beneficial uses to be available to and derived by the Owners of the various categories of Lots shall not be subject to challenge or appeal, and which estimates shall include but are not limited to expenses of management, grounds maintenance, taxes and special assessments, premiums for all insurance which the Board is required or permitted to maintain, common lighting and heating, water charges, repairs and maintenance of specified areas and replacement of those elements of the specified areas that must be replaced on a periodic basis, wages for Association employees, legal and accounting assessments, any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration (collectively referred to herein as "Expenses").

7.3.4 Disapproval of the Budget.

7.3.4.1 The Board shall present the adopted Budget to the Members at a meeting of the Members called for the purpose of the presentation of the Budget, which may be the annual meeting of the Members or a special meeting of the Members called for that purpose. Each category of the Budget shall be deemed approved and effective unless, within 45 days after the date of the meeting at which the Board presented the Budget to the Members, there is a vote of disapproval by at least 51% of all the allocated voting interests of the Members entitled to vote on such category of the Budget, which vote is taken at a special meeting called for that purpose by the Members pursuant to the terms of this Declaration, the Articles or the Bylaws.

7.3.4.2 The portion of the Budget applicable to the Community Expenses shall be subject to the disapproval of all Owners in accordance with the provisions of Section 7.3.4.1 above. The portion of the Budget applicable only to the Townhome Expenses shall be subject to the disapproval of the Owners of all Townhome Lots in accordance with the provisions of Section 7.3.4.1 above.

7.3.4.3 Notwithstanding the foregoing, if the Members disapprove all or a portion of the Budget, or if the Board fails to adopt all or a portion of the Budget for any category of the Expenses, for the succeeding year, then and until such time as a new Budget for any category of the Expenses, shall have been adopted by the Board, the Budget last adopted by the Board (and not disapproved by the applicable Members) shall continue as the Budget for any category of the Expenses until the Board adopts another Budget for such category of Expenses, which Budget is not disapproved by a Majority of the Members affected thereby.

7.3.4.4 Notwithstanding anything in this Section 7.3 to the contrary, Members shall have no right to disapprove a Budget during the Period of Declarant Control.

7.3.5 Uniform Rate of Assessments. The annual Assessments within each category of the Assessments shall be allocated equally to the Owners who are responsible for the payment of such category of Assessments, as applicable, and may be collected on an annual, semi-annual, quarterly or monthly basis, as determined by the Board. The dates and manner of payment shall be determined by the Board. The Board has the sole authority and discretion to determine how and when the Assessments are to be paid.

7.3.6 Personal Obligation of Owner. Owners are personally liable to pay all Assessments. Provided, however, no Mortgagee (but not the seller under an executory contract of sale such as a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (i) the Owner of both the legal and equitable interest in any Lot; (ii) the owner of record in the Official Records; and (iii) both the buyer and seller under any executory sales contract or other similar instrument.

7.3.7 Acceleration. The Board may, at its option and in its sole discretion, elect to accelerate the entire annual Assessments for delinquent Owners. If, however, the annual Assessments are accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

7.3.8 Statement of Assessments Due. Upon written request, the Board shall furnish to any Owner a statement of any Assessments due, if any, on such Owner's Lot. The Association may require the advance payment of a processing charge not to exceed \$25.00 for the issuance of such certificate.

7.3.9 Termination of Delinquent Owner's Rights. Provided that the Board complies with the requirements of Section 57-8a-309 of the Utah Code, as such section may be amended, supplemented or replaced from time to time, the Board may terminate an Owner's right to receive a utility service for which the Owner pays as an Expense through such Owner's Assessments and also an Owner's right of access to and use of any

recreational facilities within South Hills Pod 2, if an Owner is delinquent in the payment of any Assessments payable by such Owner.

7.3.10 Suspension of Right to Vote for Non-Payment. At the discretion of the Board, the right of an Owner to vote on issues concerning the Association may be suspended, if the Owner is delinquent in the payment of any Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

7.3.11 Failure to Assess. The omission or failure of the Board to fix the Assessments amounts or rates or to deliver or mail to each Owner an Assessments notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay any Assessments. In such event, each Owner shall continue to pay annual Assessments on the same basis as for the last year for which Assessments were made until new annual Assessments are made, at which time any shortfalls in collections may be assessed retroactively by the Board.

7.3.12 Reserve Fund. The Board shall cause the Association to establish and maintain a Reserve Fund to cover the cost of repairing, replacing or restoring Improvements within the Community Areas that have a useful life of three (3) years or more and a remaining useful life of less than thirty (30) years, if the cost of repairing, replacing or restoring such Improvements cannot reasonably be funded from the Budget or other funds of the Association (the "Reserve Fund"). Pursuant to Section 57-8a-211 of the Utah Code, the Board shall cause a Reserve Fund analysis to be conducted on a periodic basis. After the initial Reserve Fund analysis is conducted, the Board shall review and, if necessary, update a previously conducted Reserve Fund analysis on a periodic basis. The Board may conduct a Reserve Fund analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the Reserve Fund analysis. The Board may not use money in the Reserve Fund: (a) for daily maintenance expenses, unless a Majority of the Members vote to approve the use of the Reserve Fund money for that purpose; or (b) for any purpose other than the purpose for which the Reserve Fund was established. The Board shall maintain the Reserve Fund separately from other funds of the Association. The foregoing may not be construed to limit the Board from prudently investing money in the Reserve Fund, subject to any investment constraints imposed by the Articles or the Bylaws. The Association shall annually provide Members a summary of the most recent Reserve Fund analysis or update and shall provide a copy of the complete Reserve Fund analysis or update to any Member who requests a copy of the same. In formulating the Budget each year, the Board shall include a Reserve Fund line item in an amount the Board determines, based on the Reserve Fund analysis to be prudent. Within forty-five (45) days after the day on which the Association adopts its annual Budget, the Members may veto the Reserve Fund line item by a fifty-one percent (51%) vote of the allocated voting interests of the Members in a special meeting called by the Members for the purpose of voting whether to veto a Reserve Fund line item. If the Members veto a Reserve Fund line item as provided in the foregoing sentence, and if a Reserve Fund line item exists in the previously approved Budget of the Association that was not vetoed, the Association shall fund the Reserve Fund in accordance with the prior Reserve Fund line item that was not vetoed.

7.4 Special Assessments. In addition to the other Assessments authorized herein, the Association may levy special assessments (“Special Assessments”) applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of the Improvement upon Association Land or other Community Areas, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided that, except as provided in Section 7.4.1, any such special assessment shall have the ascent of a majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for such purpose or by written approval of such Members. The provisions of this Section 7.4 are not intended to preclude or limit the assessment, collection or use of Assessments, other than Special Assessments. Special Assessments may be collected as specified by the Board, unless otherwise determined by the majority vote of the Members of the Association approving the Special Assessment.

7.4.1 Board Based Assessment. So long as the total Special Assessment does not exceed ten percent (10%) of the total of all budgeted Expenses in any one fiscal year (the “Special Assessment Limit”), the Board may impose the Special Assessment upon the Owners of all of the Lots within the Project, or upon all of the Owners of Single Family Lots and/or Townhome Lots, as determined by the Board, without the approval of the Members to be assessed a Special Assessment.

7.4.2 Association Approval. Any Special Assessment which would exceed the Special Assessment Limit shall be effective only if approved by a Majority of the Members to be assessed a Special Assessment. The Board in its discretion may allow any Special Assessment to be paid in installments.

7.5 Individual Assessments. “Individual Assessments” shall be levied by the Board against a Lot and its Owner to reimburse the Association for:

- (a) fines levied and costs incurred in enforcing the Governing Documents;
- (b) costs associated with the maintenance, repair or replacement of matters for which the Owner is responsible;
- (c) any other charge, fee, dues, expense, or cost designated as an Individual Assessment in the Governing Documents; and
- (d) attorneys’ fees, interest, and other charges relating thereto as provided in this Declaration.

7.6 Reinvestment Fees. Subject to the terms and conditions of Section 7.6.2 below, the Board shall have the right to establish from time to time (but shall not be required to establish) a Reinvestment Fee assessment in accordance with this Section 7.6. If established by the Board, the following terms and conditions shall govern Reinvestment Fees.

7.6.1 Upon the occurrence of any sale, transfer or conveyance (as applicable, a “Transfer”) of any Lot or Unit, the party receiving title to the Lot or Unit (the “Transferee”) shall pay to the Association a “Reinvestment Fee” in an amount to be established by the Board from time to time, provided that in no event shall the

Reinvestment Fee exceed the lesser of (a) 0.5% of the value of the applicable Lot or Unit, or (b) the maximum rate permitted by applicable law.

7.6.2 Notwithstanding anything to the contrary contained in this Section 7.6, the Association shall not levy or collect a Reinvestment Fee for any of the Transfers described below:

7.6.2.1 Any Transfer to (A) the United States or any agency or instrumentality thereof, or (B) the State of Utah or any county, city, municipality, district, or other political subdivision of the State of Utah.

7.6.2.2 Any Transfer to the Association or its successors.

7.6.2.3 Any Transfer, whether outright or in trust, that is for the benefit of the Transferor or the Transferor's relatives, but only if the consideration for the Transfer is no greater than ten percent (10%) of the value of the Lot transferred.

7.6.2.4 Any Transfer or change of interest by reason of death, whether provided for in a will, trust, or decree of distribution, except for a sale of a site by the estate of an Owner.

7.6.2.5 Any Transfer made by a Person owning a Lot or portion thereof to a legal entity or trust owned or controlled by the Transferor.

7.6.2.6 Any Transfer made solely for the purpose of confirming, correcting, modifying or supplementing a Transfer previously recorded, making minor boundary adjustments, removing title defects or encumbrances affecting the title to such Lot or Unit, or granting easements, rights of way or licenses, and any exchange of Lots or Units between Declarant and any original purchaser from Declarant of the one or more Lots or Units being Transferred to Declarant in such exchange.

7.6.2.7 Any lease of any Lot or Unit or portion thereof for a period of less than thirty (30) years.

7.6.2.8 Any Transfer to secure a debt or other obligation or to release any Lot or Unit that is encumbered as security for a debt or other obligation.

7.6.2.9 Any Transfer in connection with (A) the foreclosure of a deed of trust or mortgage, or (B) a deed given in lieu of foreclosure.

7.7 Collection of Assessments. All Assessments must be paid in a timely manner and shall be collected as follows:

7.7.1 Time is of the Essence. Time is of the essence, and all Assessments shall be paid promptly when due.

7.7.2 Delinquent Assessments. Any Assessments which are not paid when due are delinquent ("Delinquent Assessments") and shall constitute a lien against the Lot or Unit affected, which lien shall attach automatically, regardless of whether a notice of lien is recorded.

7.7.3 Late Assessments and Interest. Any Assessments that remains unpaid for a period of more than ten days shall incur a late charge of \$25.00 or five percent (5%) of the delinquent amount, whichever is greater. Interest at the rate of 1.5% per month shall accrue on all delinquent amounts. The Board may, in its sole discretion, change the amount of the late fee and/or the interest rate that accrues on delinquent amounts and/or waive delinquent amounts and accrued interest, but the Board is not required to do so.

7.7.4 Notice of Delinquency. The Association shall give a notice of delinquency to any Owner who has not paid his Assessments in a timely manner.

7.7.5 Notice of Lien. If any Assessment in a notice of lien evidencing the unpaid amounts, accrued interest, late charges, attorneys' fees, the cost of a foreclosure or abstractor's report, and any other additional charges permitted by law should be Recorded, then the lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. It may be executed by the Association's attorney, manager, a member of the Board or any other designated agent.

7.7.6 Foreclosure of Lien and/or Collection Action. If any Assessments remain unpaid, the Association may, as determined by the Board, institute suit to collect the amounts due and/or to foreclose the lien.

7.7.7 Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of the Assessment as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, deeds of trust, or encumbrances may be foreclosed.

7.7.8 No Waiver. No Owner may waive or otherwise exempt himself or herself or itself from liability for the Assessments provided for herein by the non-use of Community Areas or by the abandonment of such Owner's Lot or Unit.

7.7.9 Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or to perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with an order or directive of any municipal or other governmental authority. The obligation to pay Assessments shall be a separate and independent covenant on the part of each Owner.

7.7.10 Application of Payments. All payments shall be applied as follows: Delinquent Assessments and current Assessments.

7.7.11 Attorney in Fact. To the extent not prohibited by the Utah Community Association Act as set forth in Title 57, Chapter 8a of the Utah Code, as amended, supplemented or replaced from time to time, each Owner by accepting a deed to a Lot or Unit hereby irrevocably appoints the Association as the Owner's attorney in fact to collect rent from any Person renting the Owner's Lot and/or Unit if the Owner is delinquent. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the renter, against rent due, for the amount of money paid to the Association.

7.8 Establishment of Assessment Period. The period for which the Assessment is to be levied ("Assessment Period") shall be the calendar year, except that the first Assessment Period shall commence upon the Recording of this Declaration and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period by Recording an instrument specifying the new Assessment Period.

7.9 Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Assessments, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of his or her liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days written notice prior to the commencement of such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. The Association shall be under no duty to refund any payments received by it, even though the ownership of a Membership changes during an Assessment Period. Successor Owners of Lots, Units or Parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners. The amount of the Assessments against Members who become such during an Assessment Period shall be prorated.

7.10 Property Exempt from the Assessments. All Exempt Property shall be exempt from Assessments, but shall nevertheless be subject to all other provisions of this Declaration, including but not limited to, the use restrictions and architectural controls. In the event any change of ownership or use of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the same thereupon shall be subject to the assessment of the annual Assessments (prorated as of the date it became Assessable Property) and the associated Assessment Lien.

7.11 Declarant's Duty to Fund Deficits. During any fiscal year in which Declarant or a Declarant related developer entity owns one or more Lots, Units or Parcels which (under Section 1.32 of the definition of Exempt Property) are Exempt Properties due to such Person's ownership thereof, and which would not constitute Exempt Properties under any other part of such definition, Declarant shall be obligated to fund to or for the account of the Association, at such time or times as such funding is reasonably required by the Association during such fiscal year, an aggregate amount for such fiscal year equaling the lesser of (i) the total amount which Declarant and/or such Declarant related developer entity would have owed to the Association on

account of any Assessments which, if such Exempt Properties had been Assessable Properties, would have been levied against them for such fiscal year, or (ii) any excess, for such fiscal year, of the Expenses over the aggregate Assessments levied against all Assessable Properties in South Hills Pod 2. Notwithstanding the foregoing, Declarant shall have no obligation to fund to or for the account of the Association any amounts under this Section 7.11 after the expiration of the Period of Declarant Control.

**ARTICLE VIII
ENFORCEMENT OF PAYMENT OF ASSESSMENTS AND MAINTENANCE
CHARGES AND ENFORCEMENT OF ASSESSMENT LIEN**

8.1 Association as Enforcing Body. Except as otherwise set forth in this Declaration, the Association, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Declaration.

8.2 Association's Enforcement Remedies. If any Member fails to pay the Assessments when due, the Association may enforce the payment of the Assessments and/or Assessment Lien by taking one or more of the following actions, concurrently or separately (and by exercising any of the remedies hereinafter set forth, the Association does not prejudice or waive its right to exercise any other remedy):

8.2.1 Bring an action at law and recover judgment against the Member personally obligated to pay the Assessments;

8.2.2 Foreclose the Assessment Lien against the Lot, Unit or Parcel in accordance with the then prevailing Utah law relating to the foreclosure of realty mortgages or deeds of trust (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with Chapter 1, Title 38, Utah Code Annotated, as amended from time to time, or any other means permitted by law, and the Lot, Unit or Parcel may be redeemed after foreclosure sale, if provided by law. In order to facilitate the foreclosure of any such lien in the manner provided at law for the foreclosure of deeds of trust, Declarant hereby designates Cottonwood Title Insurance Agency, Inc., a Utah corporation, as trustee ("Trustee"), and Declarant hereby conveys and warrants pursuant to Sections 57-1-20 and 57-8a-302 of the Utah Code to Trustee, with power of sale, the Lots, Units or Parcels and all of the Improvements to the Lots, Units or Parcels within South Hills Pod 2 for the purpose of securing payment of all of the Assessments under the terms of this Declaration. Each Owner, by accepting a deed to a Lot, Unit or Parcel, also hereby conveys and warrants to Trustee, with power of sale, each Lot, Unit and/or Parcel acquired by such Owner and all of the Improvements thereon for the purpose of securing payment of all of the Assessments under the terms of this Declaration and such Owner's performance of such Owner's obligations set forth herein. The Board may, at any time, designate one or more successor Directors, in the place of Trustee, in accordance with the provisions of Utah law for the substitution of Directors under deeds of trust. Such Trustee, and any successors, shall not have any other right, title or interest in the Property beyond those rights and interests necessary and appropriate to foreclose any liens against Lots, Units or Parcels arising pursuant hereto. In any such foreclosure,

the Owner of the Lot, Unit or Parcel being foreclosed shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots, Units or Parcels purchased at such sale.

8.2.3 Notwithstanding the subordination of an Assessment Lien as described in Section 8.3, the delinquent Member shall remain personally liable for the Assessments and related costs after such Member's Membership is terminated by foreclosure or Deed in lieu of foreclosure or otherwise.

8.3 Priority of Lien. The Assessment Lien provided for herein shall be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided and except as provided in Section 16.5, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot, Unit or Parcel. The sale or transfer of any Lot, Unit or Parcel shall not affect the Assessment Lien, except as provided in Section 16.5.

8.4 Attorneys' Fees and Costs. In any action taken pursuant to Section 8.2, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Assessments together with the Association's collection costs and attorneys' fees.

ARTICLE IX USE OF FUNDS; BORROWING POWER; OTHER ASSOCIATION DUTIES

9.1 Purposes for Which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of South Hills Pod 2 and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of all land, properties, Improvements, facilities, services, projects, programs, studies and systems within South Hills Pod 2, which may be necessary, desirable or beneficial to the general common interests of South Hills Pod 2, the Members and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: maintenance of landscaping on Community Areas and public right-of-way and drainage areas within South Hills Pod 2; fulfilling the Association's obligations under the Development Agreement; insurance; communications; utilities; public services; indemnification of officers and directors of the Association and any committees created by the Association; and compliance with any Governing Document. The Association also may expend its funds as otherwise permitted under the laws of the State of Utah.

9.2 Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate as determined by the Board without a vote of the Members.

9.3 Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

ARTICLE X MAINTENANCE

10.1 Community Areas and Public Right-of-Way. The Association, or its duly delegated representative, shall maintain and otherwise manage all Community Areas, including, but not limited to, the landscaping, walkways, parking areas, drives, recreational facilities and the roofs, interiors and exteriors of the Buildings and structures located upon said properties and Shared Components of a Building; provided, however, the Association shall not be responsible for providing or maintaining the landscaping or structures on any Community Areas which are part of Lots, Units or Parcels (i) unless such landscaping or structures are available for use by all Owners and Residents of all the Lots and Units or for use by all Owner and Residents of a specific category of Lots or Units or are within easements intended for the general benefit of South Hills Pod 2, or (ii) unless specified in Section 4.2.5 above, or (iii) unless the Association assumes in writing the responsibility as set forth in a Recorded instrument as hereinafter provided.

The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property. In this regard the Association may, subject to any applicable provisions on Special Assessments, in the discretion of the Board:

10.1.1 reconstruct, repair, replace, or refinish any Improvement or portion thereof upon Association Land;

10.1.2 maintain (including snow removal therefrom), construct, reconstruct, repair, replace, or refinish any road improvement or surface upon any portion of the Community Areas used as a road, street, walk, driveway, or parking area;

10.1.3 replace injured and diseased trees and other vegetation in any Community Area, and plant trees, shrubs, and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

10.1.4 place and maintain upon any Community Area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof; and

10.1.5 do all such other and further acts which the Board deems necessary to preserve and protect the Community Areas and the beauty thereof, in accordance with the general purposes specified in this Declaration.

10.1.6 The Board shall be the sole judge as to the appropriate maintenance of all Community Areas and other properties maintained by the Association. Any

cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

10.1.7 In the event any Plat, this Declaration or any of the other Governing Documents permits the Board to determine whether or not Owners of certain Lots, Units or Parcels will be responsible for maintenance of certain Community Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Residents of South Hills Pod 2 for the Association to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article X, and in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Owners of Lots, Units and Parcels having such responsibilities in exchange for the payment of such fees as the Association, or the Owner may agree upon.

10.2 Maintenance and Use of Lots, Units and Parcels. Except as provided in Section 10.1 above, each Dwelling Unit, Improvement, Lot, Unit and Parcel shall be properly maintained by the Owner so as not to detract from the appearance of South Hills Pod 2 and so as not to affect adversely the value or use of any other Dwelling Unit, Improvement, Lot, Unit or Parcel. In the event any portion of any Lot, Unit or Parcel is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots, Units and Parcels or other areas of South Hills Pod 2 which are substantially affected thereby or related thereto, or in the event any portion of a Lot, Unit or Parcel is being used in a manner which violates this Declaration applicable thereto, or in the event the Owner of any Lot, Unit or Parcel is failing to perform any of its obligations under the Governing Documents, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to: (i) enter the Lot, Unit or Parcel and cause such action to be taken, and the cost thereof shall be added to and become a part of the Assessment (including interest at the rate of 18% per annum) to which the offending Owner and the Owner's Lot, Unit or Parcel is subject and shall be secured by the Assessment Lien; (ii) record a notice of violation; (iii) impose a fine commensurate with the severity of the violation; and/or (iv) bring an action at law and recover judgment of specific performance and/or damages against the Owner and including costs and attorneys' fees. In any action taken pursuant to this Section 10.2, the Owner shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Association's collection costs and attorneys' fees.

ARTICLE XI TOWNHOME LOTS ARCHITECTURAL DESIGN REVIEW BY THE BOARD

11.1 Board Review. The Board shall review, study and either approve, reject or request resubmittal of proposed developments and Improvements to a Townhome Lot, all in

compliance with the Governing Documents and as further set forth in the rules and regulations adopted and established from time to time by the Board.

11.1.1 The Board shall exercise its best judgment to see that all Improvements constructed on a Townhome Lot conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Townhome Lot, height, grade and finished ground elevation, and all aesthetic consideration set forth in the Governing Documents.

11.1.2 The Board shall exercise its best judgment to see that each Merchant Builder undertakes its development of a Townhome Lot, including but not limited to, the roadways and major infrastructure, in compliance with the Governing Documents.

11.1.3 Except for Improvements made by Declarant, no Improvement on a Townhome Lot shall be erected, placed or altered on any Townhome Lot nor shall any construction be commenced until plans for such Improvement shall have been approved by the Board.

11.1.4 The actions of the Board in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

11.1.5 The Board may avail itself of technical and professional advice and consultants as it deems appropriate.

11.2 Community Expenses. Except as provided below, all expenses of the Board in reviewing and approving proposed developments and Improvements on Townhome Lots shall be paid by the Association. The Board shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Board from time to time, and such fees shall be collected by the Board and remitted to the Association to help defray the expenses of the Board in performing its duties pursuant to this Article XI.

11.3 Limitation of Liability. The Board shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Board, nor any individual Board member, shall be liable to any person for any official act of the Board in connection with submitted plans and specifications, except to the extent the Board or any individual Board member acted with gross negligence or was guilty of willful misconduct. Approval by the Board does not necessarily assure approval by the appropriate Municipal Authority. Notwithstanding that the Board has approved plans and specifications, neither the Board nor any of its members shall be responsible or liability to any Owner, developer, or contract holder with respect to any loss, liability, claim, or expense which may arise by reason of such approval of the construction of any Improvements. Neither the Board, the Board, or any agent thereof, nor Declarant or any of its shareholders, employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Governing Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Board shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the

Board's decision. The Association, however, shall not be obligated to indemnify each member of the Board to the extent any such member of the Board shall be adjudged to be liable for gross negligence or willful misconduct in the performance of his duty as a member of the Board, unless and then only to the extent that the Court in which such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

11.4 Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the Board, and upon written request of any Owner or his agent, an existing or prospective Mortgagee, or a prospective grantee, the Board shall issue an acknowledged certificate setting forth generally, to the best of the Board's knowledge, that the Owner is not in violation of any of the terms and conditions of the Governing Documents. Unless such request shall be complied with within thirty (30) days after receipt of the request, it shall be conclusively presumed that the Owner and the Owner's Improvements are in conformance with all the terms and conditions of the Governing Documents subject to the control of the Board.

ARTICLE XII RIGHTS AND POWERS OF ASSOCIATION

12.1 Association's Rights and Powers as set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws, in the other Governing Documents and in the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101, et seq. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration and the other Governing Documents and are necessary, desirable or convenient for effectuating the purposes set forth in this Declaration. After incorporation of the Association, a copy of the Articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours by prior appointment.

12.2 Association's Rights of Enforcement. The Association, as the agent and representative of the Owners and Members, shall have the right to enforce, by any proceeding at law or in equity, the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, Deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant. In the event suit is brought or arbitration is instituted or an attorney is retained by the Association to enforce the terms of this Declaration or any other Governing Document and the Association prevails, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation, and other related expenses incurred in connection therewith, including but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs, and expenses shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said

Owner's Lot, Unit or Parcel. If the Association should fail to act within a reasonable time, any Owner shall have the right to enforce the Covenants set forth in this Declaration.

12.3 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including the Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more Board members or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other Board members acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such Board member, officer, or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he or she is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies, or any competitor thereof and may vote to authorize any such contract, transaction, or approval with like force and effect as if he or she were not so interested.

12.4 Pre-Litigation Requirements.

12.4.1 Disclaimer. Every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, any inspection on any Lot or Unit that the Owner is purchasing or any aspect of South Hills Pod 2, all prior to purchasing a Lot or Unit. Moreover, if any warranty has been provided, it identifies the only items that are warranted by Declarant. Having had the ability to inspect a Lot or Unit prior to purchasing a Lot or Unit, having received a written warranty (if any warranty is provided), and having paid market price for a Lot or Unit in the condition the Lot or Unit, South Hills Pod 2 and the Community Areas are in at the time of purchase, Owner acknowledges and agrees that it would be inequitable to later seek to have Declarant and/or its respective contractors and subcontractors performing work in South Hills Pod 2 to change, upgrade, or perform any additional work to South Hills Pod 2 outside of any express warranty obligation. Moreover, the Owners and the Association acknowledge and agree that litigation is an undesirable method of resolving Disputes (as defined below) because litigation can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots or Units for years, unfairly prejudicing those Owners who must or want to sell their Lots or Units during any period when litigation is pending. For this reason, the Owners (by purchasing a Lot or Unit) and the Association acknowledge and agree that before any Dispute is pursued through litigation, the "Pre-Litigation Requirements" set forth below shall be satisfied. In addition, the Association and each Owner (by purchasing a Lot or a Unit) acknowledge and agree that each Owner takes ownership and possession of the Lot or Units, and Community Areas AS IS, with no warranties of any kind (except as set forth in a written warranty, this Declaration or as otherwise required as a matter of law). To the fullest extent permitted by applicable law, Declarant specifically disclaims any warranties of merchantability, fitness for a particular use, or of habitability.

12.4.2 Notice of Claim and Opportunity to Cure (Applicable to All Owners and the Association). All claims and disputes of any kind that any Owner or the

Association may have involving the Declarant or any its agents, employees, executing officers, managers, affiliates or owners, or any engineer or contractor involved in the design or construction of South Hills Pod 2, which arises from or is in any way related to a Unit, a Building, the Community Areas, or any other component of South Hills Pod 2 (a “Dispute”), shall first be identified in a written notice of claim that sets forth with specificity the facts and the legal basis upon which the claim or dispute is asserted (a “Notice of Claim”), which Notice of Claim shall be delivered to Declarant, and Declarant shall have 150 days to cure or resolve the claim or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to the initiating of any formal court action. If the Dispute is not resolved within the 150-day right to cure period, then with respect to any claims, actions or Disputes that the Association (but not an individual Owner) desires to pursue, the “Pre-Litigation Requirements” set forth below must be satisfied in full before initiating formal court action. If additional, different or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against Declarant that were not included in any previously submitted Notice of Claim, the right to cure period provided for in this Section shall immediately apply again, and any pending action or proceedings shall be stayed during the 150-day period.

12.4.3 Pre-Litigation Requirements (Applicable Only to the Association). Notwithstanding any other provision to the contrary in this Declaration, the Association shall not file, commence or maintain any lawsuits, actions or legal proceedings against Declarant, the individual managers, owners, members, or officers of Declarant, Declarant’s contractors, engineers or architects, or any other person or entity involved in the design or construction of the dwelling structures unless and until the Notice of Claim requirements set forth above have been satisfied, and all of the following “Pre-Litigation Requirements” have been satisfied:

12.4.3.1 The Association has obtained a legal opinion from an attorney licensed to practice law in Utah having at least ten (10) years of experience, with the legal opinion providing in substance the following: (a) a description of the factual allegations and legal claims to be asserted in the action; (b) an analysis of the facts and legal claims explaining why it would be in the best interests of the Association to file and pursue such action, taking into account the anticipated costs and expenses of litigation, the likelihood of success on the merits of the claims, and the likelihood of recovery if a favorable judgment is obtained by the Association; and (c) providing a budget of the estimated amounts of legal fees, costs, expert witness fees, and other expenses likely to be incurred in connection with such action (the “Litigation Budget”);

12.4.3.2 A copy of the opinion letter described in Subsection 12.4.3.1 above has been provided to all Owners, and, after the Owners have had a reasonable period of time to review the opinion letter, the decision for the Association to file the subject action has been approved by the Owners (excluding Declarant) who collectively hold at least 67% of the voting rights of all of the Owners within South Hills Pod 2; and

12.4.3.3 The Association has collected funds from the Owners, by Special Assessment or otherwise, equal to at least 50% of the Litigation Budget as set forth in the opinion letter obtained pursuant to Subsection 12.4.3.1 above.

If any claims or actions of the Association are filed without satisfying all of the requirements of Subsections 12.4.3.1, 12.4.3.2 and 12.4.3.3 above, such claims/action shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied. In any action to enforce the requirements of this Section 12.4, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.

The purposes of these requirements include, but are not limited to, the following: (a) to minimize the risks to the Association of pursuing litigation involving claims that lack merit; (b) to minimize the risks of becoming involved in litigation that is unlikely to be successful or, even if successful, will not result in meaningful recovery sufficient to justify the costs and expenses of litigation; and (c) to avoid becoming involved in litigation without sufficient support from the Members financially and otherwise.

For purposes of clarity, this Section 12.4 and the requirements set forth herein shall not apply to any actions or legal proceedings (a) filed by the Association to recover payment of any Assessments or other amounts required to be paid by Owners to the Association under this Declaration, or (b) filed by individual Owners relating solely to their own Lot or Units. Individual Owners, however, shall not be allowed to file or pursue any actions or claims on behalf of other Owners or for the Association.

ARTICLE XIII INSURANCE AND FIDELITY BONDS

13.1 Hazard Insurance.

13.1.1 The Association shall at all times maintain in force insurance satisfying the insurance requirements set forth in Sections 57-8a-401 through 57-8a-407 of the Utah Code, as such Sections may be amended, supplemented or replaced from time to time, which may include the following coverages: A "master" or "blanket" type policy of property insurance shall be maintained, if reasonably available, covering all Townhome Units (including any fixture, improvement, or betterment installed at any time to an attached Unit or to a Limited Common Area appurtenant to a Unit, whether installed in the original construction or in any remodel or later alteration); all insurable Improvements, if any, on the Association Land and where appropriate on the Community Areas; fixtures, building service equipment, personal property and supplies comprising a part of the Community Areas or owned by the Association; but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. If blanket all-risk insurance is not reasonably available, then at a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily

covered with respect to projects similar to South Hills Pod 2 in construction, location, and use, including (without limitation) all perils normally covered by the standard “all risk” endorsement, where such endorsement is available. Such “master” or “blanket” policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Community Areas covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a guaranteed replacement cost endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an agreed amount endorsement (which waives the requirement for co-insurance); or (2) a replacement cost endorsement (under which the insurer agrees to pay up to one-hundred percent of the property’s insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an agreed amount endorsement (which waives the requirement for co-insurance). The maximum deductible amount for such policy shall be determined by the Board.

13.1.2 The Association shall have no obligation to provide any insurance for any structure or building located on a Single Family Lot. The obligation to obtain and maintain in effect such insurance shall be the responsibility of the Owner of a Single Family Lot.

13.2 Flood Insurance. If any part of the Community Areas is or comes to be situated in a “special flood hazard area” as designated on a “flood insurance rate map,” a “master” or “blanket” policy of flood insurance shall be maintained, if reasonably available, covering the Improvements located on the Community Areas, and any machinery and equipment related thereto (hereinafter “Insurable Property”) in an amount deemed appropriate, but not less than the lesser of (1) the maximum limit of coverage available under the National Flood Insurance Administration Program for all Insurable Property within any portion of the Community Areas located within a designated flood hazard area; or (2) one hundred percent (100%) of the insurable value of all such facilities. The maximum deductible amount for such policy shall be determined by the Board.

13.3 Policy Requirements.

13.3.1 The name of the insured under each policy required to be maintained by the foregoing sections (Section 13.1 and Section 13.2) shall be the Association for the use and benefit of the individual Owners. Notwithstanding the requirement of the immediately foregoing sentence, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee (as hereinafter defined) with whom the Association has entered into an agreement (referred to herein as an “Insurance Trust Agreement,” or any successor to such Insurance Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner’s First Mortgagee. Each Owner and each such Owner’s First Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and First Mortgagee upon request.

13.3.2 Each policy required to be maintained by the foregoing sections (Section 13.1 and Section 13.2), shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which South Hills Pod 2 is located.

13.3.3 Each policy required to be maintained by the foregoing sections (Section 13.1 and Section 13.2), shall provide, if available, for the following: recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Owners individually; a provision that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively, and a provision that the policy is primary in the event the Owner has other insurance covering the same loss.

13.4 Fidelity Bonds or Insurance. The Association shall at all times maintain in force and pay the premiums for “blanket” fidelity bonds or insurance, including but not limited to, directors’ and officers’ insurance for the benefit of all members of the Board, officers and members of committees and subcommittees appointed by the Board or otherwise established pursuant to the provisions of this Declaration, for all officers, agents, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide “blanket” fidelity bonds or insurance, with coverage identical to such bonds required of the Association, for the Manager’s officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity coverage required shall be based upon the Association’s best business judgment and shall not be less than the estimated maximum of funds, including Reserve Funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of coverage.

13.5 Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Community Areas, public ways in South Hills Pod 2, if any, all other areas of South Hills Pod 2 that are under the Association’s supervision. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to South Hills Pod 2 in construction, location, and use. Nevertheless, such coverage shall be for at least Two Million Dollars (\$2,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Community Areas, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policy shall provide that it may not be cancelled or substantially modified by any party without at least thirty (30) days’ prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

13.6 Annual Review of Policies and Coverage. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Community Areas and Improvements thereon which may have been damaged or destroyed. In addition, such

policies shall be reviewed to determine their compliance with the provisions of this Declaration and the requirements of any applicable laws. In the event any of the insurance coverage provided for in this Article XIII is not available at a reasonable cost or is not reasonably necessary to provide the Association with adequate insurance protection, as determined by the Board, the Board shall have the right to obtain different insurance coverage or insurance coverage which does not meet all of the requirements of this Article XIII so long as, at all times, the Board maintains insurance coverage on a basis which is consistent with the types and amounts of insurance coverage obtained for projects similar to South Hills Pod 2.

ARTICLE XIV DAMAGE OR DESTRUCTION

14.1 Association as Attorney in Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with personal property owned by the Association on behalf of the Owners and the Improvements on the Community Areas upon damage or destruction as provided in this Article or a complete or partial taking as provided in Article XV below. Acceptance by any grantee of a Deed or other instrument of conveyance from the Declarant or from any Owner shall constitute, appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, Deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact. All proceeds from the insurance required hereunder shall be payable to the Association except as otherwise provided in this Declaration.

14.2 Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the personal property owned by the Association and Improvements on the Community Areas, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part thereof so damaged or destroyed. "Repair and reconstruction" as used in this Article XIV shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

14.3 Repair and Reconstruction. As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

14.4 Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction of such affected personal property and Improvements on the Community Areas. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 7.4 above, levy, assess, and collect

in advance from all Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

14.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 14.4 above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be retained by the Association to pay for future Community Expenses.

14.6 Notice to First Mortgagees. The Association shall give timely written notice to any holder of any First Mortgage on a Lot, Unit or Parcel who requests such notice in writing in the event of substantial damage to or destruction of a material part of the personal property owned by the Association and/or Improvements on the Community Areas.

ARTICLE XV CONDEMNATION

15.1 Rights of Owners. Whenever all or any part of the Community Areas shall be taken or conveyed in lieu of and under threat of condemnation, each Owner shall be entitled to notice of the taking, but the Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

15.2 Partial Condemnation Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Community Areas on which Improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and Owners representing at least sixty-seven percent (67%) of the votes of the Members in the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Community Areas to the extent lands are available therefor, in accordance with plans approved by the Board. If such Improvements are to be repaired or restored, the provisions in Article XIV above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Community Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be retained by the Association to pay for future Community Expenses.

ARTICLE XVI
MORTGAGEE REQUIREMENTS

16.1 Notice of Action. Upon written request made to the Association by a Mortgagee, or an insurer or governmental guarantor of a Mortgage, which written request shall identify the name and address of such Mortgagee, insurer or governmental guarantor and the Lot, Unit or Parcel number or the address of the Dwelling Unit, any such Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of:

16.1.1 Any condemnation loss or any casualty loss which affects a material portion of South Hills Pod 2 or any Lot, Unit or Parcel on which there is a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor;

16.1.2 Any delinquency in the payment of Assessments owed by an Owner, whose Lot, Unit or Parcel is subject to a Mortgage held, insured or guaranteed by such Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days;

16.1.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond or insurance maintained by the Association; and

16.1.4 Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 16.2 below or elsewhere herein.

16.2 Matters Requiring Prior Eligible Mortgagee Approval. Except as provided elsewhere in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Members in the Association (unless pursuant to a specific provision of this Declaration the consent of Owners entitled to vote a greater percentage of the votes in the Association is required, in which case such specific provisions shall control) and of Eligible Mortgagees holding Mortgages on Lots, Units or Parcels having at least fifty-one percent (51%) of the votes of the Lots, Units or Parcels subject to Mortgages held by Eligible Mortgagees shall be required to:

16.2.1 Dissolve the Association after substantial destruction or condemnation occurs. Dissolution of the Association for any other reason shall require the affirmative vote or authorization of Eligible Mortgagees holding Mortgages on Lots, Units or Parcels having at least sixty-seven percent (67%) of the votes of the Lots, Units or Parcels subject to Mortgages held by Eligible Mortgagees.

16.2.2 Amend this Article XVI.

16.3 Mortgagee Approval. Any Mortgagee, insurer or governmental guarantor who receives a written request from the Association to approve additions or amendments to the Governing Documents and who fails to deliver or post to the Association a negative response within thirty (30) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

16.4 Availability of Documents and Financial Statements. The Association shall maintain and have current copies of the Governing Documents and other rules concerning South Hills Pod 2 as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of Mortgages that are secured by Lots, Units or Parcels. Generally, these documents shall be available during normal business hours by prior appointment.

16.5 Subordination of Lien. The lien or claim against a Lot, Unit or Parcel for unpaid Assessments levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot, Unit or Parcel, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot, Unit or Parcel shall take the same free of such lien or claim for unpaid Assessments, but only to the extent of Assessments which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a Deed or assignment in lieu of foreclosure. No Assessment, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by Deed in lieu of foreclosure, of the Lot, Unit or Parcel affected or previously affected by the First Mortgage concerned.

16.6 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Community Areas are not timely paid, or in the event the required hazard-insurance described in Section 13.1 lapses, is not maintained, or the premiums therefor are not paid when due, any First Mortgagee or any combination of First Mortgagees may jointly or singly, pay such taxes or premiums or obtain such insurance. Any First Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

16.7 Priority. No provision of this Declaration or the other Governing Documents gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots, Units or Parcels or the Community Areas.

ARTICLE XVII

TERM: AMENDMENTS: TERMINATION

17.1 Term; Method of Termination. This Declaration shall be effective upon the date of the Recording hereof and, as amended from time to time, shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is Recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Members casting fifty one percent (51%) of the total votes of all of the Members cast at an election held for such purpose (or otherwise approved for such purpose in writing) within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. This Declaration may be terminated at any time, if Members casting at least sixty-seven (67%) of

the votes of all of the Members shall be cast in favor of termination at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate this Declaration shall be effective unless and until written consent to such termination has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from Eligible Mortgagees of fifty-one percent (51%) of the Lots, Units and Parcels upon which there are such Eligible Mortgages. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a "certificate of termination," duly signed by the President or Vice President attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

17.2 Amendments.

17.2.1 Except as provided elsewhere in this Declaration, the affirmative vote of at least a Majority of the Owners shall be required and shall be sufficient to amend this Declaration. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Association. In such instrument the Association shall certify that the vote required by this Section for amendment has occurred, and, if approval of a specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained.

17.2.2 Until the expiration of the Period of Declarant Control, Declarant may unilaterally amend this Declaration or the Plat for any purpose that Declarant deems to be in the best interest of the Project. Any such amendment hereunder shall be effected by the Recording by Declarant of a Certificate of Amendment duly signed by the Declarant.

17.3 Declarant's Control. It is the desire and intent of Declarant to retain control of the Association and its activities throughout the Period of Declarant Control. If any amendment requested pursuant to the provisions of this Article XVII deletes, diminishes or alters such control, Declarant alone shall have the right to amend this Declaration to restore such control.

ARTICLE XVIII DECLARANT'S RIGHTS

18.1 Transfer of Declarant's Rights. Any or all of the special rights and obligations of the Declarant may be assigned and transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective, unless it is in a written instrument signed by the Declarant and duly Recorded. Without limiting the generality of the foregoing, Declarant may by such Recorded instrument establish that Declarant and such Person or Persons be co-Declarants under this Declaration, in which event such Persons shall be deemed collectively the Declarant for all purposes under this Declaration, and any ownership of portions of the Property by any such Persons shall be considered owned by Declarant. So long as Declarant continues to have rights under this Article XVIII, no person or entity shall Record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of South Hills Pod 2 without Declarant's review and written consent thereto, and any attempted Recording without compliance herewith shall result in such declaration of covenants, conditions and

restrictions or similar instrument being void and of no force and effect, unless subsequently approved by a Recorded consent signed by Declarant.

18.2 Sales Material. So long as Declarant continues to have rights under this Article XVIII, all sales, promotional, and advertising materials, and all forms for deeds, contracts for sale, and other closing documents for the platting, development and sale of property in South Hills Pod 2 by any Merchant Builder shall be subject to the prior approval of Declarant, which approval may be withheld at Declarant's sole and exclusive discretion. Declarant shall deliver notice to any Merchant Builder of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific changes requested. If Declarant fails to so notify any Merchant Builder within such thirty (30) day period, Declarant shall be deemed to have disapproved such materials and documents. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or deemed to be obtained.

18.3 Modifications. Declarant reserves for itself and its assigns the right to vary the timing, mix, type, use, style, and numbers of Lots, Units and Parcels, and other such details of construction or modifications in adding phases to this Declaration. If Additional Land Use Classifications, are subsequently permitted by the Governing Documents, Declarant shall have the right to add such Land Use Classifications to this Declaration. Notwithstanding any other provision of this Declaration to the contrary, Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its development plan with respect to any property owned by Declarant in any way which Declarant desires including, but not limited to, changing the density of all or any portion of the Property owned by Declarant or changing the nature or extent of the uses to which such Property may be devoted.

18.4 Amendment. This Article XVIII may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Article XVIII shall terminate upon the expiration of the Period of Declarant Control.

ARTICLE XIX ADDITIONAL LAND

19.1 Right to Expand and State of Title to New Lots, Units and Parcels. There is hereby granted unto Declarant, and Declarant hereby reserves, the absolute right and option to expand South Hills Pod 2 at any time (within the limits herein prescribed) and from time to time by adding to South Hills Pod 2 the Additional Land or a portion or portions thereof. Notwithstanding any provision of this Declaration which might be construed to the contrary, such right and option may be exercised without obtaining the vote or consent of any other person (including any Owner or Mortgagee) and shall be limited only as specifically provided in this Declaration. Any specifically described portion of the Additional Land shall be deemed added to South Hills Pod 2 at such time as a Supplemental Declaration containing the information required by Section 19.3 below has been Recorded with respect to the portion of the Additional Land concerned. After the date such Supplemental Declaration is Recorded, title to each Unit and Parcel thereby created within the portion of the Additional Land concerned and its appurtenant right and easement of use and enjoyment in and to the Community Areas shall be vested in and held by Declarant, and none of the other Owners or the Association shall have any

claim or title to or interest in such Lot, Unit and Parcel or its appurtenant right and easement of use and enjoyment to the Community Areas.

19.2 Rights and Statements Respecting Additional Land. Declarant hereby furnishes the following information and statement respecting the Additional Land and Declarant's right and option concerning expansion of South Hills Pod 2 by the addition thereto of the Additional Land or a portion or portions thereof.

19.2.1 All of the Additional Land need not be added to South Hills Pod 2, if any of such Additional Land is added. Rather, a portion or portions of the Additional Land may be added to South Hills Pod 2 at any time (within the limits herein prescribed) and from time to time.

19.2.2 Subject to the conditions set forth in the Governing Documents, there are no limitations or requirements relative to the size, location or configuration of any given portion of the Additional Land which may be added to South Hills Pod 2 or relative to the order in which particular portions of the Additional Land may be added to South Hills Pod 2. Future Improvements on the Additional Land added to South Hills Pod 2 shall be subject to compliance with this Declaration and the other Governing Documents.

19.3 Procedure for Expansion. Each Supplemental Declaration by which an addition to South Hills Pod 2 of any portion of the Additional Land is accomplished shall be executed by Declarant, shall be in recordable form, must be Recorded, and shall contain the following information for that portion of the Additional Land which is being added:

19.3.1 Data sufficient to identify this Declaration with respect to that portion of the Additional Land being added.

19.3.2 The legal description of the portion of the Additional Land being added.

19.3.3 A statement that such portion of the Additional Land shall thereafter be held, transferred, sold, conveyed, occupied, improved and developed subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration.

19.3.4 Such other matters as may be necessary, desirable, or appropriate and as are not inconsistent with any limitation imposed by this Declaration.

Upon the date any Supplemental Declaration contemplated above is Recorded, it shall automatically supplement this Declaration and any Supplemental Declarations previously Recorded. At any point in time, this Declaration for South Hills Pod 2 shall consist of this Declaration, as amended and expanded by all Supplemental Declarations theretofore Recorded pursuant to the terms hereof.

19.4 Allocation of Assessments and Voting Rights Following Expansion. Each Lot, Unit or Parcel created that is or shall become Assessable Property shall be apportioned a share of the Community Expenses attributable to South Hills Pod 2, as provided in Article VII. Each Owner of a Lot, Unit or Parcel that is or shall become Assessable Property shall be entitled to

Memberships and votes in the Association to the extent provided for in Article VI. Assessments and voting rights shall commence as of the date the Declarant Records a Supplemental Declaration.

19.5 No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as, to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (i) the addition to South Hills Pod 2 of any or all of the Additional Land; (ii) the creation or construction of any Dwelling Unit or other Improvements; (iii) the carrying out in any particular way or within any particular time of any development or addition which may be undertaken; or (iv) the taking of any particular action with respect to any portion of the Additional Land.

ARTICLE XX MISCELLANEOUS

20.1 Interpretation of the Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by the Covenants and provisions hereof.

20.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

20.3 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

20.4 Rules and Regulations. In addition to the right to adopt South Hills Pod 2 Rules on the matters expressly mentioned elsewhere in this Declaration, the Association (through its Board) shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration and the other Governing Documents.

20.5 Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a Plat or other Recorded instrument, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of South Hills Pod 2 can or will be carried out, or that any Additional Land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect. Not as a limitation of the generality of the foregoing, the Declarant expressly reserves the right at any time and from time to time to amend the Governing Documents.

20.6 References to the Covenants in Deeds. Deeds or any instruments affecting any Lot, Unit or Parcel or any part of South Hills Pod 2 may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner of all Lots, Units and Parcels within South Hills Pod 2 and upon all other Persons claiming an interest in any Lot, Unit or Parcel through any instrument and upon such Persons' executors, administrators, successors and assigns.

20.7 List of Owners and Eligible Members. The Board shall maintain up-to-date records showing: (i) the name of each Person who is an Owner, the address of such Person, and the Lot, Unit or Parcel which is owned by him or her; and (ii) the name of each Person who is an Eligible Mortgagee, and the address of such Person and the Lot, Unit or Parcel which is encumbered by the Mortgage held by such Eligible Mortgagee. In the event of any transfer of a fee or undivided fee interest in a Lot, Unit or Parcel, the transferee shall furnish the Board with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer has been Recorded. The Board may for all purposes act and rely on the information concerning Owners and Lot, Unit or Parcel ownership which is thus acquired by it or, at its option, the Board may act and rely on current ownership information respecting any Lot, Unit or Parcel or Lots, Units or Parcels which is obtained from the Office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Lot, Unit or Parcel owned by such Person, unless the Board is otherwise advised. The list of Owners shall be made available by the Board to any Owner for noncommercial purposes upon such Owner's written request and such Owner's payment of any copying charges and such Owner's execution of a privacy and nondisclosure statement prepared by the Board.

20.8 General Obligations. Each Owner shall enjoy and be subject to all rights and duties assigned to Owners pursuant to this Declaration. With respect to unsold Lots, Units and Parcels, the Declarant shall enjoy the same rights and assumes the same duties with respect to each unsold Unit and Parcel, unless otherwise expressly provided herein.

20.9 Rights of Action. Subject to the provisions of this Declaration, the Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of this Declaration or the decisions of the Association. Owners shall have a similar right of action against the Association.

20.10 Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder.

20.11 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

20.12 Captions and Titles. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

20.13 Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to such Person at the address given by that Person to the Association for the purpose of service of such notice or to the address of the Lot, Unit or Parcel of such Person, if no address has been given. Such address may be changed from time to time by notice in writing received by the Association. Notice to the Board shall also be delivered or mailed to Declarant or such other address as the Board may designate after the expiration of the Period of Declarant Control.

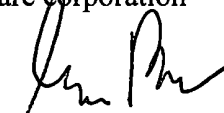
20.14 Number of Days. In computing the number of days for purposes of any provision of this Declaration or the Articles or Bylaws, all days shall be counted including Saturdays, Sundays, and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday, or legal holiday.

20.15 Notice of Violation. The Association shall have the right to Record a written notice of a violation by any Owner or Resident of any restriction or provision of this Declaration. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (a) the name of the Owner or Resident; (b) the legal description of the Lot, Unit or Parcel against which the notice is being Recorded; (c) a brief description of the nature of the violation; (d) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and (e) a statement of the specific steps which must be taken by the Owner or Resident to cure the violation. Recordation of a notice of violation shall serve as a notice to the Owner and Resident, and to any subsequent purchaser of the Lot, Unit or Parcel, that there is such a violation. If, after the Recordation of such notice of violation, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall Record a notice of compliance which shall state the legal description of the Lot, Unit or Parcel against which the notice of violation was recorded, the Recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or, if such be the case, that it did not exist. Notwithstanding the foregoing, failure by the Association to Record a notice of violation shall not constitute a waiver of any existing violation or evidence that no violation exists.

20.16 Use of South Hills Pod 2 Term. No Person shall use the term "South Hills Pod 2" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant.

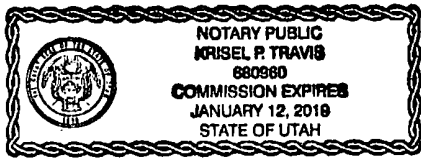
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day first above written.

D.R. HORTON, INC.,
a Delaware corporation

By: 
Name: Michael Banner
Title: VP of Sales

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 23 day of July, 2018,
by Michael Banner in such person's capacity as the
VP of Sales of D.R. Horton, Inc., a Delaware corporation.




NOTARY PUBLIC

**EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR SOUTH HILLS POD 2**

Legal Description of the Property

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BOUNDARY DESCRIPTIONS FOR D.R. HORTON POD 2, PHASE 1A FIRST CLOSING PARCELS

UNITS 2254-2264 AND COMMON AREA

A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WHICH IS INTENDED TO INCLUDE THE FUTURE UNITS 2254-2264 OF SOUTH HILLS POD 2, PHASE 1A SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°25'56" EAST ALONG THE SECTION LINE 577.32 FEET AND NORTH 261.16 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BECHENBAUER AVENUE FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 61°35'43" WEST TO THE WEST BOUNDARY LINE OF SAID POD 2, PHASE 1A, A DISTANCE OF 92.83 FEET; THENCE NORTH 0°33'52" WEST ALONG SAID BOUNDARY LINE, A DISTANCE OF 19.01 FEET TO THE POINT ON SAID BOUNDARY LINE AND A 1145.00 FOOT RADIUS CURVE; THENCE NORTHWESTERLY 417.98 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 20°54'56" (WHICH THE RADIUS POINT BEARS SOUTH 89°26'08" WEST AND WHICH LONG CHORD BEARS NORTH 11°01'20" WEST, A DISTANCE OF 415.66 FEET) TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOLO STREET AND A 15.00 FOOT RADIUS REVERSE CURVE; THENCE NORTHEASTERLY 23.04 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°01'26" (WHICH LONG CHORD BEARS NORTH 22°31'55" EAST, A DISTANCE OF 20.84 FEET); THENCE NORTH 66°32'38" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 71.54 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS CURVE; THENCE SOUTHEASTERLY 24.05 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 91°51'41" (WHICH LONG CHORD BEARS SOUTH 67°31'32" EAST, A DISTANCE OF 21.55 FEET) TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF BECHENBAUER AVENUE AND A 1246.50 FOOT RADIUS COMPOUNDING CURVE; THENCE SOUTHEASTERLY 360.31 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 16°33'42" (WHICH LONG CHORD BEARS SOUTH 13°18'50" EAST, A DISTANCE OF 359.05 FEET) TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS COMPOUNDING CURVE; THENCE SOUTHWESTERLY 13.72 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 52°24'41" (WHICH LONG CHORD BEARS SOUTH 21°10'21" WEST, A DISTANCE OF 13.25 FEET) TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 50.00 FOOT REVERSE CURVE; THENCE SOUTHWESTERLY 66.13 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 75°46'58" (WHICH LONG CHORD BEARS SOUTH 9°29'12" WEST, A DISTANCE OF 61.42 FEET) TO THE POINT OF BEGINNING.

CONTAINS 43,933 SQ/FT OR 1.01 ACRES

UNITS 2222-2226, 2239-2253 AND COMMON AREA

ALSO INCLUDING A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WHICH IS INTENDED TO INCLUDE THE FUTURE UNITS 2222-2226 AND 2239-2253 OF SOUTH HILLS POD 2, PHASE 1A SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°25'56" EAST ALONG THE SECTION LINE 833.18 FEET AND NORTH 284.51 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF HAMM LANE FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 89°25'56" WEST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 173.17 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS CURVE; THENCE NORTHWESTERLY 22.85 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87°15'48" (WHICH LONG CHORD BEARS NORTH 46°56'10" WEST A DISTANCE OF 20.70 FEET) TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BECHENBAUER AVENUE AND A 1296.50 FOOT RADIUS REVERSE CURVE; THENCE NORTHWESTERLY 416.45 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 18°24'14" (WHICH LONG CHORD BEARS

CHECKED BY MLW 8/30/17

NORTH 12°30'23" WEST A DISTANCE OF 414.66 FEET) TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT REVERSE CURVE; THENCE NORTHEASTERLY 23.10 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°15'08" (WHICH LONG CHORD BEARS NORTH 22°25'04" EAST A DISTANCE OF 20.89 FEET) TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOLO STREET; THENCE NORTH 66°32'38" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 86.54 FEET TO A POINT ON A 1397.65 FOOT NON-TANGENT CURVE; THENCE SOUTHEASTERLY 340.59 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 13°57'44" (WHICH THE RADIUS POINT BEARS SOUTH 67°34'08" WEST AND WHICH LONG CHORD BEARS SOUTH 15°27'00" EAST A DISTANCE OF 339.75 FEET); THENCE NORTH 81°48'21" EAST, A DISTANCE OF 101.85 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF MESSI STREET AND A 1499.50 FOOT NON-TANGENT CURVE; THENCE SOUTHEASTERLY 143.03 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 5°27'54" (WHICH THE RADIUS POINT BEARS SOUTH 81°32'59" WEST AND WHICH LONG CHORD BEARS SOUTH 5°43'04" EAST A DISTANCE OF 142.97 FEET) TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT COMPOUND CURVE; THENCE SOUTHWESTERLY 24.19 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 92°25'03" (WHICH LONG CHORD BEARS SOUTH 43°13'24" WEST A DISTANCE OF 21.66 FEET) TO THE POINT OF BEGINNING.

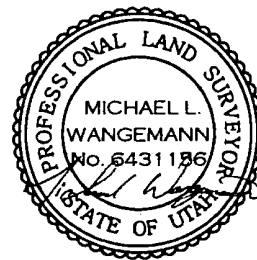
CONTAINS 62,413 SQ/FT OR 1.43 ACRES

UNITS 2215-2221 AND COMMON AREA

ALSO INCLUDING A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WHICH IS INTENDED TO INCLUDE THE FUTURE UNITS 2215-2221 OF SOUTH HILLS POD 2, PHASE 1A SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°25'56" EAST ALONG THE SECTION LINE 1000.31 FEET AND NORTH 284.51 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF HAMM LANE FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 89°25'56" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF HAMM LANE, A DISTANCE OF 87.07 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS CURVE; THENCE NORTHWESTERLY 22.96 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 87°42'22" (WHICH LONG CHORD BEARS NORTH 46°42'53" WEST A DISTANCE OF 20.78 FEET) TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF MESSI STREET AND A 1549.50 FOOT RADIUS REVERSE CURVE; THENCE NORTHWESTERLY 192.19 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 7°06'24" (WHICH LONG CHORD BEARS NORTH 6°24'54" WEST A DISTANCE OF 192.07 FEET); THENCE NORTH 80°01'55" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 101.50 FEET TO THE POINT ON A 1651.00 FOOT NON-TANGENT CURVE; THENCE SOUTHEASTERLY 223.25 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 7°44'51" (WHICH THE RADIUS POINT BEARS SOUTH 80°01'55" WEST AND LONG CHORD BEARS SOUTH 6°05'40" EAST A DISTANCE OF 223.08 FEET) TO THE POINT OF BEGINNING.

CONTAINS 21,771 SQ/FT OR 0.50 ACRES



CHECKED BY MLW 8/30/17

BOUNDARY DESCRIPTIONS FOR D.R. HORTON POD 2, PHASE 1A SECOND CLOSING PARCELS

LOTS 2125-2130

LOTS 2125-2130 OF SOUTH HILLS POD 2, PHASE 1A SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE.

UNITS 2227-2238 AND COMMON AREA

ALSO INCLUDING A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WHICH IS INTENDED TO INCLUDE THE FUTURE UNITS 2227-2238 OF SOUTH HILLS POD 2, PHASE 1A SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°25'56" EAST ALONG THE SECTION LINE 642.43 FEET AND NORTH 757.40 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 66°32'38" EAST ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SOLO STREET, A DISTANCE OF 86.53 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS CURVE; THENCE SOUTHEASTERLY 23.97 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 91°32'38" (WHICH LONG CHORD BEARS SOUTH 67°41'03" EAST A DISTANCE OF 21.50 FEET) TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF MESSI STREET AND A 1499.50 FOOT COMPOUNDING CURVE; THENCE SOUTHEASTERLY 352.31 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 13°27'42" (WHICH LONG CHORD BEARS SOUTH 15°10'52" EAST A DISTANCE OF 351.50 FEET); THENCE SOUTH 81°48'21" WEST, A DISTANCE OF 101.85 FEET TO THE POINT ON A 1397.65 FOOT NON-TANGENT RADIUS CURVE; THENCE NORTHWESTERLY 340.59 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 13°57'44" (WHICH THE RADIUS POINT BEARS SOUTH 81°32'59" WEST AND WHICH LONG CHORD BEARS NORTH 15°27'00" WEST A DISTANCE OF 339.75 FEET) TO THE POINT OF BEGINNING.

CONTAINS 36,020 SQ/FT OR 0.83 ACRES

UNITS 2183-2214 AND COMMON AREA

ALSO INCLUDING A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WHICH IS INTENDED TO INCLUDE THE FUTURE UNITS 2183-2214 OF SOUTH HILLS POD 2, PHASE 1A SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°25'56" EAST ALONG THE SECTION LINE 1086.37 FEET AND NORTH 284.51 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 89°25'56" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF HAMM LANE, A DISTANCE OF 86.06 FEET TO A POINT ON A 1651.00 FOOT RADIUS NON-TANGENT CURVE; THENCE NORTHWESTERLY 223.25 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 7°44'51" (WHICH THE RADIUS POINT BEARS SOUTH 87°46'46" WEST AND WHICH LONG CHORD BEARS NORTH 6°05'40" WEST A DISTANCE OF 223.08 FEET); THENCE SOUTH 80°01'55" WEST TO THE EASTERLY RIGHT-OF-WAY LINE OF MESSI STREET, A DISTANCE OF 101.50 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 1549.50 FOOT RADIUS NON-TANGENT CURVE; THENCE NORTHWESTERLY 325.15 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 12°01'23" (WHICH THE RADIUS POINT BEARS SOUTH 80°01'55" WEST AND WHICH LONG CHORD BEARS NORTH 15°58'47" WEST A DISTANCE OF 324.55 FEET) TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT REVERSE CURVE; THENCE NORTHEASTERLY 23.18 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°32'06" (WHICH LONG CHORD BEARS NORTH 22°16'35" EAST A DISTANCE OF 20.94 FEET) TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOLO STREET; THENCE NORTH 66°32'38" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF

CHECKED BY MLW 4/27/18

173.05 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS CURVE; THENCE SOUTHEASTERLY 23.91 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 91°19'09" (WHICH LONG CHORD BEARS SOUTH 67°47'48" EAST A DISTANCE OF 21.46 FEET) TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF PELE' LANE AND A 1752.50 FOOT COMPOUNDING CURVE; THENCE SOUTHEASTERLY 596.56 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 19°30'14" (WHICH LONG CHORD BEARS SOUTH 12°23'06" EAST A DISTANCE OF 593.69 FEET) TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT COMPOUNDING CURVE; THENCE SOUTHWESTERLY 24.10 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 92°03'55" (WHICH LONG CHORD BEARS SOUTH 43°23'58" WEST A DISTANCE OF 21.59 FEET) TO THE POINT OF BEGINNING.

CONTAINS 97,180 SQ/FT OR 2.23 ACRES

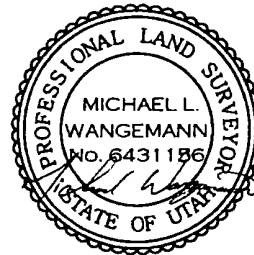
UNITS 2161-2182 AND COMMON AREA

ALSO INCLUDING A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, WHICH IS INTENDED TO INCLUDE THE FUTURE UNITS 2161-2182, SOUTH HILLS POD 2 SUBDIVISION AS DESCRIBED IN THAT CERTAIN PLAT AS ENTRY NO. 12750491 IN BOOK 2018P AT PAGE 162 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°25'56" EAST ALONG THE SECTION LINE 1253.40 FEET AND NORTH 284.51 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 89°25'56" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF HAMM LANE, A DISTANCE OF 86.98 FEET TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT RADIUS CURVE; THENCE NORTHWESTERLY 23.05 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°01'32" (WHICH LONG CHORD BEARS NORTH 46°33'18" WEST A DISTANCE OF 20.84 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF PELE' LANE AND A 1802.50 FOOT RADIUS REVERSE CURVE; THENCE NORTHWESTERLY 618.27 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 19°39'10" (WHICH LONG CHORD BEARS NORTH 12°22'07" WEST A DISTANCE OF 615.24 FEET)

TO THE POINT ON SAID RIGHT-OF-WAY LINE AND A 15.00 FOOT REVERSE CURVE; THENCE NORTHEASTERLY 23.23 FEET ALONG SAID LINE AND ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°44'20" (WHICH LONG CHORD BEARS NORTH 22°10'28" EAST A DISTANCE OF 20.98 FEET) TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SOLO STREET; THENCE NORTH 66°32'38" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 86.78 FEET TO A 1904.00 FOOT NON-TANGENT RADIUS CURVE; THENCE SOUTHEASTERLY 687.98 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 20°42'11" (WHICH THE RADIUS POINT BEARS SOUTH 67°17'46" WEST AND WHICH LONG CHORD BEARS SOUTH 12°21'08" EAST A DISTANCE OF 684.24 FEET) TO THE POINT OF BEGINNING.

CONTAINS 67,681 SQ/FT OR 1.55 ACRES



CHECKED BY MLW 4/27/18

**EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR SOUTH HILLS POD 2**

Legal Description of the Additional Land

POD 2, PHASE 2 BOUNDARY DESCRIPTION

A PARCEL OF LAND SITUATED IN THE EAST HALF OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS NORTH 89°25'56" EAST ALONG THE SECTION LINE 622.85 FEET AND NORTH 803.60 FEET TO THE POINT ON A 1398.00 FOOT NON-TANGENT RADIUS CURVE FROM THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTHWESTERLY 651.80 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 26°42'48" (WHICH THE RADIUS POINT BEARS SOUTH 65°31'09" WEST AND LONG CHORD BEARS NORTH 37°50'15" WEST 645.91 FEET); THENCE NORTH 24°00'00" EAST 23.97 FEET TO THE POINT ON A 175.00 FOOT RADIUS CURVE; THENCE NORTHEASTERLY 69.44 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 22°44'02" (WHICH LONG CHORD BEARS NORTH 35°22'01" EAST 68.98 FEET) TO THE POINT ON A 15.00 FOOT RADIUS COMPOUNDING CURVE; THENCE SOUTHEASTERLY 25.03 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 95°36'43" (WHICH THE RADIUS POINT BEARS SOUTH 43°15'58" EAST AND LONG CHORD BEARS SOUTH 85°27'37" EAST 22.23 FEET) TO THE POINT ON A 125.00 FOOT RADIUS REVERSE CURVE; THENCE SOUTHEASTERLY 26.66 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 12°13'18" (WHICH THE RADIUS POINT BEARS NORTH 52°20'45" EAST AND LONG CHORD BEARS SOUTH 43°45'54" EAST 26.61 FEET); THENCE NORTH 40°07'27" EAST 50.00 FEET TO THE POINT ON A 15.00 FOOT NON-TANGENT RADIUS CURVE; THENCE NORTHEASTERLY 32.42 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 123°51'07" (WHICH THE RADIUS POINT BEARS NORTH 42°53'11" EAST AND LONG CHORD BEARS NORTH 14°48'44" EAST 26.47 FEET) TO THE POINT ON A 175.00 FOOT RADIUS COMPOUNDING CURVE; THENCE NORTHEASTERLY 16.56 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 5°25'17" (WHICH THE RADIUS POINT BEARS SOUTH 13°20'38" EAST AND LONG CHORD BEARS NORTH 79°22'01" EAST 16.55 FEET) THENCE NORTH 82°04'39" EAST 234.36 FEET TO THE POINT ON A 15.00 FOOT RADIUS CURVE; THENCE SOUTHEASTERLY 22.63 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 86°26'06" (WHICH LONG CHORD BEARS SOUTH 54°42'18" EAST 20.54 FEET) TO THE POINT ON A 125.00 FOOT RADIUS REVERSE CURVE; THENCE SOUTHEASTERLY 10.42 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 4°46'39" (WHICH THE RADIUS POINT BEARS NORTH 78°30'45" EAST AND LONG CHORD BEARS SOUTH 13°52'34" EAST 10.42 FEET); THENCE NORTH 73°44'06" EAST 50.00 FEET TO THE POINT ON A 15.00 FOOT NON-TANGENT RADIUS CURVE; THENCE NORTHEASTERLY 25.75 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 98°20'33" (WHICH THE RADIUS POINT BEARS NORTH 73°44'06" EAST AND LONG CHORD BEARS NORTH 32°54'23" EAST 22.70 FEET); THENCE NORTH 82°04'39" EAST 87.09 FEET TO THE POINT ON A 1904.00 FOOT NON-TANGENT RADIUS CURVE; THENCE SOUTHEASTERLY 584.28 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 17°34'57" (WHICH THE RADIUS POINT BEARS SOUTH 48°12'33" WEST AND LONG CHORD BEARS SOUTH 32°59'59" EAST 582.00 FEET); THENCE SOUTH 66°32'38" WEST 86.78 FEET TO THE POINT ON A 15.00 FOOT RADIUS CURVE; THENCE NORTHWESTERLY 23.23 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°44'20" (WHICH THE RADIUS POINT BEARS SOUTH 48°12'33" WEST AND LONG CHORD BEARS NORTH 69°05'12 WEST 20.98 FEET) TO THE POINT ON A 1802.50 FOOT COMPOUNDING CURVE; THENCE NORTHWESTERLY 5.92 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 0°11'17" (WHICH THE RADIUS POINT BEARS SOUTH 65°16'58" WEST AND LONG CHORD BEARS NORTH 24°48'41" WEST 5.92 FEET); THENCE SOUTH 65°05'41" WEST 50.00 FEET TO THE POINT OF A 1752.50 FOOT NON-TANGENT RADIUS CURVE; THENCE SOUTHEASTERLY 3.98 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 0°07'48" (WHICH THE RADIUS POINT BEARS SOUTH 65°05'41" WEST AND LONG CHORD BEARS SOUTH 24°50'25" EAST 3.98 FEET) TO THE POINT ON A 15.00 FOOT COMPOUNDING CURVE; THENCE SOUTHWESTERLY 23.91 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 91°19'09" (WHICH THE RADIUS POINT BEARS SOUTH 65°13'29" WEST AND LONG CHORD BEARS SOUTH 20°53'03 WEST 21.46 FEET); THENCE SOUTH

66°32'38" WEST 173.04 FEET TO THE POINT OF A 15.00 FOOT RADIUS CURVE; THENCE NORTHWESTERLY 23.19 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°33'46" (WHICH LONG CHORD BEARS NORTH 69°12'09 WEST 20.95 FEET); TO THE POINT ON A 1549.50 FOOT RADIUS COMPOUNDING CURVE; THENCE NORTHWESTERLY 6.24 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 0°13'51" (WHICH THE RADIUS POINT BEARS SOUTH 65°04'44" WEST AND LONG CHORD BEARS NORTH 25°02'12" WEST 6.24 FEET); THENCE SOUTH 64°50'53" WEST 50.00 FEET TO THE POINT OF A 1499.50 FOOT NON-TANGENT RADIUS CURVE; THENCE SOUTHEASTERLY 3.97 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 0°09'07" (WHICH THE RADIUS POINT BEARS SOUTH 64°50'53" WEST AND LONG CHORD BEARS SOUTH 25°04'34 EAST 3.97 FEET) TO THE POINT ON A 15.00 FOOT COMPOUNDING CURVE; THENCE SOUTHWESTERLY 23.97 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 91°32'38" (WHICH THE RADIUS POINT BEARS SOUTH 64°59'59" WEST AND LONG CHORD BEARS SOUTH 20°46'19 WEST 21.50 FEET); THENCE SOUTH 66°32'38" WEST 86.18 FEET TO THE POINT OF BEGINNING.

CONTAINS 330,640.19 SQ/FT OR 7.59 ACRES



**EXHIBIT C
TO
MASTER DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
SOUTH HILLS POD 2**

Land Use Classifications and Neighborhoods

1. Land Use Classifications. The Land Use Classifications for the Property are as follows:

Residential Use for either Single Family Lots or Townhome Lots.

The Land Use Classifications established by Declarant for the Property pursuant to this Declaration shall not obviate the need for compliance with: (i) the Governing Documents; (ii) all codes, rules, regulations and requirements of the City; (iii) the City's approvals for such property.

2. Neighborhood Designation. The Property is made a part of the following Neighborhoods:

<u>Lot Number</u>	<u>Neighborhood Designation</u>
Lots 125 through 130, inclusive; Lots 301 through 311, inclusive; and Lots 324 through 355, inclusive	Single Family Lots
Lots 161 through 264, inclusive; and Lots 312 through 323, inclusive	Townhome Lots

**EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR SOUTH HILLS POD 2**

Bylaws of the Association

**BYLAWS
OF
SOUTH HILLS POD 2 OWNERS ASSOCIATION, INC.**

**ARTICLE 1
DEFINITIONS**

1.01 Declaration.

As used herein, "Declaration" means the Declaration of Covenants, Conditions, Easements and Restrictions for South Hills Pod 2, as Recorded, and as may be amended from time to time. The Declaration is that same Declaration referenced in the Articles of Incorporation of South Hills Pod 2 Owners Association, Inc.

1.02 Other Definitions.

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Declaration.

**ARTICLE 2
OFFICES**

South Hills Pod 2 Owners Association, Inc. (the "Association") is a Utah nonprofit corporation, with its principal office initially located at 12351 South Gateway Park Place, Suite D-100, Draper, Utah 84020. The Association may change its principal office to the office of any professional management company retained by the Association to perform some of the duties of the Association arising under the Declaration.

**ARTICLE 3
VOTING, QUORUM, AND PROXIES**

3.01 Voting.

Provisions governing the voting of the members of the Association are set forth in the Declaration.

3.02 Quorum.

Subject to and except as otherwise required by law, the Declaration, or the Articles, as amended, the presence in person or by proxy of 3 or more Owners entitled to vote shall constitute a quorum.

If a quorum is not present at any Owners meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than 48 hours and no later than 30 days, after the time set for the original meeting.

Those Owners present at the rescheduled meeting and entitled to vote shall constitute a quorum at the rescheduled meeting, regardless of the number of Owners present at the rescheduled meeting.

Notwithstanding the foregoing provisions of this Section, however, in any case in which the Declaration requires the affirmative vote of a certain percentage of Owners for authorization or approval of a matter, their consent, in person, by proxy or in writing is required for authorization or approval of the item, regardless of the quorum requirements.

3.03 Proxies.

Votes may be cast in person or by proxy. Every proxy must comply with Section 16-6a-712 of the Utah Code, as such section of the Utah Code may be amended, supplemented or replaced from time to time. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

3.04 Majority Vote.

At any meeting of the Owners, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Owners, unless the vote of a greater number is required by law, the Articles, the Declaration, or these Bylaws.

ARTICLE 4 ADMINISTRATION

4.01 Annual Meeting.

The annual meeting of the Owners shall be held at a time designated by the Board in the month of October in each year, or at such other date designated by the Board, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the election of Directors shall not be held on the date designated herein for the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be held at a special meeting of the Owners to be convened as soon thereafter as may be convenient. The Board may from time to time by resolution change the date and time for the annual meeting of the Owners.

4.02 Special Meetings.

Except as otherwise prescribed by statute or the Declaration, special meetings of the Owners, for any purpose, may be called by the president or by a majority of the Directors and shall be called by the president at the written request of Owners entitled to vote twenty percent (20%) or more of the total votes of all Owners, such written request to state the purpose or purposes of the meeting and to be delivered to the Board or to the president.

4.03 Place of Meetings.

The Board may designate the Association's principal offices or any place within Salt Lake County, Utah, as the place for any annual meeting or for any special meeting called by the Board.

4.04 Notice of Meeting.

Written or printed notice of any meeting of the Owners, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally, by mail, or by electronic means (i.e. e-mail, text messaging or another similar manner) to each Owner entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Owner at such Owner's address as it appears in the office of the Association, with postage thereon prepaid. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may set a record date for such determination of Owners, in accordance with the laws of the State of Utah. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

4.05 Informal Action by Owners.

Any action required or permitted to be taken at a meeting of the Owners may be taken with or without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted.

ARTICLE 5 **BOARD OF DIRECTORS**

5.01 Number and Election of Directors.

The Board of Directors (the "Board") shall consist of no less than three (3) and no more than five (5) Directors.

There shall be three (3) initial Directors. The initial Directors shall have the term of office as respectively set forth in Exhibit A, attached hereto and incorporated herein, and until their successors are duly elected and qualified or until their prior removal, death, or resignation. Despite the expiration of a Director's term, the Director shall continue to serve until the election

and qualification of a successor or until there is a decrease in the number of Directors, or until such Director's earlier death, resignation, or removal from office.

5.02 Removal of Directors.

Each Director may be removed, with or without cause, by a majority vote of all Owners of the Lots entitled to vote.

5.03 Replacement of Directors.

(i) A vacancy on the Board created by the removal, resignation, or death of a Director appointed or elected by the Owners shall be filled by the remaining Directors until the next annual meeting of Owners, at which time the Owners shall elect a Director to fulfill the then-remaining term of the replaced Director.

(ii) Any Director elected or appointed pursuant to this Section 5.03 shall hold office for the remainder of the unexpired term of the Director who was replaced.

5.04 Resignations.

Any Director may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

5.05 Regular Meetings.

Regular meetings of the Board may be held without call or formal notice at such places within or outside the State of Utah, and at such times as the Board from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Board for the election of officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of Owners, or any special meeting of Owners at which a Board is elected.

5.06 Special Meetings.

Special meetings of the Board may be held at any place within the State of Utah or by telephone, provided that each Director can hear each other Director, at any time when called by the president, or by two or more Directors, upon the giving of at least three (3) days' prior notice of the time and place thereof to each Director by leaving such notice with such Director or at such Director's residence or usual place of business, or by mailing it prepaid and addressed to such Director at such Director's address as it appears on the books of the Association, or by telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Directors shall be required.

5.07 Quorum.

A majority of the number of Directors fixed by these Bylaws, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the Directors in attendance shall, except where a larger number is required by law, by the Articles, by the Declaration, or by these Bylaws, decide any question brought before such meeting.

5.08 Waiver of Notice.

Before, at, or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by such Director, except when such Director attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

5.09 Informal Action by Directors.

Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Directors.

ARTICLE 6
OFFICERS AND AGENTS

6.01 General.

The officers of the Association shall be a president, vice president, a secretary, and a treasurer. The Board may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Board. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Board, such officer, agent, or employee shall follow the orders and instructions of the president.

6.02 Removal of Officers.

The Board may remove any officer, either with or without cause, and elect a successor at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

6.03 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Board for the unexpired portion of the term.

6.04 President.

The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Association and of the Board. The president shall have the general and active control of the affairs and business of the Association and general supervision of its officers, agents, and employees. The president of the Association is designated as the officer with the power to prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

6.05 Vice President.

The vice president shall, in the absence or disability of the president, perform the duties and exercise the powers of the president, and shall perform such other duties as the Board or the president shall prescribe. If neither the president nor the vice president is able to act, the Board shall appoint a member of the Board to do so on an interim basis.

6.06 Secretary.

The secretary shall:

- (i) keep the minutes of the proceedings of the Owners meetings and of the Board meetings;
- (ii) see that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration, and as required by law;
- (iii) be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board;
- (iv) maintain at the Association's principal offices a record containing the names and registered addresses of all Owners, the designation of the Lot owned by each Owner, and, if such Lot is mortgaged, the name and address of each mortgagee; and
- (v) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

6.07. Treasurer.

The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association

a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his/her duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Association. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

ARTICLE 7
EVIDENCE OF OWNERSHIP, REGISTRATION OF
MAILING ADDRESS, AND LIEN HOLDERS

7.01 Proof of Ownership.

Any person on becoming an Owner shall furnish to the Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in the Lot, Unit or Parcel. Such copy shall remain in the files of the Association.

7.02 Registration of Mailing Address.

If a Lot or Parcel is owned by two or more Owners, such Owners shall designate one address as the registered address. The registered address of an Owner or Owners shall be furnished to the secretary of the Association within ten (10) days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Lot or Parcel or by such persons as are authorized to represent the interests of all Owners of the Lot or Parcel. If no address is registered or if all of the Owners cannot agree, then the address of the Lot or Parcel shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Lot or Parcel.

7.03 Liens.

Any Owner who mortgages or grants a deed of trust covering such Owner's Lot or Parcel shall give the Association written notice of the name and address of the holder of such mortgage or deed of trust and shall file true, correct, and complete copies of the note and security instrument with the Association.

ARTICLE 8
SECURITY INTEREST IN MEMBERSHIP

Owners shall have the right irrevocably to constitute and appoint a holder of a mortgage or deed of trust their true and lawful attorney-in-fact to vote their membership in the Association at any and all meetings of the Association in which such Owner is entitled to vote and to vest in such holder any and all rights, privileges, and powers that they have as Owners under the Articles and these Bylaws or by virtue of the Declaration. Unless otherwise expressly provided in such proxy, such proxy shall become effective upon the filing of notice by such holder with the secretary of the Association. A release of the mortgage or deed of trust covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve

Owners, as mortgagors or grantors of a deed of trust, of their duties and obligations as Owners or to impose upon the holder of a mortgage or deed of trust the duties and obligations of an Owner.

ARTICLE 9 AMENDMENTS

9.01 By Directors.

Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the Directors shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action.

9.02 Owners.

Subject to any rights conferred upon holders of a security interest in the Declaration, the Owners may, by the vote of the holders of at least fifty-one percent (51%) of the votes of the Owners entitled to vote, unless a greater percentage is expressly required by law, the Articles, the Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

ARTICLE 10 MISCELLANEOUS

10.01 Fiscal Year.

The fiscal year of the Association shall be such as may from time to time be established by the Board.

10.02 Other Provisions.

The Declaration contains certain other provisions relating to the administration of South Hills Pod 2, which provisions are hereby incorporated herein by reference.

10.03 Officer/ Director Qualifications.

No individual who is a Class A Member (as defined in the Declaration) may serve as an officer or Director of the Association if that individual, or if such individual is associated with a Class A Member, the Class A Member associated with that individual, is delinquent in the payment of any dues, fees, Assessments, or the like arising out of the Declaration, these Bylaws, or the Association's Articles of Incorporation, or is otherwise in material default of any of the Covenants within the Declaration, Bylaws, or the Articles of Incorporation. Provided, that nothing in the previous sentence shall require an officer or Director of the Association to also be an Owner.

EXHIBIT A
TO BYLAWS OF SOUTH HILLS POD 2 OWNERS ASSOCIATION, INC.
Directors and Initial Terms

One Year

Adam Loser

Two Years

Krisel Travis

Two Years

Jonathan Thornley