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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR GARDEN PARK VILLAGE**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GARDEN PARK VILLAGE (this "Declaration") is made and executed by VP DAYBREAK OPERATIONS, LLC, a Delaware corporation and IVORY HOMES, LTD, a Utah limited partnership and its affiliates (collectively, "Ivory Homes"). This Declaration shall be effective upon recording in the Official Records of Salt Lake County, Utah.

RECITALS

- A. On February 27, 2004, that certain Community Charter for Daybreak was recorded as Entry No. 8989518, in Book 8950, beginning at Page 7784, in the Official Records of Salt Lake County, Utah, as amended by that certain Amendment No. 1 to Community Charter for Daybreak, recorded on August 26, 2004, as Entry No. 9156782, in Book 9030, beginning at Page 3767, in the Official Records of Salt Lake County, Utah, and as amended by that certain Amendment No. 2 to Community Charter for Daybreak, recorded on October 19, 2005, as Entry No. 9528104, in Book 9205, beginning at Page 4743, in the Official Records of Salt Lake County, Utah, and as amended by that certain Amendment No. 3 to Community Charter for Daybreak, recorded on March 13, 2007, as Entry No. 10031889, in Book 9434, beginning at Page 6476, and as amended by that certain Amendment No. 4 to Community Charter for Daybreak recorded on March 2, 2010, as Entry No. 10907211, in Book 9807, beginning at Page 7337 (collectively, the "Master Residential Declaration"), to govern the phased development of a community commonly known as "Daybreak" located in the City of South Jordan, Utah, and further to govern the Daybreak Community Association, Inc. (the "Master Residential Association").
- B. On February 27, 2004, that certain Covenant for Community for Daybreak was recorded as Entry No. 8989517, in Book 8950, beginning at page 7722, in the Official Records of Salt Lake County, Utah (the "Covenant"), to govern the phased development of Daybreak, and further to govern the Daybreak Community Council, Inc. (the "Daybreak Community Council").
- C. Section 2.6 of the Master Residential Declaration authorizes establishment of separate owners' associations as sub-associations to administer additional covenants applicable to a particular area within Daybreak.
- D. On October 16, 2009, that certain Declaration of Covenants, Conditions and Restrictions for Garden Park Village was recorded in the Official Records of Salt Lake County, Utah as Entry No. 10818988, in Book 9771, beginning at Page 6207 (the "Initial Declaration"). The Initial Declaration, together with those certain previously recorded subdivision maps, as amended, established Garden Park Village as a distinct Neighborhood within Daybreak, as defined in the Master Residential Declaration (the "Project").

- E. On July 28, 2011, that certain Amendment No. 1 to Declaration of Covenants, Conditions and Restrictions for Garden Park Village was recorded in the Official Records of Salt Lake County, Utah as Entry No. 11219568, in Book 9939, beginning at Page 6827.
- F. On July 1, 2016, that certain Amendment No 1 [sic] to Declaration of Covenants, Conditions and Restrictions for Garden Park Village was recorded in the Official Records of Salt Lake County, Utah as Entry No. 12312668, in Book 10448, beginning at Page 4386.
- G. On May 15, 2018 that certain Supplement to Declaration of Covenants, Conditions and Restrictions for Garden Park Village was recorded in the Official Records of Salt Lake County, Utah as Entry No. 12772339, in Book 10674, beginning at Page 5171, adding Additional Land to the Project.
- H. The Project is subject to the terms and conditions, covenants and restrictions set forth in the Master Residential Declaration and the Covenant and is governed by the Master Residential Association and the Daybreak Community Council.
- I. The Project is designed and developed as a "maintenance-free," "age-restricted" community which includes certain amenities and services more particularly described herein which are not provided to other areas in Daybreak and imposes on the units within the Project certain additional covenants, conditions and restrictions not imposed upon all property within Daybreak
- J. To facilitate the operation of the Project and to enforce these covenant, conditions and restrictions the Garden Park Village Association, Inc. (the "Association") has been established as a Utah nonprofit corporation. The Association shall operate in accordance with the Amended Bylaws of Garden Park Village Association, Inc. attached hereto as Exhibit B (the "Bylaws"), the Master Residential Declaration, the Covenant and this Declaration.
- K. Portions of the Project have been developed under a condominium form of ownership (specifically, the "Garden Park Condominiums") and are further governed by a condominium owners association ("Garden Park Condominiums Owners' Association, Inc.") in accordance with the Utah Condominium Ownership Act and the Master Residential Declaration. As more fully set forth in Article 14 hereof, Declarant reserves the right to expand the Project to include certain additional real property and improvements thereto.

ARTICLE 1
DEFINITIONS

- 1.1 **Capitalized Terms.** Capitalized terms in this Declaration are defined in this Article 1 and the Recitals or in other sections of this Declaration.
- 1.2 "Act" shall mean the Community Association Act, Utah Code § 57-8a-101 *et seq.*
- 1.3 "Additional Land" shall mean certain real property located in Salt Lake County, Utah described in future supplements to this Declaration which supplements shall be recorded by Declarant in accordance with Article 14 hereof as such Additional Land is subjected to this Declaration from time to time by Declarant as permitted hereby.
- 1.4 "Age-Qualified Occupant" shall mean and refer to any person fifty-five (55) years of age or older who occupies a Unit.

- 1.5 **"Age-Restricted Community"** shall mean and refer to a development in accordance with the Housing for Older Persons Act of 1995 and other applicable federal and state housing laws.
- 1.6 **"Age Restriction"** shall mean and refer to the requirement that the Project provide housing primarily for persons fifty-five (55) years of age or older and shall be operated as an Age-Restricted Community such that at least eighty percent (80%) of the occupied Units shall be occupied by at least one person fifty-five (55) years of age or older. Up to twenty percent (20%) of the occupied Units may be owned and/or occupied by Non-Qualified Occupants and their families.
- 1.7 **"Articles"** shall mean the Articles of Incorporation of Garden Park Village Association, Inc. on file with the Utah Division of Corporations and Commercial Code.
- 1.8 **"Assessment"** shall mean any monetary charge imposed or levied on a Unit or an Owner by the Association as provided for in this Declaration and shall include, without limitations, annual assessments, Service Area Assessments, and special assessments.
- 1.9 **"Board"** shall mean the Board of Directors of the Association.
- 1.10 **"Builder"** shall mean a builder or builders designated by Declarant or its predecessor in interest who purchased all or a portion of the Property from Declarant or its predecessors in interest and has or will construct some or all of the Units and Common Area comprising the Project in accordance with the Plats for sale to third-party purchasers.
- 1.11 **"Clubhouse"** shall mean the Garden Park Village Clubhouse located within the Project, which includes, *inter alia*, a fitness center, locker rooms, swimming pool and spa, picnic pavilion, and pickle ball courts.
- 1.12 **"Common Area"** shall mean any property and/or facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Unit, including, without limitation, the Clubhouse and Clubhouse furnishings and equipment. The term "Common Area" shall not include any common area of the Garden Park Condominiums or any common area of the Master Residential Association.
- "Common Expenses"** shall mean the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Clubhouse, Areas of Common and any other Common Area maintained by the Association; (b) operation, management and administration of the Association, including, but not limited to, compensation paid by the Association to the Manager, employees of the Association (if any), accountants, attorneys, consultants, and other professionals; (c) insurance and bonds required or allowed by this Declaration or by law; (d) reserves; and (e) other expenses incurred by the Association as provided for or allowed in the Act or the Project Governing Documents.
- 1.13 **"Common Expense Fund"** shall mean the operating account(s) and other accounts established and maintained by the Association pursuant to the provisions of this Declaration.
- 1.14 **"Community-Wide Standard"** shall have the meaning assigned in the Master Residential Declaration.
- 1.15 **"Condominium"** shall mean Units submitted to a condominium form of ownership under

Utah law.

- 1.16 "**Declarant**" shall mean, collectively, VP Daybreak Operations, LLC and Ivory Homes and their successors and assigns.
- 1.17 "**Declarant Control Period**" shall mean the period of time in which the Declarant or its affiliates and/or assigns own any land within or that may be added to the Project.
- 1.18 "**Design Guidelines**" shall have the meaning assigned in the Master Residential Declaration.
- 1.19 "**Limited Common Area**" as used herein shall mean and refer to those Common Areas designated on the Plat (or in a supplement to this Declaration or in another recorded instrument) as reserved for the use of less than all Units. The term "Limited Common Area" shall not include any limited common area of the Garden Park Condominiums.
- "**Manager**" shall mean the Person, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.
- 1.20 "**Member**" shall mean a member of the Association.
- 1.21 "**Mortgage**" shall mean any mortgage, deed of trust, or other security instrument by which a Units or any part thereof is encumbered.
- 1.22 "**Mortgagee**" shall mean: (i) any person named as the mortgagee or beneficiary under any Mortgage; or (ii) any successor to the interest of such person under such Mortgage.
- 1.23 "**Non-Qualified Occupant**" shall mean an adult who is less than fifty-five (55) years of age.
- 1.24 "**Owner**" shall mean any Person owning any Unit within the Project, as shown in the Official Records of Salt Lake County, Utah. The term "Owner" shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any Person purchasing a Units under contract until such contract is fully performed and legal title conveyed An Owner under this Declaration is also by definition an "Owner" under Section 2.4 of Master Residential Declaration and under Section 1.6 of the Covenant. The term "Owners" shall mean more than one Owner or all owners.
- 1.25 "**Person**" shall mean a natural individual, corporation, estate, limited liability company, partnership, trust, governmental subdivision or agency, or any other legal entity. The term "Persons" shall mean more than one Person.
- 1.26 "**Plat**" shall mean any or all of the final subdivision plats of record and on file in the Official Records of Salt Lake County, Utah for the Project.
- 1.27 "**Project Governing Documents**" shall mean this Declaration, the Articles and Bylaws, rules and regulations of the Association, and resolutions of the Board adopted pursuant thereto, as the same may be lawfully amended from time to time.
- 1.28 "**Service Area**" group of Units or Units in a particular phase of the Project designated by the Association for the purpose of receiving particular services or benefits from the Association which are not provided to all Units within the Project (for example, Townhomes requiring maintenance of building exteriors may be designated as a Service Area). A Service Area may contain noncontiguous Units.

- 1.29 **"Service Area Assessment"** shall mean an assessment levied against a Unit in a Service Area to pay for Service Area Expenses (including, for example, insurance premiums for property insurance for attached Units required for Townhomes).
- 1.30 **"Service Area Expenses"** means actual and estimated expenses which the Association incurs or expects to incur for the benefit of Units within a particular Service Area, which may include amounts for reserves for repair and replacement of capital improvements.
- 1.31 **"Total Votes of the Association"** shall mean the total number of votes appertaining to the Units in the Project.
- 1.32 **"Townhomes"** shall mean any building containing or consisting of attached, townhome-style Units constructed in the Project. "Townhome" shall mean any individual town-home style attached Unit.
- 1.33 **"Unit"** shall mean a subdivided lot or Condominium unit within the Project depicted as a separately identifiable parcel on a recorded subdivision plat, survey or Condominium instrument, which may be independently owned and conveyed and is zoned or otherwise intended for development, use and occupancy as an attached or detached residence for a single family. The term "Unit" includes the lot, if any, as well as to the structure or other improvements on the Unit. In the case of a Townhome or Condominium, each dwelling shall be deemed to create a separate Unit. A parcel of land is considered a single Unit until a subdivision plat, survey or Condominium instrument is recorded subdividing it into more than one Unit. The term "Unit" does not include Common Area, common area or property of any sub-association or the Master Residential Association, or any property dedicated to the public or South Jordan City.
- 1.34 **"Voting Delegates"** shall mean the representatives elected to represent the Owners in the Project at annual and special meetings of the Master Association and cast all votes attributable to the Units in the Project as provided in the Master Residential Declaration and Master Association bylaws.

ARTICLE 2

AGE-RESTRICTED COMMUNITY

- 2.1 **Age Restriction.** The Project shall be operated to provide housing opportunities for persons age 55 and older in accordance with the Housing for Older Persons Act of 1995. Once a Unit is occupied by an Age-Qualified Occupant, other Non-Qualified Occupants of that Unit and their family members may continue to occupy that Unit, regardless of the termination of the Age-Qualified Occupant's occupancy, if at least eighty percent (80%) of the Units within the Project are occupied by at least one person fifty-five (55) years or older. The Association may, however, restrict sale, lease, and occupancy of a Unit previously occupied by an Age-Qualified Occupant to preserve the Project's compliance under the Housing for Older Persons Act of 1995. Nothing in this Section is intended or shall be construed to restrict any Age-Qualified Occupant during his/her/their occupancy of the Unit from determining the composition of his/her/their household or to restrict an Age-Qualified Occupant from occupying a Unit with family or household members (regardless of family or household member's age) as a single-family residence. The Project is not a cooperative or a condominium.
- 2.2 **Intent to Comply.** The Declarant or the Association will publish and adhere to policies

and procedures that demonstrate its intent to provide housing for Age-Qualified Occupants, such as written rules, regulations, lease provisions, deed restrictions, advertising, and actual practices. Declarant and the Association will comply with all of the rules issued by the Secretary of Housing and Urban Development for verifications of occupancy through reliable surveys and affidavits. Owners and occupants shall cooperate in providing age verification. Failure to cooperate in providing age verification shall be deemed a breach of this Declaration. Declarant or the Association will resurvey its list of residents at least once every two (2) years to ensure that the 80% requirement is met.

- 2.3 **Exclusions.** The following may be excluded from the calculation of the 80% requirement: (a) unoccupied Units; (b) Units occupied by employees of Garden Park Village who are under age 55 and who provide substantial management and maintenance services to the Project; and (c) Units occupied solely by persons who are necessary or essential to provide medical and/or health and nursing care services as a reasonable accommodation to residents of the Project. In order to not risk losing the exemption provided in the Housing For Older Persons Act of 1995, if Age-Qualified Occupants die with survivors or heirs who are under age 55, re-sales and leases of the Unit previously occupied by an Age-Qualified Occupant may be restricted by the Association to occupancy by at least one Age-Qualified Occupant.
- 2.4 **Advertisements.** Declarant or its designee may advertise or market the 20% portion of the Residential Units within the Project which are not required to be occupied by at least one Age-Qualified Occupant to prospective buyers under age 55 [who are Qualified Occupants/and to families with children], but the marketing must be done in a way that identifies Garden Park Village as housing intended for older persons. Advertising and marketing must be consistent with the purpose of the Project as an Age-Restricted Community.
- 2.5 **Temporary Absence.** If an Age-Qualified Occupant is on an extended vacation, hospitalized, on sabbatical, providing ecclesiastical, philanthropic, humanitarian or related service or otherwise absent for a season, such Age-Qualified Occupant may allow a younger relative or house sitter who is a Qualified Occupant to live in such Age-Qualified Occupant's Residential Unit during such absence, in which case, such Unit shall be deemed in compliance with the 80% occupancy requirement as long as the Unit is not leased to such relative or house sitter, and provided that the Age-Qualified Occupant returns on a periodic basis and maintains legal and financial responsibility for the Unit.
- 2.6 **Enforcement.** The Association shall have the power and authority to specifically enforce the provisions of this Article 2 and the Age-Restriction of any legal or equitable means available, as the Association deems reasonably appropriate.

ARTICLE 3 IMPROVEMENTS

- 3.1 **Description and Legal Status of Units.** The Plat shows the number of Units currently comprising the Project. Mailing addresses for the Units may or may not be consistent with the Unit numbers on the Plat. All Units shall be capable of being independently owned, encumbered, and conveyed.
- 3.2 **Building Area Restrictions.** No house, garage or other improvement, other than

landscaping, sidewalks, driveways, streetlights and curb and gutter improvements, shall be located on any Units outside of the original structure building area without the prior written approval of the Association.

- 3.3 **Common Area.** Any real property depicted on the Plat (or otherwise described in a supplemental declaration or other recorded instrument), as common (including but not limited to the Clubhouse and areas designated as a "Private Lane") is to be owned, managed and controlled by the Association for the common use and enjoyment of the Owners. The Common Area includes, specifically: (a) all land within the Project not part of a Unit or common area of a sub-association or the Master Residential Association, or dedicated to the public or South Jordan City; (b) all utility installations, systems, and equipment connected with or in any way related to the furnishing of utilities for the Common Area and intended for the common use of all Owners; and (c) all other parts of the Project (excepting the Units) necessary or convenient to the Project's existence, maintenance, or safety or normally in common use. Each Owner shall have a nonexclusive right to use and enjoy the Common Area, subject to the rules and regulations adopted by the Association governing the operation and use. Subject to the provisions in this Declaration regarding Service Areas and Service Area Expenses, costs incurred in connection with the operation and maintenance of the Common Areas are part of the Common Expenses.

ARTICLE 4

NATURE AND INCIDENTS OF OWNERSHIP

- 4.1 **Title.** Title to Units may be held or owned by any Person or Persons and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation, joint tenancy or tenancy in common.
- 4.2 **Prohibition on Sale in Violation of Age Restriction.** Each Owner shall have and enjoy the privileges of fee simple ownership of his/her/their Units; however, the Project is intended to be an Age Restricted Community and, as such, is intended and operated for occupancy by persons age 55 and older. Declarant and the Association are granted and hereby expressly reserve the unilateral right to void any re-sale or lease of a Unit in violation of the Age Restrictions by recording a written "Notice of Election to Void Sale or Lease for Violation of Age Restrictions" or its equivalent in the Official Records of Salt Lake County, Utah.
- 4.3 **Prohibition against Subdivision of Units.** No Owner, by deed, plat or otherwise, shall subdivide or in any manner cause his/her/their Units to be subdivided, partitioned or separated into physical tracts or parcels smaller than the whole Units as shown on the Plat or a subsequently recorded plat for Units added to the Project according to the terms of this Declaration.
- 4.4 **Inseparability.** Title to any part of a Unit may not be separated from any other part thereof. Every devise, encumbrance, conveyance, or other disposition of a Unit, or any part thereof, shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.
- 4.5 **Separate Mortgages by Owners.** Each Owner shall have the right separately to mortgage

or otherwise encumber his/her/their Unit. Unless otherwise specifically provided herein, any Mortgage or other encumbrance of any Unit shall be subordinate to all of the provisions of this Declaration, the Master Residential Declaration and the Covenant, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

- 4.6 **Separate Taxation.** Each Unit and all improvements located thereon shall be assessed separately for all taxes, assessments, and other charges of the State of Utah or of any political subdivision thereof or of any special improvement district or of any other taxing or assessing authority. All such taxes, assessments, and other charges on each respective Unit shall be separately levied against the Owner thereof. No forfeiture or sale of any Unit for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Unit.
- 4.7 **Mechanics' Liens.** No labor performed or material furnished for use in connection with any Unit (with the consent or at the request of an Owner or his agent or contractor) shall create any right to file a statement, claim, or notice of mechanic's lien against the Unit of any other Owner not expressly consenting to or requesting the same even if existing by easement over the subject Unit.
- 4.8 **Party Walls.** Townhomes may have common or party walls with adjacent Units. The boundary between two such adjacent Units shall be the vertical (or, as applicable, horizontal) boundary running through the center of the party wall, equidistant from the outermost surfaces of studs and structural beams making up the party wall. There is reserved and granted to each Owner that owns a Unit adjoining another Unit an easement of support and shelter over the portion of any party, adjacent, or retaining wall on the adjoining Unit. Each Owner covenants to continue to provide the support and shelter that presently exists (or will exist following construction) and as may be necessary to maintain the integrity of each such party wall. Each Owner shall have an easement for pipes, ducts, and utility ways and chases passing through the other Units that serve that Owner's Unit. Physical structures including party walls serving two separate Units shall be shared through a mutual non-exclusive easement of enjoyment for all purposes for which the improvements and their replacements were intended.
- 4.9 **View Impairment.** Declarant and the Association do not guarantee or represent that any view from any Unit or any view over and across the Units will be preserved without impairment. Declarant and the Association shall have no obligation to relocate, prune or thin trees or other landscaping except to maintain the Community-Wide Standard. The Association, with respect to Common Area, shall have the right to add trees and other landscaping from time to time, subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

ARTICLE 5
MAINTENANCE

- 5.1 **Maintenance Responsibility.** The Units and the Common Area shall be maintained by the Owners and the Association as follows:
- (a) **Areas of Common Responsibility.** The Association, shall maintain, repair and

replace, as needed, from time to time, as determined by the Board in its discretion the following items which shall be referred to herein as the "Areas of Common Responsibility," and the Board shall not need the prior approval of the Members to cause such maintenance, replacement or repairs to be accomplished, notwithstanding the cost thereof; subject, however, to Article 10 hereof:

- (i) All Common Areas;
 - (ii) Unless otherwise determined by the Board in the Rules, mowing and edging of front yard and back yard lawn, maintenance of front yard and backyard shrubs (excluding replacement of any diseased, dying, or dead shrubs or other plantings), maintenance of sprinkler systems (including the timing and water management of such sprinkler systems), maintenance of front yard flower beds (excluding any stand-alone planters, window boxes, fences, retaining walls, walls and enclosed areas within fences or walls and excluding mulching of any front yard or back yard planting areas) for any Unit;
 - (iii) All other common elements not expressly included in the areas of personal responsibility of the Owners set forth below;
 - (iv) With respect to the Townhomes, all footings and foundations, structural components, roofs, exterior portions of such Townhomes and common sanitary sewer laterals (if any) and other common utilities (if any). The cost of said maintenance, replacement and repair shall be assessed proportionately to all of the Owners owning Units within such Townhomes as a Service Area Assessment.
- (b) Areas of Personal Responsibility. An Owner shall maintain, repair and replace, in a good and clean manner, as needed, from time to time the following items:
- (i) With respect to any detached Unit, an Owner of such Unit shall maintain his/her/their entire dwelling (e.g., roof, exterior surfaces, foundation, footings, beams supports and main walls), and all other improvements (e.g., all fixtures, furnishings, windows, window screens, doors, patios, balconies, decks, garage doors, driveways, steps, cement work and walls, utilities, etc.) thereon unless such responsibility is otherwise assumed by or assigned to the Association pursuant to any supplemental declaration or additional covenants or Association rules applicable to such Units. Owners of detached Units shall be responsible to promptly replace any diseased, dying, or dead shrubs and flowers, at the Owner's expense and for mulching front and backyard planting areas.
 - (ii) With respect to Townhome, each Owner shall maintain and keep in repair the interior of his/her/their dwelling, including the fixtures and equipment installed therein. Each Owner of a Townhome shall do no act and shall perform no work that will or may impair the structural soundness or integrity of the building or structure in which such Owner's Townhome is located, impair any easement or hereditament, or violate any applicable laws, ordinances, regulations and codes.

- (iii) With respect to any Townhome, an Owner of such Unit shall also maintain the following portions of his or her dwelling: all fixtures, furnishings, windows, doors, patios, balconies, decks, garage doors, driveways, steps, cement work and walls, utilities, etc.) thereon unless such responsibility is otherwise assumed by or assigned to the Association pursuant to any supplemental declaration or additional covenants or Association rules applicable to such Residential Units.
- (iv) With respect to any Townhome, each Owner thereof shall maintain and be permitted to alter or remodel the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within such Owner's Residential Unit, including any non-exterior doors and non-exterior windows.
- (v) Each Owner shall be responsible for the maintenance, repair and replacement of utility lines (such as power, natural gas, water, sewer, telecommunications, cable and any other future utility lines) that serve his or her Residential Unit from the point of connection. The Owner shall not alter any utility lines, pipes, wires, conduits, or systems which serve one or more other Residential Units. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board. Such right to repair, alter, and remodel is coupled with the obligation to replace any materials removed with similar types or kinds of materials.

5.2 **Maintenance Standard.** All maintenance, repair and replacement obligations shall be performed in a manner consistent with the Master Residential Declaration and the Community-Wide Standard. Any expense to the Association for investigation of any violation of any provision in this Article may be specially assessed to the Owner if such investigation establishes a violation of this Article.

5.3 **Right to Regulate Operation of Clubhouse.** In addition to the rights and authority granted to the Association elsewhere in this Declaration or by law to regulate Common Area, the Association shall have the right and authority under this Section to regulate operation of the Clubhouse and to temporarily close or restrict usage of the Clubhouse to protect the health and well-being of Owners and Occupants, as determined by the Board, in its discretion.

5.4 **Right of Entry.** The Association shall have a right of entry and access to, over, upon, and through all of the Project, including each Unit, to enable the Association to perform its obligations, rights, and duties pursuant hereto with regard to maintenance, repair, restoration, and/or servicing of any items, things or areas of or in the Project. In the event of an emergency, the Association's right of entry to a Unit may be exercised without notice; otherwise, the Association shall give the Owners or occupants of a Unit no less than twenty-four hours advance notice prior to entering a Unit.

ARTICLE 6 EASEMENTS

6.1 **Easements for Maintenance.** The Association shall have the irrevocable right to have

access from time to time as set forth in Article 5 above.

- 6.2 **Easements Reserved by Declarant and Association.** The Association shall have power to grant and convey to any third party and there is reserved to Declarant such easements and rights of way as set forth in Chapter 13 of the Master Residential Declaration. Furthermore, the Project shall continue to be subject to the applicable easements set forth in the Master Residential Declaration.
- 6.3 **Easements for Utilities.** Declarant has reserved and established a non-exclusive easement over, under, through and across the Units for the location of utility lines, including power, natural gas, telecommunications, cable and any future utilities installed to serve the Units, and the maintenance, repair, and replacement of the same. All work associated with the exercise of this easement shall be performed so as to minimize interference with the use and enjoyment of the Unit burdened by the easement. Upon completion of the work, the person utilizing the easement shall make reasonable efforts to restore the Unit, to the extent reasonably possible, to the condition existing prior to the commencement of the work.
- 6.4 **Drainage.** Declarant has reserved and established a non-exclusive easement over, under, through and across the Units and Common Area, for the drainage of surface waters. Declarant has further caused to be established a storm drainage system designed to serve the Project (the "Master Storm Drainage System"). No Owner shall interfere with the Master Storm Drainage System and each Unit shall be developed in a manner consistent with the Master Storm Drainage System so as not to detract therefrom or interfere therewith.
- 6.5 **Encroachments.** In the event that any portion of the Common Area or a Unit encroaches or comes to encroach upon other Common Area or a Unit as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.
- 6.6 **Easements Deemed Created.** All conveyances of Units within the Project shall be construed to grant and reserve such reciprocal easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE 7

RESTRICTIONS ON USE

- 7.1 **Prohibition of Damage and Certain Activities.** Except with the prior written consent of the Association, nothing shall be done or kept in or on any Unit or in any other part of the Project which may result in cancellation of any insurance on the Project or any part thereof, nor shall anything be done or kept in or on any Unit which may increase the rate of insurance on the Project or any part hereof over that which the Association, but for such activity, would have to pay. Nothing shall be done or kept in or on any Unit or in the Project or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority.

ARTICLE 8

THE ASSOCIATION; BYLAWS

- 8.1 **Membership and Bylaws.** Each Owner shall be entitled and required to be a Member. Membership in the Association shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner.

If title to a Unit is held by more than one Owner, all Co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under this Declaration. An Owner shall be entitled to one membership in the Association for each Unit owned by said Owner. Each Unit shall have one vote in the Association, regardless of the number of Owners thereof. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Unit within the Project cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Unit shall be construed to be a devise, encumbrance, conveyance or other disposition, respectively, of the Owner's membership in the Association, and the rights appurtenant thereto. Except as otherwise provided in the Bylaws with respect to the Declarant, no person or entity other than an Owner may be a Member of the Association and in no event shall membership in the Association be transferred except in connection with the transfer of a Unit.

8.2 **Board.** The Board shall initially consist of three (3) members which can be increased up to as many as seven (7) members in accordance with and upon the terms of the Bylaws. Declarant reserves the right to appoint all of the Board consistent with the terms of the Bylaws.

8.3 **Amplification.** The provisions of this Article may be amplified by the Articles, the Bylaws, and/or the rules and regulations of the Association; provided, however, that such amplification shall not be inconsistent with the provisions of this Declaration.

ARTICLE 9

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

9.1 **Master Residential Association Voting Delegates.** The Association shall cooperate and coordinate with the Master Residential Association in the election of Voting Delegates for Garden Park Village, as set forth in the Master Residential Declaration and Master Residential bylaws.

9.2 **Manager.** The Association may, by written contract, delegate in whole or in part to a professional Manager such of the Association's duties, responsibilities, functions, and powers hereunder as are properly delegable. The services of any Manager retained by the Association shall be paid for with funds from the Common Expense Fund.

9.3 **Miscellaneous Goods and Services.** The Association may obtain and pay for the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any Person with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project, the enforcement of this Declaration, or any other matter. In addition to the foregoing, the Association may (but is not obligated to) acquire and pay for out of the Common Expense Fund necessary or desirable utility services for the Project and insurance, bonds, and other goods and services common to the Units.

9.4 **Real and Personal Property.** The Association may acquire, hold and own real, personal, and mixed property of all types for the use or benefit of all of the Owners and may dispose of such property by sale or otherwise. The maintenance, repair and replacement of all such property shall be paid for out of the Common Expense Fund and all proceeds from the

disposition thereof shall become part of such fund.

- 9.5 **Rules and Regulations.** The Association, by action of the Board, may make reasonable rules and regulations governing the use of the Units and the use of Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration, the Master Residential Declaration and the Covenant. The Association may take enforcement action against any Owner to enforce compliance with such rules and regulations or other obligations of Owners arising hereunder, including actions for injunctive release and/or damages for noncompliance therewith, to the fullest extent permitted by law and the Association shall be entitled to recover its costs, including reasonable attorneys' fees, from the offending Owner.
- 9.6 **Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration, the Articles, or by law, and every other right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.
- 9.7 **Indemnification.** To the fullest extent permitted by law, the Association shall indemnify the following Persons against all expenses and liabilities including, but not limited to, attorneys' fees, reasonably incurred by or imposed upon such Person in connection with any proceeding to which such Person may be a party, or in which such Person may become involved, by reason of such person being or having served in any capacity on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board or any project design review committee ["Project DRC"] established by the Board):
- (a) every director and officer of the Association and every member of the Project DRC and any other committee of the Association;
 - (b) every director, officer and employee of Declarant, the Master Residential Association and the Daybreak Community Council, Inc.; and
 - (c) every Person serving as an employee of the Association.

Any such Person shall be entitled to indemnification whether or not such person is a director, officer or Member of the Association or of the Project DRC or any other committee of the Association or is serving in any other such specified capacity at the time such expenses are incurred, provided, however, that the Person to be indemnified hereunder did not act, fail to act, or refuse to act with gross negligence or fraudulent or criminal intent in the performance of his/her/their duties. The foregoing rights of indemnification shall be in addition to, and not in place of, all other rights to which such Persons may be entitled at law or otherwise.

- 9.8 **Cooperation with Declarant.** Declarant or its affiliate is the owner of real property adjacent to or nearby the Project. The plans for such real property currently include development as mixed-use parcels. Different uses may be constructed at different times. Therefore, Units may be located near other uses when such adjacent or nearby real property is developed, including commercial, civic and office property and apartments, townhouses and condominiums. Certain characteristics and features of the Project may change over time depending on adjacent or nearby uses, such as views, shade, perceived privacy, noise, and amount of traffic. The Association and each Owner hereby acknowledge the plans for

adjacent mixed-use development and agree not to interfere with or oppose such development with the Master Residential Association, the Daybreak Community Council, the City of South Jordan or the County of Salt Lake, State of Utah, or any other relevant governing body.

- 9.9 **Sales Program.** To facilitate completion of construction and initial sale of the Units, the Declarant and Builder shall have the following rights: (a) the right to maintain one (1) or more sales offices and one (1) or more model Units (whether a detached Unit, Townhome or Condominium). Such offices and/or models shall be located on or within the Units owned by it; (b) the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places within the Project; and (c) the right to use the Common Area, from time to time, to facilitate the sale of Units.
- 9.10 **Security.** The Declarant and/or the Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. Notwithstanding, neither the Declarant nor the Association, shall in any way be considered an insurer or guarantor, or provider of security within the Project. Likewise, the Association shall not be liable for any loss or damage by reason of any criminal conduct or activities within the Project or for any failure to provide any security or ineffectiveness of any security measures undertaken. By taking title to a Unit and/or residing in or visiting the Project, Owners and occupants, their guests and invitees, as applicable, acknowledge that neither the Declarant nor the Association has any duty to any Owner or occupant or guest or invitee related to security. Neither the Declarant nor the Association represents or warrants that any security measures undertaken will insure their safety. By taking title to a Unit and/or residing in or visiting the Project, Owners and occupants, their guests and invitee assume all responsibility for their own safety and security and assume all risks for loss or damage to their person or property and further acknowledge that the Association has made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security measures undertaken within the Project.

ARTICLE 10 ASSESSMENTS

- 10.1 **Obligation to Pay Assessments.** Each Owner of a Unit by the acceptance of instruments of conveyance and transfer therefore, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association all Assessments, Such Assessments shall be fixed, established and collected from time to time as provided in this Article. The obligation to pay assessments shall commence as to each Unit on the first day of the month following the date on which a certificate of occupancy is issued for a Unit, or a Unit is actually occupied, whichever first occurs.
- 10.2 **Regular Assessments.** Regular Assessments shall be computed and assessed against all Units in the Project as follows:
- (a) Common Expenses.
 - (i) Annual Budget. At least sixty (60) days before the beginning of each fiscal year, the Association shall prepare, or cause to be prepared, an operating

budget setting forth an itemized statement of the anticipated expenses for the coming year, taking into account the general condition of the Project. The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained consistent with the requirements of the Act. The Board shall send a copy of such budget, together with the amount of the assessments to be levied pursuant to such budget, to each Member at least thirty (30) days prior to the due date of the assessments to be levied pursuant to such budget. The budget shall automatically become effective unless disapproved or amended by a vote of at least seventy-five percent (75%) of the Total Votes of the Association at a Member meeting set in accordance with the Bylaws. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect, increased by fifteen percent (15%), shall continue in effect until a new budget is determined.

- (ii) Basis of Annual Budget. The annual budget shall be based upon the Association's estimates of the amounts required to provide for payment of expenses arising out of or connected with maintenance and operation of the Clubhouse, the Areas of Common Responsibility, Service Areas, and other Common Area and operation, management and administration of the Association. Such actual expenses and estimated expenses may include, among other things, the following: expenses of management; governmental taxes and special assessments; premiums for all insurance that the Association is required or permitted to maintain; repairs and maintenance described in Section 5.1 hereof; wages for Association employees, including fees for a Manager, if any; common utility charges not allocable to a particular Service Area; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve; sinking or reserve funds required or allowed herein; and any other expenses and liabilities which may be incurred by the Association for the benefit of all of the Owners or by reason of this Declaration.
- (iii) Annual Assessments. The Association shall establish the annual Assessments for each Unit, based on the annual budget, including Service Area Expenses for Units in a Service Area, as may be applicable. The annual Assessment shall be payable in monthly or quarterly installments, as determined by the Board, to be paid by each. The due dates and manner of payment shall be determined by the Board. Unless otherwise provided by the Board in rules, unpaid Assessments shall accrue interest at the rate of ten percent (10%) per annum (or such higher rate as the Board may establish, subject to the limitations of Utah law) after thirty (30) days from the date due until paid. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Unit for such assessment.

- (b) Adjustments to the Budget and Regular Assessments. In the event that the Board

determines that amounts in the Common Expense Fund are or are likely to be inadequate, at any time, for whatever reason, including nonpayment of Owner Assessment obligations, the Board may revise the budget and the regular Assessment amount for each Unit, provided, however, that any increase to the regular Assessment pursuant to this Section does not exceed five thousand dollars (\$5,000.00) per Unit. Upon notice of the adjustment, each Owner thereafter pay to the Association the Owner's adjusted regular Assessment.

- 10.3 **Special Assessments.** In addition to the regular Assessments and Service Area Assessment authorized herein, the Association may levy, at any time and from time to time, upon affirmative vote of at least fifty one percent (51%) of the Total Votes of the Association, special assessments, payable over such periods of time as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of Common Area, provided, however, that nothing in this Section shall be construed to impair or restrict the Board authority and discretion under Section 10.2(b) above to adjust the budget and increase the amount of regular Assessments without a vote of the Owners in the event of a shortfall or anticipated shortfall in the Common Expense Fund , provided any such increase to the regular Assessment does not exceed five thousand dollars (\$5,000.00) per Unit. Any amounts assessed pursuant hereto shall be apportioned equally among and assessed equally to all Owners. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners. No payment shall be due upon less than thirty (30) days' notice. All unpaid portions of any special assessment shall bear interest at the rate of ten percent (10%) per annum (or such higher rate as the Board may establish, subject to the limitations of Utah law) from the date such portions become due until paid.
- 10.4 **Special Assessments to a Particular Unit or Owner.** The Association may specially assess a Unit and its Owner for (a) costs incurred in enforcing the Project Governing Documents and/or bringing an Owner or Unit into compliance; (b) fines, late fees, interest and other collection charges; and (c) attorneys' fees related to subsections (a) or (b) above, regardless of whether or not legal action is commenced.
- 10.5 **Lien for Assessments.** All sums assessed to the Owner of any Unit pursuant to the provisions of this Article, together with interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this Article, the Association may record a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. Such notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the office of the Salt Lake County Recorder. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which deeds of trust on real property may be non-judicially foreclosed in the State of Utah or in any other manner permitted by Utah law. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, trustee's fees and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Units which shall become

due during the period of foreclosure. The Declarant hereby conveys and warrants pursuant to Sections 57-8a-302 of the Act and Utah Code 57-1-20 to Melyssa D. Davidson as the qualified trustee, with the power of sale, the Units and all improvements to the Units for the purpose of securing payment of Assessments under the terms of this Declaration. The Association shall have the right and power to bid in at any foreclosure sale, and to own, lease, mortgage or convey the subject Unit.

- 10.6 **Suspension of Utilities and Right to Use Amenities for Non-Payment of Assessments.** If an Owner fails or refuses to pay any Assessment when due, the Board may: (a) temporarily terminate the Owner's right to receive utility services provided and paid for as Common Expenses or Service Area Expense; and (b) temporarily terminate the Owner's right of access and use of recreational facilities within the Project after giving notice and an opportunity to be heard.
- 10.7 **Appeals Process; Hearings.** Before terminating utility services or rights of access and/or use of recreational facilities within the Project, the Board shall give written notice to the applicable Owner which notice shall state: (1) utility services or rights of access and use of recreational facilities within the Project may be terminated if payment of the assessment is not received within the time provided in this Declaration, the Bylaws, or the Association's rules, which time shall be stated and be at least ten (10) days from the date of such notice; (2) the amount of the assessment due, including any interest or late payment fee; and (3) the right to request a hearing. An Owner who is given such notice may request an informal hearing to dispute the assessment by submitting a written request to the Board within such ten (10) day period from the date the notice is received. The hearing shall be conducted in accordance with standards provided in the Association's Bylaws, or the Association's rules. If a hearing is requested by an Owner, utility services or rights of access and use of recreational facilities within the Project may not be terminated until after the hearing has been conducted and a final decision has been entered by the Board.
- 10.8 **Personal Obligation of Owner.** Assessment against any Unit (including interest, late charges, and attorneys' fees) shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation may be maintained by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by abandonment of his/her/their Unit, or by waiving any services or amenities. In the event of any suit to recover a money judgment for unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.
- 10.9 **Attorney in Fact.** Each Owner, by taking title to a Unit, hereby irrevocable appoints the Association as his/her/their attorney in fact to collect rent from any person renting his or her Unit if the Units is rented and the Owner is delinquent in the payment the assessments applicable to his or her Unit. Rent due shall be paid directly to the Association, upon its written demand, until such time as the applicable assessments on such Unit are brought current; and the Owner of such Unit shall credit the renter, against rent due, for the amount of money paid to the Association.
- 10.10 **Payoff Information.** The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing or closing of a sale of an

Owner's Unit. Unless otherwise determined by the Board and allowed by law, the fee for payoff information shall be fifty dollars (\$50.00). Any request for payoff shall be in writing and shall meet the other requirements detailed in the Act. Failure of the Association to provide payoff information in response to a valid request within five (5) business days after the closing agent requests the information may not enforce a lien against the Unit for money due to the Association at closing.

- 10.11 **Written Statement of Unpaid Assessments.** Upon written request of an Owner and payment of any fee assessed, the Association shall issue a written statement setting forth the amount of unpaid assessments, if any, with respect to such Unit. Such written statement shall be binding in favor of a Person who relies thereon in good faith upon the remaining Owners, the Manager and the Board. Unless the Manager or Board complies with a valid written request within 10 (ten) days, any unpaid Assessments that became due prior to the date the request was made shall be subordinate to a lien held by the Person requesting the statement. Unless otherwise determined by the Board and allowed by law, the fee for a statement of unpaid Assessments shall be ten dollars (\$10.00).
- 10.12 **Liability of a Purchaser.** A purchaser of a Unit shall be jointly and severally liable with the seller thereof for all unpaid assessments against such Unit to the extent allowed by law; provided, however, that the provisions of this section shall not prejudice the purchaser's right to recovery from the seller of the amount of such assessments paid by the purchaser for such assessments.
- 10.13 **Assessments Part of Common Expense Fund.** All funds received from assessments under this Article shall be a part of the Common Expense Fund.

ARTICLE 11 INSURANCE

- 11.1 **Applicability of the Act Governing Property and Liability Insurance.** It is the intent of this Article 11 to submit the Association to provisions of Part of the Act governing property and liability insurance.
- 11.2 **Property Insurance.** Consistent with the Act, the total amount of coverage provided by blanket property insurance or guaranteed replacement cost insurance may not be less than one hundred percent (100%) of the full replacement costs of the insured property at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies. The Association shall set aside an amount equal to the amount of the Association's property insurance deductible or, if the policy deductible exceeds ten thousand dollars (\$10,000.00) an amount not less than ten thousand dollars (\$10,000.00). The Association shall not be required to obtain property insurance for any Unit that is not physically attached to another Unit or to a Common Area structure.
- (a) **Property Insurance for Townhomes.** Consistent with the Act, the Association shall maintain blanket property insurance or guaranteed replacement cost insurance covering one hundred percent (100%) of the full replacement cost of the insured property on the physical structure of all attached Townhomes and appurtenant Limited Common Area, insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. Consistent with Section 10.2(a)(3) herein. Such policy shall provide coverage for built-in or installed

improvements, fixtures, and equipment that are part of the Units. The cost of such insurance applicable to Townhomes may be allocated to the Owners of the Townhomes as Service Area Assessments. Townhome Owners shall maintain insurance coverage in an amount sufficient to meet the Owner's obligation under Section 57-8a-405(6)(b) and (7)(b) of the Act.

- 11.3 **Liability Insurance.** The Association shall maintain a commercial policy of general liability insurance covering the Common Area and other areas under the Association's control and supervision, insuring the Association, the Board, and the Owners and occupants, with such limits as the Board may determine, but no less than the greater of: (i) the amounts generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location and use; and (ii) one million dollars (\$1,000,000.00), for bodily injury, including deaths of persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board, or other Owners, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance or use of the Areas of Common Responsibility, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party.
- 11.3 **Fidelity Coverage.** The Association shall maintain fidelity insurance providing coverage for the Association against dishonest acts on the part of directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity insurance policy must name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event less than the greater of: (1) an amount equal to the Association's reserve funds plus three months' assessments on all Units; and (ii) the maximum amount that will be in the custody of the Association or the Manager at any time while the policy is in force. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. The policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association and any insurance trustee. Any Manager who handles funds of the Association shall maintain a policy of fidelity insurance providing coverage no less than that required of the Association, which bond or insurance policy names the Association as an additional insured.
- 11.4 **Directors' and Officers' Liability Insurance.** The Association shall maintain directors and officers liability insurance protecting the Board, the officers of the Association, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Project Governing Documents, and breach of contract (if available). Such insurance policy shall: include coverage for: (a) volunteers and employees; (b) monetary and non-monetary claims; (c) claims made under any federal or state fair housing law and claims based on any form of discrimination or civil rights claims; and (d) provide coverage for defamation.
- 11.5 **Worker's Compensation and Employer's Liability Insurance.** If required by law, the Board shall acquire workmen's compensation and employer's liability insurance and all

other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

- 11.6 **Other Association Insurance.** The Association may maintain such additional and other insurance as the Board may determine. At the request of the Declarant, the Board will add parties specified by Declarant as additional insured parties to any insurance policy held by the Association.
- 11.7 **Insurance Representative; Power of Attorney.** There may be named, under any policy obtained by the Association, as an insured on behalf of the Association, its authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement, or any successor to such trustee, who shall have exclusive authority to negotiate losses under any such policy. Each Owner, by taking title to a Unit, irrevocably appoints the Association or such designated representative, or such successor, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: (a) the collection and appropriate disposition of the proceeds thereof; (b) the negotiation of losses and execution of releases of liability; and (c) the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or such designated representative, or such successor, shall receive, hold, or otherwise properly dispose of any proceeds of insurance, in trust, for the Owners, as their interests may appear. This power is for the benefit of each and every Owner, the Association, and the Project, and runs with the land, and is coupled with an interest.
- 11.8 **Owners' Insurance.** Any Owner or occupant may carry such insurance in addition to that provided by the Association pursuant hereto as that Owner or occupant may determine, subject to the provisions hereof, and provided that no Owner or occupant may at any time purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried pursuant hereto by the Association which diminishes the Association's insurance coverage. In the event any Owner or occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Owner who acquired or whose occupant acquired such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, an Owner or occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Owner or occupant, provided that, if the Association obtains insurance for permanent improvements and built-in fixtures and equipment, then the insurance obtained by the Owner with respect to improvements within the Residential Unit shall be limited to the type and nature of coverage commonly referred to as "tenants" improvements and betterments. All such insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and directors, and all other Owners and occupants.
- 11.9 **Review of Insurance.** The Association shall review annually the coverage and policy limits of all insurance on the Project and shall adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or such other qualified appraisers as the Association may select.

ARTICLE 12
COMPLIANCE WITH GOVERNING DOCUMENTS

- 12.1 **Compliance.** Each Owner, occupant and visitor to a Unit shall comply with the Project Governing Documents and shall be subject to enforcement action for violations as described in this Article and/or as permitted by law.
- 12.2 **Construction Period Exemption.** During the course of actual construction of any structures or improvements by the Declarant or the Builder which are permitted to be located on the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which would result in a violation of any of said provisions, covenants, conditions, or restrictions following completion of such construction or any violation of the Design Guidelines.
- 12.3 **Enforcement and Remedies, Right to Recover Attorneys' Fees.** The Association, the Declarant and every affected Owner shall have the right to file suit at law or in equity to enforce the Project Governing Documents and the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in any such suit. In addition, the Board may utilize any other enforcement action authorized in this Declaration or by law and may impose fines for violation of the Project Governing Documents as set forth in any written fine schedule adopted by the Board. Notwithstanding anything to the contrary herein, the enforcement power and authority of the Association shall be subject to the power and authority of the Master Residential Association in accordance with Section 8.2 of the Master Residential Declaration.
- 12.4 **Declarant Rights Do Not Impose Additional Obligations.** The Declarant rights and exemptions provided for in this Section and elsewhere in this Declaration shall not be construed to impose any obligation, legal or equitable, related to the issues to which they might apply. Declarant shall further be exempt from statutory obligations. Pursuant to § 57-8a-217(6) of the Act, Declarant is hereby exempt from the provisions of § 57-8a-217 of the Act governing rulemaking. Pursuant to section 57-8a-211(10) of the Act, section 57-8a-211(2)-(9) of the Act shall not apply or have any effect during the Declarant Control Period and, as allowed specifically by law, the Declarant may, but shall have no duty whatsoever to, obtain a Reserve Analysis or to fund any Reserve Fund during the Declarant Control Period.

ARTICLE 13
MORTGAGEE PROTECTION

- 13.1 **Mortgage Protection.** No breach of any of the covenants, conditions, restrictions, and limitations contained herein shall defeat or render invalid the lien of any first or second Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions and limitations contained herein shall be binding upon an Owner whose title is derived through foreclosure or trustee's sale.
- 13.2 **Priority of Liens.** No enforcement of any lien provision herein contained shall defeat or render invalid the lien of any first or second Mortgage. All sums assessed in accordance with the provisions herein shall constitute a lien on each respective Unit prior and superior

to all other liens except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any recorded Mortgage on such Unit made in good faith and for value and recorded prior to the date on which any such assessment or assessments become due.

- 13.3 **Prior Liens Relate Only to Individual Units.** All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Units and not to the Project as a whole.
- 13.4 **Mortgage Holder Right's in Event of Foreclosure.** Any Mortgagee of a Mortgage of record which obtains title to a Unit by the foreclosure of the Mortgage on the Unit or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid assessments and charges against the Unit which accrued prior to the date of the acquisition of title to such Unit by such acquirer. Any unpaid assessments shall be deemed to be Common Expenses collectible from all of the Units in the Project, including the Units that has been acquired in accordance with the provisions of this section.
- 13.5 **Notices of Action.** An institutional holder, insurer or guarantor of a first Mortgage or trust deed that provides a written request to the Association (such request to state the name and address of each such holder, insurer or guarantor and the street address of the Unit to which its mortgage or deed of trust relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of (i) any delinquency in the payment of assessments or charges owed by a Unit subject to the mortgage or deed of trust of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Project Governing Documents relating to such Unit or the Owner or occupant that is not cured within 60 days; and (ii) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

ARTICLE 14
EXPANSION OF PROJECT

- 14.1 **Right to Expand and State of Title to New Units.** There is hereby granted unto Declarant, and Declarant hereby reserves, the absolute right to expand the Project at any time and from time to time by adding to the Project 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, Mortgagee, or the Association) and shall be limited only as specifically provided in this Declaration. Any given portion of the Additional Land shall be deemed added to the Project and, subject to the terms of this Article 14, to the jurisdiction of the Association at such time as a duly approved subdivision plat and a supplement to this Declaration containing the information required by Section 14.3 have been recorded with respect to the portion of the Additional Land concerned. After the recordation of such supplement and plat, title to each Unit thereby created within the portion of the Additional Land concerned shall be vested in and held by Declarant or its affiliate, and none of the other Owners or the Association shall have any claim or title to or interest in such Units.
- 14.2 **Rights and Statements Respecting Additional Land.** Declarant hereby furnishes the following information and statements respecting the Additional Land and Declarant's right

and option concerning expansion of the Project by the addition thereto of the Additional Land or a portion or portions thereof:

- (a) All of the Additional Land need not be added to the Project if any of such Land is added. Rather, a portion or portions of the Additional Land may be added to the Project at any time (within the limits herein prescribed) and from time to time.
- (b) There are no limitations or requirements relative to the size, location, or configuration of any given portion of the Additional Land which can be added to the Project or relative to the order in which particular portions of the Additional Land can be added to the Project.
- (c) There are no limitations or requirements (other than zoning and subdivision restrictions as they may exist or be modified from time to time) relative to the layout, design, size, location, density, permitted uses, legal structure, or other characteristics of the Residential Units to be created on any portion of the Additional Land added to the Project.

Any Unit erected on a portion of the Additional Land added to the Project will be constructed in a good and workmanlike manner.

- (e) In conjunction with the addition to the Project of a portion of the Additional Land, Declarant shall have the right to reserve, in the instruments through which the addition is accomplished, rights-of-way and/or easements for purposes of enabling access to, furnishing utilities to, and facilitating or enabling development of, such of the Additional Land as has then not been added to the Project.

14.3 **Procedure for Expansion.** The supplements to this Declaration by which addition to the Project of any portion of the Additional Land is accomplished shall be executed by both VP Daybreak Operations, LLC and Ivory Homes; shall be in recordable form; shall be filed for record in the Official Records of Salt Lake County on or before twenty (20) years from the date that this Declaration is recorded; and shall contain the following information for that portion of the Additional Land which is being added to the Project:

- (a) Data sufficient to identify this Declaration and the plat respecting that portion of the Additional Land being added to the Project.
- (b) The legal description of the portion of the Additional Land being added to the Project.
- (c) Any amendments, supplements, or replacements to or for the standards and restrictions set forth in Article VII or elsewhere in this Declaration.
- (d) A statement that such portion of the Additional Land shall thereafter be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration, as said Declaration may be amended or supplemented in accordance with the immediately foregoing Paragraphs (c) and (d).
- (e) Such rights-of-way and/or easements as are being reserved by Declarant pursuant to Paragraph (e) of the immediately foregoing Section 14.2.
- (f) Such other matters as Declarant may deem to be necessary, desirable, or appropriate.

Upon the recordation of any supplement contemplated above, it shall automatically supplement this Declaration and any supplements previously recorded. At any point in time, the Declaration for the Project shall consist of this Declaration, as amended and expanded by all supplements theretofore recorded pursuant to the terms hereof.

- 14.4 **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 the Project of any or all of the Additional Land; (ii) the creation of, or construction on, any Units within any particularly time or in any particular manner; or (iii) the taking of any particular action with respect to any portion of the Additional Land. Except to the extent specifically indicated herein, no covenant, restriction, limitation, representation, or commitment in this Declaration concerning anything that is or is not to occur, apply, or be done on or relative to the Additional Land or any portion thereof shall be binding as to such of the Additional Land as is never added to the Project.
- 14.5 **Owners' Obligation Concerning Expansion of Project or Development of the Additional Land.** Each Owner, by acquiring his/her/their interest in the Project, agrees not to inhibit or oppose Declarant's future development of each portion of the Additional Land (whether or not added to the Project) and the obtaining of necessary approvals

ARTICLE 15
CONDOMINIUM AND SUB-ASSOCIATIONS

- 15.1 Declarant may determine, in its sole discretion, that it is necessary or appropriate to have a portion of the Project, such as a Condominium, administered by a sub-association which is separate and apart from the Association hereunder. In such event, the Declarant will record a supplemental declaration with respect to such portion(s) of the Project which supplemental declaration shall provide for the creation of the sub-association to administer and maintain such portion (e.g., Condominium) of the Project. It is intended that such sub-association shall operate independent of the Association hereunder (but subject to this Declaration, the Master Residential Declaration, and the Covenant). To the extent that the sub-association is granted the power and authority to maintain the Condominium or other portions of the Project which exclusively serve the Condominium, the Association hereunder shall not be obligated to maintain such areas or furnish such services. Nothing contained herein, however, shall be deemed to restrict or limit the right of Declarant or the Association under Article 7 relating to the Design Guidelines.

ARTICLE 16
GENERAL PROVISIONS

- 16.1 **Intent and Purpose.** The provisions of this Declaration and any supplemental or amended Declaration shall be liberally construed to effectuate the development and operation of the Project. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any supplemental or amended Declaration, shall not operate as a waiver of any such provision, restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.
- 16.2 **Construction.** The provisions of this Declaration shall be in addition and supplemental to all applicable provisions of law. Wherever used herein, unless the context shall otherwise

provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

- 16.3 **Registration of Address for Notice.** Each Owner shall register from time to time with the Association his/her/their current mailing and email address for communications with the Association. All notices or demands intended to be served upon any Owner may be sent by: (a) email; (b) first-class U.S. mail, postage prepaid; or (c) certified mail, addressed to the Owner at his/her/their registered address, or, if no address has been registered, to the mailing address for the Unit of such Owner. Notwithstanding the foregoing with regard to email, an Owner may request to receive all notices from the Association by U.S. mail by giving written notice of the same to the Association. All notice or demands intended to be served upon the Association may be sent by: (a) first class U.S. registered or certified mail, postage prepaid, addressed to the Association at the address of its offices on file with the Utah Division of Corporations and Commercial Code; or (b) email at the email address that may be furnished to the Owners in writing from time to time. Any notice or demand permitted or required under this Declaration shall be deemed given: (a) by email, upon sending; (b) by first-class U.S. mail, three days after deposited in the U.S. mail, postage prepaid; and (c) by certified mail, upon delivery as reflected in the return receipt.
- 16.4 **Audit.** Any Owner may at any reasonable time, upon appointment and at his/her/their own expense, cause an audit or inspection to be made of the books and records maintained by the Association; provided, however, that such Owner shall not be entitled to request an audit or inspection more than once every eighteen (18) months.
- 16.5 **Amendment.** Declarant reserves the right to unilaterally amend this Declaration for any purpose during the Declarant Control Period. Following such period, except as otherwise provided herein, this Declaration may be amended if Owners holding at least sixty-seven percent (67%) of the Total Votes of the Association consent and agree to such amendment at a meeting of the Owners duly held in accordance with the provisions of the Articles, Bylaws, and this Declaration; provided, however, that for the period of time that the Declarant is a Member of the Association as provided in the Bylaws, the Declarant's consent to such amendment shall be required, which consent may be given, withheld or conditioned in Declarant's sole discretion. Properly approved amendments shall be evidenced by instruments which are duly recorded in the Official Records of Salt Lake County, Utah.
- 16.6 **Agent for Service.** The Person to receive service of process for the Association shall be the then current registered agent of the Association as shown on the records maintained in the of Utah Division of Corporations and Commercial Code.
- 16.7 **Limitation on Association's Liability.** The Association shall not be liable for any failure of water service or other utility service which may be obtained and paid for by the Association hereunder, or for injury or damage to any person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow or ice. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of

repairs, maintenance or improvements to the Project or any part thereof, or from any action taken to comply with any law, ordinance or order of a governmental authority.

- 16.8 **Owner's Obligations.** All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he/she/they may be leasing, renting, or selling on contract the Unit. The Owner of a Unit shall have no obligation for expenses or other obligations accruing after he/she/they conveys title to such Unit.
- 16.9 **Declarant's Rights Assignable.** The rights of Declarant hereunder or in any way relating to the Project may be assigned. Upon assignment, references to the "Declarant" shall refer to such assignee. Notwithstanding anything in this Declaration to the contrary, there is reserved to VP Daybreak Operations, LLC the right to unilaterally assign or relinquish the designation of Declarant and the attendant powers, authority, and obligations, to Ivory Homes or assignees of Ivory Homes and the attendant at any time, in VP Daybreak Operations, LLC sole discretion. This right may be exercised by VP Daybreak Operations, LLC by recording of a notice of relinquishment of Declarant Rights to Ivory Homes or its assigns in the Official Records of Salt Lake County, Utah.
- 16.10 **Master Residential Declaration's Full Force and Effect.** The Master Residential Declaration shall remain in full force and effect, provided, however, that in the event of a specific and clear conflict between the Master Residential Declaration and this Declaration, the terms of this Declaration shall control, but only in connection with the Project and the Units. Declarant hereby delegates such power and authority as is necessary to the Association to carry out the obligations of the Association (acting in its capacity as a sub-association) under the Master Residential Association.

ARTICLE 17

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION; COVENANT NOT TO SUE

- 17.1 **Statement of Intent.** Every Owner is capable of obtaining an inspection and is permitted to perform any inspection on any Unit that Owner is purchasing or may otherwise be acquiring and on any aspect of the Project. Having had the ability to inspect prior to purchasing, it therefore is acknowledged that it is unfair and improper thereafter to seek to have the Declarant or Builder or any other contractor or subcontractor performing work in the Project change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, each Owner, by taking title to a Unit, and the Declarant acknowledge and agree that litigation is an undesirable method of resolving certain conflicts in that it is slow, expensive, uncertain, and can often negatively impact the value, sale, and ability to obtain financing for the purchase of a Unit for years, unfairly prejudicing those Owners who must sell or who want to sell their respective Units during any period when litigation is pending. For this reason, each Owner, by taking title to a Unit, and the Declarant agree and acknowledge that certain disputes simply shall not be pursued, to the extent permitted by law, and that other disputes shall be pursued only through certain specific alternative dispute resolution mechanisms and only after full disclosure, right to cure periods, and knowing approval of the Owners. Consistent with this desire to avoid litigation but, nevertheless, to ensure a reasonable avenue for recovery against a Person responsible for faulty construction, the Declarant, or either of them, may obtain and provide warranties to the Association from the Builder and/or subcontractors that the Association

may enforce related to the development and construction of the Project. It is the intent of the parties hereto, as agreed to by each Owner by and upon taking title to a Unit, that these warranties (from the Builder and/or subcontractors), if they are obtained, whatever they might cover and whomever they are from, are the exclusive remedy to the extent permitted by law, in case of any defects or damages of any kind arising from or related to construction or development of the Project. The also intent of this Article 17 is to eliminate, to the extent possible, claims against or involving the Declarant and/or the Builder and claims related to the construction of Project improvements, the Common Area, and the Units in the Project, and, when and if any such claim is permitted as a matter of law or pursuant to this Declaration, to ensure that every opportunity is made to resolve the claim outside of litigation. This effort shall include, but not be limited to, the right to cure and the requirements for mediation and arbitration. The provisions of this Article 17 are in addition to the provisions of the Act governing liability of the Declarant and/or the Board related to the Declarant Control Period.

- 17.2 **Association Warranties.** The Declarant may, but is not obligated to, provide for certain warranties from the Builder and/or other contractors or subcontractors to the Association related to the construction of the Project. The Association shall have the right, as provided for in any such warranties, to directly enforce and seek performance of these warranties from the Builder and/or subcontractors who performed the work in the construction of the Project. There is no guarantee or warranty by the Declarant that any warranties will be provided or that the warranties will cover any particular component or aspect of the Project.
- 17.3 **Waiver of Subrogation and Release.** The Association and each Owner, by and upon taking title to a Unit, waives any right to subrogation against the Declarant and/or the Builder. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant or Builder (including their respective principles, officers, managers, shareholders, members, employees, agents, and representatives). To the full extent permitted by law, the Association and Owners hereby release the Declarant and the Builder (including their respective principles, officers, managers, shareholders, members, employees, agents and representatives) from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of the Declarant or Builder or their respective principles, officers, managers, shareholders, members, employees, agents and representatives.
- 17.4 **Declarant Litigation.**
- (a) An Owner may only make a claim against the Declarant and/or the Builder, to the extent allowed herein and by law after the following efforts at dispute resolution have been completed:
- (i) Right to Cure: the Owner shall provide to the Declarant and/or to the Builder, as may be applicable, a Notice of Claim (defined below) and permit the Declarant and/or the Builder, as the case may be, one hundred eighty (180) days to cure or resolve the claim or defect or to try to get its contractor

or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any lawsuit, claim, or dispute resolution process;

- (ii) if the dispute is not resolved within the 180-day Right to Cure period, the parties agree to mediate the dispute prior to taking further action. If additional, different, or modified claims, causes of action or legal theories for recovery (including damages, damage calculations) are added or asserted against that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this section shall be triggered and any pending action, including any mediation or arbitration, shall be stayed for the 180-day period to facilitate the Declarant's and/or the Builder's right to cure such additional, different, or modified claims.
- (b) For any claim allowed by law or by this Declaration, the parties agree to binding arbitration of all claims asserted against the Declarant, the Builder and/or any other contractor or subcontractor by either the Association or any Owner, with the initiating party advancing all arbitration costs, subject to assignment of those costs by the arbitrator in a final decision on the merits. In the event the parties are unable to agree regarding an arbitration service, the American Arbitration Association shall administer the proceedings and the rules applicable to construction disputes shall apply. The arbitration rules shall be subject to the requirements of this Declaration and shall be modified accordingly in case of any conflict between the Rules and this Declaration.
- (c) "Notice of Claim" shall mean and include the following information: (i) the nature of the claim; (ii) a specific breakdown and calculation of any alleged damages; (iii) a detailed description of the claim along with any supporting opinions, information, or other factual evidence upon which the claim is based; (iv) photographs of any alleged defect or condition, if applicable; (v) samples of any alleged defective materials; (vi) a recitation of all efforts taken to avoid, mitigate, or minimize the claim and alleged damages arising therefrom; and (vii) the names, phone numbers, and addresses of every Person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.
- (d) Notwithstanding any other provision in this Declaration, except as to an Owner Warranty, and to the fullest extent permitted by the law, an Owner shall not and agrees not to commence or maintain any litigation, arbitration, or other action against the Declarant and/or the Builder (including their respective principles, officers, managers, shareholders, members, employees, agents and representatives), for any reason, including, but not limited to, alleged construction defects or any damages arising therefrom.
- (e) Notwithstanding any other provision in this Declaration, and to the fullest extent permitted by the law, the Association shall not and cannot commence or maintain any litigation, arbitration, or other action against the Declarant or the Builder or their respective principles, officers, managers, shareholders, members, employees, agents and representatives, for any reason, including but not limited to for alleged construction defects, any related claims, or any damages arising therefrom.
- (f) Except only as may be limited by law, by and upon taking title to a Unit, each

Owner specifically disclaims and releases the Declarant from any claim, known or unknown, related to any defect in the Project not specifically covered by either an Association Warranty or an Owner Warranty. The Association and each Owner acknowledge and agree that such warranties, if provided, and whatever coverage they might provide are the sole remedy of the Association related to any alleged or actual construction defects.

- (g) Subject only to any Association Warranties (if any), the Association and the Owners take ownership and possession of the Common Area and Units "AS IS," with all faults and with no warranties of any kind except as otherwise required by law. THE DECLARANT SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR OF HABITABILITY, TO THE FULL EXTENT ALLOWED BY LAW.
- (h) If otherwise allowed by law notwithstanding the terms of this Article 17, prior to the Association making any demand or commencing any mediation, arbitration, or litigation (any "action") against a Declarant or the Builder or any other contractor or subcontractor involved in the original construction of the Project, other than a claim made solely upon an Association Warranty against a subcontractor, the Association must have a properly-noticed meeting of the Owners, with all attorneys, experts, and other Persons expected to be involved in the claim present at the meeting. Those Persons present, including the Board, must permit discussion among the Owners and questions from the Owners and must respond to all reasonable questions of the Owners related to the proposed claims. The notice for the aforesaid meeting must include the following information:
 - (i) a statement must be made on the first page of such notice in bold, upper case, stating that "The Association is contemplating serious and potentially time-consuming and expensive litigation against the Declarant of this Project. This litigation could cost you money in the form of increased assessments and will likely impact the resale value of your Unit and your ability to sell your Unit while this litigation is pending. This litigation could take years to resolve. You should think seriously about this issue and attend the meeting on this issue;"
 - (ii) a budget and detailed breakdown of all costs and legal fees reasonably estimated to be caused by the expected litigation including a breakdown of any costs and fees to be advanced by anyone including any attorney or other representative of the Association under any contingency arrangement, and all those costs and fees to be paid directly by the Association, all of which shall assume the litigation will last five years (unless it is reasonably expected to last longer in which case the longer period shall be used for this estimate) and require a trial on the merits;
 - (iii) a detailed explanation of where any money to be paid by the Association will be obtained including a per Unit breakdown of all costs and fees per year, assuming the litigation will last five (5) years;
 - (iv) a written statement of each Board Member indicating that member's position on the litigation;

- (v) a legal opinion on the likelihood of success of any such litigation or arbitration from an attorney not associated with the attorney or law firm who is anticipated to bring any such action, analyzing the applicable law, Governing Documents, and all relevant and known factual information;
- (vi) all terms of the agreement between the Association and the attorney or law firm prosecuting the action including a copy of any engagement letter, contract, or agreement related to that representation; and
- (vii) a detailed description of the alleged claims against the Declarant and of all efforts by the Association to resolve those claims prior to commencing any action.

17.5 **Vote of Owners Required.** In addition to the requirements above and before commencing any action, the Association must obtain the approval of seventy-five percent (75%) of the total Allocated Interests in the Association (not 75% of those Owners present), by vote, at a lawfully called and properly noticed special meeting for that purpose only. Any such a special meeting must occur no sooner than thirty (30) days and not later than sixty (60) days after the meeting required above. The Association cannot special assess, borrow money, or use any reserve funds to fund any such action or to pay for any costs associated with any such action, including but not limited to copying costs, deposition costs, expert witness costs, and filing fees.

17.6 **Effect on Time-Barred or Otherwise Limited Claims.** The existence of procedures and/or requirements in this Article 17 applicable to claims against the Declarant or the Builder and/or any other contractors or subcontractors that are barred or limited in other provisions of this Declaration shall not be construed as permitting any such claims or as contradictory to a prohibition or limit on such claims in other provisions in this Declaration. The procedures and requirements to assert a claim (including, but not limited to, the right to cure requirements, the meeting and Owner approval requirements, the mediation requirement, and the arbitration requirements) that are prohibited by this Declaration are provided solely in case any such claim is permitted by law notwithstanding the terms of this Declaration.

17.7 **These Provisions in Addition to Requirements of the Act.** The provisions of this Article 17 are in addition to the provisions governing liability of the Declarant and Board during the Declarant Control Period in the Act.

[Signatures Pages Follow]

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

STATE OF UTAH)
)ss

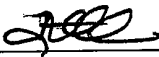
COUNTY OF Salt Lake

VP DAYBREAK OPERATIONS LLC,

a Delaware limited liability company

By: **Daybreak Communities LLC**, a Delaware limited liability company

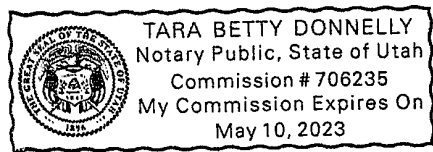
Its: Project Manager

By: 

Name: Ty McCutcheon

Its: President & CEO)

On December 4, 2020 personally appeared before me, a Notary Public, Ty McCutcheon, President and CEO of DAYBREAK COMMUNITIES LLC, the duly authorized Project Manager of VP DAYBREAK OPERATIONS LLC, personally known or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the above instrument who acknowledged to me that he/she/they executed the above instrument on behalf of VP DAYBREAK OPERATIONS LLC.



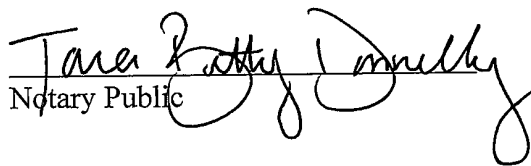

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE GARDEN VILLAGE PARK PROJECT

The real property, lots and units subject to the forgoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Garden Park Village are located in Salt Lake County, Utah and more fully described as follows:

SUBDIVISION	PARCEL NUMBER	LOT/UNIT		PROPERTY ADDRESS
		LOT	UNIT	
Kennecott Daybreak VLGE 4A Multi Family 1	26242260090000	LOT	218	11209 S OAKMOND RD
	26242260100000	LOT	217	11213 S OAKMOND RD
	26242260110000	LOT	216	11219 S OAKMOND RD
	26242260120000	LOT	215	11223 S OAKMOND RD
	26242260130000	LOT	214	11227 S OAKMOND RD
	26242260140000	LOT	213	11231 S OAKMOND RD
	26242260170000	LOT	P120	4847 W RAPHANUS LN
	26242290360000	LOT	200	4881 W BLACK TWIG DR
	26242290390000	LOT	203	4869 W BLACK TWIG DR
	26242290420000	LOT	201	4877 W BLACK TWIG DR
	26242290430000	LOT	201	4873 W BLACK TWIG DR
	26242290430000	LOT	202	4873 W BLACK TWIG DR
	26242290440000	LOT	204	4863 W BLACK TWIG DR
	26242290450000	LOT	204	4861 W BLACK TWIG DR
	26242290450000	LOT	205	4861 W BLACK TWIG DR
	26242340220000	LOT	193	11103 S TYDEMAN WY
	26242340220000	LOT	194	11103 S TYDEMAN WY
	26242340230000	LOT	194	11109 S TYDEMAN WY
	26242340230000	LOT	195	11109 S TYDEMAN WY
	26242340240000	LOT	195	11113 S TYDEMAN WY
	26242340240000	LOT	196	11113 S TYDEMAN WY
	26242340250000	LOT	196	11117 S TYDEMAN WY
	26242340250000	LOT	197	11117 S TYDEMAN WY
	26242340260000	LOT	197	11121 S TYDEMAN WY
	26242340260000	LOT	198	11121 S TYDEMAN WY
	26242340270000	LOT	198	11123 S TYDEMAN WY
	26242340270000	LOT	199	11123 S TYDEMAN WY
	26242340280000	LOT	199	11127 S TYDEMAN WY
	27191010060000	LOT	206	11112 S KESTREL RISE RD

	27191010070000	LOT	207	11116 S KESTREL RISE RD
	27191010080000	LOT	208	11118 S KESTREL RISE RD
	27191010090000	LOT	209	11124 S KESTREL RISE RD
	27191010100000	LOT	210	11128 S KESTREL RISE RD
	27191010110000	LOT	211	11132 S KESTREL RISE RD
	27191010120000	LOT	212	11136 S KESTREL RISE RD
Kennecott Daybreak VLGE 4A PL 2 AMD	26242280070000	LOT	137	11057 S CASCABEL DR
	26242280080000	LOT	138	11063 S CASCABEL DR
	26242280090000	LOT	139	11067 S CASCABEL DR
	26242280100000	LOT	P106	11071 S CASCABEL DR
	26242280110000	LOT	140	11077 S CASCABEL DR
	26242280120000	LOT	141	11081 S CASCABEL DR
	26242290170000	LOT	136	11036 S KESTREL RISE RD
	26242290180000	LOT	135	11042 S KESTREL RISE RD
	26242290190000	LOT	134	11048 S KESTREL RISE RD
	26242290200000	LOT	P105	11052 S KESTREL RISE RD
	26242290210000	LOT	133	11056 S KESTREL RISE RD
	26242290220000	LOT	128	11091 S CASCABEL DR
	26242290230000	LOT	129	11089 S CASCABEL DR
	26242290240000	LOT	130	11087 S CASCABEL DR
	26242290250000	LOT	131	11083 S CASCABEL DR
	26242290260000	LOT	132	11066 S KESTREL RISE RD
	26242290270000	LOT	P104	11109 S CASCABEL DR
	26242290280000	LOT	127	11121 S CASCABEL DR
	26242290290000	LOT	126	11119 S CASCABEL DR
	26242290300000	LOT	125	11117 S CASCABEL DR
	26242290310000	LOT	124	11113 S CASCABEL DR
	26242290320000	LOT	123	11102 S KESTREL RISE RD
Kennecott Daybreak VLGE 4A PL 6	26134770010000	LOT	296	4981 W VINSANTO LN
	26134770020000	LOT	297	4961 W VINSANTO LN
	26134770030000	LOT	298	4955 W VINSANTO LN
	26134770040000	LOT	299	4979 W VINSANTO LN
	26134770050000	LOT	300	4973 W VINSANTO LN
	26134770060000	LOT	301	4969 W VINSANTO LN
	26134770070000	LOT	302	4967 W VINSANTO LN
	26134770080000	LOT	303	10982 S CASCABEL DR
	26134770090000	LOT	304	10984 S CASCABEL DR
	26134780010000	LOT	319	10952 S KESTREL RISE RD
	26134780020000	LOT	320	10948 S KESTREL RISE RD
	26134780030000	LOT	321	10946 S KESTREL RISE RD

	26134780040000	LOT	322	10944 S KESTREL RISE RD
	26134780050000	LOT	323	10942 S KESTREL RISE RD
	26134780060000	LOT	327	10967 S CASCABEL DR
	26134780070000	LOT	328	10973 S CASCABEL DR
	26134780080000	LOT	329	10979 S CASCABEL DR
	26134780090000	LOT	324	10954 S KESTREL RISE RD
	26134780100000	LOT	325	10958 S KESTREL RISE RD
	26134780110000	LOT	326	10962 S KESTREL RISE RD
	26134780120000	LOT	330	10991 S CASCABEL DR
	26134780130000	LOT	331	10989 S CASCABEL DR
	26134780140000	LOT	332	10987 S CASCABEL DR
	26134780150000	LOT	333	10983 S CASCABEL DR
	26134780160000	LOT	334	10981 S CASCABEL DR
	26134780170000	LOT	P130	10974 S KESTREL RISE RD
	26134780180000	LOT	339	11002 S KESTREL RISE RD
	26134780190000	LOT	338	10996 S KESTREL RISE RD
	26134780200000	LOT	337	10994 S KESTREL RISE RD
	26134780210000	LOT	336	10992 S KESTREL RISE RD
	26134780220000	LOT	335	10988 S KESTREL RISE RD
	26134780230000	LOT	340	4888 W BLACK TWIG DR
	26134780240000	LOT	341	4884 W BLACK TWIG DR
	26134780250000	LOT	342	4882 W BLACK TWIG DR
	26134780260000	LOT	343	4876 W BLACK TWIG DR
	26134780270000	LOT	344	4872 W BLACK TWIG DR
	26134780280000	LOT	345	4866 W BLACK TWIG DR
	26242040020000	LOT	268	11033 S PORCINI DR
	26242040030000	LOT	269	11022 S FENNELL WY
	26242040040000	LOT	270	11014 S FENNELL WY
	26242040050000	LOT	272	11043 S PORCINI DR
	26242040060000	LOT	273	11053 S PORCINI DR
	26242040070000	LOT	276	11063 S PORCINI DR
	26242040080000	LOT	271	11024 S FENNELL WY
	26242040090000	LOT	274	11032 S FENNELL WY
	26242040100000	LOT	275	11038 S FENNELL WY
	26242040110000	LOT	277	11048 S FENNELL WY
	26242040120000	LOT	P127	11071 S PORCINI DR
	26242040130000	LOT	278	11081 S PORCINI DR
	26242040140000	LOT	279	11062 S FENNELL WY
	26242310050000	LOT	292	11057 S FENNELL WY
	26242310060000	LOT	295	11038 S RADICCHIO DR
	26242310070000	LOT	293	11061 S FENNELL WY

	26242310080000	LOT	294	11044 S RADICCHIO DR
	26242320040000	LOT	280	5013 W VINSANTO LN
	26242320050000	LOT	281	5009 W VINSANTO LN
	26242320060000	LOT	282	4998 W RADICCHIO DR
	26242320070000	LOT	283	4994 W RADICCHIO DR
	26242320080000	LOT	284	4988 W RADICCHIO DR
	26242320090000	LOT	285	4984 W RADICCHIO DR
	26242320100000	LOT	286	4978 W RADICCHIO DR
	26242320110000	LOT	287	4974 W RADICCHIO DR
	26242320120000	LOT	289	11027 S FENNELL WY
	26242320130000	LOT	290	11031 S FENNELL WY
	26242320140000	LOT	291	11039 S FENNELL WY
	26242320150000	LOT	288	4968 W RADICCHIO DR
	26242320160000	LOT	P128	4956 W RADICCHIO DR
	26242320170000	LOT	305	11008 S CASCABEL DR
	26242320180000	LOT	306	11006 S CASCABEL DR
	26242320190000	LOT	307	11004 S CASCABEL DR
	26242320200000	LOT	308	11002 S CASCABEL DR
	26242320210000	LOT	309	10998 S CASCABEL DR
	26242320220000	LOT	P129	11023 S RADICCHIO DR
	26242320230000	LOT	310	11033 S RADICCHIO DR
	26242320240000	LOT	311	11029 S RADICCHIO DR
	26242320250000	LOT	312	11021 S RADICCHIO DR
	26242320260000	LOT	313	11019 S RADICCHIO DR
	26242320270000	LOT	314	11012 S CASCABEL DR
	26242320280000	LOT	315	4922 W BLACK TWIG DR
	26242320290000	LOT	316	4916 W BLACK TWIG DR
	26242320300000	LOT	317	4908 W BLACK TWIG DR
	26242320310000	LOT	318	4904 W BLACK TWIG DR
Garden Park Lakeside Phase 1 Subdivision	26134760060000	LOT	P-101	10919 S KESTREL RISE RD
	26134760070000	LOT	107	10921 S KESTREL RISE RD
	26134760080000	LOT	108	10923 S KESTREL RISE RD
	26134760090000	LOT	109	10927 S KESTREL RISE RD
	26134760100000	LOT	110	10929 S KESTREL RISE RD
	26134760110000	LOT	111	10931 S KESTREL RISE RD
	26134760120000	LOT	112	10933 S KESTREL RISE RD
	26134760130000	LOT	113	10937 S KESTREL RISE RD
	26134760140000	LOT	P-102	10939 S KESTREL RISE RD
	26134760150000	LOT	114	10941 S KESTREL RISE RD
	26134760160000	LOT	115	10943 S KESTREL RISE RD
	26134760170000	LOT	116	10949 S KESTREL RISE RD

	26134760180000	LOT	117	10953 S KESTREL RISE RD
	26134760190000	LOT	125	10989 S KESTREL RISE RD
	26134760200000	LOT	124	10987 S KESTREL RISE RD
	26134760210000	LOT	123	10983 S KESTREL RISE RD
	26134760220000	LOT	122	10981 S KESTREL RISE RD
	26134760230000	LOT	P-104	10979 S KESTREL RISE RD
	26134760240000	LOT	121	10973 S KESTREL RISE RD
	26134760250000	LOT	120	10969 S KESTREL RISE RD
	26134760260000	LOT	119	10963 S KESTREL RISE RD
	26134760270000	LOT	118	10959 S KESTREL RISE RD
	26134880010000	LOT	106	10947 S KESTREL RISE RD
	26134880020000	LOT	105	10951 S KESTREL RISE RD
	26134880030000	LOT	104	10961 S KESTREL RISE RD
	26134880040000	LOT	103	10967 S KESTREL RISE RD
	26134880050000	LOT	102	10971 S KESTREL RISE RD
	26134880060000	LOT	101	10977 S KESTREL RISE RD
	26134890010000	LOT	P-103	10957 S KESTREL RISE RD
	26134890020000			10962 S KESTREL RISE RD
Garden Park Lakeside Phase 2 Subdivision	26134760290000	LOT	P-105	10989 S KESTREL RISE RD
	26134760300000	LOT	205	11013 S KESTREL RISE RD
	26134760310000	LOT	206	11011 S KESTREL RISE RD
	26134760320000	LOT	207	11009 S KESTREL RISE RD
	26134760330000	LOT	208	11007 S KESTREL RISE RD
	26134760340000	LOT	209	11003 S KESTREL RISE RD
	26134760350000	LOT	210	11001 S KESTREL RISE RD
	26134760360000	LOT	211	10991 S KESTREL RISE RD
	26134760370000	LOT	212	10993 S KESTREL RISE RD
	26134760380000	LOT	213	10997 S KESTREL RISE RD
	26134760390000			11039 S KESTREL RISE RD
	26134790040000			11039 S KESTREL RISE RD
	26242420010000	LOT	201	11023 S KESTREL RISE RD
	26242420040000	LOT	204	11017 S KESTREL RISE RD
	26242430010000	LOT	234	11027 S KESTREL RISE RD
	26242430020000	LOT	P-106	11039 S KESTREL RISE RD
	26242430030000			11039 S KESTREL RISE RD
	26242430060000	LOT	231	11033 S KESTREL RISE RD
	26242430070000	LOT	P-108	11050 S TILLER LN
	26242430080000	LOT	230	11063 S KESTREL RISE RD
	26242440010000	LOT	222	11057 S KESTREL RISE RD
	26242440020000	LOT	221	11053 S KESTREL RISE RD
	26242440030000	LOT	220	11051 S KESTREL RISE RD

	26242440040000	LOT	219	11049 S KESTREL RISE RD
	26242450010000	LOT	223	11061 S KESTREL RISE RD
	26242450020000			11065 S KESTREL RISE RD
	26242450030000	LOT	229	11067 S KESTREL RISE RD
	26242450040000	LOT	228	11069 S KESTREL RISE RD
	26242450050000	LOT	227	11071 S KESTREL RISE RD
	26242450060000	LOT	226	11073 S KESTREL RISE RD
	27183610010000	LOT	214	10999 S KESTREL RISE RD
	27183610020000	LOT	215	11037 S KESTREL RISE RD
	27183610030000	LOT	216	11041 S KESTREL RISE RD
	27183610040000	LOT	217	11043 S KESTREL RISE RD
	27191030540000	LOT	218	11047 S KESTREL RISE RD
	27191030550000	LOT	P-107	11059 S KESTREL RISE RD
	27191030560000	LOT	225	11077 S KESTREL RISE RD
	27191030570000	LOT	224	11079 S KESTREL RISE RD
Garden Park PH 1 Condo	27191020010000	UNIT	101	4764 W DUCKHORN DR # 101
	27191020020000	UNIT	102	4764 W DUCKHORN DR # 102
	27191020030000	UNIT	103	4764 W DUCKHORN DR # 103
	27191020040000	UNIT	104	4764 W DUCKHORN DR # 104
	27191020050000	UNIT	105	4764 W DUCKHORN DR # 105
	27191020060000	UNIT	106	4764 W DUCKHORN DR # 106
	27191020070000	UNIT	107	4764 W DUCKHORN DR # 107
	27191020080000	UNIT	108	4764 W DUCKHORN DR # 108
	27191020090000	UNIT	109	4764 W DUCKHORN DR # 109
	27191020100000	UNIT	110	4764 W DUCKHORN DR # 110
	27191020110000			4764 W DUCKHORN DR
Kennecott Daybreak VLGE 4A PL 3	26242010010000	LOT	192	5032 W BLACK TWIG DR
	26242010020000	LOT	191	5022 W BLACK TWIG DR
	26242010030000	LOT	190	5012 W BLACK TWIG DR
	26242010040000	LOT	P119	5034 W BLACK TWIG DR
	26242290330000	LOT	P116	4879 W BLACK TWIG DR
	26242300010000	LOT	P118	4980 W BLACK TWIG DR
	26242300020000	LOT	189	4988 W BLACK TWIG DR
	26242300030000	LOT	188	4982 W BLACK TWIG DR
	26242300040000	LOT	187	4974 W BLACK TWIG DR
	26242310010000	LOT	186	4956 W BLACK TWIG DR
	26242310020000	LOT	185	4946 W BLACK TWIG DR
	26242310030000	LOT	184	4938 W BLACK TWIG DR
	26242330010000	LOT	P112	11129 S WALTANA WY
	26242330020000	LOT	P113	11114 S TYDEMAN WY

	26242330030000	LOT	P111	11147 S WALTANA WY
	26242330040000	LOT	P110	11128 S TYDEMAN WY
	26242330050000	LOT	C101	11150 S TYDEMAN WY
	26242340010000	LOT	P114	4961 W BLACK TWIG DR
	26242340030000	LOT	176	4949 W BLACK TWIG DR
	26242340040000	LOT	177	4943 W BLACK TWIG DR
	26242340050000	LOT	178	4939 W BLACK TWIG DR
	26242340060000	LOT	179	4933 W BLACK TWIG DR
	26242340070000	LOT	180	4929 W BLACK TWIG DR
	26242340090000	LOT	P109	11133 S TYDEMAN WY
	26242340120000	LOT	165	4902 W VEEROMA WY
	26242340130000	LOT	164	4892 W VEEROMA WY
	26242340140000	LOT	163	4882 W VEEROMA WY
	26242350010000	LOT	175	11096 S RADICCHIO DR
	26242350020000	LOT	174	11094 S RADICCHIO DR
	26242350030000	LOT	173	11092 S RADICCHIO DR
	26242350040000	LOT	172	11088 S RADICCHIO DR
	26242350050000	LOT	171	11086 S RADICCHIO DR
	26242350060000	LOT	P108	11110 S RADICCHIO DR
	26242350070000	LOT	166	11102 S RADICCHIO DR
	26242350080000	LOT	167	11104 S RADICCHIO DR
	26242350090000	LOT	168	11106 S RADICCHIO DR
	26242350100000	LOT	169	11108 S RADICCHIO DR
	26242350110000	LOT	170	11112 S RADICCHIO DR
	26242360010000	LOT	P115	4915 W BLACK TWIG DR
	26242360020000	LOT	157	4917 W BLACK TWIG DR
	26242360030000	LOT	156	4909 W BLACK TWIG DR
	26242360040000	LOT	155	4903 W BLACK TWIG DR
	26242360050000	LOT	154	4897 W BLACK TWIG DR
	26242370010000	LOT	158	11081 S RADICCHIO DR
	26242370020000	LOT	153	11062 S CASCABEL DR
	26242370030000	LOT	159	11089 S RADICCHIO DR
	26242370040000	LOT	152	11072 S CASCABEL DR
	26242370050000	LOT	P107	11091 S RADICCHIO DR
	26242370060000	LOT	160	11101 S RADICCHIO DR
	26242370070000	LOT	151	11082 S CASCABEL DR
	26242370080000	LOT	161	11109 S RADICCHIO DR
	26242370090000	LOT	150	11088 S CASCABEL DR
	26242370100000	LOT	162	11117 S RADICCHIO DR
	26242370110000	LOT	149	11096 S CASCABEL DR
	26242370120000	LOT	146	4862 W VEEROMA WY

	26242370130000	LOT	147	4854 W VEEROMA WY
	26242370140000	LOT	148	4844 W VEEROMA WY
	26242380010000	LOT	145	11133 S CASCABEL DR
	26242380020000	LOT	144	11141 S CASCABEL DR
	26242380030000	LOT	143	11147 S CASCABEL DR
	26242380040000	LOT	142	11151 S CASCABEL DR
	27191010010000	LOT	P117	11126 S KESTREL RISE RD
	26242260010000	LOT	P101	4917 W VEEROMA WY
	26242260020000	LOT	101	11192 S ARUGLA WY
	26242260030000	LOT	102	11196 S ARUGLA WY
	26242260040000	LOT	103	11204 S ARUGLA WY
	26242260050000	LOT	104	11208 S ARUGLA WY
	26242270010000	LOT	P103	4867 W VEEROMA WY
	26242270020000	LOT	107	11189 S ARUGLA WY
	26242270030000	LOT	108	11181 S ARUGLA WY
	26242270040000	LOT	109	4856 W RAPHANUS LN
	26242270050000	LOT	110	4854 W RAPHANUS LN
	26242270060000	LOT	111	4852 W RAPHANUS LN
	26242270070000	LOT	112	4848 W RAPHANUS LN
	26242270080000	LOT	113	4846 W RAPHANUS LN
	26242270090000	LOT	P102	4834 W RAPHANUS LN
	26242270100000	LOT	114	4824 W RAPHANUS LN
	26242270110000	LOT	115	4822 W RAPHANUS LN
	26242270120000	LOT	116	4818 W RAPHANUS LN
	26242270130000	LOT	117	4816 W RAPHANUS LN
	26242270140000	LOT	118	4814 W RAPHANUS LN
	26242270150000	LOT	119	11148 S CASCABEL DR
	26242270160000	LOT	120	11142 S CASCABEL DR
	26242270170000	LOT	121	4806 W RAPHANUS LN
	26242270180000	LOT	122	4812 W RAPHANUS LN
	26242270190000	LOT	106	4862 W RAPHANUS LN
	26242270200000	LOT	105	4858 W RAPHANUS LN
Garden Park PH 4 Condo	26242400010000	UNIT	401	11151 S TYDEMAN WY # 101
	26242400020000	UNIT	402	11151 S TYDEMAN WY # 102
	26242400030000	UNIT	403	11151 S TYDEMAN WY # 103
	26242400040000	UNIT	406	11151 S TYDEMAN WY # 201
	26242400050000	UNIT	407	11151 S TYDEMAN WY # 202
	26242400060000	UNIT	413	11151 S TYDEMAN WY # 208
	26242400070000	UNIT	404	11151 S TYDEMAN WY # 104
	26242400080000	UNIT	405	11151 S TYDEMAN WY # 105
	26242400090000	UNIT	408	11151 S TYDEMAN WY # 203

	26242400100000	UNIT	409	11151 S TYDEMAN WY # 204
	26242400110000	UNIT	410	11151 S TYDEMAN WY # 205
	26242400120000	UNIT	411	11151 S TYDEMAN WY # 206
	26242400130000	UNIT	412	11151 S TYDEMAN WY # 207
	26242400140000			11151 S TYDEMAN WY
Garden Park Condominiums Phase 3 1st Amendment	26242260260000			11199 S OAKMOND RD
	26242260270000	UNIT	5	11201 S OAKMOND RD
	26242260280000	UNIT	4	11189 S OAKMOND RD
	26242260290000	UNIT	3	11179 S OAKMOND RD
	26242260300000	UNIT	2	11173 S OAKMOND RD
	26242260310000	UNIT	1	11181 S OAKMOND RD
	26242260320000	UNIT	10	11207 S OAKMOND RD
	26242260330000	UNIT	9	11203 S OAKMOND RD
	26242260340000	UNIT	11	11197 S OAKMOND RD
	26242260350000	UNIT	8	11191 S OAKMOND RD
	26242260360000	UNIT	12	11193 S OAKMOND RD
	26242260370000	UNIT	7	11183 S OAKMOND RD
	26242260380000	UNIT	13	11187 S OAKMOND RD
	26242260390000	UNIT	6	11177 S OAKMOND RD
Garden Park PH 5 Condo	26242410010000	UNIT	501	11184 S WALTANA WY # 501
	26242410020000	UNIT	502	11184 S WALTANA WY # 502
	26242410030000	UNIT	503	11184 S WALTANA WY # 503
	26242410040000	UNIT	504	11184 S WALTANA WY # 504
	26242410050000	UNIT	505	11184 S WALTANA WY # 505
	26242410060000	UNIT	506	11184 S WALTANA WY # 201
	26242410070000	UNIT	507	11184 S WALTANA WY # 507
	26242410080000	UNIT	508	11184 S WALTANA WY # 508
	26242410090000	UNIT	509	11184 S WALTANA WY # 509
	26242410100000	UNIT	510	11184 S WALTANA WY # 510
	26242410110000	UNIT	511	11184 S WALTANA WY # 511
	26242410120000	UNIT	512	11184 S WALTANA WY # 512
	26242410130000	UNIT	513	11184 S WALTANA WY # 513
	26242410140000			11184 S WALTANA WY
Garden Park Condo Bldg 7	26242850010000	UNIT	701	11216 S OAKMOND RD
	26242850020000	UNIT	702	11214 S OAKMOND RD
	26242850030000	UNIT	703	11219 S ARTICHOKE WY
	26242850040000	UNIT	704	11221 S ARTICHOKE WY
	26242850050000	UNIT	705	11223 S ARTICHOKE WY

	26242850060000	UNIT	706	11227 S ARTICHOKE WY
	26242850070000	UNIT	707	11229 S ARTICHOKE WY
	26242850080000	UNIT	708	11212 S OAKMOND RD
	26242850090000	UNIT	709	11208 S OAKMOND RD
	26242850100000	UNIT	710	11206 S OAKMOND RD
	26242850110000	UNIT	711	11204 S OAKMOND RD
	26242850120000	UNIT	712	11202 S OAKMOND RD
	26242850130000	UNIT	713	11231 S ARTICHOKE WY
	26242850140000			11208 S OAKMOND RD
Kennecott Daybreak VLGE 4A Multi Family 2	26242020140000	LOT	268	11142 S WALTANA WY
	26242020150000	LOT	269	11146 S WALTANA WY
	26242020160000	LOT	270	11148 S WALTANA WY
	26242020170000	LOT	271	11152 S WALTANA WY
	26242020180000	LOT	272	11154 S WALTANA WY
	26242020190000	LOT	273	11162 S WALTANA WY
	26242020200000	LOT	274	11166 S WALTANA WY
	26242820090000	LOT	275	11218 S OAKMOND RD
	26242820100000	LOT	276	11222 S OAKMOND RD
	26242820110000	LOT	277	11226 S OAKMOND RD
	26242820120000	LOT	278	11232 S OAKMOND RD
	26242820130000	LOT	279	11236 S OAKMOND RD
	26242820140000	LOT	280	11242 S OAKMOND RD
Kennecott Daybreak VLGE 4A PL 7	26242010050000	LOT	359	11063 S MARJORAM LN
	26242010060000	LOT	357	11073 S MARJORAM LN
	26242010070000	LOT	356	11083 S MARJORAM LN
	26242010080000	LOT	355	11089 S MARJORAM LN
	26242010090000	LOT	354	11099 S MARJORAM LN
	26242010100000	LOT	353	11101 S MARJORAM LN
	26242010110000	LOT	352	11109 S MARJORAM LN
	26242010120000	LOT	358	11061 S MARJORAM LN
	26242010130000	LOT	346	11044 S PORCINI DR
	26242010140000	LOT	347	11056 S PORCINI DR
	26242010150000	LOT	348	11064 S PORCINI DR
	26242010160000	LOT	349	11074 S PORCINI DR
	26242010170000	LOT	350	11082 S PORCINI DR
	26242010180000	LOT	351	11088 S PORCINI DR
	26242050010000	LOT	378	5133 W DERISHI LN
	26242050020000	LOT	379	11108 S KIWANO WY
	26242050030000	LOT	380	11118 S KIWANO WY

	26242050040000	LOT	381	11126 S KIWANO WY
	26242050050000	LOT	382	11134 S KIWANO WY
	26242050060000	LOT	383	11146 S KIWANO WY
	26242050070000	LOT	385	5088 W BLACK TWIG DR
	26242050080000	LOT	384	5082 W BLACK TWIG DR
	26242060010000	LOT	377	5113 W DERISHI LN
	26242060020000	LOT	375	11103 S KIWANO WY
	26242060030000	LOT	374	11111 S KIWANO WY
	26242060040000	LOT	373	11119 S KIWANO WY
	26242060050000	LOT	372	11127 S KIWANO WY
	26242060060000	LOT	371	11137 S KIWANO WY
	26242060070000	LOT	370	11143 S KIWANO WY
	26242060080000	LOT	369	5064 W BLACK TWIG DR
	26242060090000	LOT	376	5107 W DERISHI LN
	26242060100000	LOT	360	5101 W DERISHI LN
	26242060110000	LOT	361	11082 S MARJORAM LN
	26242060120000	LOT	362	11088 S MARJORAM LN
	26242060130000	LOT	363	11098 S MARJORAM LN
	26242060140000	LOT	364	11104 S MARJORAM LN
	26242060150000	LOT	365	11112 S MARJORAM LN
	26242060160000	LOT	366	11122 S MARJORAM LN
	26242060170000	LOT	368	5056 W BLACK TWIG DR
	26242060180000	LOT	367	5046 W BLACK TWIG DR
	26242260200000	LOT	391	4884 W DUCKHORN DR
	26242260210000	LOT	390	4882 W DUCKHORN DR
	26242260220000	LOT	389	4878 W DUCKHORN DR
	26242260230000	LOT	388	4872 W DUCKHORN DR
	26242260240000	LOT	387	4866 W DUCKHORN DR
	26242260250000	LOT	386	4864 W DUCKHORN DR
	26242820150000	LOT	397	4924 W DUCKHORN DR
	26242820160000	LOT	396	4922 W DUCKHORN DR
	26242820170000	LOT	395	4916 W DUCKHORN DR
	26242820180000	LOT	394	4912 W DUCKHORN DR
	26242820190000	LOT	393	4908 W DUCKHORN DR
	26242820200000	LOT	392	4904 W DUCKHORN DR
Kennecott Daybreak VLGE 4A PL 5	26242520010000	LOT	263	5033 W RAMBUTAN WY
	26242520020000	LOT	262	5027 W RAMBUTAN WY
	26242520030000	LOT	261	5013 W RAMBUTAN WY
	26242520040000	LOT	260	11259 S OKRA LN
	26242520050000	LOT	259	11263 S OKRA LN
	26242520060000	LOT	258	11269 S OKRA LN

	26242520070000	LOT	257	11273 S OKRA LN
	26242520080000	LOT	256	11281 S OKRA LN
	26242520090000	LOT	255	11283 S OKRA LN
	26242520100000	LOT	254	11291 S OKRA LN
	26242530010000	LOT	264	11293 S JONAGOLD DR
	26242530020000	LOT	265	11297 S JONAGOLD DR
	26242530030000	LOT	266	11303 S JONAGOLD DR
	26242530040000	LOT	267	11309 S JONAGOLD DR
	26242800010000	LOT	P126	4974 W SWEETSTOP WY
	26242800020000	LOT	P124	11224 S ARTICHOKE WY
	26242800030000	LOT	246	4996 W RAMBUTAN WY
	26242800040000	LOT	245	11236 S CHICORY LN
	26242800050000	LOT	244	11232 S ARTICHOKE WY
	26242800060000	LOT	247	11256 S CHICORY LN
	26242800070000	LOT	248	11262 S CHICORY LN
	26242800080000	LOT	249	11264 S CHICORY LN
	26242800090000	LOT	250	11268 S CHICORY LN
	26242800100000	LOT	251	11276 S CHICORY LN
	26242800110000	LOT	252	11282 S CHICORY LN
	26242800120000	LOT	253	11288 S CHICORY LN
	26242810010000	LOT	243	11246 S ARTICHOKE WY
	26242810020000	LOT	242	11252 S ARTICHOKE WY
	26242810030000	LOT	241	11258 S ARTICHOKE WY
	26242810040000	LOT	240	11266 S ARTICHOKE WY
	26242820010000	LOT	P125	11217 S ARTICHOKE WY
	26242820080000	LOT	P127	4967 W SWEETSTOP WY
	26242830010000	LOT	236	11239 S ARTICHOKE WY
	26242830020000	LOT	237	11247 S ARTICHOKE WY
	26242830030000	LOT	238	11251 S ARTICHOKE WY
	26242830040000	LOT	239	11259 S ARTICHOKE WY
Kennecott Daybreak VLGE 4A PL 4	26242020010000	LOT	P121	11167 S KIWANO WY
	26242020020000	LOT	222	5053 W BLACK TWIG DR
	26242020030000	LOT	221	5047 W BLACK TWIG DR
	26242020040000	LOT	220	5041 W BLACK TWIG DR
	26242020050000	LOT	219	5033 W BLACK TWIG DR
	26242020080000	LOT	P122	11168 S WALTANA WY
	26242030010000	LOT	223	11187 S KIWANO WY
	26242030020000	LOT	224	11183 S KIWANO WY
	26242030030000	LOT	225	11181 S KIWANO WY
	26242030040000	LOT	226	11179 S KIWANO WY
	26242030050000	LOT	227	11177 S KIWANO WY

	26242030060000	LOT	P123	11201 S KIWANO WY
	26242030070000	LOT	232	11207 S KIWANO WY
	26242030080000	LOT	231	11203 S KIWANO WY
	26242030090000	LOT	230	11199 S KIWANO WY
	26242030100000	LOT	229	11197 S KIWANO WY
	26242030110000	LOT	228	11193 S KIWANO WY
	26242540010000	LOT	233	5006 W RAMBUTAN WY
	26242540020000	LOT	234	4998 W RAMBUTAN WY
	26242540030000	LOT	235	4988 W RAMBUTAN WY
Kennecott Daybreak VLGE 4A PL 8	26242050090000	LOT	398	5141 W DERISHI LN
	26242050100000	LOT	399	5149 W DERISHI LN
	26242050110000	LOT	400	11129 S JONAGOLD DR
	26242050120000	LOT	401	11139 S JONAGOLD DR
	26242050130000	LOT	402	11149 S JONAGOLD DR
	26242050140000	LOT	403	11159 S JONAGOLD DR
	26242050150000	LOT	404	11169 S JONAGOLD DR
	26242050160000	LOT	405	5098 W BLACK TWIG DR
	26242070010000	LOT	P/131	11193 S JONAGOLD DR
	26242070020000	LOT	406	5073 W BLACK TWIG DR
	26242070030000	LOT	407	5079 W BLACK TWIG DR
	26242070040000	LOT	408	5081 W BLACK TWIG DR
	26242070050000	LOT	409	5089 W BLACK TWIG DR
	26242070060000	LOT	410	5093 W BLACK TWIG DR
	26242080010000	LOT	416	11198 S KIWANO WY
	26242080020000	LOT	417	11206 S KIWANO WY
	26242080030000	LOT	418	11212 S KIWANO WY
	26242080040000	LOT	419	11218 S KIWANO WY
	26242080050000	LOT	420	11224 S KIWANO WY
	26242080060000	LOT	421	5022 W RAMBUTAN WY
	26242080070000	LOT	422	5032 W RAMBUTAN WY
	26242080080000	LOT	423	5038 W RAMBUTAN WY
	26242090010000	LOT	411	11219 S JONAGOLD DR
	26242090020000	LOT	412	11227 S JONAGOLD DR
	26242090030000	LOT	413	11231 S JONAGOLD DR
	26242090040000	LOT	414	11239 S JONAGOLD DR
	26242090050000	LOT	415	11243 S JONAGOLD DR
	26242100010000	LOT	424	11224 S JONAGOLD DR
	26242100020000	LOT	425	11228 S JONAGOLD DR
	26242100030000	LOT	426	11232 S JONAGOLD DR
	26242100060000	LOT	429	11246 S JONAGOLD DR
	26242100070000	LOT	430	11252 S JONAGOLD DR

	26242100080000	LOT	427	11238 S JONAGOLD DR
	26242100080000	LOT	428	11238 S JONAGOLD DR
	26242100090000	LOT	428	11242 S JONAGOLD DR
	26242550010000	LOT	431	11296 S JONAGOLD DR
	26242550020000	LOT	432	11298 S JONAGOLD DR
	26242550030000	LOT	433	11304 S JONAGOLD DR
	26242550040000	LOT	434	11308 S JONAGOLD DR
	26242550050000	LOT	435	11314 S JONAGOLD DR
	26242550060000	LOT	436	11318 S JONAGOLD DR
Daybreak Village 4A Plat 9	26242110020000	LOT	M-101	11163 S LAKE RUN RD
	26242110030000	LOT	454	5136 W BLACK TWIG DR
	26242110040000	LOT	453	5132 W BLACK TWIG DR
	26242110050000	LOT	452	5128 W BLACK TWIG DR
	26242110060000	LOT	451	5124 W BLACK TWIG DR
	26242110070000	LOT	450	5122 W BLACK TWIG DR
	26242110080000	LOT	449	5116 W BLACK TWIG DR
	26242110090000	LOT	448	5112 W BLACK TWIG DR
	26242120010000	LOT	437	11126 S JONAGOLD DR
	26242120020000	LOT	438	11132 S JONAGOLD DR
	26242120030000	LOT	439	11134 S JONAGOLD DR
	26242120040000	LOT	440	11138 S JONAGOLD DR
	26242120050000	LOT	441	11144 S JONAGOLD DR
	26242120060000	LOT	442	11148 S JONAGOLD DR
	26242120070000	LOT	443	11152 S JONAGOLD DR
	26242120080000	LOT	444	11158 S JONAGOLD DR
	26242120090000	LOT	445	11162 S JONAGOLD DR
	26242120100000	LOT	446	11166 S JONAGOLD DR
	26242120110000	LOT	447	11168 S JONAGOLD DR
	26242590030000	LOT	466	5059 W RAMBUTAN WY
	26242590040000	LOT	467	5053 W RAMBUTAN WY
	26242590050000	LOT	468	5049 W RAMBUTAN WY
	26242600010000	LOT	P-132	11202 S JONAGOLD DR
	26242600020000	LOT	455	5127 W BLACK TWIG DR
	26242600030000	LOT	456	5121 W BLACK TWIG DR
	26242600040000	LOT	457	5117 W BLACK TWIG DR
	26242600050000	LOT	458	5113 W BLACK TWIG DR
	26242600060000	LOT	459	5109 W BLACK TWIG DR
	26242600070000	LOT	460	5103 W BLACK TWIG DR
	26242600080000	LOT	461	5099 W BLACK TWIG DR
	26242600110000	LOT	465	5066 W RAMBUTAN WY
	26242600120000	LOT	464	5064 W RAMBUTAN WY

	26242600130000	LOT	463	5058 W RAMBUTAN WY
	26242600140000	LOT	462	5054 W RAMBUTAN WY

EXHIBIT B

**AMENDED BYLAWS
OF
GARDEN PARK VILLAGE ASSOCIATION, INC.**

RECITALS

Initial bylaws for the Association were established and adopted by the initial developer for Garden Park Village Association, Inc. (the "Association") and recorded in the Official Records of Salt Lake County, Utah on October 16, 2009 as Exhibit B the Initial Declaration (the "Initial Bylaws"). Declarant desires to amend and update the Initial Bylaws to improve and streamline governance of the Association and conform provisions of the Initial Bylaws to changes in the laws. Pursuant to the right and authority reserved to the Declarant in the Project Governing Documents to unilaterally amend the Bylaws, Declarant hereby adopts these Amended Bylaws of Garden Park Village Association, Inc. (these "Bylaws"). Upon recording, these Bylaws and any amendments thereto shall be binding on the Declarant, the Association and Owners.

**ARTICLE I
OFFICES**

The Association shall have its principal office in Salt Lake County, Utah and may have such other offices, within the State of Utah, as the Board of Directors (the "Board") may designate or as the business of the Association may require from time to time.

**ARTICLE II
DEFINITIONS**

Except as otherwise defined herein or required by the context, capitalized terms in these Bylaws are defined in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Garden Park Village recorded herewith (the "Declaration").

**ARTICLE III
MEMBERS**

Section 1. Membership. The Association shall be comprised of the Owners of the Units in the Project.

Section 2. Annual Meetings. A meeting of Owners shall be held at least once each calendar year for the following purposes:

- (a) electing Board Members (after the end of the Declarant Control Period);
- (b) reviewing the annual budget adopted by the Board;
- (c) reviewing changes, if any to Association's deductible property insurance; and
- (d) transacting such other business as may come before the meeting.

Section 3. Special Meetings. Special meetings of the Owners for any purpose or purposes may be called from time to time by the president. In addition, a special meeting may be requested by Owners holding not less than twenty-five percent (25%) of the Total Votes of the Association.

A request for special meeting by Owners must be in writing and shall include the signature of each Owner affirmatively supporting such request and shall state the purpose or purposes of the meeting and to be delivered to the Board or Manager. The Board shall call and provide notice of the special meeting within sixty (60) days of receipt of a proper request and the president shall conduct the special meeting (unless such responsibility is delegated to the Manager or another Board Member). No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Place of Meetings. The Board may designate any place in Salt Lake County, State of Utah, as the place of meeting for any annual meeting or for any special meeting called by the Board. A waiver of notice signed by all of the members may designate any place, within the State of Utah, as the place for holding such meeting.

Section 5. Notice of Meetings. The Board or Manager shall cause written or printed notice of the time, place, and/or call in or log in information, if applicable, and purpose of all meetings of the Members, whether annual or special, to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to the Owners. Except as otherwise required by law, notice of meetings and notice to Owners for other purposes shall be in writing and shall be deemed valid if provided by any of the below methods:

- (a) hand-delivery, which shall be effective upon delivery;
- (b) regular U.S. mail, first-class postage prepaid, to the most recent address furnished by the Owner, or, if no such address shall have been furnished, to the street address of such Owner's Unit, which shall be deemed delivered seventy-two (72) hours after mailing;
- (c) email correspondence to an email address provided by the Owner or an email address from which the Owner has communicated with Association, the Board, or Manager (so long as no indication is received that the email may not have been delivered). Notice by email shall be deemed delivered upon sending;
- (d) posting on the Association website or webpage, which shall be deemed delivered upon posting; or
- (e) any other method that is fair and reasonable given the circumstances and the subject matter of the notice and otherwise allowed by law;

Notwithstanding anything to the contrary in this Section, any Owner may make written request to receive notice from the Association by regular U.S. mail. If ownership of a Unit is jointly held, notice to any one of the joint Owners shall be effective as notice to all joint Owners of the Unit. In no event shall the Association be required to give more than one notice per Unit. In the event any joint Owners send conflicting notice demands, notice shall be proper if mailed by regular U.S. Mail to the Unit address. Owners may change their mailing or email address from time to time by written notice to the Association.

Section 6. Waiver of Notice. Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Owner may waive, in writing, notice of any Association meeting, either before or after such meeting. An Owner's attendance at a meeting shall be deemed a waiver of notice of the time, date, purpose, and place thereof by that Owner, unless the Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is

put to a vote.

Section 7. Fixing of Record Date. Upon purchasing a Unit in the Project, each Owner shall promptly furnish to the Association a certified copy of the recorded instrument by which ownership of such Unit has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, or any adjournment thereof, the Board may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to the meeting. If no record date is designated, the date on which notice of the meeting is delivered shall be deemed to be the record date for determining Owners entitled to notice of or to vote at the meeting. The Person or Persons appearing in the records of the Association on such record date as the Owners of record of Units in the Project shall be deemed to be the Owners of record entitled to notice of the meeting of the Owners and any adjournments thereof.

Section 8. Quorum. At any meeting of the Owners, the Owners and holders of proxies present (in-person or by video or telephone conferencing) shall constitute a quorum for the transaction of business.

Section 9. Proxies. At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or the Owner's attorney duly authorized in writing. If a ownership is jointly held, the instrument authorizing a proxy to act may be executed by any joint Owner and such instrument will be presumed to be authorized by all such joint Owners unless a written objection is received by the Association within ten (10) days of the exercise of the instrument. Such instrument shall be delivered to the secretary or the Manager prior to or at the beginning of the meeting.

Section 10. Votes. Each Unit shall have one vote, to be cast in person or by proxy, with respect to each matter submitted to a vote of the Owners, provided, however, that an Owner may be prohibited from voting if the Owner is delinquent in payment of Assessments. During the Declarant Control Period, no vote need be exercised for Units that the Declarant or an affiliate of the Declarant owns; rather, the Declarant's consent shall be required for various actions of the Board as specifically provided for in these Bylaws, the Declaration, and the Master Residential Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting shall be necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by the Articles, these Bylaws, the Declaration, the Master Residential Declaration, or Utah law.

Section 11. Meetings by Telecommunications. Any regular or special meeting of the Owners may be conducted through the use of any means of telephonic or video communication reasonably available to the Association and the Owners, as determined by the Board, in its discretion, provided, however, that all Persons participating in the meeting may communicate with each other in real time. Notice of any meeting under this Section shall include call in or log in information. Any Owner participating in meeting permitted under this Section shall be deemed present, in person, at the meeting.

Section 12. Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, form of proxies, and method of ascertaining Owners present shall be deemed waived if no objection thereto is made at the meeting.

Section 13. Informal Action by Members. Any action that is required or permitted to be taken at a meeting of the members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by at least fifty-one percent (51%) of the members entitled to vote with respect to the subject matter thereof, unless the subject matter requires a greater approval threshold under the Declaration or the Act. An Owner signature for consent under this Section may be electronic and any consent under this Section may be transmitted to the Association by email or other electronic means authorized by the Board.

Section 14. Use of Written Ballots and Email and Electronic Voting. The Association may utilize written ballots with or without a regular or special meeting of the Owners for any matter which requires or permits a vote of the Owners to the fullest extent permitted by law. Ballots may be electronic and may be transmitted to or by Owners by email or other any other electronic means authorized by the Board.

ARTICLE IV BOARD OF DIRECTORS

Section 1. General Powers. The property, affairs, and business of the Association shall be managed by the Board. The Board may exercise all of the powers of the Association, whether derived from law, the Articles, these Bylaws, or the Declaration, except those powers which are by law or by the foregoing documents vested solely in the Owners. The Board shall, among other things, prepare or cause to be prepared, plan and adopt an annual budget in accordance with and as set forth in the Declaration and Master Residential Association, and cooperate with the Daybreak Community Council and Master Residential Association in levying, assessing and collecting assessments and Community Enhancement Fees, and keep or cause to be kept sufficient books and records of the Association as required by law. The books and records shall be available for inspection or copying by all Owners upon written request in accordance with the Act. The Association may require Owner requests to inspect or copy books and records of the Association to strictly comply with the provisions of the Act. The Board may by written contract delegate, in whole or in part, to a professional management organization or person such of its duties, responsibilities, functions, and powers as are properly delegable. The power and duties of Board shall be as set forth in the Declaration and the Articles.'

Section 2. Board Member Elections, Terms, Qualifications. Consistent with the Declaration and the Articles, the Board shall be comprised of an odd number of at least three (3) but not more than seven (7) Board Members. During the Declarant Control Period, Board Members shall be appointed by the Declarant. During the Declaration Control Period, the Declarant, in its discretion, may appoint one or more Owners to serve as Board committee members ("Owner Committee Members"). Owner Committee Members may provide input and assist the Board Members and Manager with administration and operation of the Association and the Project, however, Owner Board Committee Members shall not be directors as defined under the Act or the Utah Revised Nonprofit Corporation Act and shall not vote on Board matters.

After the end of the Declarant Control Period, the Board shall be elected by the Owners for a term of two (2) years, provided, however, that one Board Member of the first Board elected by the Owners shall serve a term of one (1) year so as to created staggered terms going forward to preserve the institutional knowledge of the Board. Board Members elected by the Owners must be an Owner or for a Unit owned by a trust, other entity, a trustee or beneficiary of the trust or the duly authorized representative of the entity as reflected in a record on file with the Utah Division

of Corporations and Commercial Code and be current on payment of Assessments.

Section 3. Regular Meetings. The Board shall hold regular meetings at such time and place as a majority of the Board shall determine, but the Board shall meet at least four (4) times during each fiscal year with at least one meeting per quarter. Except as otherwise provided in this Article and by the Act, regular and special Board meetings shall be open to Owners and the Board shall provide reasonable time at such meeting for Owner comment, as determined by the Board, in its discretion, provided, however, that Owners shall not be permitted to vote on any Board matter or to interfere with the conducting of Board business at the meeting.

Section 4. Closed Executive Sessions. Consistent with the Act, the Board may close any regular or special Board meeting and meet in executive session or may schedule a closed executive session independently from an open regular or special Board meeting for any and all purposes permitted under the Act. Meeting minutes shall not be required for any closed executive session of the Board.

Section 5. Special Meetings. The Board shall hold special meetings when called by written notice of the president or any two Board Members.

Section 6. Notice; Waiver of Notice. Notice of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notice of Board meetings may be given to Board Members and Owners who have made written request for notice by any method authorized in Section 5 above. Notice of any Board meeting may be waived by a Board Member in writing. Notice of a meeting also shall be deemed given to any Board Member who attends the meeting without making objection before or at its commencement of the meeting about the lack of adequate notice.

Section 7. Quorum and Manner of Acting. A majority of the then authorized number of Board Members shall constitute a quorum for the transaction of business at any meeting of the Board. Except as otherwise required in these Bylaws, the Articles, the Declaration, or Utah law, the act of a majority of the Board Members present at any meeting at which a quorum is present shall be the act of the Board. Board Members shall act only as a Board, and individual Board Members shall have no powers as such. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of Board Members, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the Board Members present may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

Section 8. Use of Electronic Communications for Meetings. The Board may permit any Board Member to participate in any Board meeting by and may conduct any Board meeting through the use of telephonic, video conferencing or other electronic means, provided, however, that all Board Members participating must be able to communicate with each other in real time. Any Board Member participating in any Board meeting authorized by this Section shall be deemed to be present, in person, at the meeting. If a Board member is permitted to participate in a regular or special open meeting of the Board by means of electronic communications under this Section, call in or log in information necessary to allow Owner participation in the meeting as an open meeting shall be provided to Owners who have made written request for notice or otherwise request to participate prior to the meeting.

Section 9. Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of any Board meeting and/or in the manner of voting, shall be deemed waived if no objection thereto is made at the Board meeting.

Section 10. Compensation. No Board Member shall receive compensation for any services that the Board Member may render to the Association as a Board Member or director; provided, however, that a Board Member may be reimbursed for actual and reasonable expenses incurred in performance of the Board Member's duties to the extent such expenses are approved by the Board and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his/her/their capacity as a Board Member or director.

Section 11. Resignation and Removal. A Board Member may resign at any time by delivering a written resignation to either the president, the Board, or the Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member may be removed at any time, for or without cause, by the affirmative vote of the Owners holding at least fifty-one percent (51%) of the Total Votes of the Association, at a special meeting of the Owners duly called for such purpose. Any Board Member whose removal is sought shall be given notice prior to any meeting called for that purpose.

Section 12. Vacancies. If vacancies shall occur in the Board by reason of the death, resignation, or disqualification of a Board Member, the remaining Board Members then in office shall continue to act, and such vacancies shall be filled by a vote of the Board Members then in office, until the next annual meeting, at which time the Owners shall elect a successor for the remainder of the term. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners shall be filled upon such removal by the election of a successor for the remainder of the term of such Board Member. If vacancies shall occur in the Board by reason of death, resignation, or removal of a Board Member appointed by the Declarant, such vacancies shall be filled by appointments to be made by the Declarant.

Section 13. Informal Action by Board Members. Any action that is required or permitted to be taken at a meeting of the Board, may be taken without a meeting via email or other electronic means if:

- (a) a vote on such action is called by electronic means by a Board Member and reasonably identifies the action to be voted upon;
- (b) at least a majority of the Board Members vote in favor of the action by signed electronic means;
- (c) no Board Member exercises the right to demand such action be taken at a properly noticed meeting; and
- (d) no Board Member revokes their vote prior to receipt of the number of votes required for the action. For the purposes of this Section 4.7:

For purposes of this Section, "electronic means" shall mean and include electronic mail, email, letter, facsimile, text message, or other electronic document that is signed by the Board Member. Additionally, for purposes of this Section, "signed" shall mean and include any indication contained in the electronic means utilized for voting that the vote is from and consented to by the Board Member who is purported to have sent it. For example, a typed name at the bottom of an email or an email from an address used by the Board Member for Board business satisfies the requirement for a signature.

An action approved pursuant to this Section is effective when the last approval necessary to satisfy this the requirements of this Section is received and such action shall have the same effect as an action taken at a properly noticed Board meeting.

ARTICLE V OFFICERS

Section 1. Officers. The officers of the Association shall be a president, a secretary, a treasurer and such other officers as may from time to time be appointed by the Board.

Section 2. Selection and Term. The officers of the Association shall be determined by the Board Members annually at the first regular quarterly meeting of the Board or a subsequent regular or special Board meeting. An officer shall remain in office until the officer's successor shall have been installed, or until the officer's resignation, disqualification, death, or removal in the manner provided in these Bylaws, whichever first occurs. Any Board Member may hold two (2) or more of such offices; provided, however, that the president may not also be the secretary. No Board Member holding more than one office shall act in or execute any instrument in the capacity of more than a single office.

Section 3. Subordinate Officers. The Board may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine. The Board may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate offices need not be Board Members or Owners of the Association.

Section 4. Resignation, Removal. Any officer may resign at any time by delivering a written resignation to the president, the Board, or the Manager. Any officer or agent may be removed by majority vote of the Board whenever in its judgment the best interests of the Association will be served thereby.

Section 5. Vacancies. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting.

Section 6. President. The president shall be the principal executive officer of the Association and, subject to the control of the Board, shall, in general, supervise and control all of the business and affairs of the Association. The president shall, when present, preside at all meetings of the Owners and all meetings of the Board. The president shall sign, with the secretary or any other proper officer of the Association thereunto authorized by the Board, any, contracts or other instruments the Association has authority to execute and which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board from time to time.

Section 7. Secretary. Unless delegated to the Manager, the secretary shall (a) keep the minutes of the meetings of the Owners and the Board in accordance with the Act and the Utah Revised Nonprofit Corporation Act; (b) see that all notices are duly given in accordance with the

provisions of these Bylaws or as required by law; (c) be custodian of the corporate books and records of the Association; and (d) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to the secretary by the president or by the Board. Failure to take minutes of any meeting shall not invalidate any action properly taken at such meeting.

Section 8. Treasurer. Unless delegated to the Manager, the treasurer shall: (a) have charge and custody of and be responsible for all funds of the Association and have primary responsibility to prepare the Association's budget; (b) receive and give receipt for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such accounts as shall be determined by the Board; and (c) in general perform all of the duties incident to the office of the treasurer and such other duties as from time to time may be assigned to the Treasurer by the president or by the Board.

Section 9. Compensation. No officer shall receive compensation for any services that he may render to the Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of his duties as an officer to the extent such expenses are approved by the Board and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in his capacity as an officer.

ARTICLE VI COMMITTEES

Section 1. Designation of Committees. The Board may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers, which committees perform such tasks and serve for such periods as the Board may designate by resolution. Any committee established by the Board shall include at least one (1) Board Member. No committee member shall receive compensation for services rendered to the Association as a committee member; provided, however, that a committee member may be reimbursed for expenses incurred in performance of the committee member's duties as a committee member to the extent that such expenses are approved by the Board and (except as otherwise provided in these Bylaws) may be compensated for services rendered to the Association other than in such individual's capacity as a committee member.

Section 2. Proceedings of Committees. Each committee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.

Section 3. Quorum and Manner of Acting. At each meeting of any committee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

Section 4. Resignation and Removal. Any member of any committee designated hereunder by the Board may resign at any time by delivering a written resignation to the president, the Board, the Manager, or the presiding officer of the committee. Unless otherwise specified therein, such

resignation shall take effect upon delivery. The Board may at any time, for or without cause, remove any member of any committee.

Section 5. Vacancies. If any vacancy shall occur in any committee designated by the Board hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII INDEMNIFICATION

Section 1. Indemnification. To the fullest extent permitted by law, the Association shall indemnify the following Persons against all expenses and liabilities including, attorneys' fees, actually incurred by or imposed upon such Person in connection with any proceeding to which such Person may be a party, or become involved by reason of such Person being or having served in any capacity on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board):

- (a) every Board Member, director, and officer of the Association and any members of any committee of the Board;
- (b) every director, officer and employee of the Declarant and the Master Residential Association and the Daybreak Community Council, Inc.; and
- (c) every Person serving as an employee of the Association.

Any such Person shall be entitled to indemnification whether or not such Person is serving in such specified capacity at the time the expenses are incurred, provided, however, that the Board shall determine, in good faith, that the Person to be indemnified hereunder did not act, fail to act, or refuse to act with gross negligence, intentional misconduct, fraudulent or criminal intent in the performance of its duties and/or was not engaged in criminal conduct. The foregoing rights of indemnification shall be in addition to, and not in place of, all other rights to which such Persons may be entitled at law or otherwise.

ARTICLE VIII FISCAL YEAR

Unless otherwise determined by the Board by resolution, the fiscal year of the Association shall begin on the 1st day of January of each year and shall end on the 31st day of December next following.

ARTICLE IX RULES

The Board may from time to time adopt, amend, repeal, and enforce reasonable Rules governing the use and operation of the Project in accordance with the rule-making provisions of the Act. Such rules shall not be inconsistent with the rights and duties set forth in the Articles, the Declaration, the Master Residential Declaration, the rules and regulations of the Master Residential Association, or these Bylaws. The Owners shall be provided with copies of all rules and regulations adopted by the Board, and with copies of all amendments and revisions thereof.

ARTICLE X
AMENDMENTS

Prior to termination of the Declarant Control Period, the Declarant may unilaterally amend these Bylaws. Thereafter, the Board may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units.

Except as otherwise provided above or by law, the Articles, the Declaration, or these Bylaws, these Bylaws may be amended by the Owners upon the affirmative vote of at least fifty-one percent (51%) of the Total Votes of the Association and, during the Declarant Control Period, the consent of the Declarant.

Any amendment of these Bylaws under this Article shall not be effective unless and until a written instrument setting forth (a) the amendment; and (b) in the case of amendment by the Owners, the percentage of the Total Votes of the Association approving the amendment, shall have been executed and verified by president of the Association, or by the Declarant, as the case may be; and (c) recorded in the Official Records of Salt Lake County, Utah. After recording, a copy of the amended bylaws shall be provided to each Owner.