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Rhonda Francis Summit County Recorder

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By COTTONWOOD TITLE INSURANCE AGENCY, INC.

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**WHEN RECORDED, RETURN TO:**

CW Larsen Village, LLC

Attn: Legal Department

1222 W Legacy Crossing Blvd., Ste. 6

Centerville, UT 84014

Parcel Numbers:

SCVC-13-16-1 THROUGH SCVC-13-16-11

SCVC-13-16-32 THROUGH SCVC-13-16-35

SCVC-13-16-107 THROUGH SCVC-13-16-139

SCVC-13-16-OS-1 THROUGH SCVC-13-16-OS-9

**COVER PAGE  
TO  
TRACT DECLARATION  
FOR  
THE VILLAGE ESTATES AT SILVER CREEK**

**TRACT DECLARATION**

**for**

**THE VILLAGE ESTATES AT  
SILVER CREEK**

**A DISTRICT AT  
SILVER CREEK VILLAGE**

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This TRACT DECLARATION FOR THE VILLAGE ESTATES AT SILVER CREEK, A DISTRICT AT SILVER CREEK VILLAGE ("Declaration") is effective when recorded in the office of the Summit County Recorder by CW Larsen Village, LLC, a Utah limited liability company, PCSF Silver Creek, LLC, a Utah limited liability company, and Chocolate Homes, LLC a Utah limited liability company (collectively, the "Declarant").

### RECITALS

- A. The real property situated in Summit County, Utah, described in Exhibit A, attached to and incorporated in this Declaration by reference, is hereby submitted, together with all buildings and improvements previously, now, or hereafter constructed on the property, and all easements and rights appurtenant thereto, to a residential planned unit development consisting of single family lots and related common areas pursuant to Utah Code Ann. § 57-8a-101 et seq. that shall be known as The Village Estates at Silver Creek ("Estates Project").
- B. The Estates Project is subject to the MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR SILVER CREEK VILLAGE, which was recorded with the Summit County Recorder on April 20, 2017 as Entry Number 01067652 ("Master Declaration").
- C. Declarant is the owner of the real property subject to this Declaration ("Single Family Parcels"). Village Development Group Inc. is the declarant under the Master Declaration ("Master Declarant"). By signing this Declaration, Declarant and Master Declarant consent to subjecting the Single Family Parcels to the terms, covenants, and restrictions contained herein.
- D. Declarant hereby desires to establish for the mutual benefit of all future Owners and Residents, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein (collectively the "Restrictions"), which shall run with and be a burden upon the Single Family Parcels.
- E. Declarant intends that the real property identified within the Single Family Parcels shall be held, sold, and conveyed subject to the Restrictions in this Declaration, which: (1) are for the purpose of protecting the value, desirability, attractiveness, and character of the Estates Project; (2) shall run with the land; (3) shall be binding upon all Owners, Residents, Mortgagees, and all other persons hereafter acquiring any interest in the Project; and (4) shall inure to the benefit of all parties having any right, title, or interest in any part of the Estates Project, and their successors and assigns.
- F. Declarant explicitly reserves for itself the option in the future to expand the Estates Project. This Declaration shall apply to such additional real property as may be hereafter annexed into the Estates Project as set forth below.
- G. Capitalized terms used in this Declaration and not otherwise defined in the Declaration shall have the same meanings given to such terms in the Master Declaration.

### DECLARATION

**NOW, THEREFORE**, Declarant hereby declares, covenants, and agrees that the real property within the Estates Project is and shall henceforth be owned, held, conveyed,

encumbered, leased, improved, used, occupied, and enjoyed subject to the following covenants, conditions, and restrictions. These covenants, conditions, and restrictions are in furtherance of, and the same shall constitute a general plan for the ownership, improvement, sale, use, and occupancy of the Estates Project; they are also in furtherance of and designed to accomplish the desires, intentions, and purposes set forth in the recitals above.

## ARTICLE I. DEFINITIONS

1.1. **Act** shall mean the Utah Community Association Act, codified beginning at §57-8a-101, Utah Code Annotated, as the same may be amended from time to time.

1.2. **Additional Land** shall mean, without limitation, any parcel of land that is annexed into the Estates Project in accordance with the provisions outlined in this Declaration.

1.3. **Articles** shall mean the Articles of Incorporation for the Master Association, as amended and restated from time to time.

1.4. **Annual Estates Assessments** shall mean the regular annual assessments levied by the Board with respect to the Estates Project pursuant to Section 7.2.

1.5. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Master Association as duly elected in accordance with the terms and conditions of the Master Declaration, Articles, and Bylaws. The Board is the governing body of the Master Association.

1.6. **Board Member** shall mean a duly qualified and elected or appointed individual member of the Board of Directors of the Master Association.

1.7. **Bylaws** shall mean the Bylaws of the Master Association as the same may be amended from time to time.

1.8. **Common Expenses** shall mean all sums lawfully assessed against the Owners for expenses of administration, maintenance, management, operation, repair, and replacement of the Estates Common Areas which are maintained by the Master Association; expenses agreed upon as common expenses by the Master Association or its Board of Directors; expenses declared common expenses by the Declaration or the Master Declaration; expenses levied against the Estates Owners by the Master Association for its allocated portion of the Master Association's common expenses, if any; and any other charges incurred by the Master Association or the Board necessary for the common benefit of the Owners.

1.9. **Declarant** shall mean CW Larsen Village, LLC, a Utah limited liability company, PCSF Silver Creek, LLC, a Utah limited liability company, and Chocolate Homes, LLC a Utah limited liability company and any successor in interest or assign.

1.10. **Declaration** shall mean and refer to this Tract Declaration of Covenants, Conditions, and Restrictions for The Village Estates at Silver Creek, a District at Silver Creek Village, as may be amended from time to time.

1.11. **Design Guidelines** shall mean and refer to those requirements governing the location, color, materials, and architectural design of dwellings, structures, and improvements within the Estates Project.

1.12. **Governing Documents** shall mean the Declaration, Estates Rules, and Design Guidelines.

1.13. **Lot** shall mean and refer to each of the individual lots within the Estates Project, as shown on the Plat, with the exception of the Estates Common Areas. Reference to a Lot shall include reference to the Residence and other improvements constructed thereupon where the context allows.

1.14. **Manager** shall mean a person, persons, or entity, if any, selected by the Board to manage the affairs of the Master Association and Estates Project.

1.15. **Master Association** shall mean and refer to the Silver Creek Village Owners Master Association, a Utah nonprofit corporation.

1.16. **Master Declaration** shall mean and refer to the MASTER DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR SILVER CREEK VILLAGE, as recorded with the Summit County Recorder on April 20, 2017 as Entry Number 01067652, as the same is amended and supplemented from time to time.

1.17. **Master Project** shall refer to Silver Creek Village, a master planned development made subject to the Master Declaration.

1.18. **Mortgage** shall mean and refer to a mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed, or deed of trust.

1.19. **Mortgagee** shall mean and refer to any person or entity named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.20. **Period of Declarant Control** shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of the earliest of the following events: (1) the date on which all of the Lots have been conveyed to purchasers, evidenced by a written statement from the Declarant, including Lots that may be included within the Additional Land, regardless of whether such Additional Land has been added to the Project; or (2) the Declarant executes and records a written document that terminates the Period of Declarant Control.

1.21. **Person** shall mean and refer to a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.

1.22. **Plat** shall mean all of the official subdivision plats of The Village Estates at Silver Creek, filed and recorded in the official records of the Summit County Recorder's Office.

1.23. **Proceeding** shall mean and refer to a lawsuit, arbitration, mediation, or an administrative or governmental proceeding.

1.24. **Residence** shall mean and refer to an attached residential structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot which are used in connection with such Residence. The Residence shall include, without limitation, interior and exterior components, the attached garage, any mechanical equipment located outside said Residence but designed to serve that individual Residence, and all utility lines or installations serving the individual Residence, even if such utility lines or installations are located outside said Residence or Lot.

1.25. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

1.26. **Supplemental Declaration** shall mean a written instrument recorded in the records of the Summit County Recorder, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

1.27. **Estates Assessment(s)** means and refers to an Annual Estates Assessment, Estates Special Assessment, Estates Individual Assessment, Estates Special Use Fee, or any other fees, fines, or charges assessed by the Board pursuant to this Declaration with respect to the Estates Project. Estates Assessments shall be considered a "District Assessment" as provided under the Master Declaration.

1.28. **Estates Assessment Lien** shall mean and refer to the lien created and imposed by Section 7.1.

1.29. **Estates Common Areas** shall mean the following, to the extent located within the Single Family Parcels and intended for the exclusive use and enjoyment of the Estates Owners and Estates Residents: open space and the improvements situated thereon within the Estates Project that Declarant designates as common areas on the Plat or other recorded instrument and other real property which the Master Association now or hereafter owns in fee for the benefit of Estates Owners for as long as the Master Association is the owner of the fee, which may include, without obligation or limitation, signs or monuments, walkways, landscaped areas outside of the Lots, street signage, lighting detached from any Residence, Lots, sidewalks, and other similar improvements; and any real property or improvements within the Estates Project that is maintained, repaired, or replaced for the common benefit of the Estates Owners, as the Board shall determine in its sole and exclusive discretion, including, without limitation, all utility and service lines, systems and similar improvements, whether public or private-company owned, intended to serve more than one Lot regardless if located within the boundaries of a Lot. The Estates Common Areas may be owned and maintained by the Master Association or the Master Association may designate such maintenance to the Estates Owners, which shall be carried out pursuant to this Declaration.

1.30. **Estates Individual Assessment** shall mean and refer to any assessment levied and assessed as set forth in Section 7.6.

1.31. **Estates Member** shall mean and refer to an Estates Owner.

1.32. **Estates Owner** shall mean and refer to the record owner, whether one or more Persons, of a fee simple title to any Lot which is a part of the Estates Project, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

1.33. **Single Family Parcels** as hereinbefore defined shall mean and refer to the real property legally described in Exhibit A.

1.34. **Estates Project** as hereinbefore defined shall at any point in time mean, refer to the Silver Creek Village Estates and shall include the Single Family Parcels, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.35. **Estates Resident** shall mean and refer to (a) any tenant or lessee of an Estates Owner actually residing on any Lot, and (b) the members of the immediate family of each Estates Owner, lessee, and tenant actually living in the same household with such Estates Owner, lessee, or tenant. Subject to such Estates Rules as the Board may specify (including the imposition of special nonresident fees for use of Estates Common Areas if the Master

Association shall so direct), the term Estates Resident also shall include onsite guests or invitees of any such Estates Owner, lessee, or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

1.36. **Estates Rules** shall mean and refer to the rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Board pursuant to this Declaration.

1.37. **Estates Special Assessment** shall mean and refer to any assessment levied and assessed with respect to any of the Estates Project pursuant to Section 7.3.

1.38. **Estates Special Use Fees** shall mean and refer to any fees charged by the Master Association for the use of the Estates Common Areas.

## ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The Declarant hereby confirms that the Single Family Parcels described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Declarant hereby declares that the Estates Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Master Declaration and this Declaration. This Declaration shall be deemed a "Tract Declaration" pursuant to the terms and condition of the Master Declaration and is a subsidiary and supplement to the Master Declaration, and the Single Family Parcels are a "District" within the meaning of the Master Declaration. This Declaration shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Declarant, the Master Association, and each Estates Owner, including their respective heirs, successors, and assigns.

2.2. **Name.** The Estates Project, as submitted to the provisions of this Declaration, shall be known as the Silver Creek Village Estates. The Estates Project is not a cooperative.

2.3. **Description of Improvements.** The improvements contained in the Estates Project will be located upon the Single Family Parcels. The major improvements contained in the Estates Project is anticipated to include forty-eight (48) Lots, each containing a single detached Residence thereon. Other Lots or Estates Common Area may be added as reserved by the Declarant upon Additional Land. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements at the Estates Project. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Common Areas.** The Estates Common Areas of the Estates Project shall be as identified on the Plats and as defined in Article 1 above.

2.5. **Incorporation of Recitals.** The Recitals above are incorporated into and are a part of this Declaration.

2.6. **Master Association.** It is intended that the Estates Project and the Estates Members will be subject to the Master Declaration and be members of the Master Association. There is no separate sub-association or district association that shall govern the Estates Project.

2.7. **Expansion of Project.** The Estates Project may be expanded by the Declarant in accordance with the provisions of Article XII.



## ARTICLE III. LAND USE CLASSIFICATIONS

3.1. **Land Use Classifications.** Single-family detached residential homes are the permitted land use classification within the Single Family Parcels, which may also include Estates Common Areas.

## ARTICLE IV. ESTATES COMMON AREAS; EASEMENTS

4.1. **Conveyance of Estates Common Areas.** Following recordation of this Declaration, Declarant shall convey the Estates Common Areas to the Master Association and the Master Association shall hold such as Estates Common Areas ("Limited Common Area" under the Master Declaration") and not as Master Association Common Areas, as provided in Section 1.8 of the Master Declaration. From time to time, Declarant may convey easements, leaseholds, or other real property within the Estates Project to the Master Association and upon such conveyance or dedication to the Master Association, such property shall be deemed a part of the Estates Common Areas accepted by the Master Association and thereafter shall be maintained by the Master Association for the benefit of all the Estates Members.

4.2. **Private Benefit Area.** The Plat or the Master association may dedicate areas within the Master Project as a private street or a private roadway or as an open space, or common facility exclusively or disproportionately for the benefit of Estates Owners or of a certain groups of Lots, Units or Parcels including an Estate Owner. Such property shall be maintained pursuant to Section 8.9 of the Master Declaration and Section 7.5 of this Declaration.

4.3. **Easement of Enjoyment.** Each Estates Owner shall have a right and easement of use and enjoyment in and to the Estates Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Estates Owners may delegate the right and easement of use and enjoyment described herein to any Estates Residents. The foregoing grants and rights are subject to the following

4.4. **Limitation on Easement.** An Estates Member's right and easement for the use and enjoyment of the Estates Common Areas shall be subject to the following: limitations:

- 1) The right of the Master Association to charge reasonable Estates Special Use Fees for the use of the Estates Common Areas. Estates Special Use Fees shall be set by the Board from time to time in its absolute discretion. Estates Special Use Fees shall be charged only for actual entry upon or utilization of those Estates Common Areas selected by the Board to be subject to Estates Special Use Fees and shall be intended to collect revenue from the actual users of such selected Estates Common Areas so that all of the costs of operating the selected Estates Common Areas are not borne by all of the Estates Owners through Annual Estates Assessments, but rather are borne, at least in part, by the Estates Owners and Estates Residents utilizing such selected Estates Common Areas. Estates Special Use Fees assessed against an Estates Owner or Estates Resident on such Estates Owner's Lot shall also become part of the Estates Assessment to which such Estates Owner and such Estates Owner's Lot is subject and secured by the Estates Assessment Lien.

2) The right of the Master Association to impose reasonable limitations on the number of guests or invitees per Estates Owner or Estates Resident who at any given time are permitted to use the Estates Common Areas.

3) The right of the Master Association to suspend voting rights and right to use the Estates Common Areas by any Estates Owner or Estates Resident for any period during which any Estates Assessment against his Lot remains unpaid, for a period not to exceed 60 days for any infraction of this Declaration or the Estates Rules; and for successive 60 day periods if any such infractions are not corrected during any preceding 60 day suspension period.

4) The right of the Master Association to regulate the use of the Estates Common Areas through Estates Rules and to prohibit access to those Estates Common Areas such as landscaped areas not intended for use by the Estates Owners or Estates Residents.

5) The right of the Master Association to dedicate or transfer all or any part of the Estates Common Areas, and any sewer, water and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Master Association. During the Period of Declarant Control, any such dedication or transfer may take place in the sole discretion of the Declarant without any assent from the Estates Owners. Following the Period of Declarant Control, any such dedication or transfer must be assented to by two-thirds (2/3) of the Estates Owners.

6) The right of Summit County and any other governmental or quasi-governmental body having jurisdiction over the Estates Project to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Estates Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service.

4.5. **Master Association Easement.** The Master Association, its Board, Manager, employees, agents, and contractors shall have non-exclusive easements to use the Estates Common Areas to perform their duties as assigned by the Board. The Master Association, its Board, Manager, employees, agents, and contractors shall also have non-exclusive easements to the Lots and Residences as needed to perform its duties and obligations under this Declaration and the Master Declaration, including for the maintenance, repair, and replacement of portions of the Lot and/or Residences.

4.6. **Easement for Utility Services.** The Estates Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair, and replacement of utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable. In addition, the Master Association and Owners have a non-exclusive easement over, across, through, above, and under all Lots, Estates Common Areas, any limited common areas that are needed for the operation, regulation, maintenance, repair, and replacement of utilities. The Master Association, Owner, or other party exercising the utility easement rights shall promptly restore any damaged or disturbed property.

4.7. **Easements for Encroachments.** If any portion of the Estates Common Areas structure or improvement encroaches upon any Lot, or if any structure or improvement of a Lot

encroaches upon any other Lot or the Estates Common Area as a result of the manner in which the improvements were initially approved and constructed or due to settling, shifting, alteration, replacement, repair, or restoration by the Master Association, a valid easement for encroachment and maintenance of such encroachment, shall exist for the life of the improvement or structure. This easement for encroachment and maintenance includes utility lines serving a Residence that may run under or through other Lots.

4.8. **Compliance with Restrictions and Rules.** Each Estates Owner and Estates Resident shall comply with the Restrictions imposed by this Declaration and shall fully and faithfully comply with the Estates Rules.

## ARTICLE V. THE MASTER ASSOCIATION

5.1. **Master Association Rights and Powers.** The Master Association shall have such rights and powers as are set forth in this Declaration, which shall include all rights and powers as may be reasonably necessary in order to affect the purposes of the Master Association as set forth in this Declaration.

### 5.2. **Estates Property Funds.**

1) **Purpose.** The Master Association shall apply all funds and property collected and received by it under this Declaration (including the Annual Estates Assessments and Estates Special Assessments, fines, loan proceeds, and all funds and property received by it from any other source) with respect to the Estates Project (collectively, "Estates Property Funds") for the purposes and uses authorized by this Declaration or otherwise for the common good and benefit of the Estates Project and the Estates Owners. Subject to this Declaration and the Articles and Bylaws, the Master Association may expend Estates Property Funds in any manner permitted under the laws of the State of Utah.

2) **Separate Funds.** All Estates Property Funds shall be maintained by the Master Association in accounts separate from, and shall be accounted for separately from, all other Master Association funds. The foregoing requirement is not necessary for general Master Association funds levied against all Master Association members.

3) **Borrowing Power.** The Master Association may borrow money in connection with its obligations with respect to the Estates Project in such amounts at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate; provided, however, no loan in an amount in excess of \$25,000 shall be contracted until approved by at least, a majority of all Estates Owners.

4) **Spending Estates Property Funds.** The Master Association shall not be obligated to spend in any year all Estates Property Funds received by it in such year and may carry forward as surplus any balances remaining. The Master Association shall not be obligated to reduce the amount of an Estates Assessment in the succeeding year if a surplus exists from a prior year and the Master Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Master Association, with respect to its duties and obligations pursuant to this Declaration and the accomplishment of its purposes as they relate to the Estates Project.

5.3. **Maintenance.**

1) **By Master Association.**

a) The Master Association shall maintain, repair, and replace, and otherwise manage all Estates Common Areas and the improvements thereupon.

b) The Master Association shall maintain, repair, and replace the following portions of a Residence: foundations, roofs, exterior wall cladding, soffit, fascia, gutters, and downspouts.

c) Unless the Board determines otherwise in its sole discretion, each Estates Owner shall perform the landscaping upon their respective Lot; however, the Master Association may elect to maintain front yard landscaping if necessary to create a uniform and pleasing appearance.

c) The Board shall use a reasonably high standard of care in providing for the repair, management, and maintenance of the foregoing items, but the Board shall be the sole judge as to the appropriate maintenance of all such areas. The Estates Common Areas shall be used at the risk of the user, and Declarant and the Master Association shall not be liable to any Person for any claim, damage, or injury occurring thereon or related to the use thereof.

2) **By Estates Owners.** Each Estates Owner shall have the obligation to provide exterior and interior maintenance of the Residence and all improvements therein or thereupon, except for those items specifically listed in 5.3(1)(b) above as a Master Association obligation. The Estates Owner's obligations include, without limitation: windows, garage doors, exterior doors and trim, driveways, patios, porches, stoops, stairways, railings, and utility lines that solely service the Lot or Residence regardless of location, as well as all interior improvements. As necessary or desirable, each Estates Owner shall paint, repair, and otherwise maintain those exterior portions of the Residence for which he/she responsible and shall maintain, repair, and replace all mechanical and utility facilities serving the Lot. Estates Owners shall also be responsible to maintain, repair, and replace any fences located on their Lot. The cost and responsibility to maintain, repair, and replace any portion of such fence, which serves, benefits, or bounds only one Lot shall be borne exclusively by the Estates Owner bounded thereby. When such fences serve, benefit, or otherwise mark a boundary of two or more Lots, the responsibility and cost to maintain, repair, and replace the shared portion of such fences shall be borne equally by all Estates Owners bounded thereby. Estates Owner required maintenance shall be performed pursuant to the requirements of this Declaration, Estates Rules, and any Design Guidelines. The Master Association shall have the power and authority without liability to any Estates Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon (including a Residence); but only if the Estates Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Estates Rules or Design Guidelines. All costs incurred by the Master Association may be added to and become part of the Estates Assessment appurtenant to the Lot and shall be secured by an Estates Assessment Lien.

3) **Maintenance Allocation Chart.** Further descriptions of the maintenance responsibilities between the Master Association and the Estates Owners are contained in the maintenance allocation chart attached as Exhibit B. Unless the maintenance, repair, and replacement obligation is expressly assigned to the Association herein, such obligation shall be fulfilled by the Estates Owners. In the event of a conflict between this Section 5.3 and Exhibit B, Exhibit B shall control, except as otherwise determined by the Declarant, or Board following the Period of Declarant Control. Declarant may at any time during the Period of Declarant Control modify, amend, or revise all or any portion of Exhibit B. Thereafter, it may be modified in the same manner as this Declaration.

4) **Maintenance Costs.** If the need for maintenance or repair of Estates Common Areas, structures, or other property maintained by the Master Association is caused by the intentional or negligent act of any Estates Owner or any Estates Resident, the cost of such maintenance or repairs may be added to and become part of the Estates Assessment to which such Estates Owner and the Estates Owner's Lot is subject and shall be secured by the Estates Assessment Lien.

5) **Other Services.** In the sole discretion of the Board, the Master Association may provide or contract for such services to be of benefit to the Estates Project, including, without limitation, landscaping and garbage/trash removal services for all Lots.

5.4. **Insurance.** The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Master Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. Insurance premiums and other insurance expenses that are specific to the Single Family Parcels shall be paid through Estates Assessments.

1) **Property Insurance.** The Master Association shall maintain a blanket policy of property insurance covering the Estates Common Area and all buildings, fixtures, and equipment thereon that are the obligation of the Master Association to maintain. The Master Association may maintain broader coverage if afforded by the insurance contract.

a) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in Common Areas or otherwise permanently part of or affixed to Common Areas.

b) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

c) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

d) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a "Guaranteed Replacement Cost Endorsement" under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a "Replacement Cost Endorsement" under which the insurer agrees to pay up to one hundred percent (100%) of the property's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an "Agreed Amount Endorsement" which must waive or eliminate the requirement for coinsurance.

e) Each property policy that the Master Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown" if the Estates Project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

f) The costs of the property insurance policy for the Estates Common Areas or any other insurance policy specific to the Estates Project shared property shall be collected as part of the Estates Assessment.

g) If a loss occurs that is covered by a property insurance policy in the name of the Master Association and another property insurance policy in the name of an Estates Owner, then the Master Association's policy provides primary coverage and the Lot Owner is responsible for the Association's policy deductible.

h) The Master Association shall provide notice to each Owner of the Owner's obligation under Subsection (g) above for the Master Association's policy deductible and of any change in the amount of the deductible. If the Master Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Master Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

i) If, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Master Association's policy deductible, (i) the Owner's policy is considered the policy for primary coverage to the amount of the Master Association's policy deductible; (ii) an Owner who does not have a policy to cover the Master Association's property insurance policy deductible is responsible for the loss to the amount of the Master Association's policy deductible; and (iii) the Master Association need not tender the claim to the Master Association's insurer.

j) The Master Association shall have no obligation to obtain or maintain any insurance covering Estates Owners' personal property and each

Estates Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

2) **Comprehensive General Liability (CGL) Insurance**. The Master Association shall obtain CGL insurance insuring the Master Association, the agents and employees of the Master Association, and the Estates Owners, against liability incident to the use, ownership or maintenance of the Estates Common Areas or membership in the Master Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence.

3) **Named Insured**. The named insured under any policy of insurance shall be the Master Association.

4) **Right to Negotiate All Claims & Losses & Receive Proceeds**. The Master Association is hereby irrevocably appointed and authorized by the Estates Owners to adjust all claims arising under insurance policies purchased by the Master Association with respect to the Estates Project and its activities under this Declaration and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board has full and complete power to act for the Master Association in this regard and may, at its discretion, appoint an authorized representative or committee, or enter into an insurance trust agreement wherein the trustee shall have authority to negotiate losses under any policy purchased by the Master Association. All proceeds from insurance acquired by the Master Association pursuant to this Section 5.4 shall be payable to the Master Association. Any proceeds resulting from damage to the Estates Common Areas shall be used to repair the damage, unless otherwise approved by a majority of the Estates Owners who are voting at a meeting called for such purpose. Any excess proceeds may be retained by the Master Association as reserves or to reduce future Estates Assessments or, if distributed to the Estates Members, such proceeds shall be distributed to them and their Mortgagees as their interests may appear at a uniform rate.

5) **Owner Act Cannot Void Coverage Under Any Policy**. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Master Association and under direct authorization of the Master Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy

6) **Waiver of Subrogation against Owners and Association**. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Declarant, the Master Association, and the Owners and their respective affiliates, agents, and employees.

5.5. **Estates Rules**. The Board shall have the authority to adopt and establish Estates Rules as it may deem necessary for the maintenance, operation, management, and control of the Estates Project. The Estates Rules may restrict and govern the use of the Estates Common Areas by any Estates Owner or Estates Resident or by their respective family members, invitees, or tenants. The Estates Rules may not be inconsistent with this Declaration, the Master Declaration, the Articles, or Bylaws. Upon adoption, the Estates Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. The Board may from time to time alter, amend, and repeal such Estates Rules and use their best efforts to see that they are strictly observed by all Estates Owners and

Estates Residents. Estates Owners and Estates Residents are responsible to ensure that their family members, guests, and invitees strictly observe the Estates Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. During the Period of Declarant Control, Estates Rules and Design Guidelines may be adopted without being subject to the requirements of Utah Code §57-8a-217.

**5.6. Right of Entry and Inspection.** During reasonable hours and upon reasonable notice to the Estates Owner or Estates Resident, the Master Association, through its Board, any Board Member, the Declarant, Manager, or any authorized representative of any of them shall have the right to enter upon and inspect any Lot, and the improvements constructed or being constructed thereon (except for the interior portions of any completed and occupied Residence), to determine compliance with this Declaration, the Master Declaration, and the Estates Rules and such persons shall not be deemed guilty of trespass by reason of such entry. In addition, the Master Association shall have an easement and right of entry upon any Lot at any time without notice in order to perform emergency repairs. Failure to respond to Board demands to comply may be deemed an emergency. Estates Owners shall be responsible for any costs incurred by the Master Association as a result of entering a Lot under this Section and shall indemnify and hold harmless the Master Association, Board Member, Declarant, Manager, or any authorized representative of any of them for all damages related to such entry, except for such damages resulting from recklessness or bad faith.

## ARTICLE VI. VOTING

**6.1. Voting.** Except as otherwise disallowed in this Declaration or limited by the Special Declarant rights reserved by the Declarant, voting with respect to any matters relating to the Estates Project and this Declaration shall be limited to only the Estates Members but shall otherwise be in accordance with the provisions of the Master Declaration.

## ARTICLE VII. BUDGET AND ASSESSMENTS

**7.1. Covenant to Pay Assessments.** Each Estates Owner, by the acceptance of a deed to a Lot, whether or not it be so expressed in the deed, hereby covenants and agrees to pay to the Master Association all Estates Assessments levied against such Lot. Each Estates Assessment, which is the obligation of an Estates Owner hereunder, together with interest, late fees, costs, collection agency fees, and reasonable attorneys' fees of the Master Association incurred in connection with the enforcement and collection thereof or in otherwise enforcing this Declaration, shall be a charge and continuing lien upon the Lot with respect to which such Estates Assessment is made. All Estates Assessments shall be the personal obligation of the Person who is the owner of such Lot at the time the Estates Assessment falls due. No Estates Owner may exempt himself or his Lot from liability for payment of Estates Assessments by waiver of his rights concerning the Estates Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Estates Assessments, late payment fees, interest, and costs of collection, including reasonable attorney fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.



7.2. **Annual Estates Assessments.** In order to provide funds for the uses and purposes specified in this Declaration, each year the Board shall prepare, or cause the preparation of, and adopt an annual budget for the Estates Project. The annual budget shall provide, without limitation, for the maintenance of the Estates Common Areas and for the administration, management, and operation of the Estates Project. The Annual Estates Assessment shall be in the sole discretion of the Board. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to the Estates Owners within thirty (30) days after adoption.

7.3. **Estates Special Assessments.** In addition to the Annual Estates Assessments, the Board may levy an Estates Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Estates Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Estates Common Areas; or for any other expense incurred or to be incurred as provided in this Declaration. Estates Special Assessments over five hundred dollars (\$500) in a calendar year must be approved and assented to by a majority of the Estates Members present in person or by proxy at a meeting duly called for such purpose. Notice in writing of the amount of any Estates Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Estates Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

7.4. **Allocation of Estates Assessments.** Annual Estates Assessments and Estates Special Assessments shall be fixed at a uniform rate for all Lots, unless otherwise provided in the Declaration.

7.5. **District Assessment.** The Master Association, at its discretion as provided by Section 8.9 of the Master Declaration, may determine that private streets or private roadways (or appurtenant equipment and facilities) or open space, recreational or other common facilities or guard gates exclusively or disproportionately benefit Estates Owners or a certain group of Lots, Units or Parcels within the Master Project and implement a District Assessment against the benefitted Lots, Units or Parcels for the maintenance, repair, replacement, repaving, resurfacing, and operation of the benefit area. If an area subject to a District Assessment is used by Estates Owners and a Lot Unit or Parcel outside of the Estates Project (which is not assessed exclusively by the Master Association) such District Assessment will be assessed uniformly between the Estates Owners for the Estates Project's pro rata share of costs.

7.6. **Estates Individual Assessments.** In addition to Annual Estates Assessments and Estates Special Assessments authorized above, the Board may levy Estates Individual Assessments against a Lot and its owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Declaration or Estates Rules against the Estates Owner or Estates Resident or their guests; (b) costs associated with the maintenance, repair, or replacement of Estates Common Areas caused by the neglect or actions of an Estates Owner or Estates Resident or their guests; (c) any other charge, fine, fee, expense, or cost designated as an Estates Individual Assessment by the Board, including, without limitation, action taken to bring a Lot Owner into compliance with the Declaration and Estates Rules; (d) nonpayment of a "reinvestment fee"; (e) costs of providing services to the Lot upon request of the Estates Owner; and (f) attorney's fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration. The aggregate amount of any such Estates Individual

Assessment shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be. Estates Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Master Association, it shall not give rise to an Estates Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Estates Owner's or Estates Resident's or their guests' negligence.

7.7. **Declarant's Exemption.** Anything to the contrary notwithstanding, the Declarant and builders exempted by the Declarant in its sole discretion, shall not be obligated to pay any Estates Assessments on any Lot owned by it until such time as the Declarant or exempted builder elect in writing to pay Estates Assessments, and only for so long as the Declarant or exempted builder elect to pay Estates Assessments.

7.8. **No Offsets.** All Estates Assessments shall be payable in the amount specified by the Board and no offsets against such amount or withholding of any amount shall be permitted for any reason, including, without limitation, a claim that the Master Association owes the Estates Owner money, or that the Master Association is not properly exercising its duties and powers as provided in this Declaration.

7.9. **Certificate Regarding Payment.** Upon the request of an Estates Owner, prospective purchaser, Mortgagee, or encumbrancer of a Lot, the Master Association shall issue a certificate stating whether all Estates Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon. The Master Association may charge the requesting Estates Owner, prospective purchaser, Mortgagee, or encumbrancer of a Lot a reasonable fee of up to twenty-five dollars (\$25) or an amount greater if so provided in the Act.

7.10. **Rules Regarding Billing and Collection Procedures.** The Board shall have the right to adopt Estates Rules setting forth procedures for billing and collection of Estates Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Master Association to send an invoice to an Estates Owner shall not relieve any Estates Owner of liability for any Estates Assessment or charge under this Declaration. Estates Assessments shall be paid in a timely manner. Payments are due in advance on dates established by the Board. Payments are delinquent if received more than ten (10) days from the date that they became due. Whenever an Estates Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

7.11. **Collection Charge.** If the Master Association does not otherwise adopt or establish billing and collection procedures in the Estates Rules, the following shall apply: Delinquent accounts shall be charged a twenty-five dollar (\$25) late fee each month until the Estates Owner's account (including all collection charges, costs, and attorney fees) are paid in full. Interest may accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges, interest, attorney fees, and/or late fees shall constitute part of the Assessment lien provided above until paid. The Master Association may by Estates Rules increase the amount of the late fee described above.

7.12. **Collection Action at Law.** The Master Association may exercise any or all of the following remedies to collect delinquent Estates Assessments:

1) The Master Association may suspend such Estates Owner's voting rights.

2) The Master Association shall have a lien against each Lot for any Estates Assessment levied against the Lot and any fines or other charges imposed under this Declaration against the Estates Owner of the Lot from the date on which the Estates Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Estates Assessment or installment thereof is delinquent, the Master Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Summit County, Utah against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Estates Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Estates Owner by the Master Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Master Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the Declaration was recorded; a first or second security interest on the Lot secured by a Mortgage or trust deed that is recorded before the Master Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Master Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

3) The Master Association may bring an action to recover a money judgment for unpaid Estates Assessments, fines, and charges under this Declaration against the Estates Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

4) If the delinquent Estates Owner is leasing his Lot or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Estates Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Estates Owner for such Estates Assessments to the extent of the amount so paid.

5) The Master Association may terminate utilities paid out of the Common Expense and the right to use the Estates Common Areas.

6) Payments shall be credited first to collection costs (including attorney fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.

7) The Master Association shall have any other remedy available to it whether provided in the other governing documents of the Estates Project, the Act, other law, or in equity.

7.13. **Power of Sale.** The Master Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code §§ 57-1-20 and 57-8a-302, an Estates Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the Master Association's attorney of

record, as trustee, for the benefit of the Master Association, for the purpose of securing payment of Estates Assessments under the terms of this Declaration. The Master Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

7.14. **Reserve Account.** From the Annual Estates Assessments received by the Master Association, the Board shall establish such reserve funds in such amounts as the Board deems reasonably prudent for the maintenance, repair, and replacement of the Estates Common Areas and for other Master Association purposes relating to the Estates Project. The Board shall follow any statutory requirement to conduct a reserve analysis and utilize such reserve analysis in making decisions regarding the funding of a reserve account. The Board shall not be personally liable for failure to fund the reserve unless willful or intentional misconduct is proven in a court of law. Notwithstanding the foregoing, such reserve fund duties and obligations shall not apply to the Master Association and Board during the Period of Declarant Control.

7.15. **Master Association Responsibility after Foreclosure.** If the Master Association takes title to a Lot pursuant to a foreclosure (judicial or non-judicial), it shall not be bound by any of the provisions related to the Lot that are otherwise applicable to any other Estates Owner, including but not limited to obligations to pay Estates Assessments, taxes, or insurance, or to maintain the Lot. By taking a security interest in any Lot governed by this Declaration, Mortgagees cannot make any claim against the Master Association for nonpayment of taxes, Estates Assessments, or other costs and fees associated with any Lot if the Master Association takes title to a Lot related to a failure to pay Estates Assessments.

7.16. **Homestead Waiver.** Pursuant to Utah Code §57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Estates Owner waives the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

7.17. **Master Declaration Assessments; Declarant Exemption.** The Estates Assessments provided for in this Declaration are in addition to any "Assessments" levied and payable pursuant to the Master Declaration. The Declarant however shall not be required to pay any Master Declaration assessments on any Lot owned by it until such time as the Declarant elects in writing to pay such assessments, and only for so long as the Declarant elects to pay such assessments.

## ARTICLE VIII USE RESTRICTIONS

8.1. **Use of Common Areas.** The Estates Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots.

8.2. **Use of Lots.** All Lots are intended to be improved with a single-family Residence and are restricted to such use unless approved by the Board to the contrary. No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot without the prior written consent of the Board and applicable governmental entities. However, the Board shall not approve commercial activities otherwise prohibited by this Section unless the Board determines that: only normal residential activities would be observable outside of the Residence; the business activity does not involve persons coming on to the Estates Project who do not reside in the Estates Project; the business activity does not involve the solicitation

of Estates Owners or Estates Residents; the business will not result in the increase of the cost of the Master Association's insurance; and that the activities would not be in violation of applicable local ordinances.

8.3. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot, or Estates Common Areas, nor shall anything be done or placed on any Lot or Estates Common Areas which interferes with or jeopardizes the quiet enjoyment of other Lots or the Estates Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Lot which would result in an increase in the cost of the Master Association's insurance or which would cause the improvements within the Estates Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspended, or cause any company issuing such insurance to refuse renewal thereof.

8.4. **Recreational Vehicles.** Except as allowed by the Estates Rules, the parking of boats, trailers, motorhomes, large trucks, commercial vehicles, other recreational vehicles, or the like (as determined by the Board) may not be parked within the Single Family Parcels. No motor vehicle of any kind shall be repaired, constructed, or reconstructed upon any Lot, street, or other Estates Common Area, except for emergency repairs or repairs performed within a garage.

8.5. **Pets.** Up to three (3) common domestic pets per Lot is allowed. No pets, animals, livestock, or poultry of any kind shall be bred in, on, or about the Estates Project. The Board may adopt Estates Rules adding further restrictions related to pets not inconsistent with this Declaration including but not limited to requirements for registration and the use of leashed and noise barking limitations, animal size restrictions, and allowed animal types. All pets must be registered in advance with the Master Association. All pets must be properly licensed and registered with the appropriate governmental agency and must abide by all pet Estates Rules adopted by the Board from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any Estates Common Areas, or the property of another Owner and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines, or howls, or makes other disturbing noises in an excessive, continuous, or untimely fashion; or (f) it molests or harasses a passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Estates Common Area and dogs, and other pets determined by the Board, shall be leashed whenever outside a Lot.

8.6. **Nuisances.** No resident shall create, maintain, or permit a nuisance in, on or about the Estates Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes, but is not limited to, the following:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Estates Common Areas;

2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;

3) The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials that constitute an eyesore as reasonably determined by the Board;

4) The storage of any substance, thing or material upon any Lot or in the Estates Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Estates Project;

5) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Estates Common Areas;

6) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

7) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Master Association by other residents, their guests or invitees;

8) Too much noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m., or use of outside speakers or amplifiers;

9) Too much traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

10) Allowing a dog, or other pet as determined by the Board, to be unleashed while outside a Residence;

11) Continuous barking, meowing, or other animal noises;

12) Allowing a pet to defecate in the Estates Common Areas or another Lot, or failing to immediately clean any feces deposited by a pet in the Common Area.

8.7. **Signs.** The Master Association may regulate and restrict signs in the Estates Project. Unless otherwise designated in the Estates Rules, lawn signs are prohibited, except "For Sale" or "For Rent" signs that may be placed in the front yard of a Lot, or as directed by the Board. All other signs may only be erected or maintained in the Estates Project, whether in a window or otherwise, with the prior approval of the Board.

8.8. **Trash Containers and Collection.** All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Board. Insofar as possible, such containers shall be maintained as not to be visible from the street view except to make them available for collection and then only for the shortest time necessary to effect such collection. The Master Association may adopt additional Estates Rules for the storage and concealment of trash containers.

8.9. **Parking.** Estates Owners and Estates Residents shall utilize their garages for parking. At no time shall any vehicle be parked at an entrance to or in front of a garage or walkway or at any other location within the Estates Project, which would impair vehicular or

pedestrian access, or snow removal. Parking on private streets within the Estates Project is prohibited. Estates Common Area parking stalls (if any) shall be subject to and governed by Estates Rules, and may be assigned by the Board. The Master Association may charge a fee for the use of any assigned parking stalls, which are intended to be used as vehicle parking spaces only and are restricted to such use. The Board may adopt additional Estates Rules relating to the parking of vehicles within the Estates Project, including, without limitation: the size and dimensions of the vehicles parked within the Estates Project; the allowance or prohibition of street parking; the admission and temporary parking of vehicles within the Estates Project; the use of the undesignated parking spaces identified on the Plat, if any, including, without limitation, the right to loan or license the visitor parking spaces in the discretion of the Board; the right to remove or cause to be removed any vehicles that are improperly parked; the time visitor spaces may be used; and the levying of fines against Estates Owners and Estates Residents who violate, or whose invitees violate, such Estates Rules.

8.10. **No Patio / Deck Storage.** No observable outdoor storage of any kind shall be permitted on front yards, porches, etc., which may be seen from the road or another Lot except for patio furniture and portable barbecue grills in good condition which may be maintained on backyard patios. Said patio furniture shall conform with standards set by the Architectural Control Committee.

8.11. **Window Coverings.** Every Estates Owner shall be obligated to ensure that window coverings are installed within their Residence within one (1) month of purchasing or taking possession. Furthermore, the Board is authorized to adopt and implement reasonable Estates Rules pertaining to the type, color, material, etc. of window coverings.

8.12. **Leases.** Any agreement for the leasing, rental, or occupancy of a Lot (hereinafter in this Section referred to as a "lease") shall be in writing. Upon request of the Board, a copy of any leasing agreement shall be provided to the Board along with the name and contact information for all adult tenants, vehicle information of the tenants, and any other information deemed necessary by the Board. Daily or weekly or other short-term rentals are permitted. All leases shall provide that the tenant is subject to and shall abide by the Governing Documents and the tenant's failure to do so shall constitute a breach of the lease agreement. Within ten (10) days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents, the Estates Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions. If the Estates Owner fails to act accordingly, the Board may initiate eviction Proceedings on behalf of the Estates Owner, and through this Declaration the Estates Owner hereby assigns the Master Association the authority to do so. Timeshare interests are prohibited.

8.13. **Energy Conservation Equipment.** Solar energy collector panels and attendant hardware or other energy conservation equipment shall be prohibited from being constructed or installed on any Lot in the Estates Project. Notwithstanding the forgoing, if the Board elects to allow energy conservation equipment in the Estates Project, then the Board may adopt Estates Rules for the installation of solar panels or other energy conservation equipment in the Design Guidelines. Any such rules must require that the installation be an integral and harmonious part of the architectural design of the Lot or Residence. Solar panels or other equipment shall not be installed so as to be visible from any Lot or street in the Estates Project

without prior approval from the Board as a variance. The Board shall have the sole discretion to determine compliance with the Design Guidelines.

8.14. **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (1) either that the restriction would create an unreasonable hardship or burden on an Estates Owner or Estates Resident, or that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce, and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the other Estates Owners or Estates Residents of the Estates Project and is consistent with the high quality of life intended for residents of the Estates Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

## ARTICLE IX. ARCHITECTURAL CONTROLS

9.1. **Design Guidelines.** The Board may adopt Design Guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the Estates Project.

1) The Declarant shall have sole and full authority to amend the Design Guidelines during the Period of Declarant Control. The Declarant's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the Board. Upon termination or delegation of the Declarant's right to amend, the Board shall have the right to amend the Design Guidelines.

2) The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

3) Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

9.2. **Declarant's Exemption.** Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents or assigns, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Estates Project. Furthermore, the provisions of this Declaration which prohibit or restrict non-residential use of Lots, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of improvements within the Estates Project so long as the location of such model homes and the opening and closing hours are approved by the Board, and the construction, operation and maintenance of such model homes otherwise complies with all of the provisions of this Declaration. The Declarant may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and



parking areas are in compliance with city ordinances and any Estates Rules. Any residences constructed as model homes shall cease to be used as model homes at any time the Estates Owner thereof is not actively engaged in the construction and sale of residences within the Estates Project, and no home shall be used as a model home for the sale of homes not located within the Estates Project.

9.3. **Variances.** The Declarant and Board may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Estates Owner's obligation to comply with all governmental laws and regulations.

9.4. **Liability for Damages.** The Declarant and Board shall not be held liable for damages because of any action, inaction, approval, or disapproval by it made pursuant to this Article.

## ARTICLE X. ENFORCEMENT

10.1. **Enforcement of Declaration, Estates Rules, and Others.** The Master Association or any Estates Owner shall have the right to enforce, by Proceedings at law or in equity, each provision of this Declaration, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The Master Association or any Estates Owner shall also have the right to enforce by Proceedings at law or in equity the provisions of the Estates Rules and any respective amendments thereto. The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees.

## ARTICLE XI. RIGHTS OF FIRST MORTGAGEE

Notwithstanding anything contrary contained herein, the following provisions apply:

11.1. **Title in Mortgagee.** Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Estates Assessments or charges which accrue prior to the acquisition of title of such Lot by the Mortgagee. However, such first Mortgagee shall be responsible for all Assessments levied while it holds title to the Lot.

11.2. **Notice of Default by Estates Owner.** In the event an Estates Owner neglects for a period of sixty (60) days or more to cure any failure on his part to perform his obligations under this Declaration or other Governing Documents, the Master Association, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee covering such Estates Owner's Lot.

11.3. **No Priority.** No provision herein is intended, nor shall it be construed, to give any Estates Owner, or any other party, priority over any rights of the first Mortgagee of a Lot pursuant to its Mortgage in the case of a distribution to such Estates Owner of insurance

proceeds or condemnation awards for losses to or a taking of Estates Common Areas.

## ARTICLE XII. SPECIAL DECLARANT RIGHTS

12.1. **Improvements.** Declarant hereby reserves the right, without obligation, to construct:

- 1) Any improvements shown on the Plat;
- 2) Any Residence upon any portion of the Additional Land, and subject to the requirements of Section 12.2, the addition of the same to the Estates Project; and
- 3) Any other buildings, structures, or improvements that Declarant desires to construct on the Single Family Parcels, or any other real estate owned by Declarant, regardless of whether the same ever becomes part of the Estates Project.

12.2. **Expandable Project.** The Declarant herewith expressly reserves the right and option to expand the Estates Project by the addition of Additional Land, or portions thereof, and Lots and residences to be constructed thereon, all in accordance with the provision of this Section.

1) The Estates Project may be expanded by the addition of real property designated by Declarant. Such real property or portions thereof where applicable being referred to as "Additional Land".

2) Expansion of the Estates Project by the Declarant is without limitation, except as set forth in this Section, and shall be effective without prior approval of the Master Association or any Estates Owner.

3) Declarant's right to expand the Estates Project as provided in this Section shall not expire until the Declarant elects in writing not to add the Additional Land to the Estates Project.

4) The Additional Land may be added in total or in part, and in any order as Declarant may determine. Such Additional Land (or any portion thereof) may be added at any time within the period allowed for expansion of the Estates Project.

5) All improvements upon Additional Land shall be made in such a manner as to conform to all governmental regulations appertaining thereto, but such improvements may be located upon the Additional Land, or any portion thereof, in such manner as the Declarant deems appropriate in its sole discretion, subject to the requirements contained herein. All additional Lots and residences to be constructed upon Additional Land will be constructed for or are to be designated exclusively for residential use.

6) All improvements erected upon any Additional Land added to the Estates Project will be compatible with the improvements then upon or to be constructed upon the Single Family Parcels, all such additional improvements to be approximately equal to or better in terms of quality of construction and materials to be used. Notwithstanding the above, no assurances can be made by the Declarant in every instance that such structures and improvements will be identical in all regards.

7) Declarant consents and agrees that any Lot within the Estates Project and upon Additional Land will be similar in all material respects to those presently contained or to be constructed upon the Estates Project and shown on the Plat.

8) The Declarant simultaneously with the submission of Additional Land to the Estates Project shall prepare and record in the Summit County records, a supplemental Plat pertaining to such Additional Land to be added showing the location and dimensions of each Lot created from and located upon such Additional Land.

9) Simultaneously with the recording of said supplemental Plat, the Declarant shall duly execute, acknowledge, and record a Supplemental Declaration setting forth that an expansion of the Estates Project has occurred. Such Supplemental Declaration shall include, in addition to any requirements of the Act, the following: (i) if not shown on the supplemental Plat, a legal description of the Additional Land added to the Estates Project; (ii) the designation of each Lot created from and included within the Additional Land.

12.3. **Other Special Declarant Rights.** Special Declarant Rights are those rights reserved for the benefit of the Declarant in this Declaration and the Governing Documents and shall include, and regardless of anything in the Declaration or Master Declaration to the contrary, the following rights which shall remain in effect for the maximum period allowed by law:

- 1) the right to maintain sales offices, model homes, and signs advertising the Estates Project or any Lot at any location in the Estates Project;
- 2) the right to use easements through the Estates Common Areas as set forth in this Declaration;
- 3) the exclusive right to veto Board decisions relating to the Estates Project during the Period of Declarant Control;
- 4) unless expressly and specifically bound by a provision of the Governing Documents, Declarant shall be exempt from the provisions of the Governing Documents;
- 5) the right to withdraw land from the Estates Project for up to fifteen (15) years from the date this Declaration is recorded in the office of the Summit County Recorder;
- 6) the right to veto Estates Rules and Design Guidelines adopted by the Board; and
- 7) the right to exert any right allowed to the Board or the Master Association pursuant to the Act and this Declaration.

12.4. **Exercising Special Declarant Rights.** Declarant may exercise the Special Declarant Rights at any time prior to the later to occur of the date on which the Period of Declarant Control expires or the date when the Declarant relinquishes such rights in writing. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise them. If Declarant exercises any Special Declarant Right with respect to any portion of the Estates Project, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Estates Project. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article and any other right reserved to the Declarant in this Declaration, without the consent of the Master Association or any of the Estates Owners.

12.5. **Interference with Special Declarant Rights.** Neither the Master Association nor any Estates Owner may take any action or adopt any Estates Rules or Design Guidelines that interferes with or diminishes any Special Declarant Right contained in this Declaration without Declarant's prior written consent. Any action taken in violation of this Section shall be null and void and have no force or effect.

12.6. **Limitation on Improvements by Master Association.** Until such time as the earlier of the following events occur: (a) termination of the Period of Declarant Control, or (b) such time as Declarant chooses, neither the Master Association nor the Board shall, without the written consent of Declarant, make any improvement to or alteration in any of the Estates Common Areas created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Estates Common Areas as originally constructed or created by Declarant.

12.7. **Transfer of Special Declarant Rights.** The Declarant may transfer, convey, assign, or share all or some of its rights, exemptions, or authority created or reserved under this Declaration to any Person.

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

12.9. **Easements Reserved to Declarant.**

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

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

3) Easement granting the privilege of entering upon the Estates Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

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

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

shall be laid out or constructed through or across any Lot(s) in the Estates Project except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Declarant.

6) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

12.10. **Dispute Resolution.** Declarant, Master Association, its officers and directors, and all Estates Owners (each a "Bound Party" as used in this Section) agree to encourage the amicable resolution of any disputes, grievances, and claims regarding the design, initial construction, condition, or sale of any part of the Estates Project or any improvements thereon ("Claims") involving any Bound Party without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to the following mandatory procedures for resolving all Claims.

(a) Any Bound Party initiating a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and Respondent referred to herein being individually referred to as a "Party" or collectively referred to as the "Parties") shall notify each Respondent in writing ("Notice"), stating plainly and concisely:

- i. The nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- ii. The legal basis of the Claim (i.e. the specific authority out of which the Claim arises);
- iii. The proposed remedy;
- iv. The fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim; and
- v. That the person alleged to be responsible shall have one hundred and eighty (180) days to cure or resolve the claim.

(b) Within sixty (60) days of providing the Notice, the Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(c) In the event that the Claim is not resolved within sixty (60) days following the meeting or in a time period as agreed to by the parties; or if the meeting fails to take place within the time period required above despite good faith efforts, except for any Claim that may be filed by the Master Association against the Declarant or an affiliate of the Declarant, the Claimant may proceed with a Proceeding against the Respondent following one hundred and eighty (180) days of the original notice.

(d) Before initiating any Proceeding for any Claim against the Declarant or an affiliate of Declarant, the Master Association shall:

- i. Provide full disclosure in writing to all Estates Owners of all material information relating to the Claim, which includes without limitation, a statement describing the nature of the Claim, the manner in which the Claim will be funded and a statement describing any demands, notices, offers to settle or responses to offers to settle made either by the Master Association or the Declarant or its affiliate, if applicable;
- ii. Call and hold a special meeting of the Estates Owners to discuss the Claim and disclosures, and provide at least 72 hours' notice to each Bound Party of such meeting, and permit a representative of each Bound Party to attend the special meeting;
- iii. Receive approval from at least two-thirds (2/3) vote of all Estates Owners, who must be present in person or by proxy at the special meeting, to initiate any Proceeding of the Claim against the Declarant and/or its affiliate, if applicable.

(e) Any post-turnover litigation involving the Bound Parties shall strictly comply with each of the provisions of this Section. The parties hereby covenant, stipulate, and agree that in the event the Bound Parties fail to satisfy the prerequisites set forth herein, the non-compliant party will indemnify, defend, hold harmless, and exculpate the other Bound Party to the fullest extent permissible by law, and the non-breaching Bound Party shall be entitled to recover any and all attorney fees and costs expended as a result of enforcing this Section, which fees and costs may include, without limitation, pre-litigation attorney fees, costs incurred in connection with investigation of potential claims, including expert and consultant fees, testing fees, contractor fees, and insurance deductibles. The Bound Parties further covenant, stipulate, and agree that failure to comply with this Section herein will result in damages to Declarant including, without limitation, reputational harm, lost revenues, and loss of business and sales opportunities.

(f) Any provision in this Declaration notwithstanding: (1) other than as set forth in this Section, the Master Association shall have no power whatsoever to institute, prosecute, maintain or intervene in any Proceeding; and (2) any institution, prosecution or maintenance of, or intervention in, a Proceeding by the Board without first strictly complying with, and thereafter continuing to comply with, each of the provisions of this Section, shall be unauthorized and *ultra vires* (i.e., an unauthorized and unlawful act, beyond the scope of authority of the corporation or of the person(s) undertaking such act) as to the Master Association, and shall subject any Board Member who voted or acted in any manner to violate or avoid the provisions and/or requirements of this Section to personal liability to the Master Association for all costs and liabilities incurred by reason of the unauthorized institution, prosecution or maintenance of, or intervention in, the Proceeding; and (3) this Section may not be amended or deleted at any time without the express prior written approval of: (a) not less than sixty-seven percent (67%) of the total voting power of the Estates Owners, (b) not less than seventy-five percent (75%) of the Master Association Board, and (c) the Declarant during the Period of Declarant Control. Any purported amendment or deletion of this Section or any portion hereof, without all of these express prior written approvals shall be void.

(g) The dispute resolution procedures in this Section are in addition to and are not superseded by those protections provided to the Declarant by the Act, including, but not limited to, Utah Code § 57-8a-229.

(h) ALL PARTIES HEREBY AGREE TO RESOLVE ANY CLAIM ACCORDING TO THE PROVISIONS OF THIS SECTION AND SUCH PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO PURSUE THE CLAIM IN ANY MANNER OTHER THAN AS PROVIDED IN THIS SECTION.

12.11. **Authority to Establish Sub-Association.** With approval of the Board, the Declarant may create a homeowner's association for the Estates Project, through a Supplemental Declaration to govern, operate, and administer the affairs of the Estates Project and Estates Common Areas. In the event this homeowner's association is formed and created, it shall act as a sub-association to the Master Association, adopt board members from among the Estates Owners, and relieve the Board from the duties it has been given through this Declaration concerning the Estates Project, except for those duties agreed upon to remain with the Board. Following the Period of Declarant Control, the Estates Owners may vote to approve the creation of a similar homeowner's association if so approved by: (i) 67% of the Estates Owners, (ii) the Board, and (iii) the Declarant if the Declarant has any interest in the Estates Project or intends to develop, construct, or sell additional Lots and/or Residences at the Estates Project. Any sub-association formed shall continue to be subject to the Master Declaration.

### ARTICLE XIII. AMENDMENTS

13.1. **Amendments by Declarant.** During the Period of Declarant Control, the Declaration and the Plat may be amended solely by the Declarant without any additional approval required. In addition, during the Period of Declarant Control no other amendment shall be valid or enforceable without the Declarant's prior written consent.

13.2. **Amendments by Master Association.** After termination of the Period of Declarant Control, amendments to this Declaration or Plat may be proposed by either a majority of the Board Members or by Estates Owners holding at least forty percent (40%) of the voting interests of the Estates Owners. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon. Except as otherwise provided herein, this Declaration may only be amended upon the affirmative vote of at least sixty-seven percent (67%) of the Estates Owners and a majority of the Master Association's Board. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the Summit County Recorder. In such instrument the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one owner, the vote of any one owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for voting shall be required. Any amendment that negatively impacts, as determined by the Declarant, the Declarant's right to develop, construct, and sell Lots and Residences within the Estates Project shall be null and void unless it is approved by the Declarant so long as the Declarant has an interest in the Estates Project or intends to develop, construct, or sell additional Lots and/or Residences within the Estates Project.

## ARTICLE XIV. MISCELLANEOUS

14.1. **Notices.** Any notice required or permitted to be given to any Estates Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, or if mailed, postage prepaid, to the Person who appears as an Estates Owner, at the latest email or mailing address for such Person appearing in the records of the Master Association at the time notice is sent. If no email or mailing address has been provided, the physical address of the Lot owned by said Estates Owner shall be used for notice purposes.

14.2. **Interpretation and Severability.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

14.3. **Covenants to Run with Land.** This Declaration and all provisions hereof shall constitute covenants that run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Master Association and all parties who hereafter acquire any interest in a Lot or in the Estates Common Areas shall be subject to the terms of this Declaration and the provisions of any Estates Rules, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply with any of the foregoing shall be grounds for an action by the Master Association or an aggrieved Estates Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Estates Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

14.4. **No Waiver.** Failure by the Master Association or by any Estates Owner to enforce any Restriction or provision herein contained, or contained in the Estates Rules or Design Guidelines, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

14.5. **Security.** The Declarant or Master Association shall in no way be considered an insurer or guarantor of security within or relating to the Estates Project, including any Estates Common Area in which the Master Association may have an obligation to maintain, and the Master Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Estates Owners and Estates Residents agree by purchasing or residing at a Lot in this Master Association that the Master Association, Declarant, and the Board are not insurers of their safety or well-being or of their personal property, and that each Estates Owner and Estates Resident assumes all risks for loss or damage to persons, the Lots, the Estates Common Areas, and to the contents of improvements located thereon to the extent not insured by the Master Association. EACH ESTATES OWNER AND ESTATES RESIDENT UNDERSTANDS AND ACKNOWLEDGES THAT THE MASTER ASSOCIATION, DECLARANT, AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND THAT EACH ESTATES OWNER AND ESTATES RESIDENT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY



WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE ESTATES PROJECT.

14.6. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its filing in the office of the Summit County Recorder.

### CERTIFICATION

IN WITNESS WHEREOF, the Declarant and owner of the Single Family Parcels has caused this Declaration to be executed by a duly authorized representative.

DATED as of the 20 day of January, 2022.

#### CW LARSEN VILLAGE, LLC

A Utah Limited Liability Company

By: \_\_\_\_\_

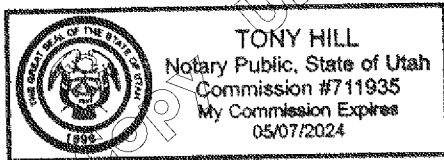
Its: AUTHORIZED REPRESENTATIVE

State of Utah )

ss:

County of DAVIS )

On the 20 day of January, 2022, personally appeared before me DARLENE CARTER who by me being duly sworn, did say that she/he is an authorized representative of CW Larsen Village, LLC, and that the foregoing instrument is signed on behalf of said limited liability company and executed with all necessary authority.



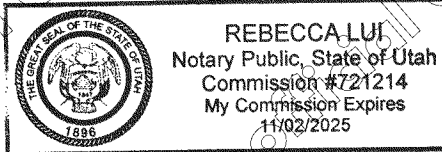
Notary Public \_\_\_\_\_

**PCSF SILVER CREEK, LLC**  
A Utah Limited Liability Company

By: [Signature]

Its: President

State of Utah )  
County of Salt Lake ) ss:



On the 21 day of January, 2022, personally appeared before me Bamy Gittelman who by me being duly sworn, did say that she/he is an authorized representative of PCSF Silver Creek, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public [Signature]

**CHOCOLATE HOMES, LLC**  
A Utah Limited Liability Company

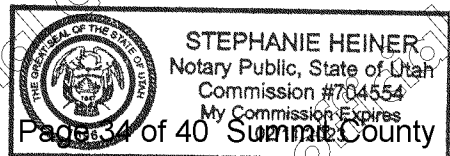
By: [Signature]

Its: Manager

State of Utah )  
County of Davis ) ss:

On the 26<sup>th</sup> day of January, 2022, personally appeared before me Ross Holliday who by me being duly sworn, did say that she/he is an authorized representative of Chocolate Homes, LLC, and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public [Signature]



DATED as of the 31st day of January, 2022

VILLAGE DEVELOPMENT GROUP, INC.  
A Utah Corporation

By: Matt Lowe

Its: Matt L

State of Utah )  
County of Weber )

ss:

On the 31st day of January, 2022 personally appeared before me Matt Lowe who by me being duly sworn, did say that she/he is an authorized representative of Village Development Group, Inc., and that the foregoing instrument is signed on behalf of said company and executed with all necessary authority.

Notary Public Lisa Woolsey



**Exhibit "A"**  
(Legal Description)

ALL OF LOTS 1 THROUGH 11; 32 THROUGH 35; AND 107 THROUGH 139 AND ALL OPEN SPACES AS SHOWN ON THE OFFICIAL PLAT FOR SILVER CREEK VILLAGE CENTER LOT 13 & LOT 16 SUBDIVISION RECORDED IN THE OFFICE OF THE SUMMIT COUNTY RECORDER ON NOVEMBER 13, 2020, AS ENTRY NO. 01147487 IN BOOK 2617 ON PAGE 1110.

Parcel Numbers (for reference purposes only):

SCVC-13-16-1 THROUGH SCVC-13-16-11  
SCVC-13-16-32 THROUGH SCVC-13-16-35  
SCVC-13-16-107 THROUGH SCVC-13-16-139  
SCVC-13-16-OS-1 THROUGH SCVC-13-16-OS-9

## EXHIBIT B

### MAINTENANCE ALLOCATION CHART

This chart details the division of responsibility for maintenance and repair of property between the Master Association and the Owners. Note that in all cases, damage in a common area, limited common area, or structure which is caused by an Owner (or his/her tenants or guests) will be repaired at the expense of the Owner. **All modifications to a Residence visible from the outside of the Residence must be approved in advance and in writing by the Board.**

	EXTERIOR BUILDING	HOA	OWNER	NOTES
1	Roofs		X	
2	Stucco and shutters		X	
3	Lighting (front porch, and garage) fixtures		X	
4	Windows, frames, glass, and screens		X	
5	Window wells		X	
6	Foundation (structural)		X	
7	Brickwork/Rockwork		X	
8	Address numbers		X	
9	Rain gutters and down spouts		X	
10	Exterior doors, frames, trim, hardware, and doorbell		X	Painting must be approved by the Board
11	Screens, screen doors, storm doors.		X	The addition of storm doors and screen doors must be approved by the Board
12	Garage doors and openers.		X	Painting must be approved by the Board
13	Handrails		X	The addition of handrails by owners on approval of Board
14	Front porch, garage front, and patio lighting		X	Replacements must be approved by Board
15	A/C and pad		X	
16	Culinary water pipes		X	Beginning at the water meter
17	Landscaping water		X	
18	Hose bib, spigot, faucet		X	
19	Weather stripping		X	
20	Dryer vents		X	

	INTERIOR	HOA	OWNER	NOTES
1	Attic		X	
2	Circuit breakers		X	
3	Fireplace		X	
4	Water heater		X	
5	Furnace		X	
6	Phone/cable lines/internet/reception		X	
7	Plumbing Lines, Valves, Pressure Regulator, Leaks, Clogs, Stoppages		X	If the line is shared with more than one Unit, then it is the HOA's responsibility.
8	Smoke alarms, carbon monoxide detectors, alarm systems		X	
9	Floor coverings		X	
10	Electrical wiring and panel		X	
11	Walls		X	
12	Garages		X	Interior, cement slab, door opener, equipment
13	Termites, pests, rodents, insects		X	
14	Repairs of damage resulting from surface water		X	
15	Repairs of damage resulting from static water seepage from underground		X	
16	Repairs of damage resulting from interior plumbing		X	
17	Repairs of damage resulting from sprinkler system failure		X	

	<b>GROUNDS</b>	<b>HOA</b>	<b>OWNER</b>	<b>NOTES</b>
1	Front sidewalks	X		
2	Driveways		X	
3	Private streets and Alleyways	X		
3	Mailboxes and kiosks	X		If must be rekeyed, cost is responsibility of the owner
4	Perimeter fencing	X		
5	Fencing enclosing a Residence and/or its yard area		X	
6	Guest parking	X		
7	Sprinkling system in common areas	X		
8	Sprinkling system on Lots that serve a single Residence		X	
9	Original patio		X	
10	Mowing and trimming, common areas	X		
11	Mowing and trimming in enclosed areas serving a single Residence		X	
12	Lawn, flowers, and shrubs in common areas	X		
13	Lawn, flowers, shrubs in enclosed areas serving a single Residence		X	
15	Snow removal, private roads and all sidewalks	X		
16	Snow removal driveways, patios, porches		X	
17	Signage	X		
18	Street lights	X		
19	Storm drains	X		
20	All semi-permanent items installed in enclosed areas serving a single Residence		X	Awnings, decks, patios, pathways, etc. All must be approved by Board

	OTHER	HOA	OWNER	NOTES
1	Trash collection	X		
2	Pest control exterior (except in enclosed yards)	X		
3	Pest control interior (and in enclosed yards)		X	
4	Sewer pipes		X	Unless servicing multiple residences.
5	Natural gas lines		X	Unless servicing multiple residences.
6	Insurance Coverage- Residences		X	
7	Insurance Coverage – HO6 Policy		X	
8	Insurance Coverage – Loss Assessment		X	
9	Insurance Deductible on Property policy		X	Deductible assessed to Owners pro-rata based on sustained damages in which a covered loss takes place. (See U.C.A. §57-8a-405) (Deductible on Owners HO6 policy is their responsibility)