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CottonTree Square, Bldg. 7G
2230 No. University Parkway
Provo, UT 84604

Tax Parcel Nos.55:735:0001;
55:768:0006; 55:768:007;
55:768:0008; etc.



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JEFFERY SMITH
UTAH COUNTY RECORDER
2018 Nov 29 10:52 am FEE 138.00 BY BA
RECORDED FOR WHISPER ROCK HOA

AMENDED & RESTATED DECLARATION
OF
PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS

(Including Owner Association Bylaws)

WHISPER ROCK PLANNED RESIDENTIAL DEVELOPMENT
An Expandable PUD Project
Mapleton City, Utah County, Utah

November 27 2018

TABLE OF CONTENTS

Article 1 DEFINITIONS 2

Article 2 SUBMISSION OF THE PROJECT; EXPANSION AND DEVELOPMENT 4

 2.1. Submission, Description, and Reservations..... 4

 2.2. Division into Lots, Minimum and Maximum Ownership Interests. 5

 2.3. Expansion of Project..... 5

 2.4. Limitation on Expansion..... 5

 2.5. Expansion Procedure. 6

 2.6. No Obligation to Expand or Develop. 6

 2.7. Declarant’s Right to Sell Lots..... 6

Article 3 IMPROVEMENTS 6

 3.1. Description of Buildings, Parking and Lots..... 6

 3.2. Description and Legal Status of Lots..... 6

 3.3. Common and Limited Common Areas..... 7

 3.4. Site Plan..... 7

 3.5. Conveyance Description of a Lot. 7

Article 4 MAINTENANCE; FENCING 7

 4.1. Maintenance of Lots. 7

 4.2. Maintenance of Limited Common Areas and Certain Areas..... 8

 4.3. Maintenance of Common Areas. 8

 4.4. Further Clarification of Responsibilities..... 8

 4.5. Permitted Fencing..... 8

Article 5 EASEMENTS 9

 5.1. Encroachment. 9

 5.2. Easement for Repair of Common Areas..... 9

 5.3. Association. 10

 5.4. Municipal/Governmental Services. 10

 5.5. Utility Services. 10

 5.6. Right of Ingress, Egress, and Support..... 10

Article 6 RESTRICTIONS..... 10

 6.1. Restrictions Concerning Common Areas..... 10

 6.2. Residential Use..... 11

 6.3. Leasing Restrictions..... 11

 6.4. Prohibited Uses, Nuisances and General Restrictions. 11

 6.5. Signs. 12

 6.6. Approval Required for Improvements..... 12

Article 7 INSURANCE 13

7.1. Insurance and Bonds..... 13

7.2. Additional Insurance Provisions..... 13

7.3. Owners/Lot Policies..... 14

Article 8 NATURE AND INCIDENTS OF OWNERSHIP..... 15

8.1. Holding Title..... 15

8.2. No Separation or Partition..... 15

8.3. Membership in Association..... 15

8.4. Use of Common Areas, Limited Common Areas; and Designation of Appurtenances..... 15

8.5. Duty of Owner to Pay Taxes on Lot Owned..... 15

8.6. Assessments and Rules Observance..... 15

Article 9 MORTGAGES AND MORTGAGEE PROTECTION..... 15

9.1. Effect of Foreclosure on Liens..... 16

Article 10 BYLAWS – THE BOARD OF DIRECTORS 16

10.1. Status and General Authority..... 16

10.2. Indemnification of Board of Directors..... 17

10.3. Board of Directors; Owner Control, Composition, Election, Vacancies..... 17

10.4. Rights and Duties..... 18

10.5. Right of Delegation to Manager..... 18

10.6. Third Party Services..... 18

10.7. Personal Property Ownership and Use..... 18

10.8. Rules and Regulations..... 18

10.9. Extended Rights..... 18

10.10. Architectural or Design Control..... 18

10.11. Board Meetings..... 19

10.12. Board Action..... 19

10.13. Meetings by Electronic Communication in Real Time..... 19

10.14. Open Board Meetings; Executive Sessions..... 19

10.15. Action Taken by Board without a Meeting..... 20

10.16. Waiver of Notice..... 21

10.17. Quorum and Acts..... 21

Article 11 BYLAWS – ASSOCIATION VOTING, MEETINGS AND OFFICERS..... 21

11.1. Notice..... 21

11.2. Votes..... 22

11.3. Multiple Ownership..... 22

11.4. Place of Meeting..... 22

11.5. Annual Meetings..... 22

11.6. Special Meetings..... 23

11.6. Notice of Meetings..... 23

11.7. Quorum..... 23

11.8. Proxies and Absentee Ballots. 23

11.9. Action by Written Ballot without a Meeting. 23

11.10. Action without Notice and a Meeting..... 24

11.11. Officers..... 24

11.12. Conducting Business, Electronic Means. 25

11.13. Utah HOA Registry. 25

Article 12 BYLAWS – ASSESSMENTS 25

12.1. Agreement to Pay Assessments..... 25

12.2. Purpose of Assessments..... 26

12.3. Annual Assessments..... 26

12.4. Annual Budget..... 26

12.5. Notice and Payment of Annual Assessments. 26

12.6. Initial and Transfer Fees..... 27

12.7. Increases to Annual Assessment..... 27

12.8. Special Assessments..... 27

12.9. Uniform Rate of Assessment..... 27

12.10. Specific Assessment..... 27

12.11. Reserve Analysis..... 28

12.12. Reserve Funds..... 28

12.13. Certificate Regarding Payment..... 29

12.14. Effect of Nonpayment; Remedies..... 29

12.15. Security; Appointment of Trustee..... 29

12.16. Subordination of Lien to Mortgages..... 29

12.17. No Abatement..... 30

Article 13 BYLAWS – RULES, ENFORCEMENT, APPEAL..... 30

13.1. Rules and Regulations..... 30

13.2. Remedies..... 30

13.3. Fines..... 31

13.4. Appeal by Owner..... 32

13.5. Action by an Owner..... 32

13.6. Injunctive Relief..... 32

13.7. Purchase Subject to Violations..... 32

Article 14 BYLAWS – RECORDS..... 33

14.1. General Records..... 33

14.2. Financial Reports and Audits..... 34

14.3. Availability of Records to Owners..... 34

Article 15 MISCELLANEOUS PROVISIONS 35

15.1. Agent for Service of Process 35
15.2. Amendment. 35
15.3. Changes in Price, Size, Design or View Impairment. 35
15.4. Environmental Issues..... 36
15.5. Declarant's Rights Assignable. 36
15.6. Interpretation. 36
15.7. Covenants to Run with Land. 37
15.8. Enforcement. 37
15.9. Waiver. 37
15.10. Duration/Termination. 37
15.11. Amendment. 37
15.12. Effective Date. 37

Schedule of Exhibits

- Exhibit A - Property Description
- Exhibit B - Additional Property

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
(Including Owner Association Bylaws)**

**WHISPER ROCK PLANNED RESIDENTIAL DEVELOPMENT
An Expandable PUD Project
Mapleton City, Utah County, Utah**

**THIS AMENDED DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS** is made on the date evidenced below
by the Whisper Rock Home Owners Association.

RECITALS:

A. The real property described in Exhibit A attached hereto and by this reference made a part hereof is subject to this Declaration.

B. This Declaration supersedes and replaces in its entirety the Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions, recorded June 4, 2014 as Entry No. 129934:2009 in the official records of the Utah County Recorder, state of Utah and any amendments thereto (the "Original Declaration"). It has been determined that a complete restatement of the Original Declaration is appropriate. Therefore, this Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions shall be and is hereby substituted for all purposes in place of the Original Declaration and any and all amendments to the Original Declaration, if any, entered into prior to the date hereof. From and after the date this Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions is recorded in the official records of the Utah County Recorder, State of Utah, (i) the provisions hereof shall, for all purposes, govern the use, occupancy and ownership of the "Property," as that term is defined herein (ii) the Original Declaration, together with any and all amendments thereto, shall be deemed to be canceled and of no further force or effect, and (iii) all persons shall be entitled to rely on the Provisions of this Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions for all purposes related to the operations of the use, occupancy and ownership of the Property and shall not be required to refer to or reference the Original Declaration for any purpose. The term "Declaration," as used herein, shall refer to this Amended and Restated Declaration of Protective Easements, Covenants, Conditions and Restrictions.

C. Declarant intends to expand the Project to include the "Additional Property," which is described on Exhibit B which is attached hereto and by this reference made a part hereof, in accordance with the procedures set forth in Section 2.3.

D. The Project is not a cooperative and does not contain condominiums.

E. Pursuant to Section 13.3 of the Original Declaration, the Owners holding at least 60% of the total outstanding votes in the Association voted to adopt this Amended and Restated Declaration in a meeting of members or by written consent.

Article 1

DEFINITIONS

When used in this Declaration, (including that portion above captioned (“RECITALS”)) each of the following terms used shall have the meaning indicated.

1.1. Act means the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

1.2. Additional Property shall mean and refer collectively to those parcels of real property in Mapleton City, Utah County set forth and described in EXHIBIT B, attached hereto and by this reference made a part hereof.

1.3. Articles shall mean and refer to the Articles of Incorporation of the Association, filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as said Articles may be amended from time to time.

1.4. Assessment means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to a Governing Document or applicable law.

1.5. Association of Owners or Association shall mean and refer to Whisper Rock Home Owners Association, a Utah nonprofit corporation, its successors and assigns whether incorporated or unincorporated.

1.6. Board of Directors or Board shall mean the Board of Directors of the Association, charged with the responsibility and authority to administer the Project on behalf of the Association and to make and enforce reasonable Rules and Regulations covering the operation and maintenance thereof.

1.7. Building or Buildings means a Unit.

1.8. Bylaws shall mean and refer to the Bylaws of the Association as set forth and embodied in this Declaration in Article 10, Article 11 and Article 12, and as may be amended from time to time.

1.9. Common Areas or Common Areas and Facilities shall mean, refer to and include:

(a) The real property and interests in real property which comprise the Property, including any landscaping and sprinkling systems for such landscaped areas, and

including open areas, drains, retention basins, recreation amenities/parks, retaining walls, sidewalks, trails, walkways, stairs and landings, fencing, parking areas and private drives or roadways, and all improvements located on the Property from time to time, but excluding all Lots, as herein defined, except that after a Unit is constructed on a Lot, any part of the front and sides of the Lot upon which no part of the Unit is constructed, shall be deemed to be and treated as Common Area for all purposes in this Declaration;

(b) Those Common Areas and Limited Common Areas specifically set forth and designated as such on the Plat; and

(c) Except as may be provided otherwise elsewhere in this Declaration, all other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management, including any central services such as power, water, gas and light. The term "common use," as used in this subsection means use by or for any two or more Lots.

1.10. Common Expenses means expenses (1) incurred by the Association in carrying out any of its obligations provided for in the Governing Documents, or (2) required by the Governing Documents or law to be assessed against all the Owners.

1.11. Declarant means Georgetown Development, Inc., its successors and assigns, if any.

1.12. Declaration shall mean and refer to this Declaration pertaining to the project, as such Declaration may hereafter be supplemented or amended in accordance with the provisions hereof. Any ambiguities, omissions, or conflicts herein shall be construed to comply with the provisions of the project. Supplemental Declaration shall mean and refer to an instrument which supplements and amends the Declaration and which is to be recorded in the Public Records concurrently with a plat for subsequent expansion phase of the Project pursuant to the provisions of Article 2 of the Declaration.

1.13. Good Standing means: (1) no Assessment (including any fine) imposed against the Owner or Owner's Lot is more than 60 days' past due, and (2) more than 60 days has elapsed since a fine has been assessed against the Owner or the Owner's Lot.

1.14. Governing Documents means a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, a Plat, this Declaration, Rules, and architectural or design guidelines.

1.15. Limited Common Areas and Facilities or Limited Common Areas shall mean and refer to those Common Areas designated in this Declaration or shown on the Plat as reserved for the exclusive use of a certain Lot or Lots, to the exclusion of other Lots, including specifically, driveway areas located between a Lot and a public street.

1.16. Lot means any separately numbered residential lot shown upon a Plat, including any improvements thereon, except that after a Unit is constructed on a Lot, any part of the front and sides of the Lot upon which no part of the Unit is constructed, shall be deemed to be and treated as Common Area for all purposes in this Declaration.

1.17. Manager shall mean any person or entity appointed or employed by the Board as a Manager of the Project.

1.18. Mortgage shall mean any recorded first mortgage or first deed of trust encumbering a Lot which has priority over all other mortgages and deeds of trust encumbering the same Lot; and Mortgagee shall mean the mortgagee or beneficiary named in a Mortgage.

1.19. Owner or Owner or Lot Owner shall mean and refer to the person, persons or entity owning record title as reflected in the Public Records to a Lot.

1.20. Plat shall mean a subdivision plat of a portion of the Property which has been approved by Mapleton City and recorded in the Public Records.

1.21. Project shall mean the property subject to this Declaration and all improvements constructed thereon, excluding only roads and other portions dedicated to the City of Mapleton.

1.22. Property shall mean and refer to the real property described in Exhibit A and on a Plat and any real property that any supplemental declaration submits to the provisions of this Declaration.

1.23. Public Records shall mean and refer to the office of the Utah County Recorder, Provo, Utah.

1.24. Rules and Regulations, or Rules shall mean and refer to those Rules and Regulations authorized, adopted, and promulgated to Owners from time to time by the Board pursuant to law or the provisions of this Declaration.

1.25. Site Plan shall mean the overall plan, as determined by the Declarant from time to time, for the development of the entire Project, including the Additional Property.

1.26. Unit means a single-family residential dwelling unit constructed upon a Lot.

Article 2

SUBMISSION OF THE PROJECT; EXPANSION AND DEVELOPMENT

2.1. **Submission, Description, and Reservations.** The Property is governed by, and shall be transferred, held, sold, conveyed, used, occupied and improved subject to, the Act, the Governing Documents and all agreements, decisions and determinations made by the

Association. This Declaration and the covenants, conditions and restrictions herein shall run with the land and shall be binding upon every party which shall at any time have any right, title or interest in or to any part of the Property, their heirs, successors and assigns, and to any other person who may in any manner use any part of the Property, and shall inure to the benefit of each Owner and the Association. To the extent that the Governing Documents are or become inconsistent with any future provisions of the Act, the Act, as amended, shall control.

2.2. Division into Lots, Minimum and Maximum Ownership Interests. Each Lot includes an appurtenant undivided, but equal, interest in and to the Common Areas and Facilities. Lots collectively shown on the Plat(s) comprise the minimum number of Lots in the Project. At any time, the percentage undivided interest held by each Lot may be determined by dividing the number one (1) by the total Lots then included in the Project as collectively shown on all recorded Plats.

2.3. Expansion of Project. Declarant reserves the right at Declarant's option, exercisable without the consent of any Owner, to expand the Project by adding to it, without limitation, all or any portion of the Additional Property, from time to time at Declarant's choosing, and without regard to any order of addition of such Additional Property, or of any Buildings or Units to be constructed thereon. No assurances are made as to the location of any Common Area or improvements to be constructed upon the Additional Property. When any such expansion becomes effective pursuant to Section 2.5, the added land shall become part of the Property and the Project and subject to the provisions of this Declaration and any amendment or supplement thereto; except that any Common Area, or any portion thereof, added to the Project shall be managed, improved and maintained solely by Declarant until such Common Area, or any portion thereof, is improved and complete according to the Site Plan.

2.4. Limitation on Expansion. Declarant's right to annex the Additional Property into the Project shall be subject to the following limitations:

- (a) Any land added to the Project must be part of the Additional Property;
- (b) The maximum number of Units that may be created on the Additional Property is 42 Units.
- (c) No expansion of the Project shall cause the total aggregate number of Units existing in the Project to exceed 58;
- (d) The Additional Property added to the Project shall be subdivided into Lots, Common Areas and Limited Common Areas designed to be used for purposes similar to those contemplated by this Declaration; provided, however, that in each succeeding phase of the Project, while Buildings and Units shall be substantially similar to, and the architectural style, quality of construction and principal materials used within such phase shall be compatible and in harmony with, that of prior phases, the Declarant

makes no assurances that any Unit will be substantially identical to the Units in prior phases; and

(e) The right of Declarant to unilaterally expand the Project shall expire six (6) years after this Declaration, as hereby restated, is filed for record in the Public Records.

2.5. Expansion Procedure. Subject to compliance with the provisions of Section 2.4, the addition of any such land shall become effective upon the recordation in the Public Records of a Plat of such Additional Property, or portion thereof, signed by the owner thereof, and of a Supplemental Declaration which (a) is signed by the then owner(s) of such Additional Property as Declarant; (b) describes the land to be added; (c) declares that the added land is to be held, transferred, sold, conveyed, and occupied subject to this Declaration; and (d) sets forth such additional limitations, restrictions, easements, covenants and conditions, not inconsistent with those of this Declaration, as are applicable to the added land.

2.6. No Obligation to Expand or Develop. Declarant has no obligation hereunder to add any Additional Property to the Project or to develop or preserve any portion of Additional Land in any particular way or according to any particular time schedule. No land other than the Property, as defined on the date hereof, and land added thereto in accordance with the terms and provisions of this Declaration, shall be deemed to be subject to this Declaration, whether or not shown on any Plat filed by Declarant, including Exhibit B to this Declaration.

2.7. Declarant's Right to Sell Lots. Until Declarant has completed and sold all of the Lots within the Project, neither the Association nor any Owner shall interfere with, and no Association approval shall be necessary for, the development, construction and completion of the contemplated improvements and the sale of all remaining Lots. Notwithstanding anything in this Declaration to the contrary, Declarant may make such use of the unsold Lots and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office and models, the showing of the Lots, and the display of signs.

Article 3

IMPROVEMENTS

3.1. Description of Buildings, Parking and Lots. Each Lot has access to its designated ground level garage (either two or three car capacity, depending on the Building style and Unit model). Each Lot has a Limited Common Area patio or deck.

3.2. Description and Legal Status of Lots. Each respective Plat shows the Lot number of each Lot, its location and dimensions from which its areas may be determined, the Limited Common Areas, if any, which are reserved for its use, and the Common Areas of the Project.

3.3. Common and Limited Common Areas. Declarant shall have no duty to construct any specific improvement to any Common Areas or Limited Common Areas. Neither the ownership of undivided interest in and to the Common Areas nor the right of exclusive use of a Limited Common Area, such as a fenced area shall be separated from the Lot to which they appertain, and even though not specifically mentioned in the instrument of conveyance, such percentage of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Lot to which they relate at the time of such conveyance.

3.4. Site Plan. Declarant presently intends to construct the Project as set forth on the Site Plan. Nothing contained herein shall obligate Declarant to construct the Project as shown on the Site Plan. City approval for the development of the Additional Property, market conditions or other circumstances may require modification of the Site Plan. Declarant reserves the right to unilaterally modify the Site Plan as elected by Declarant or its successor in interest. No Owner shall have any right to object to any modification of the Site Plan.

3.5. Conveyance Description of a Lot. Each conveyance or contract for the sale of a Lot, and every other instrument affecting title to a Lot, may describe that Lot by the Lot number shown on the Plat, with the appropriate reference to the Plat and to the Declaration, as each shall appear in the Public Records in substantially the following form:

Lot _____, contained within Phase _____, Whisper Rock, as the same is identified on the Plat therefor recorded in Utah County, Utah as Entry No. _____ (as said Plat may have heretofore been amended) and in the Declaration of Protective Easements, Covenants, Conditions and Restrictions (Including Owner Association Bylaws), Whisper Rock recorded in Utah County, Utah as Entry _____ (as said Declaration may have heretofore been amended), TOGETHER WITH the undivided ownership interest in and to the Common Areas and Facilities which is appurtenant to said Lot as more particularly described in said Declaration (as said Declaration may have heretofore been amended or supplemented).

Such description will be construed to describe the Lot, together with an equal undivided ownership interest in and to the Common Areas and Facilities, as the same are established and identified in the Declaration and on the Plat, and to incorporate all the rights and all the limitations incident to ownership of such Lot as described in the Declaration. Each such conveyance shall be subject to all of the provisions of this Declaration.

Article 4

MAINTENANCE; FENCING

4.1. Maintenance of Lots. Maintenance of the Lot, including the Unit, shall be the responsibility of the Owner thereof, who shall maintain such Lot in good condition and repair.

Each Lot shall be maintained so as to not detract from the appearance of the Project and so as to not adversely affect the value or use of any other Lot.

4.2. Maintenance of Limited Common Areas and Certain Areas. Each Owner shall keep the Limited Common Areas designated as being appurtenant to, and for the use in connection with, such Owner's Lot in a clean, sanitary and attractive condition at all times, and shall be responsible for maintenance, repair and replacement of any Limited Common Areas appurtenant to such Owner's Lot such as driveways, entrance sidewalks, patios and fencing. Each Owner may plant and maintain any flower beds or other planting areas located adjacent to such Owner's Unit. Removal of snow and ice from sidewalks, driveways and drive aprons that service a Unit shall be the responsibility of the Owner of the Unit, except that the Board may change such responsibility by a Board resolution distributed to all Owners. Notwithstanding the foregoing, an Owner of a Unit shall be responsible to ensure that accumulated snow and ice from all sidewalks, driveways and drive aprons in front of such Owner's Unit shall not constitute a safety hazard.

4.3. Maintenance of Common Areas. Except as stated otherwise elsewhere, the Association shall maintain all Common Areas and Facilities which may exist from time to time within the Project, including lawn and landscaped areas, trails, sidewalks, benches, recreational equipment, buildings or other equipment including sprinkler systems. The foregoing enumeration of Common Areas is included only by way of illustration and shall not be construed to create any obligation or constitute any representation that any specific facilities shall be included as or within the Common Areas of the Project. An Owner shall be responsible to maintain, at such Owner's sole cost and expense, and without any reduction in amounts paid to the Association, all areas and improvements within any fenced area adjacent to the Owner's Unit.

4.4. Further Clarification of Responsibilities. To the extent not clarified herein and to the extent consistent with the provisions of this Declaration, the Association may, by duly adopted Board resolution, identify and assign areas of maintenance and responsibility as either (1) Owner responsibilities, or (2) Association responsibilities. Such determinations shall be set forth in a Board resolution distributed to all Owners and shall be binding against all Owners.

4.5. Permitted Fencing.

4.5.1 No fencing is permitted within Whisper Rock Plat A other than fencing along the perimeter of the Plat A project. On Lots in a phase or Plat other than Whisper Rock Plat A, and if a fence was not installed at the time of initial construction of the Unit, an Owner shall be permitted, at such Owner's sole cost and expense, to construct or install, and thereafter maintain, a fence which shall enclose the rear area adjacent to the Owner's Lot delineated as Limited Common Area appurtenant to the Lot on the Plat. The location of the fence must be approved in advance by the Association and shall be within or on the boundary of the Limited Common Area appurtenant to the Lot as shown on the Plat and such that: (1) for a Lot within Whisper Rock Plat B, the fence is not placed more than 10 feet beyond the rear of the Lot, (2) for

a Lot in a phase or Plat other than Whisper Rock Plat A or Plat B, the fence is not placed more than 15 feet from the rear boundary of the Lot, and (3) the fence does not extend past the front or sides of the Lot. Any fence constructed or installed within the Project, including fences to enclose Limited Common Areas, shall be a tan vinyl fence not exceeding six feet in height, of the same design and quality as the non-decorative perimeter fence installed by Declarant, or Declarant's predecessor, at the time of the original construction of the Project. At the time of, or just prior to installation of such a fence, the Owner shall provide for irrigation of the area enclosed by the fence separate from the Common Area irrigation system and water supply and shall do so in a good and workmanlike manner such that sprinkler lines are capped or modified as appropriate. The maintenance, repair and replacement of all parts of a fence enclosing Limited Common Area shall be solely the responsibility of the Owner of the Lot whose appurtenant Limited Common Area the fence encloses.

4.5.2 No Separate Property Right Created. Any area enclosed by a fence shall retain its status, as designated on the Plat, as Common Area, Limited Common Area, or a Lot, as the case may be, and shall not be deemed to be part of a Lot or an interest in real property only by virtue of its being enclosed by a fence. The applicable Owner shall merely enjoy a temporary revocable license to enjoy such enclosed area for the Owner's exclusive use but no further property right is or shall be created and no guarantee, covenant or promise that such a license shall continue to exist for any period of time is created hereby.

4.5.3 Additional Requirements. The Board may adopt rules from time to time further regulating fences and clarifying or otherwise expanding the provisions of this subsection regarding fences, fenced enclosures, and maintenance thereof, and may impose additional requirements for an Owner to continue to keep a fence or obtain approval to install a fence.

Article 5

EASEMENTS

5.1. Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Lot, an easement for such encroachment and for the maintenance of the same, shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, an easement for such encroachment and for its maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either in the Common Areas or the Lots. Encroachments referred to herein include, but are limited to, encroachments caused by error in the original construction of the Buildings on the Property, by error in the Plat, by settling, raising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

5.2. Easement for Repair of Common Areas. If any of the Common Areas are or may be located within any of the Lots or may be conveniently accessible only through the Lots, the Owners of the other Lots shall have the irrevocable right, to be exercised by the Board as their agent, to have access to each Lot and to all Common Areas from time to time during such

reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible there from or for making emergency repairs therein necessary to prevent damage to the Common Areas or another Lot or Lots. The Board shall also have such rights independent of the agency relationship. Damage to the interior of any part of the Lot or Lots resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas, or as a result of emergency repairs within another Lot at the insistence of the Board or of Owners, shall be an expense of all the Owners and assessed proportionately; provided, that if such damage is the result of negligence of the Owner of the Lot, members of such Owner's family, such Owner's guests or invitees, then such Owner shall be financially responsible for all such damage. Amounts owing by Owners pursuant hereto shall be collected by the Board by Specific Assessment pursuant to the provisions of this Declaration.

5.3. Association. The Association shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to the provisions of this Declaration.

5.4. Municipal/Governmental Services. Mapleton City and any other government or quasi-governmental body having jurisdiction over the Property and Project shall enjoy access and rights of ingress and egress over and across any Common Areas for the purpose of providing police and fire protection or any other governmental or municipal services.

5.5. Utility Services. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all public utilities, including but not limited to, electronic data of all types, water, sewer, gas, telephone, electricity, and other utility services.

5.6. Right of Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to such Owner's Lot, and to any Limited Common Area designated for use in connection with such Owner's Lot, and each Owner shall have the right to the horizontal, vertical and lateral support of such Owner and any adjoining Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

Article 6

RESTRICTIONS

6.1. Restrictions Concerning Common Areas. Except as specifically authorized by Section 4.5, there shall be no obstructions of Common Areas by the Owners, their tenants, guests or invitees. The Board may, by its Rules and Regulations, prohibit or limit the use of Common Areas and Facilities as may be reasonably necessary to protect the interests of all the Owners, the Units, or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board, except as may be specifically provided herein. There shall be no alteration or construction upon any Common Area as contemplated on the Plat,

except as authorized by Mapleton City and the Board. The provisions of this Section 6.1 are non-amendable.

6.2. Residential Use. The Property is zoned residential and is restricted to single family residential use pursuant to applicable provisions of Mapleton City's zoning ordinances. Each Lot and each Owner is subject to the uses and restrictions imposed by such zoning, including any parking restrictions. The term "residential" as used herein shall be held and construed to exclude and prohibit individual room letting or boarding, and any commercial and professional uses which are not the subject of a permit granted by Mapleton City pursuant to its then current home occupation ordinance.

6.3. Leasing Restrictions. No lease of any Lot shall be for less than the whole Lot. No Lot may be leased for an initial term of less than 30 days. No Lot may be used, in whole or in part, for transient lodging purposes, including as a boarding house, a bed and breakfast, or other uses for providing accommodations to travelers. All leases shall be subject to the provisions of this Declaration whether or not stated therein. Lease means regular, exclusive occupancy of a Lot by a person other than the Owner and for which the Owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

6.4. Prohibited Uses, Nuisances and General Restrictions. The following uses and practices are specifically prohibited, in addition to any additional prohibitions which may, from time to time, be adopted by the Board of Directors pursuant to this Declaration:

(a) No animals of any kind shall be permitted on Common Areas or within any Lot except as allowed by the ordinances of Mapleton City.

(b) No parking of vehicles of any kind, including recreational vehicles and boats, shall be permitted on the streets within the Project between 2:00 AM and 5:00 AM. Parking in designated guest parking within the Project shall be subject to the Rules and Regulations.

(c) All outside television or radio aerials or antennas, satellite dishes or other similar devices, except satellite dishes, such as Direct Broadcast Satellite (DBS) dishes one meter in diameter or less, designed to receive direct broadcast satellite service or receive or transmit fixed wireless signals via satellite, are prohibited. Such allowed dishes may be installed, provided the dish and any wires are installed so as to not be visible from a street. If locating the dish so that it is not visible from any street precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. An Owner must submit written notification to the Association at least two business days before installing any dish. If requested by the Association, the Owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the dish. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonably increase the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish

may encroach upon the Common Area or the property of another Owner. The Owner is responsible for, and shall indemnify and hold the Association harmless from, all damage caused by or connected with a dish servicing the Owner's Lot, for as long as the dish remains, including damage resulting from water entering a building due to the installation or existence of such dish, and including personal injury and any other property damage. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. The term "dish" shall include antenna in the interpretation of the above policy.

(d) No Lot within the Project shall contain any window-mount evaporative coolers or air conditioners.

(e) Resident's business vehicles in excess of $\frac{3}{4}$ ton trucks shall not be parked in front of Units overnight, nor shall any vehicle be repaired, disassembled, or reassembled on any Common area, driveway, public street, or designated guest parking on the Project.

(f) The garage on each Lot must be used for the parking of automobiles and not for general storage of miscellaneous items that limits such parking, except, as to a given Lot, during the thirty days following closing on any sale of the Lot.

(g) Except for trash collection days, trash receptacles are not to be left outside within view of the public streets. Empty trash receptacles shall be returned to an inside or screened area within 24 hours of trash pickup.

(h) Unit interior windows shall be covered within 30 days of occupancy with reasonably suitable permanent window coverings (as seen from the exterior).

(i) Unit patios and balconies shall not be used as general storage areas or for the hanging and drying of laundry, nor for decorative items visible from adjoining Lots or public streets.

6.5. Signs. No signs or other advertising shall be displayed which are visible from the exterior of any Unit, or displayed on the Common Areas, except in conformity with the Rules and Regulations.

6.6. Approval Required for Improvements. Subject to Sections 10.10 and 2.7, no exterior maintenance, repair, replacement, addition, change or alteration to any Lot visible from a height of 68 inches above ground level from any part of a street or a Lot, whether structural, landscaping, cosmetic or otherwise, may be made without prior written Board approval. Board approval shall be requested in accordance with Section 10.10 and through submission of plans and specifications showing the nature, kind, shape, height, materials, and location of the proposed maintenance, repair, replacement, construction, addition, change or alteration. Board approval is subject to qualifications and criteria determined by the Board, including but not limited to harmony of external design and location in relation to surrounding structures, topography and the Community generally. Such approval shall be solely at the discretion of the

Board as it deems appropriate. The Board has the sole discretion to make final, conclusive and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as made in good faith and in accordance with the procedures herein. The Board shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of performance for an intended purpose, adequate engineering, structural safety or conformance with building or other codes, standards or practices other than as specifically stated herein. Neither the Board nor any member thereof shall be liable to the Association or any person whatsoever for any loss, damage or injury arising out of, or in any way connected with the performance of the Board's duties hereunder.

Article 7

INSURANCE

7.1. Insurance and Bonds. The Board of Directors shall secure or cause to be secured and maintained at all times the following insurance and bond coverage with respect to the Project:

(a) A policy or policies of fire and casualty insurance with extended coverage endorsement for the full insurable replacement value of the Common Areas of said Project, not including Lots or Units. Such policy or policies shall be made payable to the Association and all persons holding an interest in the Project or any of the Lots, as their interest may appear.

(b) Appropriate fidelity coverage for any person or entity handling funds of the Association, including, but not limited to, an individual Manager, or employees of a Manager, if any, the amount of such coverage to be not less than a sum equal to three months' aggregate Annual Assessments on all Lots, plus any reserve funds, or such other amount determined by the Board.

(c) A policy or policies insuring the Association, the Manager, and the Owners against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Owners. Limits of liability under such insurance shall not be less than \$300,000 for any person injured, \$1,000,000 for all persons injured in any one accident, and \$1,000,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insured, as between themselves, are not prejudiced.

7.2. Additional Insurance Provisions. The following additional provisions shall apply with respect to such Insurance:

(a) In addition to the insurance described above in Section 7.1, the Association shall secure and at all times maintain insurance against such risks as are, or hereafter may be, customarily insured against in connection with the projects similar to the Project in construction, nature and use.

(b) The Board shall have the authority to adjust losses.

(c) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgagees.

(d) Each policy of insurance obtained by the Association shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Board, the Manager, the Owners, and their respective employees, agents, and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Association or of the Manager without prior written demand that the defect be cured; and that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

(e) Any Owner may obtain additional insurance at such Owner's own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Association. Any Owner who individually obtains insurance covering any portion of the Project (other than for a Lot) shall supply the Association with a copy of such Owner's policy within 30 days after he acquires such insurance.

(f) All insurance required to be maintained hereunder by the Association shall be procured from a company or companies authorized to do business in the State of Utah and which hold a financial rating of Class A or better from Best's Key Rating Guide.

(g) Notwithstanding anything herein contained to the contrary, insurance coverage's must be in such amounts to meet other requirements of the Federal National Mortgage Association and the Department of Veterans Affairs if Lots in the Project are sold and qualified through FHA or VA mortgage loan guaranties.

7.3. Owners/Lot Policies. Each Owner shall be responsible to purchase and maintain in force property insurance on the physical structure of the Owner's Unit insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. The total amount of coverage provided by the property insurance for the Unit may not be less than 100% of the full replacement cost of the Unit at the time the insurance is purchased and at each renewal date, excluding items normally excluded from property insurance policies. This paragraph is enforceable on its own terms and the Association shall have no obligation to enforce this paragraph and may not be the subject of any claim or action for failure to enforce this paragraph.

Article 8

NATURE AND INCIDENTS OF OWNERSHIP

8.1. Holding Title. Title to a Lot shall be in fee simple and may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the state of Utah, including, but without limitation, joint tenancy or tenancy in common. An Owner's right to sell or otherwise convey title to such Owner's Lot shall not be subject to any right of first refusal or similar restrictions in favor of Declarant or the Association.

8.2. No Separation or Partition. No part of a Lot, nor any part of the legal rights comprising ownership of a Lot, may be separated from any other part thereof during the period of ownership described herein, so that each Lot, the undivided interest in and to the Common Areas appurtenant to such Lot, and the exclusive right to use and occupy the Limited Common Areas appurtenant to each Lot, shall always be conveyed, devised, encumbered, and otherwise effected only together, and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance or other disposition of a Lot or any part thereof, shall constitute a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Lot, together with all appurtenant rights created by law or by this Declaration. The Common Areas and Facilities shall be owned in common by all the Owners and no Owner may bring action for partition thereof.

8.3. Membership in Association. Each Owner shall be a member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to, and shall not be separated from the Lot to which it appertains.

8.4. Use of Common Areas, Limited Common Areas; and Designation of Appurtenances. Subject to the limitations contained in this Declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Areas, and shall have the exclusive right to use and enjoy the Limited Common Areas which appertain to such Owner's Lot, as designated herein, or on the Plat.

8.5. Duty of Owner to Pay Taxes on Lot Owned. Each Owner agrees to pay and discharge any and all property taxes and assessments which may be assessed against the Lot owned by said Owner.

8.6. Assessments and Rules Observance. Each Owner is responsible for the prompt payment of any Assessments and charges levied by the Association, as set forth in this Declaration, and for the observance of the Rules and Regulations promulgated by the Board. Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all interest in such Owner's Lot to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration following such transfer.

Article 9

MORTGAGES AND MORTGAGEE PROTECTION

9.1. Effect of Foreclosure on Liens. Each Mortgagee of a Lot who comes into possession of such Lot by virtue of foreclosure of the Mortgage thereon, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any unpaid claims or Assessments and charges against the Lot which accrued prior to the time such holder comes into possession of the Lot.

ASSOCIATION BYLAWS

Article 10

BYLAWS – THE BOARD OF DIRECTORS

10.1. Status and General Authority. The Association shall have all the powers set forth in its Articles of Incorporation, Bylaws and this Declaration, together with its general powers as a corporation and under any applicable statute, as such statute may be amended, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments and fines as provided in this Declaration. The Board acts in all instances on behalf of the Association except as to matters specifically requiring approval by the Owners in the Governing Documents or the law. Without in any way limiting the generality of the foregoing, the Board acting for the Association shall have the following powers:

(a) Without the vote or consent of the Owners or of any other person, except for Mortgagees if required by the terms of their Mortgage, to grant or create on such reasonable terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas and Facilities;

(b) To execute and record, on behalf of the Association, any amendments to the Declaration or the Plat which have been approved by the vote or consent of Owners necessary to authorize such amendments;

(c) To convey, transfer, purchase, or otherwise acquire, and accept title to, any interest in real property so long as such action has been authorized by any vote or consent which is necessary under the circumstances;

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

(e) To perform any other acts and to enter into any other transactions, subject to the rights of the Board, which may be reasonably necessary to perform its functions as agent

for the Association. Any instrument executed by the Board relating to the Common Areas of the Project that recites fact which, if true, would establish the Board's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith, and for value, relies upon such instrument.

10.2. Indemnification of Board of Directors. Each member of the Board of Directors and officers shall be indemnified and held harmless by the Association against all costs, expenses, and liabilities whatsoever (excluding any fraudulent or criminal actions) including, without limitation, attorney's fees reasonably incurred by him in connection with any proceeding to which he may become involved by reason of such person being or having been a member of said Board or an officer. The foregoing right to indemnification shall not be exclusive of any other rights to which the Board member or officer or person may be entitled by law or agreement or vote of the members or otherwise. No member of the Board or any committee of the Association, and no officer of the Association shall be personally liable to the Association or its Members or to any Owner for damages for breach of fiduciary duty, mistake of judgment, negligence, tortious acts or other conduct but this Article shall not eliminate or limit the liability of such for acts or omissions that involve intentional misconduct, fraud or a knowing violation of law. No member of the Board or any committee of the Association, and no officer of the Association shall be personally liable in contract under any agreement, instrument or transaction entered into by them on behalf of the Association. Further, no member of the Board or any committee of the Association, and no officer of the Association shall have any personal liability arising out of the use, misuse or condition of the Project or any part thereof that might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as Directors, officers or committee members. When an officer or member of the Board is sued for liability for actions undertaken in his or her role as such, the Association shall indemnify him or her for his or her losses or claims, and undertake all costs of defense and advancement of loss to the fullest extent permitted by law, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the cost of defense, and may recover costs already expended from the officer or member of the Board who so acted. Members of the Board are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association.

10.3. Board of Directors; Owner Control, Composition, Election, Vacancies. The Board shall be composed of five members elected for three-year terms. Elections shall be staggered so at least one Board member is elected each year. Members serve on the Board until their successors are elected. A Board member must be an Owner in Good Standing, a spouse of an Owner in Good Standing or an officer, director, manager, agent or employee of a non-individual Owner in Good Standing. Vacancies on the Board membership may be filled by appointment by a majority of the remaining Board members, even if less than a quorum, and said appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the member they were appointed to replace. The Association, upon approval by the Owners, may increase or decrease the number of members on the Board

from between three to seven at any annual meeting of Owners, provided no incumbent Board member's term may be shortened by so reducing the number of Board members without that Board member's consent.

10.4. Rights and Duties. On behalf of the Association, the Board of Directors, subject to the rights and duties of the Owners, the provisions of the Declaration, and the Bylaws, shall be responsible for the general management and administration of the Project, including the obligation to maintain all Common Areas. Members of the Board shall serve without remuneration unless agreed to by Owners holding at least sixty percent (60%) of the outstanding voting power of the Owners.

10.5. Right of Delegation to Manager. The Board of Directors may carry out any of its functions which are capable of delegation through a Manager. The Manager shall, to the extent permitted by law and the terms of the Manager's agreement with the Board, be authorized to perform any of the functions or acts required or permitted to be performed by the Board itself.

10.6. Third Party Services. The Board may obtain and pay for the services of such professional or nonprofessional personnel as it shall determine to be necessary or desirable for the proper operation and function of the Project, including the enforcement of this Declaration, and persons to furnish snow removal, ground maintenance and other common services to the Project.

10.7. Personal Property Ownership and Use. The Board may acquire and hold for the use and the benefit of all of the Owners tangible or intangible personal property and may dispose of the same by sale or otherwise.

10.8. Rules and Regulations. The Board of Directors may make reasonable Rules and Regulations governing the operation and use of the Property, including Common Areas and Lots, and of other matters over which it has jurisdiction, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration. Only Owners in Good Standing have voting rights pursuant to Section 11.2. The Board may assess fines against Owners. The Board may also take judicial action against any Owner to enforce compliance with such Rules and Regulations, or other obligations, or to obtain damages for noncompliance, all to the extent permitted by law.

10.9. Extended Rights. The Board of Directors may exercise any other right or privilege given to it expressly by the Governing Documents or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein, or reasonably necessary to effectuate any such right or privilege.

10.10. Architectural or Design Control. Except for original construction, the Board shall act in all matters pertaining to architectural or design review, and shall establish rules and procedures for submitting plans for approval of any proposed construction, alteration,

remodeling, etc., involving the exterior of any Lot. The Board may establish a committee of Owners to act pursuant to the provisions of this Section.

10.11. Board Meetings. The Board may establish its rules for meetings, whether regular or special. A meeting of the Board means a gathering of the Board, whether in person or by means of electronic communication in real time under Section 10.13 below, at which the Board can take binding action (a "Meeting").

10.12. Board Action. Except for an action taken without a meeting in accordance with Section 10.15 below, the Board may take action only at a Meeting.

10.13. Meetings by Electronic Communication in Real Time. In the event of an emergency, or by decision of the Board, and to the fullest extent allowed by law, Meetings of the Board may be conducted by means of electronic communication that allows all members of the Board participating to be able to communicate orally in real time.

10.14. Open Board Meetings; Executive Sessions.

10.14.1 Open Board Meetings. Except as provided in subsection 10.14.3, all Meetings of the Board shall be open to Owners. At each Meeting, the Board shall provide each Owner a reasonable opportunity to offer comments. The Board may limit the comments to one specific time period during the Meeting and may limit the time allotted to each Owner so long as the time allotted is determined by a majority of the Board members present. Beyond such comment period, no Owner shall have a right to participate in the Board Meeting unless the Owner is also a member of the Board. The president or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board Meeting. The Board may adopt policies governing Meetings of the Board from time to time, including policies to reflect current Utah law (which Utah law may change more frequently than these Bylaws). If such Utah law supersedes any provision of these Bylaws, the policy adopted by the Board shall also supersede these Bylaws to the extent the policy restates then current Utah law.

10.14.2 Notice of Board Meeting. At least 48 hours before a Board Meeting, the Association shall give written notice of the meeting via email to each Owner who requests notice of a Board Meeting ("Meeting Notice"), unless notice of the Meeting is included in a Meeting schedule that was previously provided to the Owner or the Meeting is to address an emergency and each Board member receives notice of the Meeting less than 48 hours before the Meeting. A Meeting Notice shall: (1) be delivered to the Owner by email, to the email address that the Owner provides to the Association; (2) state the time and date of the Meeting; (3) state the location of the meeting; and (4) if a Board member may participate by means of electronic communication under Section 10.13, provide the information necessary to allow the Owner to participate by the available means of electronic communication.

10.14.3 Executive Sessions. In the discretion of the Board, the Board may close a Board Meeting and adjourn to executive session to: (1) consult with an attorney for the

purpose of obtaining legal advice; (2) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings; (3) discuss a personnel matter; (4) discuss a matter relating to contract negotiations, including review of a bid or proposal; (5) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or (6) discuss a delinquent assessment or fine.

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

10.15. Action Taken by Board without a Meeting.

10.15.1 Notice, Response. The Board shall have the right to take any action in the absence of a meeting which they could take at a meeting if notice is transmitted in writing to each member of the Board and each member of the Board, by the time stated in the notice: (1) (A) signs a writing in favor of such action; or (B) signs a writing against such action, abstains in writing from voting, or fails to respond or vote; and (2) fails to demand in writing that action not be taken without a meeting.

10.15.2 Content of Notice. The notice required by Subsection 10.15.1 (the "Notice") shall state: (1) the action to be taken; (2) the time by which a Board member must respond to the Notice; (3) that failure to respond by the time stated in the Notice will have the same effect as abstaining in writing by the time stated in the Notice, and failing to demand in writing by the time stated in the Notice that action not be taken without a meeting; and (4) any other matters the Association determines to include.

10.15.3 Approval of Action/Decision. Action is taken under this Section 10.15 only if, at the end of the time stated in the Notice: (1) the affirmative votes in writing for the action received by the Association equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the Board members then in office were present and voted; and (2) the Association has not received a written demand by a Board member that the action not be taken without a meeting (other than a demand that has been revoked pursuant to Subsection 10.15.5).

10.15.4 Waiver of Meeting. A Board member's right to demand that action not be taken without a meeting shall be considered to have been waived unless the Association receives such demand from the Board member in writing by the time stated in the Notice.

10.15.5 Revocation. A Board member who in writing has voted, abstained, or demanded action not be taken without a meeting may, in writing, revoke the vote, abstention, or demand at any time before the time stated in the Notice.

10.15.6 Electronic Transmission. A communication under this Section 10.15 may be delivered by an electronic transmission. An electronic transmission communicating a vote, abstention, demand, or revocation is considered to be written, signed, and dated for purposes of this Article if the electronic transmission is delivered with information from which the Association can determine that the electronic transmission is transmitted by the person (e.g., from a sender's known email account), and the date on which the electronic transmission is transmitted. The date on which an electronic transmission is transmitted is considered the date on which the vote, abstention, demand, or revocation is signed. For purposes of this Section 10.15, communications to the Association are not effective until received.

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

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

For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Board member may be considered to be present at a meeting and to vote if the Board member has granted a signed written proxy: (1) to another Board member, or other person, who is present at the meeting; and (2) authorizing the other Board member or person to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy (a directed proxy).

Article 11

BYLAWS – ASSOCIATION VOTING, MEETINGS AND OFFICERS

11.1. Notice.

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

11.1.2 Owners.

(a) Notice by Electronic Means. In any circumstance where notice or any other document is required to be provided to the Owners or an Owner, the Association may provide the notice or document by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. An Owner may require the Association, by written demand, to provide notice to the Owner by mail. The Board may promulgate Rules and procedures facilitating the implementation of this section from time to time, including a requirement that Owners furnish the Association with a current email address.

(b) Sufficient Notice. Any notice provided by the Association to an Owner shall be deemed effective and received by the Owner on the day it is provided if provided electronically and three business days after the date of mailing, if mailed, whether delivery is proved or not, if sent by regular mail or email, then if properly addressed and either emailed, or mailed with sufficient postage, to such physical or electronic address as may have been designated by the Owner from time to time in writing to the Board, or if no address has been so designated, then, (1) if by mail or hand delivery, to the Owner's Lot, and (2) if by email, to an email address from which the Association has received email correspondence from the Owner. If a Lot is jointly owned, a notice or other document sent to only one of the foregoing physical or electronic addresses shall be sufficient for all purposes.

11.2. Votes. Each Owner in Good Standing, including Declarant, shall have one vote in matters of the Association for each Lot owned. Upon the annexation of additional Lots into the Project, the total number of Association votes shall increase to provide one vote for each additional Lot, up to an aggregate maximum of 58, including any Lots owned by Declarant.

11.3. Multiple Ownership. If a Lot has more than one Owner, the vote relating to such Lot shall be exercised as such Owners may determine among themselves, but in no event shall more than the total vote attributable to such Lot be cast with respect to any issue. A vote cast by any of such co-owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the applicable Lot unless an objection is made at the meeting or in writing by another co-owner of the same Lot, in which event no vote will be counted with respect to such Lot, except to determine the presence or absence of a quorum.

11.4. Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Board in its notice thereof.

11.5. Annual Meetings. Annual meetings of the Members of the Association shall be held each year on such month, day and time as is set forth in the notice thereof. At such annual

meetings there shall be elected members of the Board of Directors, as and if needed. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before such meeting.

11.6. Special Meetings. The Board may call a special meeting of the Association of its own accord. The Board shall call a special meeting of the Association upon written request delivered to a Board member or the Manager stating the purposes for which the meeting is to be held and signed and dated by Owners holding at least thirty percent (30%) of the total votes of the Association. No business shall be transacted at a special meeting except as stated in the notice therefor. When a special meeting is duly requested by Owners, the Board shall set the time and date for the meeting so that the meeting occurs within 65 days of receipt of the request and if notice of the meeting is not given by the Board within 30 days after the date the written request is received by a Board member or the Manager, a person signing the request may set the time and place of the meeting and give notice pursuant to the requirements herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting

11.6. Notice of Meetings. The Secretary shall deliver a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least 10, but not more than 45, days prior to such meeting and consistent with the requirements of Section 1 of this Article.

11.7. Quorum. Except as may be elsewhere specifically provided otherwise, Owners present or represented for any purpose at any meeting of Members duly called pursuant to notice or for any action taken without a meeting, shall constitute a quorum.

11.8. Proxies and Absentee Ballots. A vote may be cast in the manner determined by the Board, including in person, by proxy or by absentee ballot. All proxy appointments shall be in writing, dated and signed by the Owner and shall be filed with the secretary in accordance with any procedures adopted by the Board. A proxy given for a specific meeting shall be valid for any adjournment of that meeting, unless otherwise stated in the appointment of proxy. An appointment of a proxy is valid for 11 months unless a different period is expressly provided in the appointment form. No proxy shall be valid if it purports to be revocable without notice. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association, or to the Board if a vote is being conducted by written ballot in lieu of a meeting.

11.9. Action by Written Ballot without a Meeting. Any action that may be taken at any annual, regular, or special meeting of Owners may be taken without a meeting if the Association causes to be delivered a written ballot to every Owner entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the

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

11.10. Action without Notice and a Meeting. Any action required to be taken or which may be taken at a meeting of Owners may be taken without a meeting and without prior notice if one or more written consents, setting forth the action so taken, are signed by Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty day period. Any such writing may be received by the Association electronically. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date. Any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

11.11. Officers. The Association shall have a President, a Vice President, and a Secretary/Treasurer, as principal officers, all of whom shall be elected by and from the Board of Directors. The Board may appoint an Assistant Secretary and Assistant Treasurer which need not be Board members. No person may fill more than one principal office at a time. The officers shall be elected by the Board of Directors in an organizational meeting of the Board as soon as possible following each annual meeting of Members at which the new Board of Directors, or any of its members, has been elected. Any principal officer shall have authority to sign any written instruments and to execute, certify, and record amendments to the Governing Documents.

(a) President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties that are usually vested in the office of president of a similar type association.

(b) Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed by the Board of Directors.

(c) Secretary/Treasurer. The Secretary/Treasurer shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. The Secretary/Treasurer shall have charge of such books and records as the Board of Directors may direct and shall, in general, perform all duties incident to the office of secretary of a similar type association. The Secretary/Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Secretary/Treasurer shall be responsible for the deposit of all money and any other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors.

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

11.13. Utah HOA Registry. The Association shall register with the Utah Department of Commerce's Homeowner Associations Registry (currently at <https://secure.utah.gov/hoa>) and provide (1) the name and address of the Association, (2) the name, address, telephone number, and, if applicable, email address of the chair of the Board, (3) contact information for the manager, if any, and (4) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has Association payoff information that a closing agent needs in connection with the closing of a Lot Owner's financing, refinancing, or sale of the Owner's Lot. The Association shall update the information stated in this Section with the Utah HOA Registry within 90 days after a change in any of the information.

Article 12

BYLAWS – ASSESSMENTS

12.1. Agreement to Pay Assessments. Each Owner, by the acceptance of a deed to such Owner's Lot, or execution of a contract therefore, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with the Association and all other Owners to pay to the Association all Assessments, including the Annual Assessments, any Special Assessments and any Specific Assessments described in this Article 12, and including late

payment fees, interest, attorney fees and costs of collection if any when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which the Assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the Assessment becomes due and payable. No Owner may exempt himself or such Owner's Lot from liability for payment of Assessments by waiver of such Owner's rights in the Common Areas, or the abandonment of such Owner's Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments, late payment fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Lot at the time of conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

12.2. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the Project, the collective interests of the Owners therein, paying Common Expenses properly incurred by the Association in carrying out its obligations under the Governing Documents and the law. The use made of funds obtained from Assessments may include, but shall not be limited to, payment of the costs of: insurance premiums on policies required of the Association hereunder; maintenance, repair, and improvement of the Common Areas; taxes or special assessments, if any, levied by governmental authorities; payment of any basic coverage cable TV, or Internet, providing coverage availability to each Lot in the Project; establishment and funding of a reserve to cover major maintenance, repair or replacement of improvements within, or deemed to be, Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes pursuant to the Governing Documents.

12.3. Annual Assessments. Annual Assessments shall be computed and assessed against all Lots in the Project, based upon advance estimates of the Association's cash requirements, to provide for payment of Common Expenses, which costs shall be apportioned among the Lots equally. However, for purposes of such apportionment, including apportionment of any Special Assessment, a Lot owned by Declarant shall not be deemed to be a Lot until the Unit on the Lot (1) is occupied for living purposes by one or more persons, (2) is used as a model for marketing purposes, or (2) is both fully carpeted and substantially fully painted, but the Lot is not yet conveyed by Declarant to a third party.

12.4. Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year ending December 31. On or before December 15 of each fiscal year, the Board shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. Each budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, any reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

12.5. Notice and Payment of Annual Assessments. The Association shall notify each Owner as to the amount of the Annual Assessment against such Owner's Lot on or before

December 15 of the year preceding the year for which such Annual Assessment is made. Each Annual Assessment shall be payable in 12 equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the Assessment relates. The failure of the Board to give timely notice of any Annual Assessment, as provided herein, shall not be deemed a waiver of or modification in any respect of the provisions of the Declaration, or a release of any Owner from the Obligation to pay such Assessment, or any other Assessment; but the date when the payment shall become due in such case shall be deferred to a date 15 days after notice of such Assessment shall have been given to the Owner.

12.6. Initial and Transfer Fees. Each Owner (other than Declarant), shall be required to pay at the time of purchase of such Owner's Lot, whether as a first time or subsequent Owner, a sum equal to three times the then monthly installment of the Annual Assessment or such other amount determined by the Board from time to time, which sum shall be in addition to any prorating of Assessment which may be due for the month in which such purchase takes place. Such fees are not prepayments of Assessments, are not refundable, and shall become part of the Association's general fund to be utilized as necessary.

12.7. Increases to Annual Assessment. The Annual Assessment may not be increased in a calendar year by not more than twenty percent (20%) above the Annual Assessment for the previous year unless such increase is first voted upon by the Owners and: (1) the votes cast favoring the increase exceed the votes cast opposing the increase, and (2) a quorum of Owners holding at least 50% of the voting rights in the Association cast a vote.

12.8. Special Assessments. The Association may levy Special Assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of amenities, infrastructure or improvements within the Common Areas. Any such Special Assessment shall be apportioned among and assessed to all Lots in the same manner as Annual Assessments. Any Special Assessment levied within 12 months of a prior Special Assessment, and any Special Assessment greater than \$500 per Lot, may only be levied if it is first voted upon by the Owners and: (1) the votes cast favoring the action exceed the votes cast opposing the action, and (2) a quorum Owners holding at least 50% of the voting rights in the Association cast a vote.

12.9. Uniform Rate of Assessment. All Annual and Special Assessments shall be fixed at a uniform rate for all Lots.

12.10. Specific Assessment. In addition to the Annual Assessment and any Special Assessment, the Board may levy at any time Specific Assessments (a) on every Lot especially benefited by any improvement made by the Board on the written request of the Owner of the Lot to be charged; (b) on every Lot the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Lot to which the Board shall incur any expense for maintenance or repair work performed, or enforcement action taken. The aggregate amount of any such Specific Assessment shall be determined by the cost of such improvements,

repairs, maintenance, or enforcement action, including all overhead and administrative costs, and all attorney's fees and costs, and shall be allocated among the affected Lots according to the magnitude of special benefit, or cause of damage, or maintenance, or repair work, or enforcement action, as the case may be, and such Assessment may be made in advance of the performance of work when applicable. If a special benefit arises from any improvement which is part of the general maintenance or operation obligations of the Board, it shall not give rise to a Specific Assessment against the Lots benefited.

12.11. Reserve Analysis.

12.11.1 Reserve Analysis Required. The Board shall cause a reserve analysis to be conducted no less frequently than every six years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. However, the Board may increase or decrease the frequency of conducting and updating a reserve analysis in a formal resolution of the Board delivered to all Owners. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

12.11.2 Reserve Analysis Defined. "Reserve analysis" means an analysis to determine the need for a reserve fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A reserve analysis shall include:

- (1) a list of the components identified in the reserve analysis that will reasonably require reserve funds;
- (2) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;
- (3) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;
- (4) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and
- (5) a reserve funding plan that recommends how the Association may fund the annual contribution described in (4) above.

12.11.3 Reserve Analysis Summary Provided to Owners. The Association shall: (1) annually provide Owners a summary of the most recent reserve analysis or update; and (2) provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

12.12. Reserve Funds. The Association shall establish and maintain a reserve fund for the purpose of (1) maintenance, repair, replacement or restoration of the Common Areas and any other area or items for which it is responsible, (2) any emergency, unforeseen, unusual or unanticipated expenditure, and (3) for any other purpose determined from time to time by the Board. The Board may not use money in a reserve fund for daily maintenance expenses, unless a

majority of the Owners vote to approve the use of reserve fund money for that purpose. Daily means performed or occurring more often than yearly.

12.13. Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrances of a Lot, and upon the payment of a reasonable fee to the Board to cover administrative costs, the Board shall issue a certificate stating whether or not payments of all 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 rely thereon in good faith.

12.14. Effect of Nonpayment; Remedies. Any Assessment (whether Annual, Special or Specific) not received within 10 days of the date on which it, or any installment thereof, becomes due shall be subject to a late charge in the amount of five percent of the amount unpaid, which, together with interest and costs of collection, shall be, constitute, and remain a continuing lien on the affected Lot. If any Assessment is not received within 10 days after the date on which it becomes due, the amount thereof shall also bear interest from the due date at the rate of one percent (1%) per month; and the Board, on behalf of the Association, may bring an action against the Owner who is personally liable therefore, or may cause to be prepared and recorded in the Public Records a notice lien against the Owner's Lot and thereafter foreclose the same pursuant to applicable provisions of the Utah Code. Any judgment obtained in connection with the collection of delinquent Assessments and related charges shall include reasonable attorneys' fees, court costs, and every other expense incurred by the Association in enforcing the Association's rights. Failure of the Board to promptly enforce any remedy granted pursuant to this Section shall not be deemed a waiver of any such rights.

12.15. Security; Appointment of Trustee. The Declarant hereby conveys and warrants pursuant to U.C.A. § 57-1-20 and 57-8a-302 to the attorney of the Association, with power of sale, each Lot and all improvements to each Lot for the purpose of securing payment of Assessments under the terms of the Declaration. The Declarant, the Association and each Owner hereby appoints the attorney of the Association, who has been retained by the Association at the time a foreclosure is initiated, as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8a, Utah Code, as may be amended from time to time.

12.16. Subordination of Lien to Mortgages. The lien of the Association provided for herein shall be subordinate to the lien of any Mortgage given to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such Mortgage or a purchaser who comes into possession of or becomes the Owner of, a Lot by virtue of the foreclosure of such Mortgage or the exercise of a power of sale under such Mortgage, or by deed in lieu of foreclosure, shall take free of such Assessment installment which accrues or becomes due prior to the time such holder or purchaser comes into possession or ownership of such Lot; provided, that to the extent there are any proceeds of the sale on foreclosure of such Mortgage, or by exercise of such power of sale, in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such Mortgage, the lien shall apply to such

excess. No sale or transfer of a Lot in connection with any foreclosure of a Mortgage shall relieve and Lot from the lien of any Assessment installment, thereafter becoming due.

12.17. No Abatement. No diminution or abatement of any Assessments under the Declaration shall be claimed or allowed for inconvenience, annoyance, or discomfort arising from: (a) any construction (or lack of construction) within the Project; (b) the making of (or failure to make) any repairs or improvements to, or the maintenance of, any Common Areas in the Project, or any part thereof; or (c) any action taken to comply with the provisions of the Declaration or with the laws, ordinances, regulations, rules, or orders of any applicable governmental authority.

Article 13

BYLAWS – RULES, ENFORCEMENT, APPEAL

13.1. Rules and Regulations. The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations, subject to limitation and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board's duty to exercise business judgment on behalf of the Association and the Owners.

13.1.1 Requirements. Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules and Regulations, the Board shall:

- (1) at least 15 days before the Board will meet to consider a change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations;
- (2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting; and
- (3) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within 15 days after the date of the Board meeting.

13.1.2 Imminent Risk of Harm. The Board may adopt a rule without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, an Owner, an occupant of a Lot, or a Lot; and the Board shall provide notice to the Owners of such a rule within 15 days of adoption by the Board.

13.2. Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board the right, but not the obligation, in addition to any other rights set forth in the Governing Documents, or under law, to do any or all of the following after giving notice:

- (1) subject to the provisions of this Declaration, to enter the Lot as to which such violation exists and to summarily abate and remove or otherwise bring into compliance, at the

expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass;

- (2) enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;
- (3) levy fines according to Section 13.3 below;
- (4) suspend the right to receive, access or use any services or facilities provided by or through the Association until the violation is corrected, and to suspend the voting rights of an Owner, but not for longer than 60 days except in the case of a continuous violation;
- (5) bring suit or action against the Owner on behalf of the Association and other Owners to enforce the Governing Documents. The Association shall be entitled to an award of its attorney fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action; and
- (6) record in the Public Records against a Lot as to which a violation exists and the noncompliance of the Lot with the Governing Documents, a notice of noncompliance setting forth the thing, condition or violation that exists and thereby providing notice to prospective purchasers and all others of the violation and of the requirement that the violation be remedied by the Owner or future Owner of the Lot.

13.3. Fines. The Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the provisions in this Section 13.3.

13.3.1 Warning. A written warning (“Warning”) shall be sent to the Owner of the lot. The Warning shall:

- (1) describe the violation;
- (2) state the rule or provision of the Governing Documents that the Owner has violated;
- (3) state that the Board may, in accordance with the provisions of the law, assess fines against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner;
- (4) if the violation is a continuous violation, state a time by which the Owner must cure the violation (which time must be at least 48 hours after the day the Owner is given the Warning); and
- (5) state the amount of the fine that will be assessed if a continuous violation is not cured within 48 hours or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning.

13.3.2 Initial Fine. The Board may assess a fine against an Owner if: (1) within one year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (2) for a

continuing violation, the Owner does not cure the violation within 48 hours after the day the Owner is given the Warning.

13.3.3 Subsequent Fines for Same Violation. After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (1) commits a violation of the same rule or provision within one year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (2) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.

13.3.4 Notice of Fine. Each time a fine is assessed, notice of the fine shall be sent to the Owner describing the violation, stating the rule or provision of the Governing Documents that the Owner has violated, and stating that the Owner may request an informal hearing before the Board to dispute the fine within 33 days after the date of the notice.

13.3.5 Fine Amounts. A violation of any express rule, regulation, covenant, restriction or provision of any of the Governing Documents shall be subject to a fine in the amount set forth in a schedule of fines adopted by Rule from time to time, or in the absence of such a schedule, \$50 for a first offense and \$100 for subsequent offenses of the same violation or \$75 per ten days for a continuous violation.

13.4. Appeal by Owner. Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty or suspension within 33 days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing.

13.5. Action by an Owner. Each Owner and every user of the Property shall comply with the provisions of the Governing Documents and any applicable statute. Failure to comply therewith shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by an aggrieved Owner, and the prevailing party shall be entitled to an award of its attorney fees and costs.

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

13.7. Purchase Subject to Violations. Buyers shall take ownership of Lots subject to any violations of the Governing Documents which may exist concerning the Lot, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

Article 14

BYLAWS – RECORDS

The Association shall maintain within the state of Utah all documents, information and other records of the Association in accordance with the Governing Documents, the Community Association Act and the Utah Revised Nonprofit Corporation Act.

14.1. General Records.

14.1.1 Permanent Records. The Association shall keep (or cause to be kept) as permanent records: (1) The Declaration, Bylaws and Articles of Incorporation, (2) minutes of all meetings of the Association and of the Board; (3) a record of all actions taken without a meeting by the Association members or the Board; (4) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association; and (5) a record of all waivers of notices of meetings of members and of the Board or any committee of the Board.

14.1.2 Resolutions and Rules. The Association shall maintain (1) a record of the rules, regulations, and policies adopted by the Association, (2) appropriate accounting records, and (3) a record of its members in a form that permits preparation of a list of the name and address of all members in alphabetical order, and showing the number of votes each member is entitled to vote.

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

14.1.4 Certain Records.

(a) The Association shall keep and make available to Owners without charge, through the Association website, or, if the Association does not have an active website, then physical copies of the documents shall be made available to Owners during regular business hours at the Association's address registered with the Department of Commerce's Utah HOA Registry, a copy of the Association's: (1) Declaration and Bylaws, (2) most recent approved minutes, and (3) most recent budget and financial statement.

(b) In addition, the Association shall keep a copy of each of the following records at its principal office (copies of such records kept electronically by an Association officer or manager shall satisfy this requirement regardless of where located as long as such electronic records are capable of being transmitted to, or viewed by, others, such as via email from an electronic storage medium or via website): (1) all Governing Documents; (2) the minutes of all

Owners' meetings for a period of three years; (3) records of all action taken by Owners without a meeting, for a period of three years; (4) all written communications to Owners generally as Owners for a period of three years; (5) a list of the names and business or home addresses of the current Board members and officers; (6) a copy of its most recent annual report (annual renewal) delivered to the Division of Corporations under Utah Code Section 16-6a-1607; and (7) all financial statements prepared for periods ending during the last three years, if any, that show in reasonable detail the assets and liabilities and results of the operations of the Association.

14.1.5 Form of Records. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time. "Written form" does not mean exclusively paper form. The Association may maintain any of its records by retaining an electronic record of the information in the record that: (1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise, and (2) remains accessible for later reference.

14.2. Financial Reports and Audits. Upon written request by an Owner or mortgagee of a Lot, an annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board to the person(s) making the request within ninety days after the end of each fiscal year. From time to time, the Board, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association.

14.3. Availability of Records to Owners.

14.3.1 Owner May Elect Method. An Owner may elect whether to: (1) view and copy records in person, (2) receive hard copies of records, or (3) receive the records electronically.

(a) In Person. If an Owner elects to view and copy records in person, the Owner must bring imaging equipment to the inspection which shall be at a reasonable place, and during such hours specified by, the Association and the Association shall provide the necessary space, light, and power for the imaging equipment.

(b) Receive Hard or Electronic Copies. If an Owner elects to receive hard copies of records or to receive records electronically, the Owner may request a recognized third party duplicating service to make the copies and any necessary electronic scans of documents, in which case, the Association shall arrange for the delivery and pick up of the original documents, and the Owner shall pay the duplicating service directly. If the Association makes the copies or electronic scans, the Owner shall pay the Association the reasonable cost of the copies or of any necessary electronic scans of documents, which may not exceed: (1) the actual cost that the Association paid to a recognized third party duplicating service to make the copies or electronic scans; or (2) if an agent of the Association makes the copies or any electronic scans, 10 cents per page and \$15 per hour for the person's time making the copies or electronic scans. If the Owner requests a recognized third party duplicating service make the copies or electronic scans

14.3.2 Availability of Records Kept at Principal Office. An Owner shall give the Association written request at least 5 business days before the date on which the Owner wishes to inspect, copy or receive any of the records in Section 14.1.4(b) above.

14.3.3 Availability of Other Records - Proper Purpose Required. An Owner shall give the Association written request at least 5 business days before the date on which the Owner wishes to inspect, copy or receive any of the other records of the Association and: (1) the request must be made in good faith and for a proper purpose; (2) the Owner must describe with reasonable particularity the purpose and the records the Owner desires to inspect; and (3) the records must be directly connected with the described purpose.

14.3.4 Redaction; Records Not Subject to Inspection. The Association may redact a Social Security number, a bank account number, and any communication subject to attorney-client privilege from any document the Association produces for inspection or copying. The Board may withhold from inspection or copying any records: (1) considered by the Board in executive session and the minutes of any executive session, or (2) that in its reasonable business judgment would constitute an unwarranted invasion of privacy (including, if so determined by the Board, a list of phone numbers or email addresses of Owners) or involve pending or anticipated litigation or contract negotiations.

Article 15

MISCELLANEOUS PROVISIONS

15.1. Agent for Service of Process. The Board of Directors shall have the right to appoint an agent for service of process who shall be a resident of Utah. The name and address of such successor shall be specified by an appropriate notice filed with the Utah Department of Corporations and Commercial Code.

15.2. Amendment. This Declaration may be amended (as opposed to terminated) by an instrument recorded in the Public Records which is executed either: (a) by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association; or (b) by the Association's President and Secretary, who shall certify that the required sixty percent (60%) vote was obtained in a meeting of members, or otherwise by written ballot or consent, and is so documented in the permanent records of the Association. No amendment to any provision of this Declaration which has the effect of diminishing or impairing any right, power, authority, privilege, protection, or control accorded to Declarant (in its capacity as Declarant), shall be accomplished or effective unless the instrument through which such amendment is purported to be accomplished is specifically consented to in writing by Declarant.

15.3. Changes in Price, Size, Design or View Impairment. Declarant has made no promises, representations or assurances to any Owner regarding the pricing, size, design or configuration of any Lot or Unit and each Owner acknowledges that as market conditions or

other facts change, such matters may be subject to change, including reduction in prices of Lots and changes in size, design or product type. Each Owner further acknowledges that Declarant has made no representations, warranties or promises concerning any view, present or future, that may be enjoyed from all or any portion of a Lot and that views from a Lot may change or be obstructed by construction, placement of other structures or landscaping. For purposes of this section, the term "Declarant" shall include, but not be limited to: Georgetown Development, Inc. and its owners, officers, shareholders, representatives, agents or employees.

15.4. Environmental Issues. Each Owner understands and acknowledges that the Buildings, Limited Common Areas and Common Areas have been constructed on "expansive soil" and that Declarant has taken steps to construct the Buildings, Limited Common Areas and Common Areas in accordance with engineering requirements based on soil reports provided to Declarant. Each Owner understands and acknowledges that (1) due to the nature of expansive soil, movement, shifting, and cracking may occur in sidewalks, driveways, patios, garage floors, foundations, walls, stucco, ceilings, etc., and (2) Declarant shall not be responsible for remedial efforts or costs related thereto necessary to remedy, repair or replace damage caused by the movement, shifting, and cracking in sidewalks, driveways, patios, garage floors, foundations, walls, stucco, ceilings. Each Owner further understands and acknowledges that mold is a type of fungus that occurs naturally in the environment and is spread by means of microscopic spores in the air. Residential home construction is not, and cannot be designed to exclude mold spores from a home or Lot. Mold spores may enter a Unit through open doorways, windows, and air conditioning systems. Spores in the air also attach themselves to people and animals. Although the vast majority of mold spores are not known to cause health problems, some molds have the potential to cause health effects to individuals whose susceptibility is affected by existing sensitivities to allergies, underlying lung disease, and suppressed immune systems. Since mold spores exist everywhere naturally in the environment, mold cannot be prevented or removed entirely. Owners must take positive steps to eliminate excessive moisture in the Unit through: (a) regular vacuuming and cleaning; (b) reducing humidity in the home by adequate venting; (c) promptly repairing water leaks; (d) regular maintaining the Units; and (e) performing routine visual inspections for mold growth and signs of leaks, moisture or water damage. The Declarant shall not be liable for any actual or special, incidental or consequential damages based on any legal theory whatsoever, including, but not limited to strict liability, breach of express or implied warranty, negligence or any other legal theory, with respect the presence and/or existence of molds, mildew and/or microscopic spores at the Project or any Unit. For purposes of this section, the term "Declarant" shall include, but not be limited to: Georgetown Development, Inc. and its owners, officers, shareholders, representatives, agents or employees.

15.5. Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration, or in any way relating to the Property or Project, may be assigned.

15.6. Interpretation. The captions pertaining to the Article and Section numbers of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include all genders. The

invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

15.7. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land, or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire interest in a Lot, their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots and Common Areas shall be subject to, the provisions of this Declaration and of any Rules and Regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

15.8. Enforcement. The Association, any Owner, or any Mortgagee, shall have the right to exercise or seek any remedy at law or in equity to interpret, enforce compliance with, or obtain redress for violation of, this Declaration. The prevailing party in an action for the interpretation of, the enforcement of, or to obtain redress for violation of any provisions of this Declaration, shall be entitled to collect court costs and reasonable attorneys' fees.

15.9. Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of time lapse or the number of violations or breaches which may occur.

15.10. Duration/Termination. This Declaration shall remain in effect until such time as there is recorded in the Public Records, following the approval of the appropriate governmental authority authorizing such actions.

15.11. Amendment. Section 13.3 of the Original Declaration provides that the Declaration may be amended by an instrument recorded in the Public Records, which is executed by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association. The parties executing this Declaration as the Declarant and "Owner," do hereby certify that they collectively hold at least sixty percent (60%) of the total votes of the Association. The party executing this Declaration as the Owner does further hereby certify that it is the owner of the Additional Property. The execution of this Declaration shall constitute the consent of each such Owner to the amendment and restatement of the Original Declaration.

15.12. Effective Date. This Declaration, and any amendment or Supplemental Declaration hereto, shall take effect upon being filed for record in the Public Records.

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NOTARY PUBLIC

Dated this 27 day of November, 20 18.

GEORGETOWN DEVELOPMENT, INC.

as Declarant

Sign: 

Print: John L Dester

Title: C.E.O.

STATE OF UTAH)

ss.

COUNTY OF UTAH)

The within instrument was acknowledged before me this 27 day of November, 20 18
by John L. Dester as CEO of Georgetown Development, Inc.


NOTARY PUBLIC

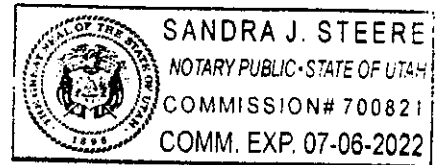


EXHIBIT A

Legal Description

Real property located in Mapleton City, Utah County, Utah, described as follows:

Lots 1 – 5 and Common Area and Public Road, WHISPER ROCK PLAT A planned unit development, according to the official plat thereof on record with the Utah County Recorder;
Serial Numbers 55:735:0001 through 55:735:0007

Lots 6 – 16 and Common Area and Public Road, WHISPER ROCK PLAT B planned unit development, according to the official plat thereof on record with the Utah County Recorder;
Serial Numbers 55:768:0006 through 55:768:0018

Lots 17 - 38 and Common Area, WHISPER ROCK PLAT C planned unit development, according to the official plat thereof on record with the Utah County Recorder;

EXHIBIT B

TO

WHISPER ROCK

**DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DESCRIPTION OF THE ADDITIONAL LAND IS SET FORTH AND ATTACHED IN THIS EXHIBIT B TO THE DECLARATION SOLELY FOR THE PURPOSES OF IDENTIFICATION OF EXPANSION LAND. THE DECLARATION IS NOT INTENDED AS, AND SHOULD NOT BE DEEMED TO CONSTITUTE, ANY LIEN, ENCUMBRANCE, RESTRICTION, OR LIMITATION UPON ANY PORTION OF THE EXPANSION LAND, UNLESS AND UNTIL SUCH PORTION IS ADDED TO THE DEVELOPMENT IN ACCORDANCE WITH THE PROVISIONS OF THE DECLARATION.

Real property located in Mapleton City, Utah County, Utah, described as follows:

Boundary Description

Commencing at a point located North 88°58'42" East along the Section line 913.95 feet and North 738.32 feet from the Southwest corner of Section 10, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence North 06°28'45" East 100.08 feet; thence North 02°08'18" West 32.37 feet; thence North 05°44'08" East 108.91 feet; thence North 88°50'33" East 51.71 feet; thence North 89°43'12" East 333.29 feet; thence North 89°34'17" East 355.80 feet; thence South 01°09'42" West 294.68 feet; thence North 88°46'47" West 33.00 feet; thence South 01°09'42" West 10.08 feet; thence along the arc of a 10.00 foot radius curve to the right 15.51 feet (chord bears South 45°34'51" West 14.00 feet); thence South 90°00'00" West 91.68 feet; thence along the arc of a 20.00 foot radius curve to the right 33.37 feet (chord bears North 42°12'16" West 29.63 feet); thence North 84°24'33" West 40.00 feet; thence along the arc of a 667.97 foot radius curve to the left 37.96 feet (chord bears South 04°03'54" West 37.96 feet); thence North 90°00'00" West 94.39 feet; thence North 00°00'00" East 56.26 feet; thence North 90°00'00" West 239.68 feet; thence North 83°52'52" West 225.71 feet to the point of beginning.

Area = 209,622 sq.ft. or 4.81 Acres