When Recorded, Please Mail to:

Evans Ranch, LLC
1099 West South Jordan Parkway
South Jordan, UT 84095

ENT 126469:2016 PG 1 of 47
JEFFERY SMITH
UTAH COUNTY RECORDER
2016 Dec 16 10:14 am FEE 148.00 BY SW
RECORDED FOR EAGLE MOUNTAIN CITY

NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EVANS RANCH SOUTH

THIS NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EVANS RANCH SOUTH (this "Declaration") is made and executed this 12 day of December, 2016, by Evans Ranch, LLC, a Utah limited liability company, with an address of 1099 West South Jordan Parkway, South Jordan, Utah 84095 ("Declarant").

RECITALS

A. Declarant is the owner of all of that certain real property located in Eagle Mountain City, Utah County, Utah, more particularly described on Exhibit A attached hereto (the "Property"). Declarant is developing the Property as a townhome and cottage home development project to be known as "Evans Ranch South" (as such development may be renamed from time to time) (the "Project"). Upon completion, the Project shall consist of approximately one hundred forty nine (149) townhomes and approximately thirty (30) cottage homes, and the Project may be expanded to include additional townhome units and/or cottage homes, as further set forth herein.

B. The Project is located in the master planned development commonly known as "Evans Ranch," and accordingly, the Project is also subject to the covenants, conditions and restrictions set forth in the Amended & Restated Declaration of Covenants, Conditions and Restrictions for Evans Ranch (the "Amended Declaration") recorded on February 22, 2016, as Entry No. 14297:2016 of the Official Records of the Utah County, Utah Recorder, as amended by that certain Certificate of Amendment for Evans Ranch (the "First Amendment," and together with the Amended Declaration, collectively the "Master Declaration") recorded July 22, 2016, as Entry No. 67937:2016 of the Official Records of the Utah County, Utah Recorder.

C. Pursuant to Section 3.4 of the Master Declaration, this Declaration is intended as a "Neighborhood Declaration" and relates specifically and only to the Project.

D. In order to efficiently manage and to preserve the Neighborhood Common Area located within the Project, it is necessary and desirable to create a nonprofit corporation to own and maintain Neighborhood Common Areas in the Project and to perform other duties relating to the Project; and to collect assessments and disburse funds; and to perform such other acts as shall generally benefit the Project and the Owners. Evans Ranch South Owners Association, Inc., a

Utah nonprofit corporation, has been incorporated for the purpose of exercising the aforementioned powers and functions. It is intended that this Declaration shall serve as a binding contract between the Association and each Owner; however, nothing herein is intended to create a contractual relationship between Declarant and the Association or Declarant and any Owner, or to inure to the benefit of any third party. Additionally, it is not intended that this Declaration should be read in conjunction with any deed or real estate purchase contract to create privity of contract between Declarant and the Association.

DECLARATION

NOW, THEREFORE, it is hereby declared that the Project shall be held, sold, conveyed, leased, rented, encumbered, and used subject to the following easements, rights, assessments, liens, charges, covenants, servitudes, restrictions, limitations, conditions, and uses, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. Declarant, and each Owner by acceptance of a deed to a Unit, hereby agree, acknowledge and understand that the Project is not, by execution and recording of this Declaration, being submitted to the provisions of the Utah Condominium Ownership Act, §§ 57-8-1, *et seq.*, Utah Code Ann. (the "Condominium Act"). This Declaration does not constitute a declaration as provided for in the Condominium Act and the provisions of the Condominium Act shall not be applicable to Property or any portion thereof. In addition, the Project is not a cooperative under Title 57, Chapter 23, Utah Code Ann.

ARTICLE I

DEFINITIONS

The following words, phrases, or terms used in this Declaration shall have the following meanings:

(a) "Articles" shall mean and refer to the Articles of Incorporation of the Association.

(b) "Building" shall have the meaning given to such term in Section 12.4(a) below.

(c) "Common Expenses" shall mean all expenses for maintenance, repairs, landscaping, utilities and taxes incurred by the Association in connection with Neighborhood Common Areas within the Project, all insurance premiums, all expenses incurred in connection with enforcement of this Declaration, all expenses expressly declared to be Common Expenses by this Declaration or the Bylaws of the Association, all expenses incurred by the Association in connection with any easement held by the Association or permitted use of private land, and all other expenses which the Association is entitled to incur pursuant to the provisions of this Declaration or its Bylaws. Common Expenses do not include any utility services which are separately billed or metered to individual Units, which separately billed or metered utility services

shall be the sole responsibility of the applicable Owner, nor do they include any expenses for maintenance or repairs of Common Townhome Elements which are, pursuant to Section 12.4 or other provisions in this Declaration, the responsibility of one or more Owners.

(d) "Common Townhome Elements" shall have the meaning set forth in Section 12.1 below.

(e) "Cottage Unit" shall mean initially any of the approximately thirty (30) single family, detached cottage home lots, separately numbered and individually described on the Plat and intended for independent and private use and ownership, and any such additional cottage home lots platted in future phases of the Project, if any.

(f) "Declarant" shall mean and refer to Evans Ranch, LLC, a Utah limited liability company and/or any successor to said company which, either by operation of law or through a voluntary conveyance or transfer, comes to stand in the same relationship to the Project as did its predecessor.

(g) "Development Agreement" shall mean that certain Master Development Agreement for Evans Ranch, dated October 16, 2013, between Declarant and Eagle Mountain City, as subsequently amended and as may in the future be amended from time to time in accordance with the terms thereof.

(h) "DRC" shall mean and refer to any Design Review Committee, established pursuant to the Master Declaration.

(i) "Member" shall mean any person that is a member of the Sub-Association pursuant to the provisions of Section 2.1.

(j) "Neighborhood Common Area" shall mean all land within the Project that is now or in the future designated as Neighborhood Common Area by this Declaration, any amendments hereto, areas shown or otherwise designated as Neighborhood Common Area or Open Space on the Plat, and amendments and supplements thereto. Neighborhood Common Area shall include, but not be limited to, areas shown on the Plat as: (i) all land in the Project which is outside a Unit (excluding land dedicated to Eagle Mountain City); (ii) private roads; (iv) landscaped areas; (v) swimming pool and clubhouse area; and (vi) visitor parking areas, if any.

(k) "Neighborhood Limited Common Areas" shall mean any portion of the Neighborhood Common Areas reserved for the exclusive use of the Owner of a Unit, identified as Neighborhood Limited Common Area (or "Limited Common Area") on the Plat, including the driveway, sidewalk, patio and porches adjacent to each dwelling. The use and occupancy of the Neighborhood Limited Common Areas shall be reserved to its associated Unit and each Unit Owner is granted an irrevocable and exclusive license to use an occupy the same so long as such Owner owns the Unit associated with such Neighborhood Limited Common Area.

(l) "Neighborhood Maintenance Charges" shall mean any and all costs assessed against an Owner's Unit and to be reimbursed to the Sub-Association for work done pursuant to Section 5.1 and fines, penalties and collection costs incurred in connection with delinquent Neighborhood Annual or Special Assessments pursuant to Section 5.6.

(m) "Neighborhood Annual Assessment" shall mean the charge levied and assessed each year by the Sub-Association against each Unit pursuant to Section 5.2 hereof.

(n) "Neighborhood Special Assessment" shall mean any assessment levied and assessed pursuant to Section 5.3.

(o) "Owner" shall mean (when so capitalized) the record holder of legal title to the fee simple interest in any Unit. If there is more than one record holder of legal title to a Unit, each record holder shall be an "Owner."

(p) "Party Wall" means a wall that forms part of a Townhome Unit and is located on or adjacent to a boundary line between two or more adjoining Units owned by more than one Owner and is used or is intended to be used by the Owners of the benefited Townhome Units, which wall may be separated by a sound board between two or more Townhome Units.

(q) "Plat" shall mean the collective reference to the following duly approved and recorded plats filed herewith in the office of the Utah County Recorder entitled:

(i) Plat K-5, Evans Ranch, according to the Official Plat thereof, on file in the Utah County Recorder's Office, State of Utah;

(ii) All future plats for future phases of the Project, if any, which may be added to the Project at Declarant's discretion as provided in Section 11.4 below.

(r) "Project" shall mean the collective reference to: (i) the cottage home and townhome residential project located in the Evans Ranch master development project located in Eagle Mountain City, Utah, consisting of approximately one hundred forty nine (149) townhomes and approximately thirty (30) cottage homes, and commonly referred to as Evans Ranch South; and (ii) all future plats for future phases of Evans Ranch South, if any, which may be added to the Project at Declarant's discretion as provided in Section 11.4 below, as shown on the Plat and governed by this Declaration, or as reflected in an amendment to this Declaration and/or an amendment to Exhibit A hereto.

(s) "Project Plan" means that certain Evans Ranch Master Development Plan as referenced and described in the Development Agreement, which consists of, among other things, certain design guidelines relating to the Evans Ranch master development project.

(t) "Property" shall mean and refer to that certain real property located in Eagle Mountain City, Utah County, State of Utah, and more particularly described on Exhibit A hereof, together with any other real property added to the Project pursuant to Section 11.4.

(u) "Reinvestment Fee" shall mean the charge which may be levied and assessed pursuant to Section 4.6 of the Master Declaration.

(v) "Specific Housing Type Expenses" means the actual and estimated Neighborhood Common Expenses which the Sub-Association incurs or expects to incur for the benefit of Owners of either Cottage Units or Owners of Townhome Units (but not both) within the Project, relating to Common Townhome Elements and other special improvements owned or maintained by the Sub-Association and specifically and solely benefitting either the Townhome Units or the Cottage Units, but not the Project as a whole (as reasonably determined by the Board from time to time). Without limiting the generality of the foregoing, any insurance carried by the Sub-Association for Common Townhome Elements pursuant to Article VIII below shall be deemed a Specific Housing Type Expense and allocated to the Owners of Townhome Units.

(w) "Sub-Association" shall mean Evans Ranch South Owners Association, Inc., a Utah nonprofit corporation or limited liability company, organized or to be organized to administer and enforce the covenants and to exercise the rights, powers and duties set forth in this Declaration.

(x) "Sub-Association Board" shall mean the Board of Trustees of the Sub-Association.

(y) "Sub-Association Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time. A copy of the Bylaws is attached hereto and incorporated herein as Exhibit B.

(z) "Sub-Design Guidelines" means those design guidelines which may be adopted from time to time by the Sub-Association, if any.

(aa) "Townhome Unit" shall mean initially any of the approximately one hundred forty nine (149) townhome units

(bb) "Unit" shall mean either a Cottage Unit or a Townhome Unit, as applicable.

ARTICLE II

MASTER ASSOCIATION

II.1 Master Association. As further set forth in the Master Declaration, every Owner shall be a member of the Master Association. No evidence of membership in the Master Association shall be necessary other than evidence of ownership of a Unit. Membership in the Master Association is mandatory and shall be appurtenant to the Unit in which the Owner has the

necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit, and any such transfer shall automatically transfer the membership appurtenant to such Unit to the new Owner thereof. All of the rights, responsibilities, duties, and obligations of the Owners with respect to their membership in the Master Association are set forth in the Master Declaration.

ARTICLE III

MEMBERSHIPS AND VOTING

III.1 Membership. Every Owner shall be a Member of the Sub-Association. No evidence of membership in the Sub-Association shall be necessary other than evidence of ownership of a Unit. Membership in the Sub-Association shall be mandatory and shall be appurtenant to the Unit in which the Owner has the necessary interest. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Unit, and any such transfer shall automatically transfer the membership appurtenant to such Unit to the new Owner thereof. Each Member shall have a non-exclusive right and easement for use and enjoyment of all Neighborhood Common Area within the Project. Such right and easement shall be appurtenant to and shall pass with title to each Unit and in no event shall be separated therefrom. Notwithstanding the foregoing, a Member's right and easement of use and enjoyment is subject to the following:

(a) The right of Eagle Mountain City, Utah County and any other governmental or quasi-governmental body having jurisdiction over the Project to access and have ingress and egress to, from, over and across all Neighborhood Common Area;

(b) The rights of the Sub-Association and the Declarant set forth in this Declaration.

III.2 Voting Rights. The Sub-Association shall have the following-described two (2) classes of voting membership:

(a) Class A. Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Unit in which the interest required for membership in the Sub-Association is held. Although each of the multiple Owners of a single Unit shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Unit. Which of the multiple Owners of a single Unit shall cast the vote on the basis of that Unit is determined under Section 3.3 of this Article III.

(b) Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to the total number of votes held from time to time by all of the Class A Members in the aggregate, plus one thousand (1,000) votes, it being Declarant's express intention that the Class B Member shall control the voting of the Sub-Association until the termination of the Class B membership. The Class B membership shall cease

and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Units contained in the Project; (ii) the expiration of thirty (30) years after the date on which Declarant first conveys to a purchaser fee title to a Unit; or (iii) when, in its discretion, the Declarant so determines. Furthermore, Declarant shall have the right to waive its right to vote as a Class B Member as to one or more matters, while retaining its right to vote as to other matters.

III.3 Multiple Ownership Interests. In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any Sub-Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

III.4 Lists of Owners. The Sub-Association shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Unit which is owned by such person. In the event of any transfer of a fee or undivided fee interest in a Unit, either the transferor or transferee shall furnish the Sub-Association with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Utah County, Utah. The Sub-Association may for all purposes act and rely on the information concerning Owners and Unit ownership which is thus acquired by it, or at its option, the Sub-Association may act and rely on current ownership information respecting any Unit or Units which is obtained from the office of the County Recorder of Utah County, Utah. The address of an Owner shall be deemed to be the address of the Unit owned by such person unless the Sub-Association is otherwise advised.

ARTICLE IV

SUB-ASSOCIATION

IV.1 Formation of Sub-Association. The Sub-Association shall be a nonprofit Utah corporation charged with the duties and invested with the powers prescribed by law and set forth in its Articles and Bylaws and this Declaration. Neither the Articles nor Bylaws of the Sub-Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration or any amendments thereto. Specifically, the Sub-Association is formed for the limited purpose of owning, operating, and maintaining the Neighborhood Common Area located within the Project, in a manner consistent with the terms of this Declaration, and for the purpose of collecting assessments and disbursing funds for such purpose.

IV.2 Board of Trustees and Officers. The affairs of the Sub-Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws of the Sub-Association as the same may be amended from time to time. The initial Board shall be composed of three (3) natural persons, designated by Declarant, who need not be Members of the Sub-Association. After the termination of the Class B membership

as provided in Section 3.2(b) above, the Board may, at the Sub-Association's option, be expanded to a total of five (5) natural persons, and the additional two persons shall be Members. The Board may also appoint various committees and may appoint and hire at Sub-Association expense a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Sub-Association. The Board shall determine the compensation to be paid to the Manager or any other employee of the Sub-Association.

Without limiting the generality of the foregoing, the Board may appoint one or more "Committees", and such Committees (which may consist of one or more members, as determined by the Board) shall have such authority and duties as may be determined from time to time by the Board relating to the budgeting, operation, financial management and administration of the Project (collectively, the "Delegated Duties"). While any Committee established by the Board shall report to the Board regularly regarding its activities, the Board may by express directive relinquish and transfer all authority and responsibility with respect to such Delegated Duties to an applicable Committee.

Unless specifically set forth in this Declaration, no action may be brought by the Sub-Association, or its Board of Trustees, or Officers on behalf of a unit owner, as its respective interest may appear, with respect to any cause of action relating to the Neighborhood Common Areas, Common Townhome Elements and related facilities.

IV.3 Personal Liability. Neither the Declarant, any manager or member of Declarant, nor any member of the Board, officer, manager or other employee or committee member of the Sub-Association shall be personally liable to any Member, or to any other person, including the Sub-Association, for any damage, loss, claim or prejudice suffered or claimed on account of any act, omission to act, negligence, or other matter, of any kind or nature except for acts performed intentionally and with malice.

IV.4 Security. The Sub-Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. NEITHER THE SUB-ASSOCIATION, THE BOARD, OR THE DECLARANT, (COLLECTIVELY, THE "PROJECT GOVERNING BODIES") SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROJECT, HOWEVER, AND THE PROJECT GOVERNING BODIES SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, OCCUPANTS, TENANTS, GUESTS AND INVITEES OF ANY OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGE THAT THE PROJECT GOVERNING BODIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM OR BURGLAR ALARM SYSTEM DESIGNATED BY OR INSTALLED MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE NOR THAT FIRE PROTECTION OR BURGLARY ALARM SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER, OCCUPANT, TENANT, GUEST OR INVITEE OF AN OWNER OR OCCUPANT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE PROJECT GOVERNING BODIES

ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO UNITS, TO PERSONS, TO IMPROVEMENTS AND TO THE CONTENTS OF UNITS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE PROJECT GOVERNING BODIES HAVE NOT MADE REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROJECT.

ARTICLE V

ASSESSMENTS

V.1 Purpose of Assessments; Assessment Lien. All Members of the Sub-Association hereby covenant and agree, and each Owner, except Declarant, by acceptance of a deed to a Unit is deemed to covenant and agree, to pay to the Sub-Association the following assessments and charges: (a) Neighborhood Annual Assessments, (b) Neighborhood Special Assessments, and (c) Neighborhood Maintenance Charges, all such assessments and charges to be established and collected as hereinafter provided. The Neighborhood Annual Assessments, Neighborhood Special Assessments, and Neighborhood Maintenance Charges, together with interest, costs and reasonable attorneys' fees, shall be secured by a lien (the "Assessment Lien") on the Unit to which they relate, in favor of the Sub-Association, which shall be a continuing servitude and lien upon the Unit against which each such assessment or charge is made. The Assessment Lien shall be a charge on the Unit, shall attach from the date when the unpaid assessment or charge shall become due, and shall be a continuing lien upon the Unit against which each assessment is made. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them. The Assessment Lien may be foreclosed by the Sub-Association in substantially the same manner as provided for non-judicial foreclosure of deeds of trust on real property upon the recording of a Notice of Delinquent Assessment or charge as set forth in Section 5.6 hereof and/or the foreclosure rights and methods described in the Community Association Act, Utah Code Ann. ("U.C.A.") 57-8a-301 *et seq.* In order to facilitate the foreclosure of any such Assessment Lien in the manner provided at law for the foreclosure of deeds of trust, the Board may designate a trustee with full power of sale, to foreclose any such Assessment Liens as directed by the Board. Such trustee, and any successors, shall not have any other right, title or interest in the Project beyond those rights and interests necessary and appropriate to foreclose any Assessment Liens against Units arising pursuant hereto. In any such foreclosure, the Owner of the Unit being foreclosed shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the Assessment Lien being foreclosed. The Sub-Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale. Notwithstanding anything in this Declaration to the contrary, Declarant and Candlelight Homes, LLC shall not be charged, and are exempt from paying, any assessments, whether the Neighborhood Annual Assessment, Neighborhood Special

Assessment, Neighborhood Maintenance Charges or otherwise, with respect to Units owned by either Declarant or Candlelight Homes, LLC. The exemption provided in the previous sentence shall not be amended without the prior written consent of Declarant. Pursuant to U.C.A. 57-8a-212 (2016), the Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Advanced Title Company, with power of sale, the Units and all improvements to the Units for the purpose of securing payment of all Assessments, together with interest, cost and reasonable attorneys' fees, under the terms of this Declaration. If an Owner fails or refuses to pay any Assessment when due, the Board shall have the right, after giving notice and an opportunity to be heard in accordance with the Community Sub-Association Act, U.C.A. 57-8a, to terminate an Owner's right to receive utility services paid as a Common Expense and of access and use of any recreational facilities constituting a portion of the Neighborhood Common Areas. Notwithstanding anything in this Declaration to the contrary, Declarant shall not be charged, and is exempt from paying, any assessments, whether Annual, Special, Maintenance or otherwise, with respect to Units owned by Declarant.

V.2 Neighborhood Annual Assessments. Commencing on the date on which Declarant first conveys to a purchaser fee title to a Unit, an Neighborhood Annual Assessment shall be made against each Unit, except any Unit owned by Declarant, for the purpose of paying (or creating a reserve for) Common Expenses.

V.3 Neighborhood Special Assessments. In addition to the Neighborhood Annual Assessment authorized above, the Sub-Association may levy, except with respect to Units owned by Declarant, in any assessment period, a Neighborhood Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Neighborhood Common Area, or for the purpose of defraying other extraordinary expenses; provided that any such assessment shall have the assent of a majority of the total number of votes held by the Members who are voting in person or by proxy at a meeting duly called for such purpose.

V.4 Uniform Rate of Assessment. Neighborhood Annual Assessments and Neighborhood Special Assessments shall be fixed at a uniform rate with respect to all Cottage Units, on the one hand, and all Townhome Units, on the other hand, except Units owned by Declarant or Candlelight Homes, LLC, and may be collected on a yearly basis or more frequently if the Board shall so determine. The Sub-Association shall have the right, however, in the sole but reasonable discretion of the Board, to separately assess the Cottage Units, on the one hand, and the Townhome Units, on the other hand, with respect to any Specific Housing Type Expenses which relate to either the Cottage Units or Townhome Units, but not to both, provided that the Neighborhood Annual and Special Assessments levied for all Cottage Units shall be uniform (as between all Cottage Units), and all Neighborhood Annual and Special Assessments levied for all Townhome Units shall be uniform (as between all Townhome Units).

V.5 Establishment of Neighborhood Annual Assessment Period. The period for which the Neighborhood Annual Assessment is to be levied (the "Assessment Period") shall be the twelve month period beginning January 1 of each year. The Board, in its sole discretion from time to time, may change the Assessment Period by recording with the County an instrument specifying the new Assessment Period. The Board shall fix the amount of the Neighborhood Annual Assessment against each Unit at least thirty (30) days in advance of the end of each

Assessment Period. Written notice of the Neighborhood Annual Assessment shall be sent to each Member. Failure of the Sub-Association to send a bill to any Member shall not relieve the Member of liability for payment of any assessment or charge. The due dates shall be established by the Board. The Sub-Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Sub-Association setting forth whether the assessments on a specific Unit have been paid.

V.6 Effect of Nonpayment. Any assessment or charge or installment thereof not paid when due shall be deemed delinquent and in the discretion of the Board, shall be subject to a late fee as determined by resolution of the Board from time to time, and shall bear interest from thirty (30) days after the due date until paid at the rate of interest of eighteen percent (18%) per annum (or such other rate as may be determined by resolution of the Board from time to time), and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Sub-Association in collecting the same. The Board may also record a Notice of Delinquent Assessment or Charge (the "Notice") against any Unit as to which an assessment or charge is delinquent. The Notice shall set forth the amount of the unpaid assessment, the name of the delinquent Owner, and a description of the Unit. The Board may establish a fixed fee to reimburse the Sub-Association for the Sub-Association's cost in recording such Notice, processing the delinquency, and recording a release of such lien, which fixed fee shall be treated as part of the Neighborhood Maintenance Charge of the Sub-Association secured by the Assessment Lien. The Sub-Association may bring an action at law against the Owner personally obligated to pay the delinquent assessment and/or foreclose the lien against such Owner's Unit. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the benefits derived from assessments or abandonment of his or her Unit. Notwithstanding anything in this Declaration to the contrary, Declarant shall not be charged and is exempt from paying any assessments, whether Annual, Special, Maintenance, or otherwise, with respect to Units owned by Declarant.

V.7 Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with a Unit as security, or held by the lender's successors and assigns, that is recorded before a recorded notice of lien by or on behalf of the Sub-Association; and shall also be subject and subordinate to liens for taxes and other public charges. Except as provided above, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Unit. Sale or transfer of any Unit shall not affect the Assessment Lien.

V.8 Reinvestment Fees. Each Owner acknowledges that Section 4.6 of the Master Declaration provides for a Reinvestment Fee assessment. The Sub-Association and Master Association may (but neither party is obligated to) enter into an agreement whereby the Master Association will collect Reinvestment Fees for the benefit of the Sub-Association and the Neighborhood Common Areas owned, managed and/or maintained by the Sub-Association, and the amount of such Reinvestment Fees collected by the Master Association on behalf of the Sub-Association may be more than the Reinvestment Fees collected by the Master Association with respect to other portions of Evans Ranch.

ARTICLE VI

MAINTENANCE

VI.1 Neighborhood Common Areas; Common Townhome Elements. The Sub-Association shall have the duty of maintaining and repairing all of the Neighborhood Common Areas (other than Common Townhome Elements to be maintained by the applicable Owners, as further provided in Section 12.4 below), and excluding Specific Housing Type Expenses, the cost of said maintenance and repair shall be a Common Expense of all of the Owners. The Sub-Association shall not need the prior approval of its Members to cause such maintenance or repairs to be accomplished, notwithstanding the cost thereof. In addition, the Sub-Association, or its duly delegated representative, shall maintain and otherwise manage all Neighborhood Common Areas in the Project. The Sub-Association shall have the power to grant easements for utilities or other purposes on or under the Neighborhood Common Areas to the extent that the Board deems it necessary or advisable. This maintenance will include the installation of landscaping, mowing, watering and appropriate upkeep and repair of any designated Neighborhood Common Areas, and the sweeping, snow removal, repair, and maintenance. The Board shall be the sole judge as to the appropriate maintenance of all Neighborhood Common Areas and other properties of the Project. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of such properties shall be taken by the Board or by its duly delegated representative. At the Board's discretion, the Sub-Association shall have the option (but not the duty) to maintain any fencing installed in any areas within the Project that are visible to the general public. Unless otherwise approved by resolution of the Board, Common Townhome Elements associated with a Building shall be the maintenance responsibility of the Owners of Units within the Building, as further set forth in Section 12.4 below.

VI.2 Assessment of Certain Costs. In the event that the need for maintenance or repair of Neighborhood Common Areas or Common Townhome Elements is caused through the willful or negligent act of any Owner (except Declarant), his or her family, guests or invitees, the cost of such maintenance or repairs shall be the responsibility of such Owner, and any costs incurred by the Sub-Association in performing such required maintenance or repair shall be added to and become part of the Neighborhood Maintenance Charge to which such Owner's Unit is subject and shall be secured by the Assessment Lien.

VI.3 Improper Maintenance. In the event any portion of any Unit (except Units owned by Declarant) or Common Townhome Elements are so maintained or used by an Owner (or Owners) (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of the surrounding Units, Buildings or other areas of the Project which are substantially affected thereby or related thereto, (iii) with respect to elements of a Unit or Common Townhome Element which are visible from the exterior thereof, as to materially deviate from the standard of quality and condition of the other Units within the Project, or (iv) in a manner which violates this Declaration, then in any of the foregoing circumstances, the Board (without obligation and in its sole and exclusive discretion) shall have the power and authority without liability to any Owner for trespass, damage, or otherwise, to enter upon any Unit or Building for the purpose of maintaining and repairing such Unit or Common Townhome Elements or any improvement thereon. Except as necessary to prevent personal injury or property damage in an emergency, the Sub-Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein. The cost of any action taken

by the Sub-Association shall be added to and become part of the Neighborhood Maintenance Charge and shall be secured by the Assessment Lien against the Unit(s) of such Owner(s) failing to maintain. Moreover, in the event a medical emergency, a property damage emergency or similar type of emergency which requires immediate curing shall arise in connection with an Owner's Unit, the Board shall have the right, but not the obligation, to immediately enter into the Unit to abate the emergency upon reasonable advance notice to such Owner considering the nature, scope and extent of the emergency (e.g. advance telephone calls or doorbell ringing or knocking). The Board shall have the right to individually charge the cost to cure the emergency condition to such Owner if such emergency was the personal responsibility of the Owner or if it was caused by the Owner's negligent or willful acts.

ARTICLE VII

RIGHTS AND POWERS OF SUB-ASSOCIATION

VII.1 Sub-Association's Rights and Purposes. In addition to the rights and powers of the Sub-Association set forth in this Declaration, the Sub-Association shall have such rights and powers as are set forth in its Articles and Bylaws. The rights and powers of the Sub-Association, as set forth in this Declaration and in the Articles and Bylaws, shall be effective upon formation of the Association (and shall exist whether Class A Members or Class B Member(s), or both, are members of the Sub-Association). As further set forth in the Articles, and without limiting the other terms of this Declaration, the Articles or Bylaws, or any other rights, purposes or powers created by law, the Association shall have the following rights, purposes and powers:

(a) To manage, operate, insure, construct, improve, repair, replace, alter, and maintain the Neighborhood Common Area and Neighborhood Common Elements of the Project, including but not limited to private roadways, entry monuments, and any clubhouse or other similar recreational facility; and

(b) To provide certain facilities, services, and other benefits to the owners; an

(c) As further set forth below, to administer and enforce the covenants, conditions, restrictions, reservations, and easements created by this Declaration; and

(d) To levy, collect, and enforce the assessments, charges, and liens imposed pursuant to this Declaration; and

(e) To enter into agreements with other persons including, without limitation, easements, licenses, leases, and other agreements with or without the vote or consent of the Owners, mortgagees, insurers, or guarantors of mortgages, or of any other person, for facilities and services to serve and/or benefit the Association; and

(f) To take any other action that it deems necessary or appropriate to protect the interests and general welfare of the Owners; and

(g) To execute and record, on behalf of the Owners, any amendment to this Declaration or the Plat, which has been approved by the vote or consent of the Owners necessary to authorize such amendment as set forth in the Declaration; and

(h) The Association may, but is not obligated to:

(i) provide certain services and facilities to the Owners to the extent not provided by a public, quasi-public, or private utility: (1) recreational facilities and services; (2) water, sewer, natural gas, electricity, cable and/or satellite television, and other utility services; (3) parking facilities; and (4) trash collection facilities and services for residential purposes;

(ii) acquire, sell, lease, and grant easements over, under, across and through the Neighborhood Common Area, which are reasonably necessary to the ongoing development and operation of the Project;

(iii) borrow monies and grant security interests in the Neighborhood Common Area and in the assets of the Association as collateral therefor;

(iv) make capital improvements, repairs, and replacements to the Neighborhood Common Area; and

(v) hire and terminate managers and other employees, agents, and independent contractors; and

(i) Subject to the foregoing, and unless expressly prohibited by law, this Declaration, Articles or the Bylaws, the Association may: (i) take any and all actions that it deems necessary or advisable to fulfill its purposes; (ii) exercise any powers conferred upon it by the Utah Revised Nonprofit Corporation Act, Utah Code Ann. 16-6a-101 *et seq.*; and (iii) engage in any other lawful act for which a nonprofit corporation may be organized under such Act.

The foregoing purposes and powers are subject to the following limitations and restrictions:

(i) The Association shall be operated exclusively for nonprofit purposes as set forth in Section 528 of the Internal Revenue Code of 1986, as amended or superseded; and

(ii) No part of the net earnings of the Association shall inure to the benefit of any Owner, except as expressly permitted in subsection (iii) below; and

(iii) The Association shall not pay any dividends. No distribution of the Association's assets to the Owners shall be made until all of the Association's debts are paid and then only upon the final dissolution of the Association as permitted in the Declaration and only in accordance with the terms and conditions of the Bylaws or pursuant to the Act.

In the event of any conflict between the Articles and Bylaws and this Declaration, the terms of this Declaration shall control. In the event of any conflict between the Articles and Bylaws, the terms of the Articles shall control.

VII.2 Rights of Enforcement. As further set forth in Section 7.1 above, The Sub-Association, as the agent and representative of the Members, shall have the right to enforce the covenants set forth in this Declaration. The Sub-Association or Declarant shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. If the Sub-Association prevails in any proceeding at law or in equity to enforce the provisions of this Declaration, the Sub-Association is entitled to an award of its costs and reasonable attorneys' fees associated with the action. Failure by the Sub-Association or Declarant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE VIII

INSURANCE

VIII.1 Scope of Coverage. Commencing not later than the time of the first conveyance of a Unit to a purchaser, other than Declarant, the Sub-Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Unless otherwise determined by the Declarant, property insurance on the Neighborhood Common Area and Townhome Units (to the extent any have been constructed), insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Neighborhood Common Area and Townhome Units (as applicable), as determined by the Board; provided however, that the total amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the insured property (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than $1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Neighborhood Common Area and other portions of the Project which the Sub-Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner;

(c) Worker's compensation insurance to the extent necessary to meet the requirements of applicable law;

(d) Fidelity bonding of the Board and employees of the Sub-Association having control of, or access to, the funds of the Sub-Association with loss coverage

ordinarily not less than the maximum amount of funds of the Sub-Association over which the principal(s) under the bond may reasonably be expected to have control or access at any time;

(e) Errors and omissions or Directors and Officers insurance coverage for the Board; and

(f) Such other insurance as the Board shall determine from time to time to be appropriate to protect the Sub-Association or the Owners.

(g) Each insurance policy purchased by the Sub-Association shall, to the extent reasonably available, contain the following provisions:

(i) the insurer issuing such policy shall have no rights of subrogation with respect to claims against the Sub-Association or its agents, servants or employees, or with respect to claims against Owners or occupants;

(ii) No act or omission by any Owner will void the policy or adversely affect recovery on the policy;

(iii) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners, occupants or mortgagees;

(iv) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or occupant because of the negligent acts of the Sub-Association or other Owners or occupants;

(v) Statement naming the Sub-Association as the insured; and

(vi) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

VIII.2 Hazard Insurance. Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Utah which has a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance Reports-international edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBBQ" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's Insurer Solvency Review, or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder's ratings or one of the Standard and Poor's claims-paying ability ratings mentioned above.

VIII.3 Payment of Premiums. The premiums for any insurance obtained by the Sub-Association pursuant to this Declaration shall be included in the budget of the Sub-Association and shall be paid by the Sub-Association as a Common Expense.

VIII.4 Payment of Insurance Proceeds. With respect to any loss to the Neighborhood Common Area or Townhome Units covered by property insurance obtained by the Sub-Association, the loss shall be adjusted with the Sub-Association, and the insurance proceeds shall be payable to the Sub-Association and not to any mortgagee. Subject to the provisions of Section 9.4, the proceeds shall be disbursed for the repair or restoration of the damage to the Neighborhood Common Area or Townhome Units.

VIII.5 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Neighborhood Common Area or Townhome Units which is damaged or destroyed shall be repaired or replaced promptly by the Sub-Association, to the extent such repair or replacement obligation is otherwise set forth in the Declaration, and unless repair or replacement would be illegal under any state or local health or safety statute or ordinance. The cost of repair or replacement of Neighborhood Common Areas in excess of insurance proceeds and reserves shall be paid by the Sub-Association. If the entire Neighborhood Common Area or Townhome Units are destroyed and is not repaired or replaced, insurance proceeds attributable to the damaged Neighborhood Common Area or Townhome Units shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either: be retained by the Sub-Association as an additional capital reserve; be used for payment of operating expenses of the Sub-Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Sub-Association; or shall be distributed in equal shares per Membership to the Owners of Units as their interests appear.

VIII.6 No Property Insurance Carried by Sub-Association for Cottage Units. Notwithstanding anything to the contrary herein, the Owners of Cottage Units acknowledge that the Sub-Association shall not carry any property insurance with respect to any lots or improvements comprising the Cottage Units.

ARTICLE IX

MORTGAGEE REQUIREMENTS

IX.1 Notice of Action. The Board shall maintain a roster containing the name and address of each Eligible Mortgagee as such term is defined herein. To be considered an Eligible Mortgagee, a First Mortgagee shall provide the Board with a certified copy of its Recorded First Mortgage and the name and address of the First Mortgagee and a statement that the Mortgage is a First Mortgage together with a written request that it receive notice of the matters and actions described below. The Board shall strike an Eligible Mortgagee from the roster upon request by such Eligible Mortgagee or upon the Board's receipt of a certified copy of a Recorded full release or satisfaction of the Eligible Mortgage. The Board shall give notice of such removal to the Eligible Mortgagee unless the removal is requested by the Eligible Mortgagee. Upon the

Board's receipt of such written request, an Eligible Mortgagee shall be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a Mortgage held, insured or guaranteed by such Eligible Mortgagee, insurer or governmental guarantor;

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

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond or insurance maintained by the Sub-Association.

IX.2 Availability of Project Documents and Financial Statements. The Sub-Association shall maintain and have current copies of the Project documents, membership register, books, records, and financial statements available for inspection by Members or by Eligible Mortgagees. Generally, these documents shall be available during the Sub-Association's normal business hours, and may be maintained and kept at the office of the manager for the Sub-Association. The Sub-Association may, as a condition to permitting a Member to inspect the membership register or to its furnishing information from the register, require that the Member agree in writing not to use, or allow the use of, information from the membership register for commercial or other purposes not reasonably related to the regular business of the Sub-Association and the Member's interest in the Sub-Association.

IX.3 Subordination of Lien. The Assessment or claim against a Unit for unpaid Assessments or charges levied by the Sub-Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit, and the First Mortgagee thereunder which comes into possession of or which obtains title to such Unit shall take the same free of such lien or claim for unpaid Assessments or charges, but only to the extent of Assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No Assessment, charge, Assessment Lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee which comes into possession or which obtains title to a Unit, shall be collected or enforced by the Sub-Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

IX.4 Notice to Eligible Mortgagee. The Sub-Association shall give timely written notice of the events listed in Section 9.1 above to any Eligible Mortgagee who requests such notice in writing.

IX.5 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Neighborhood Common Area are not timely paid, or in the event the required hazard insurance described in Article VIII lapses, is not maintained, or the premiums therefore are not paid when due, any First Mortgagee or any combination of First Mortgagees

may jointly or singly, pay such taxes or premiums or secure such insurance. Prior to paying any taxes or premiums, such First Mortgagee or First Mortgagees shall provide thirty (30) days advance written notice to the Board, which notice shall specify the nature of the taxes or premiums and suggest a reasonable cure period for such payments.

IX.6 Priority. No provision of this Declaration or the Articles gives or may give a Member or any other party priority over any rights of mortgagees pursuant to their respective mortgages in the case of a distribution to Members of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Neighborhood Common Area. All proceeds or awards shall be paid directly to any Mortgagees of Record, as their interests may appear.

ARTICLE X

COVENANTS, CONDITIONS AND RESTRICTIONS

X.1 Land Use and Building Type. No Unit shall be used for other than residential purposes. All dwelling units shall meet the minimum size requirements of Eagle Mountain City as specified at the time of the recordation of the Plat.

X.2 Architectural Control. To maintain a degree of protection to the investment which homeowners in this area may make, homes of superior design are requisite, and designs shall be limited to those approved by the DRC. In the event of any reconstruction of an improvement or a residential unit due to a casualty, the design, quality, and appearance of the reconstructed home shall be substantially the same as the structure initially built, unless otherwise approved by the DRC. No landscaping, grading, excavation, building, fence, wall, residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, altered, or made until the construction plans and specifications, have been approved in writing by the DRC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade within the Project, shall be subject to the prior written approval of the DRC. Once approved by the DRC, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the DRC. Subsequent to receiving approval of the DRC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from Eagle Mountain City.

No construction, reconstruction or modification of a home or landscaping may commence without approval by the DRC of the working drawings including, but not limited to, the following:

(a) Plot plans to scale showing the entire site, building, garages, walks, drives, fences, lights, and retaining walls, with elevations of the existing and finished grades and contours including those at the outside corners of the buildings and at adjacent property line and street fronts and elevations of floors from a designated point on the street.

(b) Detailed floor plans showing dimensions and measurements.

(c) Detailed elevations, indicating all materials and colors and showing existing and finished grades.

(d) Detailed sections, cross and longitudinal.

(e) Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc.

Specifications shall give complete descriptions and color samples of materials to be used on the exterior of the residence.

X.3 Construction Quality, Size and Cost. The DRC will base its approval of construction plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines, any other design guidelines adopted by the Sub-Association, and other provisions found within the Project Plan.

X.4 Building Location. No residence or Building shall be located upon the Project in a way that violates the minimum building set-back, side street and side lot lines required by the Project Plan; provided, however, that customary storage sheds may be permitted upon approval of the DRC.

X.5 Landscaping. Any trees, lawns, shrubs, or other planting provided by Declarant within the Neighborhood Common Area, shall be properly nurtured and maintained by the Sub-Association. Each Unit Owner, except the Declarant, shall be assessed the Neighborhood Annual Assessment set forth in Section 5.2 to maintain these areas. No Owner may plant any shrub, tree or other vegetation within, or otherwise modify, alter or add to the landscaping within the Neighborhood Common Areas without the Board's prior written consent. Landscaping shall be installed and maintained by the Sub-Association within the Neighborhood Common Area and may include a combination of lawns, shrubs, or ground cover.

X.6 Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage, or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any property shall be removed immediately after the completion of construction.

X.7 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Unit, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Unit so as to be offensive or detrimental to any other property in the vicinity thereof or its occupants. The Board, in its sole discretion, shall have the right to determine the existence of any nuisance.

X.8 Signs. Except as provided in this Section 10.8, no signs of any kind shall be displayed to public view on any Unit except one sign per Unit of not more than five square feet advertising the property for sale or rent and signs placed by Declarant in connection with its

development of the Project. The placement of signs, graphics, or advertisements which are permanent in nature or represent advertisement for small business conducted in the Unit is prohibited.

X.9 Animals. No animal, bird, fowl, poultry, or livestock of any kind shall be raised, bred, or kept on or within any Unit except pursuant to applicable Eagle Mountain City ordinance and rules and regulations adopted from time to time by the Board; provided, however, that under no circumstances shall any animal kept by an Owner create a nuisance, safety or health threat to other Owners or to area wildlife. All such household pets shall be kept within the Unit and controlled so as to not leave the Owner's property. Dogs and cats belonging to Owners, occupants or their licensees or invitees within the Project must be kept within an enclosure (or on a leash being held by a person capable of controlling the animal). Upon written request of any Owner, the Board shall conclusively determine (in its sole discretion) whether a particular animal, bird, or fowl, is a nuisance. Any decision rendered by the Board shall be enforceable in the same manner as any other restriction contained herein.

X.10 Restriction on Further Subdivision, Property Restrictions, and Rezoning. No Unit shall be further subdivided or separated into smaller Units by any Owner, and no portion less than all of any such Unit, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be evidenced on the Plat or other instrument creating the subdivisions, easement, or other interest. No further covenants, conditions, restrictions, or easements shall be recorded by any Owner or other person against any Unit without the provisions thereof having been first approved in writing by the Board, and any covenants, conditions, restrictions, or easements recorded without such approval being evidenced thereon shall be null and void. No application for rezoning of any Unit and no applications for variances or use permits shall be filed with any governmental authority unless the proposed uses of the Unit has been approved by the Board and the proposed use otherwise complies with this Declaration.

X.11 Non-Residential Use. No gainful occupation, profession, or other non-residential use shall be conducted within any Unit, and no persons shall enter within any Unit for engaging in such uses or for the purpose of receiving products or services arising out of such usage; provided, however, gainful occupations or professions may be operated or maintained in a Unit provided that: (i) any such business, profession or trade may not require heavy equipment or create a nuisance within the Project, (ii) may not noticeably increase the traffic flow to the Project, (iii) may not be observable from outside the Unit, and (iv) may only be carried on following approval from the city with jurisdiction over the matter, pursuant to all applicable state and city laws, rules and ordinances in effect at the time any such use is requested. Specifically, it is contemplated that certain "home office" businesses, professions or trade which rely heavily on the Internet and other similar type of technological advances may be operated or maintained within a Unit, subject to the foregoing limitations and all other limitations of this Declaration.

X.12 Easements. Easements for installation of and maintenance of utilities, drainage facilities, water tank access and lines are reserved as shown on the recorded Plat. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or water tank lines or which may change the direction of flow or drainage channels in the areas or which may obstruct

or retard the flow of water through drainage channels in the easements. The easement area of each of the Units and all improvements in it shall be maintained continuously by the Sub-Association, except for those improvements for which a public authority or utility company is responsible. The Sub-Association has the authority to grant additional easements as it deems necessary or convenient within the Neighborhood Common Areas.

X.13 Fences and Walls. Fencing and walls are prohibited within the Project, except for (i) the entry to the Project, and in other Neighborhood Common Areas, all as installed by Declarant; and (ii) privacy fences approved by the DRC. Any such privacy fence shall be constructed of materials approved by the DRC, and shall be color coordinated with the approved Unit colors.

X.14 Parking and Storage. No major mechanical work or repairs are to be conducted in streets or front yards. No inoperative automobile or vehicle shall be placed or remain upon or adjacent to any Unit or adjacent street for more than forty-eight (48) hours. No commercial-type vehicles and no trucks shall be parked or stored on the front yard setback of any Unit or within the side yard buildings setback on the street side of a corner Unit, or on the residential street except while engaged in transportation. Trailers, mobile homes, trucks over three quarter ton capacity, boats, campers not on a truck bed, motor homes, tractors, and maintenance or commercial equipment of any kind shall be parked or stored in an enclosed area screened from street view as approved by the DRC, provided that no box trucks or buses shall be parked or stored within either front yard or side yard setbacks. The storage or accumulation of junk, trash, manure, or other offensive or commercial materials is prohibited. Carports, permanent or temporary, are specifically prohibited.

X.15 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of property within the Project. Furthermore, the provisions of this Declaration which prohibit or restrict non-residential use of Units, regulate parking of vehicles, and restrict signage, banners, and the like, shall not prohibit the construction and maintenance of model homes by Declarant and/or other persons engaged in the construction of residences within the Project so long as the location of such model homes and the opening and closing hours are approved by the DRC, and the construction, operation and maintenance of such model homes otherwise complies with all of the provisions of this Declaration. The DRC may also permit Units and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of Eagle Mountain City and any rules of the DRC. Any homes constructed as model homes shall cease to be used as model homes at any time the Owner thereof is not actively engaged in the construction and sale of residences within the Project, and no home shall be used as a model home for the sale of homes not located within the Project.

ARTICLE XI

AMENDMENTS

XI.1 Term; Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of thirty (30) years from the date of recordation. From and after such date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Members casting sixty seven percent (67%) of the total votes cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten-year extension. The Declaration may be terminated at any time if at least ninety-five percent (95%) of the votes cast by all Owners shall be cast in favor of termination at an election held for such purpose. If the necessary votes are obtained, the Board shall cause to be recorded in the office of the Utah County Recorder a "Certificate of Termination," duly signed by the President and attested by the Secretary of the Sub-Association, with their signatures acknowledged. Thereupon, the covenants herein contained shall have no further force and effect, and the Sub-Association shall be dissolved pursuant to the terms set forth in its Articles.

XI.2 Amendments. This Declaration may be amended by recording in the office of the Utah County Recorder a "Certificate of Amendment," duly signed and acknowledged as required for a Certificate of Termination. The Certificate of Amendment shall set forth in full the amendment adopted and shall certify that at an election duly called and held pursuant to the provisions of the Articles and Bylaws of the Sub-Association, the Owners casting sixty-seven percent (67%) of the votes at the election voted affirmatively for the adoption of the amendment. So long as Declarant is the Owner of any Unit or other portion of the Project, this Declaration may be amended or terminated only with the written approval of Declarant.

XI.3 Unilateral Amendment. Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Unit. Notwithstanding anything contained in this Declaration to the contrary, this Declaration may be amended unilaterally at any time and from time to time by Declarant: if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent thereto in writing; or (c) to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments (including, without Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Sub-Association (FNMA), Government National Mortgage Sub-Association (GNMA) or the Department of Veterans Affairs (VA), or any similar agency). Further, so long as Declarant is the Owner of any Unit in the Project, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect title to any Unit without the consent of the affected Owner. Such amendments may include, but are not limited to, changing the nature or extent of the uses to which such property may be devoted or readjustment of Unit line boundaries in connection with the location and development of the Project.

XI.4 Expansion of Project; Withdrawal. Declarant shall have the right in its sole discretion upon recording a Certificate of Amendment signed by Declarant to (a) expand the Project to include additional phases and property, and/or to add to the development known as "Evans Ranch South," all of which additional property shall, upon recording such Certificate of Amendment, be subject to this Declaration, or (b) withdraw Property previously included in "Evans Ranch South", such withdrawn property, upon recording such Certificate of Amendment, shall no longer be subject to this Declaration.

ARTICLE XII

PROVISIONS RELATING TO TOWNHOMES

XII.1 Common Townhome Elements. The following components of the Townhome Units are considered "Common Townhome Elements" with respect to a Building in which two or more Townhome Units are located: (i) all structural parts of the Building, including, without limitation, foundations, columns, girders, joists, beams, supports, main walls, supporting walls, floors, ceilings and roofs; (ii) any utility pipe or line or system servicing more than a single Townhome Unit in a Building, and all ducts, wires, conduits, and other accessories used therewith; (iii) all tanks, pumps, motors, fans, compressors, ducts, mechanical areas, and in general all apparatus and equipment existing for common use of a Building. The Common Townhome Elements shall be owned by the Owners in a Building as tenants in common. The Common Townhome Elements shall remain undivided. No Owner or combination thereof or any other person shall bring any action for partition or division of any part thereof.

XII.2 Townhome Unit. A Townhome Unit is comprised of each separate physical part of a Building, as shown on the Plat, which is intended for independent use. Each Townhome Unit shall include the enclosed rooms occupying such Townhome Unit's share of the building in which it is located and bounded by the interior surfaces of the walls, floors, ceilings, windows, doors and built-in fireplaces, if any, along the perimeter boundaries of the air space as said boundaries are shown on the Plat, together with all fixtures and improvements therein contained. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Townhome Unit in so far as they are necessary for the support or full use and enjoyment of another Townhome Unit: bearing walls, floors, ceilings and roofs (except the interior surfaces thereof), foundations, space heating equipment and central water heating equipment, if any, tanks, pumps, pipes, vents, ducts, shafts, flues, shoots, conduits, wires and other utility installations, except the outlets thereof when located within the Townhome Unit. The interior surfaces of a window or door means the points at which such surfaces are located when such windows or doors are closed.

XII.3 Division Between Townhome Units. Each Townhome Unit, as described on the Plat, shall include that part of the Building containing the Townhome Unit which lies within the boundaries of the Townhome Unit. Such boundary shall be determined in the following manner: the upper boundary shall be the plane of the lower surface of the ceiling; the lower boundary shall be the plane of the upper surface of the floor; and the vertical boundaries of the Townhome Unit shall be: (i) the interior surface of the outside walls of the building bounding a Townhome Unit; (ii) the center line of any non-bearing interior walls bounding a Townhome Unit; and (iii) the interior surface of any interior bearing walls bounding a Townhome Unit. Each Townhome

Unit includes the portions of the building so described and those things which are defined as Common Townhome Elements. Each Townhome Unit's undivided interest in the Common Townhome Elements, including Limited Common Townhome Elements (e.g., Common Townhome Elements used exclusively by or benefiting a particular Townhome Unit), shall be separated from the Townhome Unit to which they appertain and shall be deemed to be conveyed or encumbered or released from liens with the Townhome Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

XII.4 Common Townhome Elements and Townhome Unit Maintenance.

(a) Exterior Maintenance Responsibility of Owners. Unless otherwise approved by resolution of the Board, each Owner shall have the obligation to provide exterior and interior maintenance of the Townhome Unit and the Common Townhome Elements and Neighborhood Limited Common Areas and Party Walls serving such Owner's Townhome Unit, including but not limited to, painting, repair, replacement, and care of all Common Townhome Elements (specifically including, without limitation, roofs, gutters, down spouts, exterior building surfaces, structural elements of the building in which the Townhome Unit is located (each, a "Building"), foundations, windows, doors, and utility lines that solely service such Building) and Neighborhood Limited Common Areas. The responsibility and cost to maintain, repair and replace (i) Common Townhome Elements within a Building shall be borne equally by the Owners of Townhome Units within such Building, and (ii) Neighborhood Limited Common Areas associated with such Owner's Townhome Unit shall be borne by the Owner of the particular Townhome Unit to which such Neighborhood Limited Common Areas pertain. As necessary or desirable, each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Townhome Unit and shall maintain, repair, and replace all mechanical devices, including but not limited to, appurtenant electrical, plumbing, and heating, ventilating and air conditioning systems. Notwithstanding the foregoing, the Owner shall not be deemed to own lines, pipes, wires, conduits, or systems (which for brevity are herein and hereafter referred to as "utilities") which serve one or more other Townhome Units except as tenant in common with the other Owners. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board. Furthermore, nothing herein contained shall be construed to permit structural modification and any decision relating thereto shall first be approved in writing by the Board, including, but not limited to the engaging of a structural engineer at the Owner's expense for the purpose of obtaining an opinion.

(b) Party Walls. Each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay, or limit the maintenance of the Party Wall. With respect to the surface components of the Party Wall, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed, all surface components which face into such Owners' respective Townhome Unit. In the event that the need for maintenance or repair of the Party Wall is caused through the willful or negligent act of any Owner or any occupant or invitee of such Owner, the cost of such maintenance or repairs shall be the sole and exclusive expense of such Owner. With respect to structural components of the Party Wall, except as may be otherwise provided in the immediately preceding sentences, the Owners benefitted by the Party

Wall agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary. Each Owner, for each Townhome Unit that he, she or it owns, hereby acknowledges and agrees that a Party Wall may presently encroach upon or overlap the Owner's Townhome Unit. To the extent the Party Wall does encroach upon or overlap a Townhome Unit, the Owner of said Townhome Unit hereby grants to the adjoining Owner of the other Townhome Unit that shares a Party Wall an easement over and upon its Townhome Unit for the purpose of maintaining the Party Wall and carrying out the other obligations set forth in this Declaration. By accepting a deed to a Townhome Unit, each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Party Wall and the performance of the Sub-Association's obligations and each Owner's respective obligations under this Declaration.

(a) Interior Maintenance Responsibility of Owners. For purposes of maintenance, repair, alteration and remodeling, an Owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring) making up the finished surfaces of the perimeter walls, ceilings, and floors within the Townhome Unit, including any non-exterior Townhome Unit doors and nonexterior windows. Such right to repair, alter, and remodel is coupled with the obligation to replace any finished or other materials removed with similar or other types or kinds of materials. An Owner shall maintain and keep in repair the interior of his Townhome Unit, including the fixtures thereof. All fixtures and equipment installed within the Townhome Unit commencing at a point where the utilities enter the Townhome Unit shall be maintained and kept in repair the structural soundness or integrity of the Building, impair any easement or hereditament, nor violate any laws, ordinances, regulations and codes of the United States of America, the State of Utah, the County of Utah, Eagle Mountain City, or any other agency or entity which may then have jurisdiction over said Townhome Unit; without the written consent of the Board after first proving to the satisfaction of the Board that compliance with this section's requirements will be maintained during and after any such act or work shall be done or performed. Any expense to the Board for investigation under this Article shall be borne by the relevant Owner. An Owner shall also keep the Limited Common Townhome Elements appurtenant to his Unit in a well-repaired, maintained, clean and sanitary condition, at his or her own expense. An Owner shall be obligated to reimburse the Sub-Association promptly upon receipt of its statement of any expenditures incurred by it in repairing or replacing any Townhome Unit elements, Building Common Elements, or Neighborhood Limited Common Areas for which the Owner is responsible.

XII.5 Maintenance Caused by Owner Negligence. In the event that the need for maintenance or repair of Common Townhome Elements as specified herein is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests, tenants, or invitees of an Owner, the Board may cause such repairs to be made by the Sub-Association and the cost of such maintenance or repair work shall be added to and become a Neighborhood Maintenance Charge to which such Townhome Unit is subject.

XII.6 Failure to Maintain Party Wall or Other Common Townhome Elements

within Building or Limited Common Areas.

(a) Defaulting Owner. If any Owner shall fail to comply with the provisions of this Declaration as to maintenance, repair, or use of any Common Townhome Element or interior bearing walls, or the obtaining of insurance as set forth in Section 12.7 below, or other obligations contained in this Article XII with respect to maintenance or repair of Neighborhood Limited Common Areas or Common Townhome Elements comprising a portion of a Building in which such Owner's Townhome Unit is located, ("Defaulting Owner"), then in any such event the adjoining Owner (or Owners, as the case may be, if there are more than two Townhome Units within a particular Building) shall have the right, upon thirty (30) days written notice to the Defaulting Owner (unless within such 30-day period the Defaulting Owner shall cure such default, or in the case of a nonmonetary default which by its nature cannot be cured within such 30-day period, the Defaulting Owner shall take such action as is reasonably calculated to commence the curing thereof, and thereafter shall diligently prosecute the curing thereof to completion) to proceed to take such action as shall be necessary to cure such default, all in the name of and for the account of the Defaulting Owner. The Defaulting Owner shall on demand reimburse the other adjoining Owner taking such action for the monies actually expended by such adjoining Owner and the adjoining Owner's reasonable out-of-pocket expenses in so doing, together with interest thereon as set forth below from the date of demand to the date of payment. Notwithstanding the foregoing, if the nondefaulting adjoining Owner shall in good faith deem that an emergency is occurring or has occurred, so that the default requires immediate curing, then no notice shall be required and the nondefaulting adjoining Owner may act promptly without giving notice and take such action as is necessary to cure the alleged failure. Any adjoining Owner performing any action pursuant to the preceding sentence shall interfere to the minimum extent possible with the Defaulting Owner's use and occupancy of such Defaulting Owner's Townhome Unit, and, with reasonable promptness, shall give verbal or written notice to the Defaulting Owner of such action and the claimed failure.

(b) Dispute as to Failure to Maintain. Any unresolved dispute, disagreement or controversy between two or more Owners, including but not limited to a Defaulting Owner and an adjoining Owner(s)), with respect to (among other things) the condition or failure to maintain or repair a particular Townhome Unit or Building (and Common Townhome Elements or Neighborhood Limited Common Areas associated therewith), shall at the request of either party be submitted to an arbitration board of at least three (3) members with one chosen by each Owner(s), and a final arbitrator by the other arbitrators so chosen by the Owners. The arbitrators may be (but need not be) members of the Board. The arbitrators shall act in accordance with the commercial Arbitration Rules then in effect of the American Arbitration Board, or such other rules which are fair and equitable to all disputing Owners. At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to the maintenance of Townhome Units, Party Walls or Buildings (including Common Townhome Elements or Neighborhood Limited Common Areas associated therewith), or rules or regulations adopted by the Sub-Association, the arbitrators may issue an order prohibiting the action upon which the claim is based. An award must be made within thirty (30) days after the conclusion of

arbitration, unless a shorter period is agreed upon by the disputing Owners. The decision of the majority of such arbitrators shall be binding on the applicable Owners. Such decisions may include the awarding of costs, including reasonable attorney fees, as the arbitrators may reasonably determine. The decision of the arbitrators shall be judicially enforceable as a judgment. All sums required to be reimbursed or otherwise paid hereunder by one Owner to the other Owner(s) shall bear interest per annum at the rate of 18%. Such interest rate shall be determined monthly on the first day of each calendar month.

(c) Cumulative Remedies. All remedies hereby specifically set forth in this Section 12.6 are cumulative and shall be deemed to be in addition to any remedies available at law or in equity which shall include the right to restrain by injunction any violation or threat of violation by any Owner of any of the terms, covenants, or conditions of this Declaration governing Party Walls and Common Townhome Elements as set forth in this Article XII, and by decree to compel specific performance of any such terms, covenants, or conditions governing such improvements, it being agreed that the remedy at law for any breach of any such term, covenant, or condition governing Party Walls is not adequate. Notwithstanding the foregoing, no default by any Owner under this Agreement shall entitle any other Owner to terminate, cancel, or otherwise rescind this Declaration or any terms, covenants or conditions governing Common Townhome Elements within or comprising portions of a Building.

XII.7 Insurance of Party Walls; Waiver. By acceptance of a deed to a Townhome Unit, each Owner hereby acknowledges his, her or its independent insurance obligations for the respective Party Wall which constitutes a portion of the Owner's Townhome Unit, and agrees to maintain in full force and effect "all-risk" property insurance with respect to the Townhome Unit owned by such Owner. Such insurance shall be in an amount equal to at least 100% of the replacement cost of such Owner's Townhome Unit, exclusive of the cost of excavation, foundations and footings, and shall protect against loss or damage by fire, water, utility service line ruptures and all other hazards that are normally covered by the standard extended coverage endorsement. Each policy shall be carried with a company rated X or better in "Best's Insurance Guide", and each Owner shall provide a copy of the policy obtained by such Owner to the Board and the other adjoining Owner and such policy shall require thirty (30) days notice to the Board and the other adjoining Owner before the policy can be cancelled. All policy proceeds payable with respect to damage or destruction of the Party Wall shall be used by the Owners, to the extent necessary, to repair and restore the damage or destruction for which the proceeds are payable. Each Owner agrees to make such repair and restoration whether or not the policy proceeds are adequate for such purposes or whether or not the occurrence resulting in such damage or destruction is covered by insurance. Each Owner hereby waives any rights it may have against the other adjoining Owner on account of any loss or damage to its Townhome Unit which arises from any risk covered by fire and extended coverage insurance carried hereunder, whether or not such other adjoining Owner may have been negligent or at fault in causing such loss or damage. Each Owner shall obtain a clause or endorsement in the policies of such insurance which each Owner obtains to the effect that the insurer waives, or shall otherwise be denied, the right of subrogation against the other adjoining Owner for loss covered by such insurance. It is understood that such subrogation waivers may be operative only as long as such waivers are available in the State of Utah and do not invalidate any such policies. If such

subrogation waivers are allegedly not operative in the State of Utah, notice of such fact shall be promptly given by the Owner obtaining insurance to the Board and the other Adjoining Owner.

XII.8 Restrictions on Use of Townhome Units.

(i) No awning, canopy, deck antenna, shutter, storm door, screen door or other item or object shall be hung, be displayed, be visible or otherwise be placed on the exterior walls or roof of any Building in the Project or any part thereof, or on the outside of windows, or doors, without the prior written consent of the Sub-Association.

(ii) Nothing shall be done in any Townhome Unit of or in, on or to the Common Townhome Elements which will impair the structural integrity or structurally change the same or any part thereof except as is otherwise provided herein.

(iii) The Common Townhome Elements shall be kept free and clear of all rubbish, debris and other unsightly materials.

(iv) Each Owner of a Townhome Unit shall be liable to the Sub-Association for all damages to the Common Townhome Elements caused by such Townhome Unit Owner or any occupant of his Townhome Unit or invitee, except for that portion of said damage, if any, that is covered by insurance maintained in effect by the Sub-Association. The failure of the Sub-Association to continue any insurance in effect shall not be a defense to any such liability.

(v) There shall be no obstruction of the Common Townhome Elements, nor shall anything be kept or stored on any part of the Common Townhome Elements without the prior written consent of the Sub-Association, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from, the Common Townhome Elements except upon the prior written consent of the Sub-Association.

ARTICLE XIII

MISCELLANEOUS

XIII.1 Interpretation of the Covenants. Except for judicial construction, the Sub-Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Sub-Association's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

XIII.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not effect the validity or enforceability of any of the other provisions hereof.

XIII.3 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Sub-Association shall have

the right to adopt rules and regulations with respect to all other aspects of the Sub-Association's rights, activities, and duties, provided such rules and regulations are not inconsistent with the provisions of this Declaration.

XIII.4 General Reservations. Declarant reserves the right to grant, convey, sell, establish, amend, release, and otherwise deal with easements, reservations, exceptions, and exclusions with respect to the Property which do not materially interfere with the best interests of Owners and/or the Sub-Association including, but not limited to, access and utility easements, road easements, pedestrian and equestrian easements, pedestrian and hiking trails, and easements and drainage easements. Declarant further reserves the right to make minor amendments and corrections to the Plat, to alter the boundary of Units or building pads, to combine Units or building pads, to change the size and product type of Units constructed in the Project, the density and number of Units in the Project, and to change the interior design and interior arrangement of a Unit, so long as Declarant owns the affected Unit(s). Such changes shall not materially alter the boundaries of the Neighborhood Common Areas.

XIII.5 Run with the Land. Declarant for itself, its successors, and assigns, hereby declares that all of the Property shall be held, used, and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in the Property.

ARTICLE XIV

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

XIV.1 Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Sub-Association and its officers, trustees, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Project without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in Section 14.1(b) below, unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 14.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) The design or construction of Improvements within the Project;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

(iv) any suit by the Sub-Association to collect Assessments or other amounts due from any Owner;

(v) any suit by the Sub-Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Sub-Association's ability to enforce the provisions of this Declaration relating to creation and maintenance of community standards;

(vi) any suit between Owners, which does not include Declarant or the Sub-Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(vii) any suit in which any indispensable party is not a Bound Party; and

(viii) any suit as to which any applicable statute of limitations would require within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

XIV.2 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith

negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 14.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the claim to mediation with an entity designated by the Sub-Association (if the Sub-Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Utah. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim. If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate. Each party shall bear its own costs of the mediation, including attorneys fees, and each party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the Declaration or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

XIV.3 Initiation of Litigation by Sub-Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Sub-Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of the Members entitled to cast 67% of the total Class A votes in the Sub-Association, except that no such approval shall be required for actions or proceedings:

(a) initiated prior to the termination of Class B Memberships;

(b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;

(c) initiated to challenge property taxation or condemnation proceedings;

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Sub-Association or to assert counterclaims in proceedings instituted against it.

XIV.4 No Amendment. This Article XIV shall not be amended without the prior written consent of Declarant.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, Declarant has executed this Declaration this 8th day of December, 2016.

EVANS RANCH, LLC, a Utah limited liability company

By: DAI Managers, LLC, its Manager

By: _____
Nathan Shipp, Manager

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

The foregoing instrument was acknowledged before me this 8th day of December, 2016 by Nathan Shipp, a Manager of DAI Managers, LLC, a Utah limited liability company, the manager of Evans Ranch, LLC, a Utah limited liability company.

_____
Notary Public

My Commission Expires:
11-19-2020

MINDY DANSIE
NOTARY PUBLIC -STATE OF UTAH
My Comm. Exp 11-19-2020
Commission # 691627

1383222v2

EXHIBIT A

(Legal Description of the Property)

The following real property located in Eagle Mountain City, Utah County, State of Utah:

EVANS RANCH COTTAGE LOTS AND TOWNHOMES BOUNDARY (PARCEL "A")

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE N0°37'03"E 970.25 FEET; THENCE N67°36'59"E 56.93 FEET; THENCE ALONG THE ARC OF A 26.50 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT 12.79 FEET (RADIUS BEARS: N70°22'01"E) THROUGH A CENTRAL ANGLE OF 27°39'28" (CHORD: N5°48'14"W 12.67 FEET); THENCE N78°10'16"E 69.18 FEET; THENCE ALONG THE ARC OF A 456.50 FOOT RADIUS CURVE TO THE RIGHT 101.47 FEET THROUGH A CENTRAL ANGLE OF 12°44'07" (CHORD: N84°32'19"E 101.26 FEET); THENCE ALONG THE ARC OF A 977.00 FOOT RADIUS CURVE TO THE RIGHT 571.96 FEET THROUGH A CENTRAL ANGLE OF 33°32'32" (CHORD: S72°19'21"E 563.83 FEET); THENCE ALONG THE ARC OF A 890.10 FOOT RADIUS CURVE TO THE LEFT 119.50 FEET THROUGH A CENTRAL ANGLE OF 7°41'32" (CHORD: S59°23'52"E 119.41 FEET); THENCE S26°45'22"W 37.22 FEET; THENCE ALONG THE ARC OF A 326.50 FOOT RADIUS CURVE TO THE LEFT 209.79 FEET THROUGH A CENTRAL ANGLE OF 36°48'56" (CHORD: S8°20'54"W 206.20 FEET); THENCE ALONG THE ARC OF A 573.50 FOOT RADIUS CURVE TO THE RIGHT 100.69 FEET THROUGH A CENTRAL ANGLE OF 10°03'34" (CHORD: S5°01'47"E 100.56 FEET); THENCE SOUTH 469.47 FEET; THENCE N89°16'15"W 832.50 FEET TO THE POINT OF BEGINNING

CONTAINS: ±18.55 ACRES

EVANS RANCH COTTAGE LOTS AND TOWNHOMES BOUNDARY (PARCEL "B")

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED N0°37'03"E 978.89 FEET AND EAST 740.00 FEET FROM THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE S75°34'04"E 59.00 FEET; THENCE ALONG THE ARC OF A 519.50 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (RADIUS BEARS: N75°34'05"W) 35.34 FEET THROUGH A CENTRAL ANGLE OF 3°53'53" (CHORD: S16°22'52"W 35.34 FEET); THENCE ALONG THE ARC OF A 13.00 FOOT RADIUS CURVE TO THE LEFT 6.84 FEET THROUGH A CENTRAL ANGLE OF 30°09'25" (CHORD: S3°15'05"W 6.76 FEET); THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: N61°17'16"E) 7.11 FEET THROUGH A CENTRAL ANGLE OF 27°10'25" (CHORD: S42°17'57"E 7.05 FEET); THENCE ALONG THE ARC OF A 1047.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: S34°06'51"W) 84.82 FEET THROUGH A CENTRAL ANGLE OF 4°38'30" (CHORD: N58°12'24"W 84.80 FEET); THENCE ALONG THE ARC OF A 15.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS: N29°28'21"E) 13.79 FEET THROUGH A CENTRAL ANGLE OF 52°40'36" (CHORD: S86°51'57"E 13.31 FEET); THENCE ALONG THE ARC OF A 13.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (RADIUS BEARS N37°27'18"W) 8.36 FEET THROUGH A CENTRAL ANGLE OF 36°50'52" (CHORD: N34°07'16"E 8.22 FEET); THENCE ALONG THE ARC OF A 460.50 FOOT RADIUS CURVE TO THE LEFT 10.17 FEET THROUGH A CENTRAL ANGLE OF 1°15'55" (CHORD: N15°03'53"E 10.17 FEET) TO THE POINT OF BEGINNING.

CONTAINS: ±0.05 ACRES

Old Tax Serial No. 58-040-0417
New Tax Serial No. 58-040-0444 & 58-040-0445

EXHIBIT B

(Sub-Association Bylaws)

See attached.

BYLAWS

OF

EVANS RANCH SOUTH OWNERS ASSOCIATION

ARTICLE 1.
DEFINITIONS

1.01 Declaration.

As used herein, "Declaration" means the Neighborhood Declaration of Covenants, Conditions and Restrictions for Evans Ranch South, as the same may be amended from time to time, originally executed by Evans Ranch, LLC, a Utah limited liability company, as Declarant, and which is to be recorded in the official records of Utah County, Utah, and as may be further amended from time to time. The Declaration is that same Declaration referenced in the Articles of Incorporation of Evans Ranch South Owners Association. The development consists of approximately one hundred forty nine (149) townhomes and approximately thirty (30) cottage homes, and the Project may be expanded to include additional townhome units, as further set forth in the Declaration.

1.02 Other Definitions.

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

ARTICLE 2.
OFFICES

Evans Ranch South Owners Association (the "***Association***") is a Utah nonprofit corporation, with its principal office located at 1099 West South Jordan Parkway, South Jordan, Utah 84095.

ARTICLE 3.

VOTING, QUORUM, AND PROXIES

3.01 Voting.

As more fully set forth in the Articles and in the Declaration, the Association shall have two classes of membership, Class A and Class B.

Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Unit in which the interest required for membership in the Association is held, subject to the authority of the Board to suspend the voting rights of an Owner for violations of the Declaration in accordance with the provisions thereof. Although each of the multiple Owners of a single Unit shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Unit. Which of the multiple

Owners of a single Unit shall cast the vote on the basis of that Unit is determined as provided in Article III of the Declaration.

The Class B Member shall be the Declarant. The Class B Member shall be entitled to the total number of votes held from time to time by all of the Class A Members in the aggregate, plus one thousand (1,000) votes, it being Declarant's express intention that the Class B Member shall control the voting of the Association until the termination of the Class B membership. The Class B membership shall cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) the sale and conveyance by Declarant to purchasers of all of the Units contained in the Project; (ii) the expiration of thirty (30) years after the date on which Declarant first conveys to a purchaser fee title to a Unit; or (iii) when, in its discretion, the Declarant so determines.

Additional provisions governing the voting of the Members of the Association are set forth in the Declaration.

3.02 Quorum.

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

3.03 Proxies.

Votes may be cast in person or by proxy. Every proxy must be executed in writing by the Owner or such Owner's duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

3.04 Majority Vote.

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

ARTICLE 4.
ADMINISTRATION

4.01 Annual Meeting.

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

The Board may from time to time by resolution change the date and time for the annual meeting of the Owners.

4.02 Special Meetings.

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

4.03 Place of Meetings.

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

4.04 Notice of Meeting.

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

4.05 Informal Action by Owners.

Any action required or permitted to be taken at a meeting of the Owners may be taken with or without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted. Unless the written consents of all Owners entitled to vote have been obtained, notice of any Owner approval without a meeting shall be given at least ten (10) days before the consummation of the transaction, action, or event authorized by the Owner action to: (i) those Owners entitled to vote who have not consented in writing; and (ii) those Owners not entitled to vote and to whom the Utah Revised Nonprofit Corporation Act (the "***Act***") requires that notice of the proposed action be given. The notice must contain or be accompanied by the same material that, under the Act and these Bylaws, would have been required to be sent in a notice of meeting at which the proposed action would have been submitted to the Owners for action. Notwithstanding the foregoing, trustees may not be elected by written consent except by unanimous written consent of all Owners entitled to vote for the election of trustees.

ARTICLE 5.
BOARD OF TRUSTEES

5.01 Number and Election of Trustees.

The Board of Trustees (the "***Board***" or the "***Board***") shall consist of no less than three (3) and no more than five (5) trustees.

The initial Board shall be composed of three (3) natural persons, designated by Declarant, who need not be Members of the Association. Thereafter, during the Class B Membership, Declarant may appoint, remove and replace each trustee at its discretion. The initial trustees are Joseph Salisbury, Milton Shipp and Bryan Flamm.

Upon cessation of the Class B Membership, as provided above, the acting Board shall hold a special meeting wherein the Owners will elect new trustees. The new trustees shall be elected by the Owners entitled to vote at such special meetings for any number of three (3) year terms. The term of one of the new trustees expires at the first annual meeting after incorporation, the term of a second new trustees expires at the second annual meeting after incorporation, and the term of a third new trustees expires at the third annual meeting after incorporation. Upon the expiration of each staggered term, trustees shall be elected by the Owners entitled to vote at the annual meetings for any number of three (3) year terms to succeed those whose terms expire. Despite the expiration of a trustee's term, the trustee shall continue to serve until the election and qualification of a successor or until there is a decrease in the number of trustees, or until such trustee's earlier death, resignation, or removal from office.

After the termination of the Class B membership, the Board may, upon the majority vote of all Owners of the Units entitled to vote, be expanded to a total of five (5) natural persons, and the additional two persons need not be Members.

5.02 Removal of Trustees. Each trustee may be removed, with or without cause, by a majority vote of all Owners of the Units entitled to vote.

5.03 Replacement of Trustees.

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

ii. Any trustee elected or appointed pursuant to this Section 5.03 shall hold office until the next election of trustees.

5.04 Resignations.

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

5.05 Regular Meetings.

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

5.06 Special Meetings.

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

5.07 Quorum.

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

5.08 Waiver of Notice.

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

5.09 Informal Action by Trustees.

Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if each and every member of the Board in writing either (a) votes for the action or (b) waives the right to demand that action not be taken without a meeting and (i) votes against the action or (ii) abstains from voting. Action is taken under this section only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the trustees then in office were present and voted. An action taken pursuant to this section will not be effective unless the Association receives writings describing the action taken, satisfying the above requirements, signed by all of the trustees, and not revoked by any trustee.

5.10 Qualifications of Trustees

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

ARTICLE 6.
OFFICERS AND AGENTS

6.01 General.

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

6.02 Removal of Officers.

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

6.03 Vacancies.

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

6.04 President.

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

6.05 Secretary.

The secretary shall:

i. keep the minutes of the proceedings of the Owners meetings and of the Board meetings;

ii. see that all notices are duly given in accordance with the provisions of these Bylaws, the Declaration, and as required by law;

iii. be custodian of the corporate records and of the seal of the Association and affix the seal to all documents when authorized by the Board;

iv. maintain at the Association's principal offices a record containing the names and registered addresses of all Owners, the designation of the Unit owned by each Owner, and, if such Unit is mortgaged, the name and address of each mortgagee; and

v. in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to it by the president or by the Board.

Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

6.06 Treasurer.

The treasurer shall be the principal financial officer of the Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Association and shall deposit the same in accordance with the instructions of the Board. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Association and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Board, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Board, give the Association a bond in such sums and with such sureties as shall be satisfactory to the Board, conditioned upon the faithful performance of his/her duties and for the restoration to the Association of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Association. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Board or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

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

7.01 Proof of Ownership.

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

7.02 Registration of Mailing Address.

If a Unit is owned by two or more Owners, such Owners shall designate one address as the registered address. The registered address of an Owner or Owners shall be furnished to the secretary of the Association within ten (10) days after transfer of title, or after a change of

address. Such registration shall be in written form and signed by all of the Owners of the Unit or by such persons as are authorized to represent the interests of all Owners of the Unit. If no address is registered or if all of the Owners cannot agree, then the address of the Unit shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Unit.

7.03 Liens.

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

7.04 Address of the Association.

The address of the Association shall be 1099 West South Jordan Parkway, South Jordan, Utah 84095. Such address may be changed by the Board from time to time upon written notice to all Owners and all listed mortgagees.

ARTICLE 8.
SECURITY INTEREST IN MEMBERSHIP

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

ARTICLE 9.
AMENDMENTS

9.01 By Trustees.

Except as limited by law, the Articles, the Declaration, or these Bylaws, the Board shall have power to make, amend, and repeal the Bylaws of the Association at any regular meeting of the Board or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the trustees shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action. Notwithstanding the foregoing, unanimous approval of the trustees shall be required to amend or repeal Sections 5.02 through 5.04 hereof.

9.02 Owners.

Subject to any rights conferred upon holders of a security interest in the Declaration, the Owners may, by the vote of the holders of at least sixty-seven percent (67%) of the votes of the Owners entitled to vote, unless a greater percentage is expressly required by law, the Articles, the Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

ARTICLE 10.
INDEMNIFICATION

10.01 Indemnification. No current or former director, officer, employee, fiduciary or agent shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said person performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a director, officer, employee, fiduciary or agent of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a director, officer, employee, fiduciary or agent of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such director, officer, employee, fiduciary or agent, and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Association shall have the power to defend such person from all suits or claims; provided further, however, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its directors, officers, employees, fiduciaries and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

10.02 Other Indemnification. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under any Bylaw, agreement, vote of disinterested director, officer, employee, fiduciary or agent, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all such persons be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a director, officer, employee, fiduciary or agent and shall inure to the benefit of the heirs, executors and administrators of any such person.

10.03 Insurance. By action of the Board, notwithstanding any interest of the directors in such action, the Association may purchase and maintain insurance, in such amounts as the Board may deem appropriate, on behalf of any individual indemnified hereunder against any liability asserted against such individual and incurred by such individual in such individual's capacity of or arising out of such individual's status as an agent of the Association, whether or not the

Association would have the power to indemnify such individual against such liability under applicable provisions of law. The Association may also purchase and maintain insurance, in such amounts as the Board may deem appropriate, to insure the Association against any liability, including without limitation, any liability for the indemnifications provided in this Article.

10.04 Right to Impose Conditions to Indemnification. The Association shall have the right to impose, as conditions to any indemnification provided or permitted in this Article, such reasonable requirements and conditions as the Board may deem appropriate in each specific case, including but not limited to any one or more of the following: (a) that any counsel representing the individual to be indemnified in connection with the defense or settlement of any action shall be counsel that is mutually agreeable to the individual to be indemnified and to the Association; (b) that the Association shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the individual to be indemnified; and (c) that the Association shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified individual's right of recovery, and that the individual to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Association.

ARTICLE 11.
MISCELLANEOUS

11.01 Fiscal Year.

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

11.02 Other Provisions.

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

SECRETARY'S CERTIFICATE

I, the undersigned and duly elected Secretary of Evans Ranch South Owners Association, a Utah nonprofit corporation (the "***Association***"), do hereby certify that the foregoing Bylaws were adopted as the Bylaws of the Association effective as of December 12, 2016, and that the same do now constitute the Bylaws of the Association.

IN WITNESS WHEREOF, I have hereunto subscribed my name as the Secretary of the Association effective as of December 12, 2016.

Joseph Salisbury, Secretary