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**DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS
FOR
ROCKWELL PARK**

Table of Contents

	Page
ARTICLE 1 DEFINITIONS.....	2
1.1. "Act".....	2
1.2. "Annual Assessments".....	2
1.3. "Architectural Review Committee".....	2
1.4. "Articles".....	2
1.5. "Assessment".....	2
1.6. "Assessment Lien".....	2
1.7. "Association".....	2
1.8. "Association Land".....	2
1.9. "Association Member".....	2
1.10. "Association Membership".....	2
1.11. "Association Rules".....	3
1.12. "Board".....	3
1.13. "Bylaws".....	3
1.14. "Common Area".....	3
1.15. "Common Expenses".....	3
1.16. "Declaration".....	3
1.17. "Department of Commerce".....	3
1.18. "Declarant".....	3
1.19. "Declarant Affiliate".....	3
1.20. "Exempt Property".....	4
1.21. "First Mortgage".....	4
1.22. "First Mortgagee".....	4
1.23. "Improvement".....	4
1.24. "Lessee".....	4
1.25. "Lot".....	4
1.26. "Manager".....	4
1.27. "Mortgage".....	4
1.28. "Mortgagee".....	4
1.29. "Occupant".....	4
1.30. "Owner".....	5
1.31. "Period of Administrative Control".....	5
1.32. "Person".....	5
1.33. "Plat".....	5
1.34. "Project".....	5
1.35. "Project Documents".....	5
1.36. "Purchaser".....	5
1.37. "Record,".....	5
1.38. "Residence".....	5
1.39. "Resident".....	5
1.40. "Roads".....	5
1.41. "Special Assessment".....	5
1.42. "Total Votes of the Association".....	6
ARTICLE 2 PLAN OF DEVELOPMENT	6
2.1. Property Initially Subject to the Declaration	6

2.2.	Readjustment of Boundaries.....	6
2.3.	Disclaimer of Representations.....	7
2.4.	Development Plan.....	7
2.5.	Assignment by Declarant.....	7
2.6.	No Cooperative.....	7
2.7.	No Condominium.....	7
2.8.	Transfer of Title to Common Area.....	7
ARTICLE 3 LAND USES, PERMITTED USES AND RESTRICTIONS.....		8
3.1.	Land Uses.....	8
3.2.	Architectural Review Committee.....	8
3.3.	Architectural Control.....	8
3.4.	Temporary Occupancy and Temporary Buildings.....	10
3.5.	Suspension of Construction.....	10
3.6.	Maintenance of Landscaping.....	10
3.7.	Nuisances; Construction Activities.....	10
3.8.	Diseases and Insects.....	11
3.9.	Draper City Requirement.....	11
3.10.	Repair of Building.....	11
3.11.	Antennas, Poles, Towers and Dishes.....	11
3.12.	Mineral Exploration.....	12
3.13.	Trash Containers and Collection.....	12
3.14.	Clothes Drying Facilities.....	12
3.15.	Utility Service.....	12
3.16.	Overhead Encroachments.....	12
3.17.	Health, Safety and Welfare.....	12
3.18.	Model Homes.....	12
3.19.	Incidental Uses.....	13
3.20.	Residential Use and Trades or Businesses.....	13
3.21.	Machinery and Equipment.....	14
3.22.	Signs.....	14
3.23.	Required Approvals for Further Property Restrictions.....	14
3.24.	Vehicles.....	15
3.25.	Towing of Vehicles.....	15
3.26.	Snow Removal.....	16
3.27.	Variances.....	16
3.28.	Drainage.....	16
3.29.	Garages and Driveways.....	16
3.30.	Solar Collecting Panels or Devices.....	16
3.31.	Tanks.....	17
3.32.	Exterior Lighting.....	17
3.33.	Declarant's Exemption.....	17
ARTICLE 4 EASEMENTS.....		17
4.1.	Owners' Easements of Enjoyment.....	17
4.2.	Utility Easement.....	18
4.3.	Drainage System Maintenance Easement.....	18
4.4.	Easements for Ingress and Egress.....	18
4.5.	Side Yard Use Easements.....	19
4.6.	Maintenance Easements.....	19
4.7.	Declarant's Use and Easements.....	19

4.8.	Easement in Favor of Association	19
4.9.	Common Accessway and Cross Access Easements	20
ARTICLE 5 THE ASSOCIATION; ORGANIZATION; ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.....		20
5.1.	Formation of Association	20
5.2.	Registration with the Department of Commerce	21
5.3.	Board and Officers.....	21
5.4.	Association Rules	21
5.5.	Personal Liability.....	21
5.6.	Implied Rights	21
5.7.	Membership in the Association	22
5.8.	Votes in the Association	22
5.9.	Voting Procedures	22
5.10.	Transfer of Association Membership	22
ARTICLE 6 COVENANT FOR ASSESSMENTS AND CREATION OF LIEN.....		23
6.1.	Creation of Lien and Personal Obligation of Assessments	23
6.2.	Reserves	23
6.3.	Assessment Period	25
6.4.	Annual Assessment.....	25
6.5.	Declarant Right to Subsidize the Association	25
6.6.	Annual Budget.....	26
6.7.	Special Assessments	26
6.8.	Notice and Payment.....	27
6.9.	Rules Regarding Billing and Collection Procedures	27
6.10.	Reinvestment Fee.....	27
6.11.	Leased Residences	28
6.12.	Evidence of Payment of Assessments	29
6.13.	Providing Payoff Information.....	30
6.14.	Purposes for Which Association's Funds May be Used.....	30
6.15.	Surplus Funds	30
ARTICLE 7 ENFORCEMENT OF ASSESSMENTS		31
7.1.	Association as Enforcing Body	31
7.2.	Assessment Lien	31
7.3.	Association's Remedies to Enforce Payment of Assessments	31
7.4.	Foreclosure	31
7.5.	Subordination of Assessment Lien to First Mortgage; Priority of Lien	33
ARTICLE 8 MAINTENANCE.....		33
8.1.	Common Area and Public Right of Way.....	33
8.2.	Lots	34
8.3.	Installation of Landscaping.....	34
8.4.	Assessment of Certain Costs of Maintenance and Repair	35
8.5.	Improper Maintenance and Use of Lots	35
8.6.	Walls and Fences	36
ARTICLE 9 INSURANCE		36
9.1.	Association Property Insurance	36
9.2.	Policy Requirements.....	36

9.3.	Fidelity Bonds or Insurance	37
9.4.	Liability Insurance	38
9.5.	Insurance Trustees and General Requirements Concerning Insurance	38
9.6.	Annual Review of Policies and Coverage	39
9.7.	Repair and Replacement of Damaged or Destroyed Property	39
9.8.	Owner Property Insurance	39
ARTICLE 10 DAMAGE OR DESTRUCTION.....		40
10.1.	Association as Attorney in Fact	40
10.2.	Estimate of Damages or Destruction	40
10.3.	Repair and Reconstruction	40
10.4.	Funds for Repair and Reconstruction	40
10.5.	Disbursement of Funds for Repair and Reconstruction.....	40
10.6.	Decision Not to Rebuild	41
10.7.	Notice to First Mortgagees	41
10.8.	Damage and Destruction to Lots	41
ARTICLE 11 CONDEMNATION		41
11.1.	Rights of Owners	41
11.2.	Partial Condemnation; Distribution of Award; Reconstruction	41
11.3.	Complete Condemnation	42
ARTICLE 12 GENERAL PROVISIONS.....		42
12.1.	Enforcement.....	42
12.2.	Term; Method of Termination	42
12.3.	Amendments.....	42
12.4.	Termination of Declarant's Approval Rights and Obligations	43
12.5.	Arbitration	43
12.6.	Interpretation.....	44
12.7.	Severability	45
12.8.	Perpetuities	45
12.9.	Change of Circumstances	45
12.10.	Rules and Regulations	45
12.11.	Laws, Ordinances and Regulations.....	45
12.12.	References to this Declaration in Deeds	45
12.13.	Gender and Number.....	45
12.14.	Captions and Title; Section References; Exhibits	46
12.15.	Notices	46
12.16.	Indemnification	46
12.17.	No Partition.....	47
12.18.	Number of Days.....	47
12.19.	Notice of Violation	47
12.20.	Disclaimer of Representations	47
12.21.	Off Site Construction	48
12.22.	Amendments Affecting Declarant Rights.....	48
12.23.	Bulk Service Agreements	48

**DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS
FOR
ROCKWELL PARK**

This Declaration of Covenants, Conditions, Easements and Restrictions for Rockwell Park (“**Declaration**”) dated as of September 5, 2019, is made and executed by Development Dynamics, LLC, a Utah limited liability company (“**Declarant**”) for itself, its successors and assigns.

RECITALS

A. Declarant holds both legal and equitable title to certain real property located in the Salt Lake County, State of Utah, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the “**Property**”).

B. Concurrently with this Declaration, Declarant is placing of record in the Salt Lake County Recorder’s Office that certain official plat of the Rockwell Park Subdivision Amending a Portion of Lot 1 of Rockwell Square Subdivision and a Portion of Rockwell Square Condominiums Amended Plat establishing forty-four (44) single-family, residential lots (“**Lots**”) on the Property to be known as Rockwell Park (“**Project**”).

C. The Project may include without limitation, open spaces, walkways, private streets, and various other improvements.

D. It is desirable for the efficient management and preservation of the value and appearance of the Project to create a nonprofit corporation to which shall be assigned the powers and delegated the duties of managing certain aspects of the Project; maintaining and administering the Common Areas; administering, collecting and disbursing funds pursuant to the provisions regarding assessments and charges hereinafter created and referred to; and to perform such other acts as shall generally benefit the Project and the Owners. Rockwell Park Association, Inc., a Utah nonprofit corporation (“**Association**”), has or will be incorporated under the laws of the State of Utah for the purpose of exercising the foregoing powers and functions.

E. Each Owner shall receive fee title to his, her or its Lot and shall have appurtenant to each Lot membership in the Association, voting rights, privileges and obligations as described herein and in the Articles and Bylaws, as such are defined herein. Such membership, voting rights, privileges and obligations shall not be transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of such Lot, and then only to the transferee of ownership of the Lot as provided herein and the Articles and Bylaws.

F. By this Declaration, the Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration and improvement of the Project and the interests therein conveyed and to establish thereon a planned community.

G. The covenants, conditions and restrictions contained in this Declaration and in the Exhibits attached hereto shall be enforceable covenants and equitable servitudes and shall run with the land.

NOW, THEREFORE, the Declarant hereby declares, covenants and agrees that each of the Recitals A through G is incorporated into and made a part of this Declaration for all purposes and further declares, covenants and agrees as follows:

ARTICLE 1 DEFINITIONS

Unless the context clearly indicates otherwise, the following capitalized words, phrases or terms used in this Declaration (including the Recitals) shall have the meanings set forth in this Article 1.

1.1. “**Act**” means the Utah Community Association Act, Utah Code Ann. §§ 57-8a-101 et seq., as amended from time to time.

1.2. “**Annual Assessments**” means the Assessments levied pursuant to Section 6.4 below.

1.3. “**Architectural Review Committee**” means the committee established pursuant to this Declaration.

1.4. “**Articles**” means the articles of incorporation of the Association, as amended from time to time.

1.5. “**Assessment**” means any assessment or combination thereof levied pursuant to the Declaration by the Association as described and set forth in Sections 6.4, 6.7, or 8.4 below, as applicable.

1.6. “**Assessment Lien**” means the lien created and imposed by Article 7 below.

1.7. “**Association**” means Rockwell Park Association, Inc., a Utah nonprofit corporation, and its successors and assigns.

1.8. “**Association Land**” means all land, together with all Improvements situated thereon, which the Association at any time owns in fee or in which the Association has a leasehold interest, easement, license, or other appurtenant interest; together with all covenants, conditions, and restrictions pertaining to such real property or real property interest for as long as the Association is the owner of the fee or holds such leasehold interest, easement, license, or other appurtenant interest.

1.9. “**Association Member**” means any Person who is a member of the Association as provided in Section 5.7 below.

1.10. “**Association Membership**” means a membership in the Association.

1.11. “**Association Rules**” means the rules adopted by the Board pursuant to Section 5.4 below, as amended from time to time.

1.12. “**Board**” means the Board of Directors of the Association.

1.13. “**Bylaws**” means the bylaws of the Association, as amended from time to time. The initial Bylaws of Rockwell Park Association, Inc. are attached hereto as Exhibit B.

1.14. “**Common Area**” means: (a) all Association Land; (b) all land, and the Improvements situated thereon (including the Roads), within the Project which the Declarant indicates on the Plat or other Recorded instrument is to be conveyed to the Association for the benefit and use of the Association Members; (c) all land, and the Improvements situated thereon, within the Project which the Declarant designates as Common Area on the Plat or other Recorded instrument; (d) all land, and the Improvements situated thereon, within or adjacent to the Project which the Declarant indicates on the Plat or other Recorded instrument is to be used for landscaping, drainage or water retention or flood control for the benefit of the Project or the general public; (e) all real property, and the Improvements situated thereon, within or adjacent to the Project located within dedicated rights-of-way with respect to which Draper City has not accepted responsibility for the maintenance thereof, but only until such time as Draper City has accepted all responsibility for the maintenance, repair and replacement of such areas, and only if the specific areas to be maintained, repaired and replaced by the Association pursuant to this clause have been expressly approved by either the Declarant or the Board; (f) any Association Land, real property, easements, licenses, other appurtenant interests, or Improvements within the Project that the Association has the obligation to maintain, repair or replace for the common benefit of the Owners or the Project. The Common Area may also include, but is not limited to, open space, private streets, sidewalks, landscaping, Project signage, Project lighting and such other similar Improvements.

1.15. “**Common Expenses**” means expenditures made by or financial liabilities of the Association, together with any allocations to reserves as described in this Declaration.

1.16. “**Declaration**” means this Declaration of Covenants, Conditions, Easements and Restrictions for Rockwell Park, as amended from time to time.

1.17. “**Department of Commerce**” means the State of Utah Department of Commerce.

1.18. “**Declarant**” means Development Dynamics, LLC, a Utah limited liability company, its successors and any Person to whom it may expressly assign any or all of its rights under this Declaration. It is intended that with the sale and conveyance of the first Lot within the Project, Declarant will assign all of its rights and interest under this Declaration to one (1) or more developers in accordance with Section 2.5 below.

1.19. “**Declarant Affiliate**” means any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

1.20. “**Exempt Property**” means: (a) all land and improvements owned by, or dedicated to and accepted by, the United States, the State of Utah, Draper City or any municipality having jurisdiction, or any political subdivision of any of them, for as long as such entity or political subdivision is the owner thereof or for as long as said dedication remains effective; (b) all Association Land; and (c) all Common Area.

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

1.22. “**First Mortgagee**” means a Mortgagee under a First Mortgage, or any successor to the interest of any such person under a First Mortgage.

1.23. “**Improvement**” means any improvement now or hereafter constructed at the Project and includes without limitation: (a) any Residence, building, guest house, out building, structure, garage, shed or other accessory building, fence or wall; (b) any swimming pool, tennis court, basketball court or other recreational facility; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; (d) any road, driveway, paving, curbing, walkway, or parking area; (e) any exterior lights, statuary, fountain, artistic work, craft work, figurine, ornamentation or embellishment of any type or kind (whether or not affixed to a structure or permanently attached to a Lot); (f) any mailbox, sign, newspaper vending and distribution machines, overnight delivery service drop boxes, radio or television antenna or receiving dish; (g) any excavation, fill, ditch, diversion, dam, retaining wall or other thing or device which affects the natural flow of surface water or the flow of water in a natural or artificial stream, wash or drainage channel, and related fixtures and equipment; and (h) any other structure of any kind or nature.

1.24. “**Lessee**” means the lessee or tenant under a lease, oral or written, of any Lot (or part thereof), including an assignee of the lessee’s or tenant’s interest under a lease.

1.25. “**Lot**” means a portion of the Project intended for independent ownership and residential use and designated as a lot on any Plat and, where the context indicates or requires, shall include any Residence, building, structure or other Improvements situated on the Lot.

1.26. “**Manager**” means such person or entity retained by the Board to perform certain functions of the Board pursuant to this Declaration or the Bylaws. The Manager for the Association shall carry out certain responsibilities of the Association as required herein.

1.27. “**Mortgage**” means any mortgage, deed of trust, or other document pledging any portion of a Lot or Residence or interest therein as security for the payment of a debt or obligation Recorded against such Lot or Residence.

1.28. “**Mortgagee**” means a beneficiary of a Mortgage as well as a named Mortgagee.

1.29. “**Occupant**” means any Person other than an Owner who occupies or is in possession of a Lot, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a Resident).

1.30. **“Owner”** means any Person who is record holder of legal, beneficial or equitable title to the fee simple interest of any Lot, but excluding any Person who holds an interest therein merely as security.

1.31. **“Period of Administrative Control”** means the period commencing on the date of the Recording of this Declaration and ending on the earlier of: (a) one hundred twenty (120) days after the conveyance of title to the last Lot owned by the Declarant; (b) December 31, 2057; or (c) such earlier date on which the Declarant elects to terminate the Period of Administrative Control by, after giving written notice to the Association and all Owners, recording an instrument voluntarily surrendering all rights to control activities of the Association.

1.32. **“Person”** means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.33. **“Plat”** means that certain subdivision plat for the Project, entitled “Rockwell Park Subdivision Amending a Portion of Lot 1 of Rockwell Square Subdivision and a Portion of Rockwell Square Condominiums Amended Plat” duly Recorded as the same may be amended from time to time, and which is incorporated by reference.

1.34. **“Project”** and/or **“Property”** means the Lots and other parcels of real property situated in Salt Lake County and described in Exhibit A, attached hereto and incorporated herein by reference, and the development, Residences and Improvements to be completed thereon.

1.35. **“Project Documents”** means the Declaration, Articles, Bylaws, and Association Rules, as each document may be supplemented and amended from time to time.

1.36. **“Purchaser”** means any Person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot except for: (a) a Person who purchases a Lot and then leases it to the Declarant for use as a model in connection with the sale or lease of other Lots; or (b) a Person who, in addition to purchasing a Lot, is expressly assigned any or all of the Declarant’s rights as the Declarant under this Declaration.

1.37. **“Record,” “Recording,” “Recorded”** and **“Recordation”** means placing or having placed an instrument of public record in the official records of Salt Lake County, Utah.

1.38. **“Residence”** means any building, or portion of a building, including a guest house or other accessory building, situated upon a Lot and designed and intended for separate, independent use and occupancy as a full or part time residence.

1.39. **“Resident”** means each individual who resides in any Residence.

1.40. **“Roads”** means all streets and drive isles within the Project which the Declarant has or will convey to the Association for the benefit and use of the Association Members.

1.41. **“Special Assessment”** means any Assessment levied pursuant to Section 6.7 below.

1.42. “**Total Votes of the Association**” means the total number of votes appertaining to all Lots, as described in Section 5.8 below.

ARTICLE 2 PLAN OF DEVELOPMENT

2.1. Property Initially Subject to the Declaration. This Declaration is being Recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. The Declarant intends to develop the Project to consist of forty-four (44) Lots for single family use and other parcels of property as shown on the Plat. The Project shall be developed in accordance with the Act and is not a cooperative, or a condominium project as defined by the Utah Condominium Ownership Act, Utah Code Ann. §§ 57-8-1 *et seq.*, the “**Condominium Act**” as amended from time to time. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, binds himself, herself or itself, and his, her or its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration. In addition, each such Person by so doing acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and evidences his, her or its intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, Purchasers, assignees, Lessees and transferees thereof. Furthermore, each such Person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners.

2.2. Readjustment of Boundaries. Declarant hereby reserves for itself, and its successors and assigns, the right to effectuate minor realignments and adjustments of Lot boundary lines for purposes of proper configuration and final engineering of the Project; provided that any such realignment and adjustment does not affect any existing Residence on the affected Lot. The authority to realign and adjust such Lot boundary lines shall be exclusively reserved to the Declarant or a Declarant Affiliate, in their sole and reasonable discretion, subject to the other provisions of this Section 2.2. All Owners hereby irrevocably constitute and appoint the Declarant as each such Owner’s true and lawful attorney-in-fact in such Owner’s name, place, and stead for the purpose of signing any plats or other documents necessary to effectuate such realignments or adjustments. Acceptance by any Owner of a deed or other instrument of conveyance shall constitute appointment of the attorney-in-fact as herein provided. All Owners hereby specifically acknowledge and agree that they shall cooperate with Declarant to effectuate such minor realignment and adjustment of their respective Lot boundary lines by deed in form and content as requested by the Declarant for the purposes of proper configuration and final engineering of the Lots in relationship to the development of the Project. Further, all Owners acknowledge and agree that no amendment to this Declaration or the Plat shall be required to effectuate any Lot boundary line adjustments, except as may be required by Draper City ordinances. Moreover, upon Declarant’s written request, the Association shall transfer back to Declarant at no charge any unimproved real property originally conveyed to the Association, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in

property lines. Any adjustment of Lot boundary lines shall be done in accordance with the requirements of governing ordinances and Utah law.

2.3. Disclaimer of Representations. The Declarant makes no representations or warranties whatsoever that: (a) the Project will be completed in accordance with the plans for the Project as they exist on the date this Declaration is Recorded; (b) any property subject to this Declaration will be committed to or developed for a particular use or for any use; (c) any property not now subject to this Declaration will be subjected to the provisions hereof; or (d) the use of any property subject to this Declaration will not be changed in the future. Nothing contained in this Declaration and nothing which may be represented to a Purchaser by real estate brokers or salesmen representing the Declarant shall be deemed to create any covenants or restrictions, implied or express, with respect to the use of any property subject to this Declaration.

2.4. Development Plan. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, without obtaining the consent of any other Owner or Person, shall have the right to make changes or modifications to its development plan with respect to any property owned by the Declarant in any way which the Declarant desires including, but not limited to, changing the density of all or any portion of the property owned by the Declarant or changing the nature or extent of the uses to which such property may be devoted.

2.5. Assignment by Declarant. Any right or any interest reserved or contained in this Declaration to or for the benefit of Declarant may be freely transferred or assigned by Declarant, either separately or with one or more of such rights or interests, to any person, corporation, partnership, association, or other entity, without obtaining the consent of any other Owner or Person, and in accordance with the provisions of applicable law. It is intended that the Lots, once improved with the Improvements and recorded in the official records of Salt Lake County, Utah, will be sold, from time-to-time, to one (1) or more developers for the construction of single family homes. It is intended that, with the sale of the first Lot from Declarant to such a developer, that Declarant will assign all of its rights or interest reserved or contained in this declaration to such developer, as permitted hereunder. Any assignment made in accordance with this Section 2.5 shall be evidenced by an agreement duly executed and recorded in the official records of the Office of the Salt Lake County Recorder.

2.6. No Cooperative. Declarant and each Owner, by acceptance of a deed to a Lot, hereby agree, acknowledge and understand that the Project is not a cooperative.

2.7. No Condominium. Declarant and each Owner, by acceptance of a deed to a Lot, hereby agree, acknowledge and understand that the Project is not a condominium and is not being submitted to the provisions of 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 any portion of the Project.

2.8. Transfer of Title to Common Area. Declarant reserves the right to convey title to the Common Area to the Association, free and clear of all liens (other than the lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasi-governmental authorities) before the closing of the last sale of a Lot within the Project. In

the event Declarant exercises its right to convey the Common Area to the Association, then the Association shall be obligated to accept such conveyance. During the Period of Administrative Control, the Association shall not lease or sublease the Common Area or any portion thereof to a third party without the written consent of Declarant, which consent may be withheld as Declarant may determine in its sole and exclusive discretion.

ARTICLE 3 LAND USES, PERMITTED USES AND RESTRICTIONS

3.1. Land Uses. The Property shall be used exclusively for single-family, detached, residential homes, along with ancillary uses such as Common Area and the like.

3.2. Architectural Review Committee. The Association shall have an Architectural Review Committee to perform the functions assigned to it as set forth in this Declaration. All improvements shall be reviewed and approved by the Architectural Review Committee in accordance with this Declaration. The decision of the Architectural Review Committee shall be final on all matters submitted to it pursuant to this Declaration. In the event of any conflict between this Declaration and any design guidelines adopted by the Architectural Review Committee, the Architectural Review Committee guidelines shall control.

3.3. Architectural Control.

3.3.1. All Improvements constructed within the Project shall be of new construction, and no intact buildings or other structures shall be moved from other locations to the Project (except for construction and sales trailers or modular buildings, and similar facilities approved in advance by the Architectural Review Committee).

3.3.2. No devegetation, excavation, grading, planting or revegetation work shall be performed within the Project without the prior written approval of the Architectural Review Committee.

3.3.3. No Improvement shall be constructed, installed or removed within the Project without the prior written approval of the Architectural Review Committee.

3.3.4. No addition, alteration, repair, change or other work which in any way alters the exterior appearance (including but without limitation, the exterior color scheme) of any property within the Project, or any Improvements located thereon, shall be made or done without the prior written approval of the Architectural Review Committee, nor shall any Lot be split, divided or further subdivided in any manner without the prior written approval of the Architectural Review Committee.

3.3.5. Any Owner or other Person desiring approval of the Architectural Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his, her or its Lot or other portion of the Project, or any Improvements located thereon, shall submit to the Architectural Review Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change, replacement or other work which such Owner or other Person desires to perform.

Any Owner or other Person requesting the approval of the Architectural Review Committee shall also submit to the Architectural Review Committee any additional information, plans and specifications which the Architectural Review Committee may reasonably request.

3.3.6. The approval by the Architectural Review Committee of any construction, installation, addition, alteration, repair, change, replacement or other work pursuant to this Section 3.3 shall not be deemed a waiver of the Architectural Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change, replacement or other work subsequently submitted for approval.

3.3.7. Upon receipt of approval from the Architectural Review Committee for any construction, installation, addition, alteration, repair, change, replacement or other work, the Owner or other Person who has requested such approval shall proceed to perform, construct or make the installation, addition, alteration, repair, change or other work approved by the Architectural Review Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Review Committee.

3.3.8. Any change, deletion or addition to the plans and specifications approved by the Architectural Review Committee must be approved in writing by the Architectural Review Committee.

3.3.9. The Architectural Review Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change, replacement or other work pursuant to this Section 3.3, which fee shall be payable at the time the application for approval is submitted to the Architectural Review Committee. Such fee, if established and charged by the Architectural Review Committee, shall be set at such reasonable level as the Architectural Review Committee may estimate will be necessary to defray the costs and expenses of the Architectural Review Committee in reviewing and evaluating any such request or application, and may include, if the Architectural Review Committee deems it reasonably necessary under the circumstances, an amount to cover the costs of professional consultation to the Architectural Review Committee by an architect or engineer.

3.3.10. The provisions of this Section 3.3 do not apply to, and approval of the Architectural Review Committee shall not be required for, any construction, installation, addition, alteration, repair, change, replacement or other work by, or on behalf of, the Declarant.

3.3.11. The approval required of the Architectural Review Committee pursuant to this Section 3.3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation, or under any other Recorded instrument. The Architectural Review Committee may condition its approval of any application, plans or other items submitted

to it on delivery to the Architectural Review Committee of evidence satisfactory to the Architectural Review Committee that the Owner or other Person seeking its approval has also made appropriate applications for (and prior to commencing work shall have obtained) any and all such other approvals or permits. The Architectural Review Committee shall cooperate reasonably with any other approving authorities or entities, provided, however, that the Architectural Review Committee shall not be bound by any approvals, permits or other decisions of any other such approving authority or entity.

3.4. 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, trailers or other structures used during the construction of Improvements approved by the Architectural Review Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailers or other structures be maintained or kept on any property for a period in excess of twelve (12) months without the prior written approval of the Architectural Review Committee.

3.5. Suspension of Construction. If at any time prior to completion of construction and receipt of a certificate of occupancy, construction is suspended for a period of more than thirty (30) days, any temporary buildings, trailers or other structures used during construction as well as any staging or construction equipment and materials related to construction shall be removed until such time a construction re-commences.

3.6. Maintenance of Landscaping. Each Owner of a Lot shall properly maintain and keep properly cultivated, and free of trash, weeds and other unsightly material, all shrubs, trees, hedges, grass and plantings of every kind (collectively, "**Landscaping**") located on: (a) his, her or its Lot; (b) any public right-of-way or easement area which abuts or adjoins the Owner's Lot and which is located between the boundary line of his Lot and the paved area of any street, sidewalk, or similar area (unless otherwise directed by the Board); and (c) any non-street public right-of-way or easement area adjacent to his Lot (unless otherwise directed by the Board); provided, however, that such Owner shall not be responsible for maintenance of any area over which: (i) the Association assumes the responsibility in writing; or (ii) Draper City or any other municipality or other governmental agency or entity having jurisdiction over such property assumes responsibility, for so long as Draper City or such other municipality or other governmental agency or entity assumes or has responsibility. For purposes of this Section 3.6, proper maintenance of Landscaping shall include, without limitation, removal and replacement of dead Landscaping. Notwithstanding anything to the contrary herein, portions of a Lot may be maintained with natural ground cover and growth as permitted by the Architectural Review Committee.

3.7. Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or other property, and no odors, loud noises or loud music 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 or adjacent to any Lot or other property so as to be offensive or detrimental to any other property in the vicinity thereof or

to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but during construction periods, Lots and other property shall be kept in a neat and tidy condition, trash and debris shall not be permitted to accumulate, supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved in writing by the Architectural Review Committee, and no loud music shall be permitted. In addition, any construction equipment and building materials stored or kept on any Lot or other property during the construction of Improvements may be kept only in areas approved in writing by the Architectural Review Committee, which may also require screening of the storage areas. The Architectural Review Committee in its sole discretion shall have the right to determine the existence of any such nuisance. The provisions of this Section 3.7 shall not apply to construction activities of the Declarant.

3.8. Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot or other property which shall induce, breed or harbor infectious diseases or noxious insects. Upon discovery of any such object, the Owner of the applicable Lot or other property shall immediately cause such object to be removed and properly disposed of.

3.9. Draper City Requirement. No Lot shall be used for human occupancy, either temporarily or permanently, until culinary water and sewage and waste disposal facilities approved by Draper City and any other applicable service provider are provided and available for use on said Lot, and no building thereon shall be occupied until a certificate of occupancy is issued by Draper City; and thereafter, no such Lot shall be used for human occupancy at any time the culinary water or sewage and waste disposal facilities are not in compliance with the statutes of the State of Utah, ordinances of Draper City, and rules and regulations promulgated thereunder, including without limitation rules and regulations of the applicable water and sewer improvement district.

3.10. Repair of Building. No Residence, building, structure or other Improvement on any Lot or other property shall be permitted to fall into disrepair and each such Residence, building, structure and other Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Residence, building, structure or other Improvement is damaged or destroyed, then, subject to the approvals required by Section 3.3, such Residence, building, structure or other Improvement shall be immediately repaired or rebuilt or shall be demolished.

3.11. Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flag or other antenna, pole, tower or dish shall be placed, constructed or maintained upon any Lot or other part of the Property unless such antenna, pole, tower or dish is fully and attractively screened or concealed, which means of screening or concealment shall be subject to the regulation and prior approval of the Architectural Review Committee. Nothing in this Section 3.11 shall be deemed to prohibit the Declarant from installing and maintaining flagpoles on, at or adjacent to model homes within the Project.

3.12. Mineral Exploration. No Lot or other property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind.

3.13. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or other property except in sanitary, covered containers of a type, size and style which are approved by the Architectural Review Committee and such containers shall be stored in such a way and in such location(s) so as to not be visible from the street except on the days for collection. All rubbish, trash or garbage shall be removed from Lots and other property and shall not be allowed to accumulate thereon. No outdoor incinerators shall be maintained on any Lot or other property.

3.14. Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot or other property.

3.15. Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot or other property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Review Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that reasonable efforts shall be made to avoid placing any such meter, panel or other equipment on the outside front wall of a residence or other building facing the street running directly in front of such residence.

3.16. Overhead Encroachments. No tree, shrub or planting of any kind on any Lot or other property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, or pedestrian way from ground level to a height of eight (8) feet without the prior approval of the Architectural Review Committee.

3.17. Health, Safety and Welfare. In the event additional uses, activities or facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners, Lessees and Occupants, the Board may make rules restricting or regulating their presence in the Project as part of the Association Rules or may direct the Architectural Review Committee to make rules governing their presence on Lots or other property.

3.18. Model Homes. Any provisions of this Declaration which prohibit non-residential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes or other model Residences of any kind (including, without limitation, any used in whole or in part as sales offices) (collectively, "Models") by Persons engaged in the construction of Residences in the Project, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Architectural Review Committee may also permit Lots and other areas to be used for parking in connection with the showing of Models. Any homes or other structures constructed as Models shall cease to be used as Models at any time the Owner thereof is not actively engaged in the construction and sale of Residences in

the Project, and no home or other structure shall be used as a Model for the sale of homes or other structures not located in the Project. Neither the provisions of this Section 3.18 nor the provisions of any other Section of this Declaration shall restrict or prohibit the right of the Declarant or a Declarant Affiliate to construct, operate and maintain Models in the Project.

3.19. Incidental Uses. The Architectural Review Committee may approve uses of property within a particular land use which are incidental to the full enjoyment of the Owners and Occupants of the property within that land use. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Architectural Review Committee may wish to impose, in its sole discretion, for the benefit of the Project as a whole.

3.20. Residential Use and Trades or Businesses. All Lots and Residences shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Residence, except that an Owner or other Resident may conduct a business activity in a Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity conforms to all applicable zoning ordinances or all other legal requirements; (c) the business activity does not involve the door-to-door solicitation of Owners or other Residents in the Project; (d) the use of the Residence for trade or business shall in no way destroy or be incompatible with the residential character of the Residence or the surrounding neighborhood; (e) the trade or business shall be conducted only inside the Residence or inside an accessory building or garage, and shall not involve the viewing, purchase or taking delivery of goods or merchandise at, to, from or in any Residence; (f) the trade or business shall be conducted by a Resident or Residents of the Residence; (g) no more than twenty percent (20%) of the total floor area of the Residence shall be used for trade or business; (h) the Residence used for trade or business shall not be used as a storage facility for a business conducted elsewhere; (i) the volume of vehicular or pedestrian traffic or parking generated by such trade or business shall not result in congestion or be in excess of what is customary in a residential neighborhood; (j) a trade or business shall not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (k) a trade or business shall not utilize large vehicles not customary to a residential use. The terms "business" and "trade" as used in this Section 3.20 shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this Section 3.20.

3.21. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures or other Improvements; and (b) that which the Declarant or the Association may permit or require for the development, operation and maintenance of the Project.

3.22. Signs. No signs whatsoever shall be erected or maintained on any Lot except:

3.22.1. Identification, directional, sales and/or marketing signs as approved and placed by Declarant in Declarant's sole and subjective discretion.

3.22.2. Signs required by legal proceedings.

3.22.3. Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Review Committee.

3.22.4. Such construction job identification signs which are in conformance with the requirements of Draper City or any municipality having jurisdiction over the property and which have been approved in writing by the Architectural Review Committee as to number, size, color, design, message content and location.

3.23. Required Approvals for Further Property Restrictions.

3.23.1. All proposed site plans and subdivision plats for any Lot, or any portion thereof, must be approved in writing by the Architectural Review Committee prior to Recordation thereof or commencement of construction on the applicable Lot. No Lot, or portion thereof, shall be further subdivided, no lot lines or boundaries may be modified, and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Architectural Review Committee.

3.23.2. No further covenants, conditions, restrictions, or easements shall be Recorded against any Lot, or portion thereof, without the prior written approval of the Architectural Review Committee.

3.23.3. No Owner may modify the boundary lines of such Owner's Lot or combine adjacent Lots without the prior written approval of the Architectural Review Committee.

3.23.4. No applications for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, shall be filed with any governmental authority or agency without the prior written approval of the Architectural Review Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration.

3.23.5. No subdivision plat, easement, Declaration of further covenants, conditions, restrictions or easements or other instrument which is to be Recorded and which is required by this Section 3.23 to be approved by the Architectural Review Committee shall be effective unless the required approval is evidenced on such instrument by the signature of an authorized representative of the Architectural Review Committee.

3.23.6. No site plan, subdivision plat, or further covenants, conditions, restrictions or easements, and no application for rezoning, variances or use permits shall be submitted to Draper City or any other governmental authority or agency unless the same has first been approved in writing by the Architectural Review Committee as provided in this Section 3.23; further, no changes or modifications shall be made in any such documents, instruments or applications once the same have been approved by the Architectural Review Committee hereunder unless such changes or modifications have first been approved by the Architectural Review Committee in writing.

3.23.7. Notwithstanding the foregoing, neither the Declarant nor any Declarant Affiliate shall be required to seek or obtain any of the approvals or consents otherwise required under this Section 3.23 as to any Lot, or any portion of either, of which the Declarant or any Declarant Affiliate is the Owner.

3.24. Vehicles. All Vehicles (as defined below) must be parked, kept, maintained, stored, constructed, reconstructed or repaired only within a fully-enclosed garage. For purposes of this Section 3.24, the term "Vehicles" includes cars, trucks and vans of all sizes, motorcycles, motorbikes, snow mobiles, boats, mopeds, mini-bikes, motor scooters, all-terrain vehicles, off-road vehicles, travel trailers, tent trailers, detached campers, or other similar machinery or equipment, whether motorized or not, whether wheeled or not and whether or not in operating condition. Notwithstanding the foregoing: (a) additional cars, vans or trucks having a capacity of one ton or less may be parked from time to time on driveways to accommodate visitors or guests of the Owner of the Lot or the Owner's tenant; and (b) service, repair or delivery vehicles may be parked on a Lot, but only for the period reasonably required to effect the needed service, repair or delivery.

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

3.26. Snow Removal. The Association is responsible for removal of snow from all Roads within the Project. Each Owner shall be responsible for removal of snow from the driveway and sidewalks on such Owner's Lot. No snow may be pushed or blown onto another Owner's Lot or onto any Common Area.

3.27. Variations. The Architectural Review Committee may, at its option and in extenuating circumstances, grant variations from the restrictions set forth in this Article 3 if the Architectural Review Committee determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on an Owner or Occupant or a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete; and (b) the

activity permitted under the variance will not have any substantial adverse effect on Owners and Occupants and is consistent with the high quality of life intended for residents of the Project.

3.28. Drainage. No Residence, structure, building, Landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the drainage plans on file with the city, county or municipality in which the Project is located. Each Owner shall be responsible to (i) maintain those portions of the drain grates of the rear lot drainage swales, and/or pipes and inlets to facilitate Lot drainage (collectively, the “**Drainage System**”), free of trash, debris, weeds or other foreign objects, and (ii) maintain and keep properly cultivated, and free of trash, weeds, debris and other unsightly material, all Landscaping on, in and around the Drainage System located on said Owner’s Lot. The Association shall be responsible to maintain other portions of the Drainage System.

3.29. Garages and Driveways. The interior of all garages shall be maintained in a neat, clean and slightly condition. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

3.30. Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power for residential use. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Property and the Improvements thereon, thereby protecting the value generally of the Property and the various portions thereof, and of the various Owners’ respective investments therein. Therefore, subject to prior approval of the plans therefor by the Architectural Review Committee, solar collecting panels and other active solar devices may be placed, constructed or maintained upon any Lot within the Property so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the Architectural Review Committee may reasonably deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Property).

3.31. Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot unless such tanks are buried underground. Nothing herein shall be deemed to prohibit use or storage upon any Lot of an aboveground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace or as otherwise approved by the Architectural Review Committee.

3.32. Exterior Lighting. Exterior lighting shall be permitted on a Lot.

3.33. Declarant’s Exemption. Nothing contained in this Declaration shall be construed to prevent the construction, installation, maintenance, marketing or sales by the Declarant, any Declarant Affiliate or any agents or contractors thereof, during the period of development,

construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property.

ARTICLE 4 EASEMENTS

4.1. Owners' Easements of Enjoyment.

4.1.1. Common Area Easements. Subject to the rights and easements granted to the Declarant in this Declaration each Owner, and each Occupant of such Owner's Lot, shall have a non-exclusive right and easement of enjoyment in, to and over the Common Area, which right and easement shall be appurtenant to and shall pass with the title to each Lot, subject to the provisions of this Declaration including, without limitation, the following:

4.1.1.1. Except as otherwise provided in this Declaration, no dedication, transfer, mortgage or encumbrance of all or any portion of the Common Area shall be effective unless approved by Owners representing sixty-seven percent (67%) of the Total Votes of the Association. Notwithstanding the preceding sentence or any other provision of this Declaration to the contrary, the Association shall have the right, without the consent of the Owners or any other Person (except the Declarant, whose consent shall be required so long as the Declarant owns any part of the Property), to dedicate portions of the Common Area to the public, or grant easements over, under or through portions of the Common Area to the public, to any municipal or other governmental agency or entity, or to any public, quasi-public or private utility company, for use as right-of-way, for utilities, for public landscape purposes and the like, as may be required or requested by Draper City or any municipal or other governmental agency or entity having jurisdiction, or by a public, quasi-public or private utility company, in connection with or at the time of the development of portions of the Property.

4.1.1.2. The Association shall have the right to regulate the use of the Common Area through the Association Rules and to prohibit access to such portions of the Common Area, such as landscaped right-of-ways, not intended for use by the Owners, Lessees or other Occupants.

4.1.1.3. The Declarant and the Association shall each have the right to grant easements or licenses to other Persons for the construction of Improvements on the Common Area, and the Declarant and the Association shall each have the right to grant ingress and egress easements over the Roads in the Project to Persons who are not Members of the Association.

4.1.1.4. The Declarant and the Association shall each have the right to convey certain portions of the Common Area to Owners of adjoining Lots in

connection with the correction or adjustment of any boundary between Common Area and any one or more adjoining Lots.

4.1.2. If a Lot is leased or rented by its Owner, the Occupants of such Lot shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

4.2. Utility Easement. There is hereby created an easement upon, across, over and under the Common Area, Lots and other property for reasonable ingress, egress, installation, replacement, repair or maintenance of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the Declarant, the Association, and/or the providing utility company to install and maintain the necessary equipment on the Common Area, Lots and other property but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Area, Lots and other property except as initially designed, approved and/or constructed by the Declarant or as approved by the Board (and, in the case of a Lot, by the Owner of such Lot). If any utility company requests that a more specific easement be granted in its favor in substitution for the blanket easement hereby established with respect to the Common Area, the Association shall have the power and authority, without the need for any consent by the Owners or any other Person, to grant the more specific easement on such terms and conditions as the Board deems appropriate.

4.3. Drainage System Maintenance Easement. The Declarant and the Association shall have the right and an easement upon, over and through the Lots, Common Area and other property as may be reasonably necessary for the purpose of installing and maintaining the Drainage System as defined in Section 3.28 and indicated on the drainage plans for the Project. The Association shall be responsible to maintain the Drainage System.

4.4. Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Area. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such Roads as from time to time may be paved and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Owners and Occupants of the Lots and their guests, families, tenants and invitees. There is also hereby created an easement upon, across and over the Common Area and all private streets, private roadways, private driveways and private parking areas within the Project for vehicular and pedestrian ingress and egress for police, fire, medical and other emergency vehicles and personnel. The Board shall have the right to relocate and/or reconfigure any and all easements granted pursuant to this Declaration from time to time as it sees fit without the consent of any Owners (but subject to any necessary approvals of Draper City or any other governmental body or agency having jurisdiction thereover including in particular, but without limitation, the easements granted herein for trail systems and police, fire, medical and other emergency vehicles and personnel).

4.5. Side Yard Use Easements. The Plat establishes a side yard use easement on some or all of the individual Lots.

4.6. Maintenance Easements. The Plat establishes a “Maintenance Easement” on some or all of the individual Lots.

4.7. Declarant’s Use and Easements.

4.7.1. The Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area or on the Lots with respect to the sales of Lots or other property in the Project. The Declarant reserves the right to place models, management offices and sales and leasing offices on any Lots or other property owned by the Declarant and on any portion of the Common Area in such number, of such size and in such locations as the Declarant deems appropriate.

4.7.2. The Declarant shall have the right and an easement on and over the Common Area to construct all Improvements the Declarant may deem necessary and to use the Common Area and any Lots and other property owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, vehicles, appliances, supplies and fixtures, and the performance of work respecting the Project and property adjacent to the Project.

4.7.3. The Declarant shall have the right and an easement upon, over and through the Common Area as may be reasonably necessary for the purpose of exercising the rights granted to or reserved by the Declarant in this Declaration.

4.8. Easement in Favor of Association. The Lots and Common Area are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

4.8.1. For inspection during reasonable hours of the Lots and Common Area in order to verify the performance by Owners or other Persons of all items of maintenance and repair for which they are responsible;

4.8.2. For inspection, maintenance, repair and replacement of portions of the Common Area accessible only from such Lots;

4.8.3. For correction of emergency conditions on one or more Lots or on portions of the Common Area accessible only from such Lots;

4.8.4. For the purpose of enabling the Association, the Board, the Architectural Review Committee or any other committees appointed by the Board to exercise and discharge during reasonable hours their respective rights, powers and duties under the Project Documents;

4.8.5. For inspection during reasonable hours of the Lots in order to verify that the Owners and Occupants, and their guests, tenants and invitees, are complying with the provisions of the Project Documents.

4.9. Common Accessway and Cross Access Easements. The (a) Common Accessway Easement Agreement dated March 29, 2011 and recorded March 30, 2011 as Entry No. 11158668 in the official records of the Salt Lake County Recorder (“**First Agreement**”); (b) Cross Access Easement Agreement dated March 29, 2011 and recorded March 30, 2011 as Entry No. 11158669 in the official records of the Salt Lake County Recorder (“**Second Agreement**”); and (c) First Amendment to Cross Access Easement dated _____ and recorded _____ as Entry No. _____ in the official records of the Salt Lake County Recorder (“**First Amendment**”, and collectively with the First Agreement and Second Agreement, the “**Cross Access Easement**”) give Declarant and subsequent owners of the Property certain rights of access and use, and burden Declarant and subsequent owners of the Property with certain responsibilities, duties, and obligations related to and arising from the rights so granted. The rights and interests of Declarant as created and defined in the Cross Access Easement run to each and every Owner and to the Association as Declarant’s successors in interest to the Property. However, Declarant hereby passes all of its responsibilities, duties, and obligations related to or arising from the Cross Access Easement to the Association, and not to the Owners individually, and the Association shall be wholly responsible to fulfill any and all of Declarant’s responsibilities, duties, and obligations under the Cross Access Easement. Any and all costs related to or arising from the fulfillment of such duties and obligations shall be for the benefit of each and every Owner, and shall be considered Common Expenses of the Association.

ARTICLE 5
THE ASSOCIATION; ORGANIZATION; ASSOCIATION MEMBERSHIP
AND VOTING RIGHTS

5.1. Formation of Association. The Association shall be a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, the Bylaws and this Declaration. Such responsibility shall include, but shall not be limited to the control of all weeds and other unsightly vegetation, rubbish, trash, garbage and landscaping with respect to the Common Area. The Association, shall assess and collect fees from the Association Members, in accordance with the provisions hereof and the Bylaws. The Association shall also comply with all applicable provisions of other Project Documents. Thereafter, priority shall be given to the Project Documents in the following order: this Declaration, Articles, Bylaws and Association Rules.

5.2. Registration with the Department of Commerce. The Association shall register with the Department of Commerce within ninety (90) days of the Recordation of this Declaration. Within ninety (90) days after a change of any information provided in the Association’s registration with the Department of Commerce, the Board shall submit an updated registration in the manner established by the Department of Commerce and the Act.

5.3. Board and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. During the Period of Administrative Control, the Board shall be appointed and removed, and vacancies filled by Declarant for terms in a length as determined by Declarant. Following the Period of Administrative Control, the Board shall be appointed and removed, and vacancies filled as specified in the Bylaws or other Project Documents. Unless the Project

Documents specifically require the vote or written consent of the Association Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board may appoint various committees at its discretion. The Board may also appoint or engage a Manager to be responsible for the day-to-day operation of the Association and the Common Area. The Board shall determine the compensation to be paid to any such Manager.

5.4. Association Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (a) the management and use of the Common Area; (b) traffic and parking restrictions including speed limits on private streets within the Project; (c) minimum standards for any maintenance of Common Areas and Lots within the Project; or (d) any other subject within the jurisdiction of the Association. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail. Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules of the Association, the Board shall give at least fifteen (15) days' notice to Owners, provide an open forum for Owners to be heard, and deliver a copy of the approved rule changes to the Owners. In accordance with Section 57-8a-217(6) of the Act, the Declarant expressly reserves the right to, and does hereby exempt the Declarant from the Association Rules and the rulemaking procedures under this Section 5.4 during the Period of Administrative Control.

5.5. Personal Liability. No member of the Board, the Architectural Review Committee or any other committee of the Association, no officer of the Association and no Manager or other employee of the Association shall be personally liable to any Association Member, or to any other Person including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any member thereof, the Architectural Review Committee or any member thereof, the Manager, any representative or employee of the Association, any officer of the Association or any member of any other committee of the Association; provided, however, the limitations set forth in this Section 5.5 shall not apply to any person who has engaged in intentional misconduct.

5.6. Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Project Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Project Documents or reasonably necessary to effectuate any such right or privilege.

5.7. Membership in the Association. Every Owner of a Lot shall be an Association Member, and the Declarant shall be an Association Member so long as it owns any part of the Project (unless and until the Declarant expressly relinquishes in writing its status as an Association Member). There shall be one (1) Association Membership for each Lot, which Association Membership shall be held jointly by all Owners of that Lot.

5.8. Votes in the Association.

5.8.1. The Association shall have two (2) classes of Association Membership, which shall be entitled to the following voting rights:

5.8.1.1. Class A. All Owners of Lots, with the exception of Declarant, shall be Class A Members and shall be entitled to one (1) vote for each Lot. In the event more than one Owner owns any Lot then all such Owners shall be Class A Members of the Association.

5.8.1.2. Class B. Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Lot owned by Declarant. The Class B Membership shall cease and be converted to Class A Membership on expiration or termination of the Period of Administrative Control.

5.8.2. Following termination of Declarant's Class B Membership, all Class B Memberships and all Class B votes shall cease to exist, and any issue put to a vote at a duly called meeting of Associations Members at which a quorum is present shall be decided by a simple majority of Total Votes of the Association represented in person or by valid proxy at such meeting. Thereafter, the Association shall be deemed to have a single class of Association Members and votes.

5.9. Voting Procedures. The vote(s) for each Lot must be cast as a unit, and fractional votes shall not be allowed. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised by a majority of such Owners represented by one Owner as may be determined among themselves. In the event more than one Owner attempts to cast the vote or votes for a particular Lot, the vote or votes for that Lot shall be deemed void and shall not be counted. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot at the time the vote is cast. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever until the matter is resolved to the reasonable satisfaction of the Board. In such case, the Board may, but shall not be required to, apportion such Lot's vote among the Owners thereof. A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded in the official records of Salt Lake County, Utah; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof.

5.10. Transfer of Association Membership. The rights and obligations of any Association Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership of the Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each Purchaser of a Lot shall notify the Association of his, her or its purchase of a Lot.

ARTICLE 6
COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants and agrees, and each Owner by becoming the Owner of a Lot is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of each Person who was an Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them (unless title is transferred to one or more such successors for purposes of avoiding payment of any Assessment or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title), but the lien created by this Declaration against the applicable Lot shall continue to secure payment of such delinquent Assessment (including, but not limited to, any and all interests and late charges) until the same are fully paid.

6.2. Reserves.

6.2.1. Use of Reserve Funds. The Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement or maintenance of major components of the Common Areas for which the Association is responsible and for which the reserve fund was established or for litigation involving such matters. Furthermore, the Board shall not use money in a reserve fund for daily maintenance expenses, unless a majority of the Association Members vote to approve the use of the reserve fund money for that purpose. Upon the approval of a majority of the Association Members, the Board may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association, and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Assessment shall not be subject to the limitations set forth in Section 6.7 hereof.

6.2.2. Reserve Analysis. At least once every six (6) years the Board shall cause a reserve analysis to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall,

thereafter, review the reserve account study at least every three (3) years and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve analysis shall include, at a minimum:

6.2.2.1. Identification of the major components which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a useful life of no fewer than three (3) years but less than thirty (30) years that will reasonably require reserve funds.

6.2.2.2. Identification of the probable remaining useful life of the components identified in subparagraph 6.2.2.1 above, as of the date of the study.

6.2.2.3. An estimate of the cost of repair, replacement, and restoration of each major component identified.

6.2.2.4. An estimate of the total annual contribution to reserve funds necessary to meet the cost to repair, replace, or restore each major component during and at the end of its useful life.

6.2.2.5. A reserve funding plan that recommends how the Association may fund the annual contribution described in subparagraph 6.2.2.4 above.

6.2.3. Providing Reserve Analysis to Owners. Each year the Association shall provide a summary of the most recent reserve analysis, including any updates, to each Owner. Owners may receive a complete copy of the reserve analysis upon a request submitted to the Board.

6.2.4. Reserve Fund Line Item. The Association's budget shall include a reserve fund line item as determined by the Board, based on the reserve analysis and the amount the Board determines is prudent under the circumstances. Within forty five (45) days after the day on which the Association adopts its budget, the Owners may veto the reserve fund line item by a fifty one percent (51%) vote at a special meeting called by the Owners for the purpose of voting whether to veto the reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved budget of the Association that was not vetoed, the Association shall fund the reserve account in accordance with that prior reserve fund line item

6.3. Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period.

6.4. Annual Assessment. In order to provide for the operation and management of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Project Documents, including, without limitation, the establishment of reasonable reserves for replacements, maintenance and contingencies, the Board, for each Assessment Period beginning with the fiscal year ending December 31, 2019, shall assess an Annual Assessment against each Lot. Annual Assessments shall be computed and assessed against all Lots in the Project as follows:

6.4.1. Assessments shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas, and furnishing common utility services and other common items to the Residences. Such estimated expenses may include, without limitation, the following: road maintenance and repair; snow removal; management expenses; real property taxes on the Common Areas; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages of Association employees, including fees for a Manager (if any); utility charges, including charges for utility services to the Common Areas; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance repairs, and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

6.4.2. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses which together shall constitute the common expense fund.

6.4.3. The Annual Assessment shall be levied against all Lots, including Lots owned by the Declarant, unless the Declarant has entered into a Subsidy Agreement with the Association as provided in Section 6.5 below.

6.5. Declarant Right to Subsidize the Association. At the election of the Declarant, and upon the Declarant executing and delivering to the Association a written Subsidy Agreement incorporating the terms of this Section 6.5, the following provisions shall apply:

6.5.1. No Annual Assessments shall be levied against Lots owned by the Declarant.

6.5.2. In lieu of paying Annual Assessments, and so long as the Subsidy Agreement is in effect, the Declarant shall subsidize the Association for the amount by which the cost of operating and administering the Association exceeds the total amount of Annual Assessments levied against Lots owned by Owners other than the Declarant.

6.5.3. The subsidy may be in the form of cash or in the form of "in-kind" contributions of goods or services, or in any combination of the foregoing, and any subsidies made by Declarant in the form of "in-kind" contributions of goods or services shall be valued at the fair market value of the goods or services contributed.

6.5.4. Declarant shall make payments or contributions in respect of its subsidy obligations under this Section 6.5 at such times as the Board may reasonably request from time to time (but shall not be required to make such payments or contributions more often than monthly).

6.5.5. At the end of each fiscal year of the Association, either: (a) Declarant shall pay or contribute to the Association such additional funds, goods or services (or any

combination thereof) as may be necessary, when added to all other funds, goods and services paid or contributed by Declarant during such fiscal year, to satisfy in full Declarant's subsidy obligations under this Section 6.5 for such fiscal year; or (b) the Association shall pay to Declarant or credit against Declarant's subsidy obligation for the immediately following fiscal year, as Declarant may elect, the amount, if any, by which the total of all payments or contributions paid or made by Declarant during such fiscal year exceeded the total subsidy obligation of Declarant for such fiscal year under this Section 6.5.

6.6. Annual Budget. Annual Assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided the first fiscal year shall begin on the date of Declaration, and end on December 31 of that year. On or before November 1 of each year thereafter, the Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year which has been duly adopted by the Board (the "**Adopted Budget**"). The Adopted Budget shall itemize the estimated Common Expenses for such fiscal year, anticipated receipts (if any) and any deficit or surplus from the prior operating fiscal year. The Adopted Budget shall serve as the supporting document for the Annual Assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such fiscal year. The Board shall present the Adopted Budget to association members at a meeting of the Association Members. No vote shall be required to approve the Adopted Budget, but the Adopted Budget may be disapproved by a vote of Association Members holding at least fifty-one percent (51%) of all the allocated voting interests of the Lot Owners taken at a special meeting of Association Members held (a) for the purpose of holding a vote to disapprove the Adopted Budget; and (b) within forty-five (45) days of the date of the meeting at which the Board presented the Adopted Budget to the Owners; provided, however, that during the Period of Administrative Control, the Association Members may not disapprove an Adopted Budget.

6.7. Special Assessments. The Association may levy against each Lot, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Improvements upon the Common Area, including fixtures and personal property related thereto, and other costs, expenses of operation or shortfalls in the collection of Assessments from the Owners.

6.8. Notice and Payment. Beginning with the 2020 Assessment Period, the Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give prior notice shall not affect the validity of the Annual Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will become, inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Association Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board (provided, however, that the total Annual Assessment for such Assessment Period shall not exceed the maximum amount determined pursuant to Section 6.6).

6.9. Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a monthly basis or such other basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Association Member shall not relieve any Association Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Association Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period; successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

6.10. Reinvestment Fee. Each purchaser of a Lot within the Project shall pay to the Association at closing a reinvestment fee ("**Reinvestment Fee**") immediately upon becoming the Owner of the Lot in such amount as is established from time to time by Declarant or the Board. The Reinvestment Fee is dedicated to benefitting Project, including payment for: (a) common planning, facilities, and infrastructure; (b) obligations arising from environmental covenants; (c) community programming; (d) open space; (e) amenities; (f) charitable purposes; or (h) Association expenses, including to reimburse the Association for costs incurred by the Association in connection with transfer of title to such new Owner and for the payment of Common Expenses and reserves, as the Board may determine in its sole and subjective discretion. The Reinvestment Fee shall not exceed 0.5% of the total purchase price of the Lot. Declarant or the Board shall have the right to collect and enforce the payment of the Reinvestment Fee in the same manner as enforcement and collection of delinquent Assessments as further described in this Declaration. In the event that the Reinvestment Fee is not paid at closing to the Association, then Declarant or the Board shall have the right to impose a charge against the new Owner of the Lot in an amount as determined by the Board from time to time in its sole and subjective discretion.

6.10.1. Notwithstanding the Reinvestment Fee then established and in effect, the Reinvestment Fee for the following transfers requires only the payment of the Association's costs directly related to the transfer of the burdened property, not to exceed \$250.00 (a) an involuntary transfer; (b) a transfer that results from a court order; (c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; (d) transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; (e) the creation of any Mortgage; (f) in connection with any foreclosure of a First Mortgage; (g) the exercise of a power of sale available under a First Mortgage; (h) the taking of a deed or assignment in lieu of a foreclosure by a First Mortgagee; (i) the conveyance by a First Mortgagee of a deed in respect of a Lot, or part thereof or interest therein, to a grantee if such First Mortgagee shall have obtained title to such Unit, or part thereof or interest therein; or (j) any other transaction for which the payment of a Reinvestment Fee is limited pursuant to applicable law.

6.10.2. Notwithstanding anything herein to the contrary, the Reinvestment Fee shall not be apply to any transfer, sale or conveyance (a) between Declarant and an affiliate or assignee of Declarant; or (b) of ten (10) or more Lots from the Declarant to a bulk-purchaser.

6.10.3. For purposes of this Section 6.10, a “transfer” means, whether in one (1) transaction or in a series of related transactions, any sale, conveyance, assignment, lease, or other transfer of any beneficial ownership of or interest in any Unit, including but not limited to: (a) the conveyance of fee simple title to any Lot; (b) the transfer of more than fifty percent (50%) of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns one or more Lot; or (c) the transfer of more than fifty percent (50%) of the interest in net profits or net losses of any partnership, joint venture or other entity which, directly or indirectly, owns one (1) or more Lot.

6.10.4. A separate notice of the Reinvestment Fee required by this Section 6.10 has been or shall be Recorded.

6.11. Leased Residences. If an Owner fails to pay Assessments or other amounts due under this Declaration for a period of more than sixty (60) days after such amounts are due and payable, the Association may require a Tenant (defined below) under a Lease (defined below) with an Owner to pay the Association all future Lease payments due to the Owner beginning with the next monthly or periodic payment due from the Tenant and until the Association is paid the Amount Owing (defined below), in accordance with the procedure set forth below.

6.11.1. Notice to Owner. Before requiring a Tenant to pay Lease payments to the Association, the Board shall give the Owner notice (“**Notice to Landlord**”), which notice shall state: (a) the amounts due, including any interest, late fee, collection cost, and attorney fees; (b) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of Lease payments; and (c) that the Association intends to demand payment of future Lease payments from the Owner’s Tenant if the Owner does not pay the Amount Owing within fifteen (15) days.

6.11.2. Notice to Tenant. If an Owner fails to pay the Amount Owing within fifteen (15) days after the Board gives the Notice to Landlord, the Association may collect Lease payments by the Board delivering written notice to the Tenant of Owner (“**Notice to Tenant**”), which notice shall state that: (a) due to the Owner’s failure to pay an assessment within the required time, the Board has notified the Owner of the Association’s intent to collect all Lease payments until the Amount Owing is paid; (b) the law requires the Tenant to make all future Lease payments, beginning with the next monthly or other periodic payment, to the Association, until the Amount Owing is paid; and (c) the Tenant’s payment of Lease payments to the Association does not constitute a default under the terms of the Lease with the Owner. The Board shall mail a copy of the Notice to Tenant to the Owner.

6.11.3. Payments to Association and Credit under Lease. A Tenant to whom the Notice to Tenant has been given shall pay to the Association all future Lease payments as they become due and owing to the Owner: (a) beginning with the next monthly or other periodic payment after the Notice to Tenant is delivered to the Tenant; and (b) until the Association notifies the Tenant that the Amount Owing is paid. An Owner shall credit each payment that the Tenant makes to the Association under this Section 6.11 against any obligation that the Tenant owes to the Owner as though the Tenant made the payment to the Owner. An Owner may not initiate a suit or other action against a Tenant for failure to make a Lease payment that the Tenant pays to the Association as required under this Section 6.11. Within five (5) business days after the Amount Owing is paid, the Board shall notify the Tenant in writing (and mail a copy thereof to the Owner) that the Tenant is no longer required to pay future Lease payments to the Association. The Board shall deposit money paid to the Association under this Section 6.11 in a separate account and disburse that money to the Association until the Amount Owing is paid and any cost of administration, not to exceed the maximum amount set forth in the Act (if any) is paid. The Association shall, within five (5) business days after the Amount Owing is paid, pay to the Owner any remaining balance.

6.11.4. Terms. As used in this Section 6.11 “**Amount Owing**” means the total of any assessment or obligation under this Declaration that is due and owing together with any applicable interest, late fee, and cost of collection; “**Lease**” means an arrangement under which a Tenant occupies a Residence in exchange for the Owner receiving a consideration or benefit, including a fee, service, gratuity, or other compensation; and “**Tenant**” means a person, other than the Owner, who has regular, exclusive occupancy of an Owner’s Residence.

6.12. Evidence of Payment of Assessments. Upon receipt of a written request by a Association Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Association Member or other Person a written certificate stating: (a) that all Assessments, interest and other fees and charges have been paid with respect to any specified Lot as of the date of such certificate; or (b) if all Assessments have not been paid, the amount of such Assessments, interest, fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of, or lender on, the Lot in question.

6.13. Providing Payoff Information. The Association may charge a reasonable fee (to be paid from closing) for providing payoff information needed in connection with the closing of an Owner’s financing, refinancing or sale of a Lot. Such fee shall not exceed the maximum amount (if any) set forth in the Act. The Board must provide payoff information within five (5) business days after the closing agent for a transaction requests such information. Such request shall include all information required by the Act and be delivered in accordance with the requirements set forth in the Act.

6.14. Purposes for Which Association’s Funds May be Used. The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan

proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Project and the Owners and Occupants by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners and the Occupants, and to the establishment and funding of reasonable reserves for replacements and contingencies. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Association Members and Occupants, maintenance of landscaping on Common Area and public right-of-way and drainage areas within the Project, construction, maintenance of the Common Area, maintenance, replacement and repair of Improvements thereon, insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public services, safety, indemnification of officers, directors and committee members of the Association, employment of professional Managers, and hiring professional consultants such as architects, engineers, attorneys and accountants.

6.15. Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

ARTICLE 7 ENFORCEMENT OF ASSESSMENTS

7.1. Association as Enforcing Body. The Association, as the agent and representative of the Association Members, shall have the exclusive right to enforce the provisions of this Declaration. However, if the Association shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Association Member may enforce them at his or her own expense by any appropriate action, whether in law or in equity.

7.2. Assessment Lien. The Assessments together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing servitude and lien upon the Lot against which each such Assessment is made. There shall be a lien upon the applicable Lot for all unpaid Assessments, together with late fees, interest and costs (including attorneys' fees) charged pursuant to this Declaration and the Act. The lien for unpaid Assessments and related charges shall be effective upon recordation in the Office of the Salt Lake County Recorder of a written notice of lien by the Board. The written notice of lien shall set forth the amount of the Assessment, the date(s) due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot. No notice of lien shall be recorded until there is a delinquency in payment of the Assessments.

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

7.3.1. Bring an action at law and recover judgment against the Owner personally obligated to pay the Assessments;

7.3.2. Foreclose the Assessment Lien against each Lot in accordance with then prevailing Utah law relating to the foreclosure of mortgages or deeds of trust (including the right to recover any deficiency), the method recognized under Utah law for the enforcement of a mechanic's lien which has been established in accordance with the Utah Code Annotated § 38-1a-101, *et seq.*, as amended from time to time, or any other means permitted by law, and the Lot may be redeemed after foreclosure sale if provided by law.

7.3.3. Notwithstanding subordination of an Assessment Lien as described in Section 7.5, the delinquent Owner shall remain personally liable for the Assessments and related costs after his ownership is terminated by foreclosure or deed in lieu of foreclosure or otherwise.

7.4. Foreclosure. Any foreclosure pursuant to subsection 7.3.2 above shall be conducted in accordance with the following procedures:

7.4.1. Scope of Lien. In any foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure, and all such amounts shall be secured by the lien being foreclosed.

7.4.2. Trustee. Pursuant to § 57-8a-302 of the Act and Utah Code Ann. § 57-1-20, Declarant, Association and each Owner hereby convey and warrant to Stewart Title of Utah, Attn. Mark Day or Kristal Talbot, 2733 East Parley's Way, Suite 200, Salt Lake City, UT 84109, with power of sale, the Lots, Residences, and all Improvements for the purpose of securing payment of Assessments under the terms of this Declaration. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code Annotated. The Association may, through its duly authorized agents, bid on the Lot at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The trustee appointed hereunder, 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 liens against Lots arising pursuant hereto.

7.4.3. Nonjudicial Foreclosure. At least thirty (30) calendar days before initiating a nonjudicial foreclosure, the Association shall provide notice ("**Foreclosure**

Notice”) to the Owner that is the intended subject of the nonjudicial foreclosure. The Foreclosure Notice shall: (i) notify the Owner that the Association intends to pursue nonjudicial foreclosure with respect to the Owner’s to enforce the Association’s lien for unpaid assessments; (ii) notify the Owner of the Owner’s right to demand judicial foreclosure in the place of nonjudicial foreclosure; (iii) be sent to the Owner by certified mail, return receipt requested and be included with other Association correspondence to the Owner; and (iv) be in substantially the following form:

**NOTICE OF NONJUDICIAL FORECLOSURE
AND RIGHT TO DEMAND JUDICIAL
FORECLOSURE**

The Rockwell Park Association, Inc., a Utah corporation (the “Association”), the association for the project in which your lot is located, intends to foreclose upon your lot and allocated interest in the common areas using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association’s lien against your lot and to collect the amount of an unpaid assessment against your lot, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that “I demand a judicial foreclosure proceeding upon my lot,” or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within 15 days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is _____ (insert the address of the Association for receipt of a demand).

7.4.4. Demand for Judicial Foreclosure. The Association may not use a nonjudicial foreclosure to enforce a lien if an Owner mails the Association a written demand for judicial foreclosure: (i) by U.S. mail, certified with a return receipt requested;

(ii) to the address stated in the Foreclosure Notice; and (iii) within 15 days after the date of the postmark on the envelope of the Foreclosure Notice.

7.5. Subordination of Assessment Lien to First Mortgage; Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any First Mortgage and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot. Sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a First Mortgage to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust of sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Assessments that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however, that such First Mortgage foreclosure sale purchaser or grantee shall take subject to all Assessments and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

ARTICLE 8 MAINTENANCE

8.1. Common Area and Public Right of Way.

8.1.1. The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Common Area and all Improvements located thereon (subject to subsection 8.1.3), except the Association shall not be obligated to maintain areas which any governmental entity or any utility company is maintaining or is obligated to maintain. The Association shall maintain and repair all Roads within the Project in accordance with Draper City requirements. The Association shall provide for the removal of snow from all streets within the Project, but not from driveways, sidewalks, or walkways on individual lots. All necessary care and maintenance of drainage facilities within the Project shall be performed by the Association in compliance with Draper City requirements. Garbage and trash removal shall be arranged by each Owner for the Owner's respective Lot in accordance with Draper City requirements. The Declarant shall provide fire hydrants in accordance with Water Pro Standards requirements. The Association or applicable utility company shall maintain all hydrants in the Project, in accordance with Draper City requirements. Nevertheless, neither the Association, the Board, Draper City, nor the Declarant shall be liable for any loss or damage to persons or property resulting from fire.

8.1.2. The Board shall be the sole judge as to the appropriate maintenance of all Common Area and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

8.1.3. In the event any subdivision plat, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots will be responsible

for maintenance of certain Common Area or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Occupants for the Association or an individual Owner to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract to provide maintenance service to Owners of Lots having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

8.2. Lots. Each Owner of a Lot shall be responsible for maintaining, repairing or replacing his, her or its Lot, and all buildings, landscaping or other Improvements situated thereon, except for any portion of the Lot which is Common Area (unless otherwise required by the Board pursuant to subsection 8.1.3). All buildings, landscaping and other Improvements shall at all times be kept in good condition and repair. Landscaping shall be maintained as required by Section 3.6 and Section 3.28. All Lots upon which no Residence or other Improvements have been constructed shall be maintained in an attractive manner and in accordance with all rules, regulations and guidelines that may be adopted for vacant lots by the Board or the Architectural Review Committee.

8.3. Installation of Landscaping. The Owner of a Lot shall install (if not already installed) grass, trees, plants and other landscaping improvements (together with an irrigation system sufficient to adequately water any grass, trees, plants and other landscaping improvements), on those certain portions of the Lot that are approved by the Architectural Review Committee pursuant to a landscaping plan submitted by the Owner of such Lot as part of the architectural control review described in Section 3.3 above, not later than the last day of September next occurring after the date on which a certificate of occupancy is issued with respect to a Residence on that Lot. The Architectural Review Committee shall have the right to impose certain minimum landscaping requirements, such as, without limitation, specifying the minimum number of trees that must be planted on a Lot and the areas of such plantings. All landscaping must be installed in accordance with the landscaping plans and only in the specific landscaping areas approved in writing by the Architectural Review Committee and the Owner shall not have the right to making any landscaping improvements in any areas on his or her Lot other than those areas specifically approved by the Architectural Review Committee. If landscaping and an irrigation system are not installed on a Lot in the manner and by the applicable date provided for in this Section 8.3, the Association shall have the right, but not the obligation, to enter upon such Lot to install such landscaping improvements as the Association deems appropriate (together with an irrigation system sufficient to adequately water the same), and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this Section 8.3 shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of Assessments. Notwithstanding anything to the contrary herein, portions of a Lot may be maintained with natural ground cover and growth as permitted by the Architectural Review Committee. All sprinkler, irrigation, or other water systems shall comply with state and local requirements, including those of the Utah Division of Drinking Water.

8.4. Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance or repair of the Common Area or any other area maintained by the Association is caused through the willful or negligent act of any Association Member, his family, tenants, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Association Member and the Association Member's Lot is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot pursuant to this Section 8.4 in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

8.5. Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under the Project Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such corrective action as it deems appropriate to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien.

8.6. Walls and Fences. Except for the masonry walls on the southern boundary line of Lot 103 and the northern boundary line of Lot 104 ("**Masonry Walls**"), all walls and fences on a Lot shall be maintained, repaired and replaced by the Owner of such Lot. The structure of the Masonry Walls and the paint on the exterior surfaces of the Masonry Walls shall be maintained by the Association and the costs of such maintenance shall be paid by the Association as part of the Common Expenses. The paint on the interior surfaces of the Masonry Walls shall be maintained by the Owner of each respective Lot at the sole expense of each such Owner.

ARTICLE 9 INSURANCE

9.1. Association Property Insurance. The Association shall at all times maintain in force insurance meeting the following requirements: A "master" or "blanket" type policy of property insurance shall be maintained, if reasonably available, covering all insurable Improvements, if any, on the Common Areas, including fixtures, building service equipment, personal property and supplies comprising a part of the Common Areas or owned by the Association; but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a "master" or "blanket" type policy of property insurance are intended to denote single entity insurance coverage. If blanket all-risk insurance is not reasonably available, then at a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use, including (without

limitation) all perils normally covered by the standard “all risk” endorsement, where such endorsement is available. Such “master” or “blanket” policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Common Areas covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. The insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (a) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (b) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent of the property’s insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). The maximum deductible amount for such policy shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the policy face amount. The Board shall provide notice to Owners of the amount of the deductibles and any change in the amount of the deductibles.

9.2. Policy Requirements.

9.2.1. The name of the insured under each policy required to be maintained by the foregoing Section 9.1 shall be the Association for the use and benefit of the individual Owners. Notwithstanding the requirement of the immediately foregoing sentence, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee (as hereinafter defined) with whom the Association has entered into an Insurance Trust Agreement (as hereinafter defined), or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner’s First Mortgagee. Each Owner and each such Owner’s First Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and First Mortgagee upon request.

9.2.2. Each policy required to be maintained by the foregoing Section 9.1, shall contain the standard mortgagee clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. In addition, such mortgagee clause or another appropriate provision of each such policy shall provide that the policy may not be cancelled or substantially modified without at least thirty (30) days’ prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

9.2.3. Each policy required to be maintained by the foregoing Section 9.1, shall provide, if available, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and the policy is primary in the event the Owner has other insurance covering the same loss.

9.3. Fidelity Bonds or Insurance. The Association shall at all times maintain in force and pay the premiums for “blanket” fidelity bonds or insurance, including but not limited to, trustees and officers insurance for the benefit of all members of the Board, officers and members of committees and subcommittees appointed by the Board or otherwise established pursuant to this Declaration for all officers, agents, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to a Manager, the Manager shall provide “blanket” fidelity bonds or insurance, with coverage shall be identical to such bonds required of the Association, for the Manager’s officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity coverage required shall be based upon the Association’s best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association, or the Manager, as the case may be, at any given time during the term of coverage. A lesser amount of fidelity insurance coverage is acceptable for the Project so long as the Association and the Manager adhere to the following financial controls: (a) the Association or the Manager maintains separate bank accounts for the working account and the reserve account, each with appropriate access controls, and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the Manager maintains separate records and bank accounts for each Association that uses its services and the Manager does not have authority to draw checks on or to transfer funds from the Association’s reserve account; or (c) two trustees must sign any checks written on the reserve account. Nevertheless, in no event may the amount of such fidelity coverage be less than the sum equal to three months’ aggregate Assessments on all Lots. The coverage required shall meet the following additional requirements: (w) the fidelity coverage shall name the Association as obligee or insured; (x) the bonds or insurance shall contain waivers by the issuers of the bonds or insurance of all defenses based upon the exclusion of persons serving without compensation from the definition of “employees”, or similar terms or expressions; (y) the premiums on all bonds or insurance required herein for the Association (except for premiums on fidelity bonds or insurance maintained by the Manager for its officers, employees and agents) shall be paid by the Association as part of the Common Expenses; and (z) the bonds or insurance shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days’ prior written notice to the Association and to any Insurance Trustee.

9.4. Liability Insurance. The Association shall maintain in force, and pay the premium for a policy providing comprehensive general liability insurance coverage covering all of the Common Areas, public ways in the Project, if any, and all other areas of the Project that are under the Association’s supervision. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to

(where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers liability insurance, and comprehensive automobile liability insurance. If such policy does not include “severability of interest” in its terms, the policy shall include a special endorsement to preclude an insurer’s denial of any Owner’s claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be cancelled or substantially modified, by any party, without at least thirty (30) days’ prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

9.5. Insurance Trustees and General Requirements Concerning Insurance. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association’s authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the “**Insurance Trustee**”), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear. Each insurance policy maintained pursuant to this Declaration shall be written by insurance carriers which are licensed to transact business in the State of Utah and which have a B general policyholder’s rating or a financial performance index of 6 or better in the Best’s Key Rating Guide or an A or better rating from Demotech, Inc., or which are written by Lloyd’s of London or which are otherwise approved by the Board. The provisions of this Article 9 shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

9.6. Annual Review of Policies and Coverage. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Common Areas and Improvements thereon which may have been damaged or destroyed. In the event any of the insurance coverage provided for in this Article 9 is not available at a reasonable cost or is not reasonably necessary to provide the Project with adequate insurance protection, as determined by the Board, the Board shall have the right to obtain different insurance coverage or insurance coverage which does not meet all of the requirements of this Article 9 so long as, at all times, the Board maintains insurance coverage on a basis which is consistent with the types and amounts of insurance coverage obtained for projects similar to the Project. Additionally, the Board shall give Owners notice within seven (7) days if any such insurance is not reasonably available.

9.7. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or

safety statute or ordinance, or (b) Owners representing at least eighty percent (80%) of the Total Votes of the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area 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: (i) be retained by the Association as an additional capital reserve; or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Association Members representing more than fifty percent (50%) of the Total Votes of the Association.

9.8. Owner Property Insurance. Notwithstanding anything in this Article 9 to the contrary, it shall be the responsibility of each Owner, at such Owner's expense, to maintain property and liability insurance on such Owner's Lot and Residence.

ARTICLE 10 DAMAGE OR DESTRUCTION

10.1. Association as Attorney in Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on the Common Areas upon damage or destruction as provided in this Article 10 or a complete or partial taking as provided in Article 11 below. Acceptance by any grantee of a Deed or other instrument of conveyance from the Declarant or from any Owner shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, Deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact. All proceeds from the insurance required hereunder shall be payable to the Association except as otherwise provided in this Declaration.

10.2. Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Improvements on the Common Areas in the Project, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Areas so damaged or destroyed. "Repair and reconstruction" as used in this Article 10 shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

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

10.4. Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 6.7 above, levy, assess, and collect in advance from all Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

10.5. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 6.7 above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 10.4 above, or, if no Special Assessments were made, then in equal shares per Association Membership, first to the Mortgagees and then to the Owners, as their interests appear.

10.6. Decision Not to Rebuild. If least 75% of the Total Votes in the Association vote not to rebuild, and each owner of a Residence on a Lot and the common area appurtenant to that Lot that will not be rebuilt votes not to rebuild, then the affected portion of the Common Areas shall be restored to their natural state and maintained as an undeveloped portion of the Common Areas by the Association in a neat and attractive condition, and any remaining insurance proceeds shall be distributed in equal shares per Association Membership first to the Mortgagees and then to the Owners, as their interests appear.

10.7. Notice to First Mortgagees. The Association shall give timely written notice to any holder of any First Mortgage on a Lot or Parcel who requests such notice in writing in the event of substantial damage to or destruction of a material part of the Common Areas.

10.8. Damage and Destruction to Lots. In the event the whole or any part of the improvements located on a Lot are damaged or destroyed, the Owner of such Lot shall promptly cause the repair, restoration or rebuilding of the improvements so damaged or destroyed so the Lot shall be in the condition existing immediately prior to such damage or destruction. In connection with the above, such Owner shall also promptly remove debris and keep the affected portions of the Lot neat, orderly and well maintained during such repair or reconstruction. Notwithstanding the foregoing, in the event insurance proceeds are insufficient to restore any improvement on a Lot, the Owner thereof may, within one (1) year of the event of destruction, elect not to restore such damaged or destroyed improvements, in which event the Owner shall raze the damaged improvements and return the Lot to its natural condition.

ARTICLE 11 CONDEMNATION

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

11.2. Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed according to this Section 11.2. If the taking involves a portion of the Common Areas on which Improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Owners representing at least seventy-five percent (75%) of the Class A votes in the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board and the Architectural Review Committee. If such Improvements are to be repaired or restored, the provisions in Article 10 above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed in equal shares per Association Membership, first to the Mortgagees and then to the Owners, as their interests appear.

11.3. Complete Condemnation. If all of the Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Areas shall be distributed to Owners based upon the relative value of the Lots (as applicable) prior to the condemnation.

ARTICLE 12 GENERAL PROVISIONS

12.1. Enforcement. The Association or any Owner shall have the right to enforce the Project Documents.

12.2. Term; Method of Termination. Unless terminated in accordance with this Section 12.2, this Declaration (as amended from time to time pursuant to the provisions of this Declaration, if applicable) shall continue in full force and effect for a term of fifty (50) years from the date this Declaration is Recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of Association Members holding ninety percent (90%) or more of the Total Votes of the Association. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and

the Association shall be dissolved pursuant to applicable law. Termination of this Declaration does not terminate the Plat.

12.3. Amendments.

12.3.1. Other than the amendments made pursuant to subsections 12.3.2, 12.3.3 and 12.3.4 of this Declaration, this Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Association Members holding not less than sixty-seven percent (67%) of the Total Votes of the Association.

12.3.2. Either the Board or the Declarant may amend this Declaration, without obtaining the approval or consent of any Owner, Mortgagee or other Person, in order to conform this Declaration to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project or the Project Documents is required by law or requested by the Declarant.

12.3.3. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of the first Lot.

12.3.4. So long as the Declarant or any Declarant Affiliate owns any Lot or other portion of the Property, no amendment to this Declaration shall be effective unless approved in writing by the Declarant (or unless the Declarant expressly waives in writing its right to approve such amendments).

12.3.5. Any amendment approved pursuant to subsection 12.3.1 of this Declaration or by the Board pursuant to subsection 12.3.2 of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded. Any such amendment shall certify that the amendment has been approved as required by this Section 12.3. Any amendment made by the Declarant pursuant to subsection 12.3.2 or 12.3.3 of this Declaration shall be executed by the Declarant and shall be Recorded.

12.3.6. Declarant, the Association and each Owner hereby agree and acknowledge that the Association's maintenance, repair and replacement duties set forth in Article 8 above shall not be amended or deleted and this Declaration shall not be terminated prior to the expiration of the Period of Administrative Control without the prior written approval of Declarant. Such approval shall be evidenced by a written consent attached to or incorporated in such Recorded amendment or certificate of termination executed by Declarant.

12.4. Termination of Declarant's Approval Rights and Obligations. Except as otherwise expressly provided for herein, any or all of the approval rights and obligations of the Declarant or any Declarant Affiliate under this Declaration shall terminate upon the expiration or termination of the Period of Administrative Control. Thereafter, the Community Association shall have the power to exercise any remaining approval rights and obligations of the Declarant or any Declarant Affiliate under this Community Declaration. Arbitration. Any disputes under

this Declaration shall be resolved by binding arbitration, before a single arbitrator reasonably designated by the Declarant or, if the Declarant no longer owns any part of the Subject Property, by the Association, or such neutral, independent arbitration service that the Declarant or the Association, as the case may be, shall designate (in any case, the “Arbitrator”), in Salt Lake City, Utah. If an Owner objects to the Arbitrator, the Owner must inform the Declarant in writing within ten (10) days of Owner’s receipt of written notice informing Owner of the appointed Arbitrator and, then, if the parties are unable to agree on another arbitrator, then either party may, pursuant to the applicable provisions of the Utah Uniform Arbitration Act, U.C.A. § 78B-11-101, et seq., as amended, apply to a court of competent jurisdiction to designate an arbitration service provider, which designation shall be binding upon the parties. Selection of the arbitrator shall be the responsibility of Arbitrator or the appointed arbitration service, as applicable. The rules and procedures of the arbitration service that are in effect at the time the request for arbitration is submitted will be followed unless the parties expressly agree otherwise, and the applicable discovery and other time periods thereunder may be adjusted, as determined by the arbitrator, in order to permit the prompt conclusion of the arbitration proceeding. The arbitration service designated or finally appointed as aforesaid shall administer the arbitration or any and all Disputes required to be joined under the law. These arbitration provisions shall be governed by and interpreted under Utah law pursuant to the Utah Uniform Arbitration Act, U.C.A. § 78B-11-101, et seq., now in effect and as it may be hereafter amended, and in accordance with the Utah Rules of Civil Procedure, Rules 16, 26, 30, 33, 34, 36, and 56, unless the parties mutually agree to alternative arbitration procedures, and the applicable discovery and other time periods thereunder may be adjusted, as determined by the arbitrator, in order to permit the prompt conclusion of the arbitration proceeding. The parties to the arbitration shall share equally in the arbitrator’s fees and expenses. The award of the arbitrator shall be final and may be entered as a judgment in a court of competent jurisdiction. Unless otherwise recoverable by law or statute, each party shall bear its own costs (including expert’s costs) and expenses, including attorneys’ fees and paraprofessional fees for any arbitration. Notwithstanding the foregoing, if a party unsuccessfully contests the validity or scope of arbitration in a court of law or equity, the non-contesting party shall be awarded reasonable attorneys’ fees and paraprofessional fees and expenses incurred in defending such contest, including such fees and costs associated with any appellate proceedings. In addition, if a party fails to abide by the terms of a settlement or arbitration award, the other party shall be awarded reasonable attorneys’ fees, paraprofessional fees and expenses incurred in enforcing such settlement or award. These arbitration provisions are a self-executing arbitration agreement. Any dispute concerning the interpretation or the enforceability of these arbitration provisions, including, without limitation, its revocability or voidability for any cause, any challenges to the enforcement or the validity hereof, or these alternative dispute resolution provisions, or the scope of arbitrable issues thereunder, and any defense relating to the enforcement of these alternative dispute resolution provisions, including, without limitation, waiver, estoppel, or laches, shall be decided by an arbitrator in accordance with these arbitration provisions and not by a court of law. The parties to this Declaration expressly consent and agree that arbitration of any Dispute may, at the option of the Declarant, include consolidation, joinder, or any other means to provide for joint participation of all parties involved in the Dispute and who are necessary in order to provide for the complete resolution of such Dispute. Interpretation. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association’s construction

or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefited or bound by this Declaration.Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

12.8. Perpetuities. Pursuant to § 57-8a-108 of the Act, the rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat a provision of this Declaration.

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

12.10. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt, as part of the Association Rules, additional rules and regulations with respect to any other aspects of the Association's rights, activities and duties, provided said additional rules and regulations are not inconsistent with the provisions of the other Project Documents.

12.11. Laws, Ordinances and Regulations.

12.11.1. The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board or the Architectural Review Committee with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation also to comply with all applicable laws, ordinances and regulations.

12.11.2. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be in violation of this Declaration and subject to any or all of the enforcement proceedings set forth herein.

12.11.3. This Declaration does not amend any Draper City ordinances. In the event of a conflict between this Declaration and Draper City ordinances, the Draper City ordinances shall control.

12.12. References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Project may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other Person claiming through any instrument and his, her or its heirs, executors, administrators, successors and assigns.

12.13. Gender and Number. Wherever the context of this Declaration so requires, any word used in the masculine, feminine or neuter genders shall include each of the other genders, words in the singular shall include the plural, and words in the plural shall include the singular.

12.14. Captions and Title; Section References; Exhibits. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the meaning or intent thereof. References in this Declaration to numbered Articles, Sections, subsections or paragraphs, or to lettered Exhibits, shall be deemed to be references to those paragraphs or Exhibits so numbered or lettered in this Declaration, unless the context otherwise requires. Any Exhibits referred to in this Declaration are hereby incorporated herein by reference and fully made a part hereof.

12.15. Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, the Project Documents or resolution of the Board to be given to any Owner, Lessee or Resident then, unless otherwise specified in the Project Documents or in the resolution of the Board, or unless otherwise required by law, such notice requirement shall be deemed satisfied if notice of such action, proposed action or meeting is: (a) sent by United States mail to the last known mailing address of the Owner, Lessee or Resident (as applicable), as shown in the records of the Association; or (b) if no such mailing address is reflected on the records of the Association, then sent by United States mail to the mailing address of the Lot (as applicable) if, at the time, there is a Residence situated thereon; or (c) if there is no such mailing address reflected in the records of the Association and there is then no Residence situated on the applicable Lot, then sent or given in whatever reasonable manner the Board may elect, which may include, without limitation, publishing the same in any newspaper in general circulation within Draper City, Utah. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other reasonable and appropriate manner.

12.16. Indemnification. The Association shall indemnify each and every trustee and officer of the Association, and each and every member of any committee appointed by the Board (including, for purposes of this Section, former officers and directors of the Association, former members of the Architectural Review Committee, and former members of committees appointed by the Board) (each a “**Association Official**”) against any and all expenses, including attorneys’ fees, reasonably incurred by or imposed upon an Association Official in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board serving at the time of such settlement) to which he or she may be a party by reason of being or having been an Association Official, unless the liability for such expenses arises out of his or her own intentional misconduct. No Association Official shall have any personal liability with respect to any contract or other commitment made by them or action taken by them, in good faith, on behalf of the Association (except indirectly to the extent that such Association Official may also be an Association Member of the Association and therefore subject to Assessments hereunder to fund a liability of the Association), and the Association shall indemnify and forever hold each such Association Official free and harmless from and against any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Association Official may be entitled. If the Board deems it appropriate, in its sole discretion, the Association may advance funds to or for the benefit of any Association Official who may be entitled to indemnification hereunder to enable such Association Official to meet on-going costs and expenses of defending himself or herself in any action or proceeding brought against such Association Official by reason of his or her being, or having been, an Association Official. In the

event it is ultimately determined that an Association Official to whom, or for whose benefit, funds were advanced pursuant to the preceding sentence does not qualify for indemnification pursuant to this Section 12.16 or otherwise under the Articles, Bylaws or applicable law, such Association Official shall promptly upon demand repay to the Association the total of such funds advanced by the Association to him or her, or for his or her benefit, with interest (should the Board so elect) at a rate not to exceed ten percent (10%) per annum from the date(s) advanced until paid.

12.17. No Partition. No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area, which shall be subject to Section 4.1) which may or may not be subject to this Declaration.

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

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

12.20. Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither the Declarant nor any Declarant Affiliate makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant

or by any Declarant Affiliate is or will be subjected to this Declaration, or that any such real property (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither the Declarant nor any Declarant Affiliate believes that any of the restrictive covenants contained in this Declaration is or may be invalid or unenforceable for any reason or to any extent, neither the Declarant nor any Declarant Affiliate makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold the Declarant and all Declarant Affiliates harmless therefrom.

12.21. Off Site Construction. By acceptance of a deed to a Lot, each Owner hereby agrees and acknowledges, that, inasmuch as an Owner may be purchasing a Lot during a period of construction at the Project, and the acquisition of Lot will occur prior to the completion of the construction of other Lots and Improvements at the Project, there will be certain inconveniences, including, but not limited to, interruption of travel caused by road construction, noise, dust, odors and debris associated with construction, until all construction within the Project is complete. Each Owner waives all claims against the Declarant, Declarant Affiliate, Association or any of their employees or agents with respect to any such inconveniences and nuisances.

12.22. Amendments Affecting Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, no provision of this Declaration (including but not limited to, this Section) which grants to or confers upon the Declarant or upon any Declarant Affiliate any rights, privileges, easements, benefits or exemptions (except for rights, privileges, easements, benefits, or exemptions granted to or conferred upon Owners generally) shall be modified, amended or revoked in any way, so long as the Declarant, any Declarant Affiliate or any Declarant Affiliate owns any portion of the Property, without the express written consent of the Declarant.

12.23. Bulk Service Agreements.

12.23.1. The Board, acting on behalf of the Association, shall have the right, power and authority to enter into one or more Bulk Service Agreements with one or more Bulk Providers (each of which terms is defined below), for such term(s), at such rate(s) and on such other terms and conditions as the Board deems appropriate, all with the primary goals of providing to Owners and Occupants of Lots or both within the Property, or within one or more portions thereof, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or any concierge or other personal services: (a) which might not otherwise be generally available to such Owners and Occupants; (b) at rates or charges lower than might otherwise generally be charged to Owners and Occupants for the same or similar services; (c) otherwise on terms and conditions which the Board believes to be in the interests of Owners and Occupants generally; or (d) any combination of the foregoing.

12.23.2. If all Lots within the Property are to be served by a particular Bulk Service Agreement, the Board shall have the option either to: (a) include the Association's costs under such Bulk Service Agreement in the budget for each applicable fiscal year and thereby include such costs in the Annual Assessments for each such applicable year; or (b) separately bill to each Owner his, her or its proportionate share of the Association's costs under such Bulk Service Agreement (as reasonably determined by the Board, and with such frequency as may be determined by the Board, but no more often than monthly) (provided that such "separate billing" may be made as one or more separate line items on billings or invoices from the Association to the affected Owner(s) for Assessments or other charges). If not all Lots within the Property will be served by a particular Bulk Service Agreement the Board shall have only the billing option described in clause (b) above.

12.23.3. The Declarant, for each Lot, hereby covenants and agrees, and each Owner other than the Declarant, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay all amounts levied or charged against or to him, her or it (or his, her or its Lot) by the Board pursuant to this Section 12.23, and all such amounts: (a) shall be deemed to be a part of the Assessments against the Lots against or to which they are levied or charged (or against or to whose Owners they are levied or charged); (b) with interest, late charges and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent amounts, shall be secured by the lien for Assessments established by this Declaration; and (c) as with other Assessments, shall also be the personal obligation of each Person who was an Owner of the Lot at the time such amount became due (which personal obligation for delinquent amounts shall not pass to the successors in title of the Owner unless expressly assumed by them unless title is transferred to one or more such successors for purposes of avoiding payment of such amounts or other Assessments or is transferred to a Person controlling, controlled by or under common control with the Owner transferring title).

12.23.4. No Owner of a Lot covered by a Bulk Service Agreement shall be entitled to avoid or withhold payment of amounts charged by the Board to such Owner or such Owner's Lot under this Section 12.23, whether on the basis that such Owner does not use, accept or otherwise benefit from the services provided under such Bulk Service Agreement, or otherwise. However, the Board shall have the right, at its option, to exempt from payment of such amounts any Lot upon which no Residence or other building has been completed.

12.23.5. "**Bulk Provider**" means a private, public or quasi-public utility or other company which provides, or proposes to provide, cable television, community satellite television, high speed Internet, security monitoring or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Residents, Lots within the Property, or within one or more portions thereof, pursuant to a "Bulk Service Agreement" (as defined below).

12.23.6. "**Bulk Service Agreement**" means an agreement between the Association and a Bulk Provider pursuant to which the Bulk Provider would provide cable television, community satellite television, high speed Internet, security monitoring

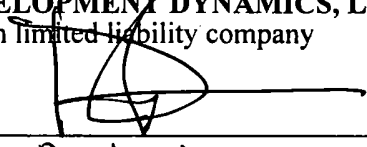
or other electronic entertainment, information, communication or security services, or concierge or other personal services, to Owners, Residents, Lots with the Property, or within one or more portions thereof.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Covenants, Conditions, Easements and Restrictions for Rockwell Park as of the date first set forth above.

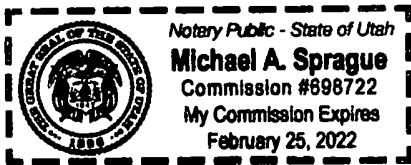
DECLARANT:

DEVELOPMENT DYNAMICS, LLC
a Utah limited liability company

By: 
Name: David Tolmas
Its: manager

STATE OF UTAH)
:SS.
COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 5 day of ~~September~~ ^{November} 2019, by David Tolmas, Manager of Development Dynamics, LLC, a Utah limited liability company. ②



NOTARY PUBLIC
Residing at: UTAH
My Commission Expires: 02/25/22

EXHIBIT A

Description of the Project

Beginning at a point on the Westerly Boundary Line of Wheadon Preserve Subdivision, recorded as Entry No. 11110043 in Book 2011P at Page 2, which point is also West 243.86 feet along the section line and South 00°02'15" East 341.91 feet from a SLCO Street Monument located in 13800 South and 300 East Streets, said monument having been accepted in some surveys as the Center of Section 6, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running

thence South 00°02'15" East 15.90 feet along the Westerly Boundary Line of said Wheadon Preserve Subdivision;
thence South 00°26'07" West 438.59 feet along the Westerly Boundary Line of said Wheadon Preserve Subdivision;
thence South 89°24'34" East 246.98 feet along the Southerly Boundary Line of said Wheadon Preserve Subdivision;
thence South 260.05 feet;
thence West 502.00 feet to the Easterly Boundary Line of Black Sage Subdivision, recorded as Entry No. 11409734 in Book 2012P at Page 81;
thence North 261.00 feet along the Easterly Boundary Line of said Black Sage Subdivision;
thence West 8.50 feet along the Easterly Boundary Line of said Black Sage Subdivision to the Southeast Corner of Rockwell Square Subdivision, recorded as Entry No. 12589117 in Book 2017P at Page 198;
thence North 246.41 feet along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence Northwesterly 31.52 feet along the arc of a 49.50 foot radius curve to the right (center bears North 21°57'08" East and the chord bears North 49°48'19" West 30.99 feet with a central angle of 36°29'05") along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence Northwesterly 9.18 feet along the arc of a 9.00 foot radius curve to the left (center bears South 58°26'13" West and the chord bears North 60°46'42" West 8.79 feet with a central angle of 58°25'51") along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence North 38.58 feet along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence Northeasterly 9.18 feet along the arc of a 9.00 foot radius curve to the left (center bears North 00°00'23" West and the chord bears North 60°46'42" East 8.79 feet with a central angle of 58°25'51") along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence Northeasterly 34.61 feet along the arc of a 49.50 foot radius curve to the right (center bears South 58°26'14" East and the chord bears North 51°35'44" East 33.91 feet with a central angle of 40°03'57") along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence North 00°57'29" West 121.45 feet along the Easterly Boundary Line of said Rockwell Square Subdivision;
thence East 265.98 feet to the point of beginning.

Contains 253,853 Square Feet or 5.828 Acres and 44 Lots and 5 Parcels

EXHIBIT B

Bylaws

See attached Bylaws of Rockwell Park Association, Inc.

BYLAWS
OF
ROCKWELL PARK ASSOCIATION, INC.

Table of Contents

	Page
ARTICLE I NAME, PRINCIPAL OFFICE, AND DEFINITIONS	5
1.1 Name.....	5
1.2 Principal Office.....	5
1.3 Registered Office.....	5
1.4 Controlling Law and Definitions.....	5
ARTICLE II ASSOCIATION: MEMBERSHIP, VOTING AND MEETINGS.....	5
2.1 Membership in the Association.....	5
2.2 Classes of Membership.....	6
2.3 Voting Procedures.....	6
2.4 Transfer of Membership.....	6
2.5 Membership and Ownership Rights.....	7
2.6 Annual Meeting.....	7
2.7 Special Meetings.....	7
2.8 Notices.....	8
2.9 Waiver of Notice.....	8
2.10 Members of Record.....	8
2.11 Quorum.....	8
2.12 Business.....	8
2.13 Proxies.....	8
2.14 Conduct of Meetings.....	9
2.15 Action Without Meeting.....	9
2.16 Action by Written Ballot.....	9
2.17 Majority Vote.....	9
2.18 Adjourned Meetings.....	9
2.19 Minutes, Presumption of Notice.....	9
2.20 Telephonic Conference.....	9
2.21 Recording Meetings.....	10
ARTICLE III BOARD OF DIRECTORS.....	10
3.1 Role of the Association.....	10
3.2 Number and Powers.....	10
3.3 Composition.....	11
3.4 Election and Term of Office.....	11
3.5 Removal of Directors and Vacancies.....	11
3.6 Compensation.....	12
3.7 Regular Meetings.....	12
3.8 Special Meetings.....	12
3.9 Waiver of Notice.....	12
3.10 Quorum, Voting and Adjournment.....	12
3.11 Open Meetings.....	13
3.12 Notice.....	13
3.13 Action Without Meeting.....	13

3.14	Telephonic Conference	13
3.15	Fiscal Year	13
ARTICLE IV	OFFICERS.....	13
4.1	Designation	13
4.2	Election and Term.....	14
4.3	Removal and Vacancies.....	14
4.4	President	14
4.5	Vice President.....	14
4.6	Secretary	14
4.7	Treasurer	14
4.8	Resignation	15
4.9	Execution of Documents.....	15
4.10	Statements of Unpaid Assessments	15
4.11	Committees	15
ARTICLE V	ENFORCEMENT	15
5.1	Board's General Rights of Enforcement of Provisions of this and Other Instruments	15
5.2	Abatement and Enjoinment of Violations by Owners	16
5.3	Fine for Violation of Governing Documents.....	16
5.4	Rental or Lease of Lots by Owners	16
5.5	Specific Enforcement.....	17
5.6	Notice.....	18
5.7	Hearing	18
5.8	Additional Enforcement Rights	18
ARTICLE VI	INDEMNIFICATION	18
6.1	Indemnification of Directors and Officers.....	18
6.2	Advances of Expenses	19
6.3	Scope of Indemnification.....	19
6.4	Other Rights and Remedies	19
6.5	Insurance.....	19
6.6	Severability	19
ARTICLE VII	RECORDS	19
7.1	Records and Audits.....	19
7.2	Examination.....	19
7.3	Inspection by Directors.....	20
7.4	Records	20
ARTICLE VIII	ASSESSMENTS.....	20
ARTICLE IX	AMENDMENT TO BYLAWS	21
9.1	By Members.....	21
9.2	Limitation on Amendments	21

ARTICLE X MISCELLANEOUS	21
10.1 Notices	21
10.2 Conflicts.....	21
10.3 Waiver.....	21
10.4 Severability	21
10.5 Captions	21
10.6 Use of Technology.....	21
10.7 Effective Date	22
10.8 Seal	22

**BYLAWS
OF
ROCKWELL PARK ASSOCIATION, INC.**

**ARTICLE I
NAME, PRINCIPAL OFFICE, AND DEFINITIONS**

1.1 Name. The name of the owners association shall be Rockwell Park Association, Inc. (the “**Association**”).

1.2 Principal Office. The principal office of the Association shall be located at Property Management Systems, Inc., c/o Joe Holland, 262 East 3900 South, Suite 200, Salt Lake City, UT 84107, 801-262-3900, joeh@pmsystems.net, or at any other place as may be designated in the most recent document on file with the Utah Department of Commerce, Division of Corporations and Commercial Code (the “**Division**”) providing information regarding the principal office of the Association. The Association shall maintain at its principal office a copy of such corporate records as may be required by § 16-6a-1601 of the Nonprofit Act (as defined below).

1.3 Registered Office. The registered office of the Association required to be maintained by § 16-6a-202 of the Nonprofit Act shall be the registered office as originally so designated in the Articles or subsequently designated as the Association’s registered office in the most recent document on file with the Division providing such information. The Association shall maintain a registered agent at the registered office, as required by § 16-17-201, *et seq.*, Utah Code Ann., as amended (“**Model Registered Agents Act**”). The registered office and registered agent may be changed from time to time as provided in § 16-17-206 of the Model Registered Agents Act.

1.4 Controlling Law and Definitions. These Bylaws shall operate under the Utah Revised Nonprofit Corporation Act, § 16-6a-101, *et seq.*, Utah Code Ann., as amended (“**Nonprofit Act**”), and the Community Association Act, § 57-8a-101, *et seq.*, Utah Code Ann., as amended (“**Community Association Act**”). The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Declaration of Covenants, Conditions, Easements and Restrictions for Rockwell Park, as recorded in the official records of Salt Lake County, Utah and as may be amended from time to time (the “**Declaration**”), unless the context indicates otherwise.

**ARTICLE II
ASSOCIATION: MEMBERSHIP, VOTING AND MEETINGS**

2.1 Membership in the Association. The Association shall be a nonprofit Utah corporation charged with the duties and vested with the powers prescribed by law and set forth in the Declaration and these Bylaws. Every Owner of a Lot shall be a member of the Association (“**Member**”), provided, however, the Declarant shall remain a Member during the Period of Administrative Control, regardless of whether it owns any Lots.

2.2 Classes of Membership. Every Owner of a Lot shall be a Member, and the Declarant shall be a Member so long as it owns any part of the Project (unless and until the Declarant expressly relinquishes in writing its status as a Member). There shall be one (1) membership in the Association (“**Membership**”) for each Lot, which Membership shall be held jointly by all Owners of that Lot.

2.2.1 The Association shall have two (2) classes of Membership, which shall be entitled to the following voting rights:

2.2.1.1 Class A. All Owners of Lots, with the exception of Declarant, shall be Class A Members, and shall be entitled to one (1) vote for each Lot. In the event more than one Owner owns any Lot then such Owners shall be Class A Members of the Association.

2.2.1.2 Class B. Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Lot owned by Declarant. The Class B Membership shall cease and be converted to Class A Membership on expiration or termination of the Period of Administrative Control.

2.2.2 Following termination of Declarant’s Class B Membership, all Class B Memberships and all Class B votes shall cease to exist, and any issue put to a vote at a duly called meeting of Members at which a quorum is present shall be decided by a simple majority of Total Votes of the Association (defined in Section 2.7 below) represented in person or by valid proxy at such meeting. Thereafter, the Association shall be deemed to have a single class of Members and votes.

2.3 Voting Procedures. The vote(s) for each Lot must be cast as a unit, and fractional votes shall not be allowed. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised by a majority of such Owners represented by one Owner as may be determined among themselves. In the event more than one Owner attempts to cast the vote or votes for a particular Lot, the vote or votes for that Lot shall be deemed void and shall not be counted. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot at the time the vote is cast. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever until the matter is resolved to the reasonable satisfaction of the Board. In such case, the Board may, but shall not be required to, apportion such Lot’s vote among the Owners thereof. A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded in the official records of Salt Lake County, Utah; the Board shall thereafter be given written notice of such change and provided satisfactory evidence thereof.

2.4 Transfer of Membership. The rights and obligations of any Member other than Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner’s Lot and then only to the transferee of ownership of the Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or such other legal process as is now in effect or as may

hereafter be established under or pursuant to applicable law. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each purchaser shall notify the Association of his, her or its purchase of a Lot.

2.5 Membership and Ownership Rights. Each Member shall have the respective rights, duties and obligations set forth in the Declaration and these Bylaws and such other rights, duties and obligations as are set forth in the documents governing the Property, as the same may be amended from time to time (“**Governing Documents**”).

2.6 Annual Meeting. During the Period of Administrative Control, there shall be no requirement for an annual meeting of the Association Members except as required in accordance with § 57-8a-215(2) of the Act for the sole purpose of the Board presenting an adopted budget to Association Members, which adopted budget may not be disapproved by Association Members pursuant to § 57-8a-215(5) of the Act. After the Period of Administrative Control terminates, there shall be an annual meeting of the Association.

Annual meetings of the Association Members shall be held on the day and at the time and reasonable place at the Property, or some other reasonable location in Draper, Utah, unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the Members, as may be designated by written notice by the Board. The Board shall give to each Member entitled to vote at a meeting notice consistent with these Bylaws in a fair and reasonable manner. Any notice that conforms to the requirements of this Section 2.6 is deemed fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered. Unless otherwise determined by the Board, notice of the annual meeting shall be delivered to the Members by personal delivery, electronic mail, or first class or registered mail at least ten (10) days, but not more than sixty (60) days prior to the date set for said meeting. Such notice shall specify the place, day and hour of the meeting and a brief statement of the matters on the agenda which the Board intends to present or believes others will present for action by the Members, including the general nature of any proposed amendment to the Governing Documents, any budgetary matters and any proposal to remove an officer or a Director. When giving written notice of an annual or special meeting of the Members, the Board shall give notice of a matter a Member intends to raise at the meeting if (a) requested in writing to do so by a person entitled to call a special meeting; and (b) the request is received by the Secretary or President at least ten (10) days before the Association gives notice of the meeting.

2.7 Special Meetings. Special meetings of the Association may be called by the President, a majority of the Board, the Declarant, or Members representing at least twenty five percent (25%) or more of the total votes allocated to Members of the Association (“**Total Votes of the Association**”). Special meetings may be held at a reasonable place at the Property, or some other reasonable location in Draper, Utah unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the Members, to consider matters which, by the terms of these Bylaws, require the approval of all or some of the Members or for any other reasonable purpose. Notice of the special meeting shall be delivered to each Member in the same manner as the notice of annual meetings pursuant to the provisions of Section 2.6 above.

2.8 Notices. Notice of any meeting shall be addressed to each Member at the physical or electronic address given by such Member to the Association for the purpose of service of such notice or to the Lot number of such Member if no such address has been given to the Association. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office or home at which it is received, on the next regular business day; if by mail, the earlier of the day actually received or the fifth business day after the notice is deposited in the United States Mail, properly addressed and first-class postage prepaid; or if by electronic mail, when the e-mail is received, except that if the e-mail is received at a time other than the normal business hours of the office or home at which it is received, on the next regular business day. Such physical or electronic address may be changed from time to time by notice in writing to the Association at the principal office of the Association set forth in Section 1.2 above

2.9 Waiver of Notice. Waiver of notice of a regular or special meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at any meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.10 Members of Record. For the purpose of determining Members entitled to notice of or to vote at a meeting of Members, or in order to make a determination of Members for any other proper purpose, the Board shall fix in advance a date as the record date for any such determination of Members. The record date shall not be more than thirty (30) days prior to the date of the particular meeting of Members or the date on which the particular action requiring such determination of Members is to be taken, as applicable, unless otherwise extended by the Board. If no record date is fixed, the record date for such determination of Members entitled to vote shall be four o'clock in the afternoon on the day before the day on which notice of the meeting is mailed or delivered. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 2.10, such determination shall apply to any continuation of such meeting following an adjournment.

2.11 Quorum. During the Period of Administrative Control, a quorum shall be those Members present in person or by proxy. Thereafter, a quorum shall be Members representing at least twenty five percent (25%) or more of the Total Votes of the Association.

2.12 Business. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment.

2.13 Proxies. Members may vote in person or by proxy in accordance with § 16-6a-712 of the Nonprofit Act; provided, however, that no proxy shall be valid unless in writing and signed by the Owner or his, her or its duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. A proxy is valid for 11 months from its date of execution, unless a different time period is expressly provided in

the proxy. An appointment of a proxy is effective against the Association when received by the Secretary, including receipt by the Secretary of an electronic transmission or receipt immediately before the meeting begins. An appointment of proxy is revocable by the Member. An appointment of a proxy is revoked by the Member appointing the proxy attending any meeting and voting in person or signing and delivering to the Secretary a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

2.14 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. Robert's Rules of Order Newly Revised (latest edition) shall govern the conduct of the Association's meeting when not in conflict with these Bylaws.

2.15 Action Without Meeting. Any action which, under the provisions of the Nonprofit Act may be taken at a meeting of the Members, may be taken without a meeting in the manner permitted by the Nonprofit Act.

2.16 Action by Written Ballot. Any action which, under the provisions of the Nonprofit Act may be taken at a meeting of the Members, may be taken by written ballot in accordance with the Nonprofit Act. Ballots may be distributed and collected electronically, including by means of voting through a website.

2.17 Majority Vote. As used in these Bylaws, the term "majority" shall mean those votes, Members, or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number. The vote of a majority of the Members present in person at a meeting at which a quorum shall be present shall be binding upon all Members for all purposes except where a higher percentage vote is required in the Declaration, these Bylaws, the Nonprofit Act or by other applicable Utah law.

2.18 Adjourned Meetings. Except as otherwise provided in the Declaration, if any meeting of Members cannot be held, the Members who are present, either in person or by proxy, may adjourn the meeting and reconvene it at a time not less than five (5) days nor more than thirty (30) days following the time the original meeting was called. Such adjourned meetings may be held without further notice if the date, time, and place the meeting is to be reconvened is announced at the meeting at which such adjournment is taken.

2.19 Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary, shall be presumed truthful evidence of the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

2.20 Telephonic Conference. Members may participate in a meeting of the Association by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

2.21 Recording Meetings. The Board, in its sole and exclusive discretion, may adopt a policy regarding electronic recordation of meetings of the Association. Such policy may include, without limitation, an outright prohibition on any form of electronically recording meetings or outright prohibition on dissemination of any electronic recordings. Absent such a policy, and without the express approval of the Board, no Member may record any meeting of the Association in any electronic format.

ARTICLE III BOARD OF DIRECTORS

3.1 Role of the Association. The Association, and the Board of Directors (“**Board**”) on its behalf, shall govern the Property and shall do such things as are within its powers and as may reasonably be required to maintain the Property and its Common Areas as an attractive and desirable planned community, including without limitation the authority to adopt rules governing use of the Common Areas and other rules as may be beneficial to the Property (“**Association Rules**”). Such Association Rules shall be adopted by the Board. The Association, and the Board on its behalf may exercise any expressed or implied right or privilege given to the Association expressly by the Governing Documents or any other right or privilege reasonably necessary to effectuate any such right or privilege.

3.2 Number and Powers. The affairs of the Association shall be conducted by a Board consisting of three (3) directors (“**Directors**”), or such additional number as may be approved by the Members from time to time, odd numbered totals only, and such officers as the Board may elect or appoint in accordance with the Articles and these Bylaws as the same may be amended from time to time. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Property and the Association. The Board shall determine the compensation to be paid to the Manager. The Board’s responsibilities shall include, but shall not be limited to, the following:

- 3.2.1 preparing and administering an operational budget;
- 3.2.2 establishing and administering an adequate reserve fund;
- 3.2.3 scheduling and conducting the annual meeting and other meetings of the Members;
- 3.2.4 collecting and enforcing the Assessments;
- 3.2.5 accounting functions and maintaining records, including pledging Assessments as collateral to secure financing for the Association;
- 3.2.6 promulgation and enforcement of the Association Rules;
- 3.2.7 maintenance of the Common Areas; and
- 3.2.8 all the other duties imposed upon the Board pursuant to the Governing Documents, including enforcement thereof.

3.3 Composition. Each Director shall have one equal vote. The initial Directors shall be Owners or representatives of Declarant. In the case of an Owner that is not a natural person, one (1) officer, director, member, partner or trust officer of such Owner may be designated by such Owner as eligible to serve as a Director; such designation must be provided to the Association and may only be changed once each calendar year or at such time as the designee is no longer an officer, director, member, partner or trust officer of the Owner.

3.4 Election and Term of Office. During the Period of Administrative Control, the Board shall be appointed and removed, and vacancies filled by Declarant for terms in a length as determined by Declarant.

Following the Period of Administrative Control, the remainder of this Section 3.4 shall apply. The Board shall be elected by the Members. The terms of the Directors shall be staggered so that the terms of one of the Directors will expire and successors will be elected each year by the Members as provided in the Declaration and by these Bylaws. Unless a shorter term is required to create staggered terms, Directors shall serve terms of three (3) years. Directors shall serve until their successors have been duly elected and qualified unless removed pursuant to Section 3.5 below. Directors may be elected to serve any number of consecutive terms. Nominations for election to the Board shall be made by (1) resolution of the Board; (2) a petition filed with the Secretary of the Association at least fifteen (15) days prior to the Members' meeting, such petition being signed by three (3) or more Owners and signed by the nominee named therein indicating his or her willingness to serve as a member of the Board, if elected; or (3) any Member present, in person or by proxy, at the meeting to elect directors, placing one or more name in nomination during the meeting. Members may nominate themselves for election to the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected.

3.5 Removal of Directors and Vacancies. The provisions of this Section 3.5 shall apply only after the Period of Administrative Control. Any Director may be removed, with or without cause, by the vote of Members holding a majority of the Total Votes of the Association. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such Director.

3.5.1 Any Director elected by the Members who has three (3) consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent in the payment of any Assessment or other charge due the Association, may be removed by the vote of a majority of the Directors, and a successor may be appointed by a majority vote of the Directors to fill the vacancy for the remainder of the term.

3.5.2 In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term. Any Director appointed by the Board shall be selected from among the Members.

3.6 Compensation. Any Director may be reimbursed, compensated, or employed by the Association provided that such reimbursement, compensation, or employment shall be approved by vote or in writing by all Directors not including the Director to be reimbursed, compensated, or employed.

3.7 Regular Meetings. In accordance with § 57-8a-226(7) of the Act, during the Period of Administrative Control, the Association shall hold Board meetings (i) at least once each year; and (ii) each time the Association: (A) increases a fee; or (B) raises an assessment. Upon the termination of the Period of Administrative Control, the Association shall hold Board meetings at such times and places within the Property, or some other reasonable and suitable location in Draper, unless a meeting at another location would significantly reduce the cost to the Association and/or the inconvenience to the Directors, as the Board shall determine. The Board shall give to each Director entitled to vote at a regular meeting notice of the meeting in a fair and reasonable manner. Any notice that conforms to the requirements of this Section 3.7 is deemed fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered. Unless otherwise determined by the Board, notice to each Director of the place, date, and time of the regular meeting is deemed fair and reasonable if the Board notifies each Director via electronic transmission or first-class or registered mail postage prepaid no fewer than two (2) business days prior to the time of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with first-class postage thereon prepaid. No notice shall be necessary to the newly elected Board in order to legally constitute such meeting, provided a majority of the Directors are present. The Board may set a schedule of additional regular meetings by resolution, and no further notice is necessary to constitute regular meetings.

3.8 Special Meetings. Special meetings of the Board may be called by the President or written notice signed by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Special meetings shall be held within the Property, or some other reasonable location in Draper, unless a meeting at another location would significantly reduce the cost to the Association and/or inconvenience to the Directors. Written notice of any special meeting shall be sent to all Directors in the same manner as regular meetings as set forth in Section 3.7 above. If an agenda is prepared for a special meeting, the meeting shall be restricted to discussions of those items listed on the agenda. The notice of a special meeting need not describe the purpose of the special meeting unless otherwise required by the Nonprofit Act or these Bylaws.

3.9 Waiver of Notice. The transactions at any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10 Quorum, Voting and Adjournment. A majority of the Directors then serving shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. If less than a quorum is present at the meeting, the meeting may be

adjourned from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No Director may vote or act by proxy at any Board meeting.

3.11 Open Meetings. The Directors shall act only as a Board, and individual Directors shall have no powers as such. Regular and special meetings of the Board shall be open to all Members of the Association. The Board may, with the approval of a majority of a quorum of its Directors, adjourn the meeting and reconvene in executive session, excluding non-Directors in attendance, to discuss and vote upon matters of a sensitive nature, such as personnel matters, litigation in which the Association is or may become involved, and similar orders of business.

3.12 Notice. At least 48 hours before a Board meeting, the Association shall give written notice of the Board meeting via email to each Member who requests notice of a board meeting, unless: (a) notice of the Board meeting is included in a Board meeting schedule that was previously provided to the Member; or (b) the Board meeting is to address an emergency and each Board member receives notice of the Board meeting less than forty-eight (48) hours before the Board meeting. A notice as described in this Section 3.12 shall (w) be delivered to the Member by email, to the email address that the Member provides to the Board or the Association; (x) state the time and date of the Board meeting; (y) state the location of the Board meeting; and (z) if a Board member may participate by means of electronic communication, provide the information necessary to allow the Member to participate by the available means of electronic communication.

3.13 Action Without Meeting. Any action that is required or permitted to be taken at a Board meeting may be taken without a meeting if all of the Board or all members of a committee established for such purposes, as the case may be, severally or collectively sign a resolution or other writing voting for or against the proposed action or abstaining from voting, and the votes in favor of the action are equal to the minimum number of votes that would be necessary to take action at a meeting at which all Directors or members of the committee were present. Action taken pursuant to this Section 3.13 shall be a valid corporate action as though it had been authorized at a meeting of the Board or the committee, as the case may be. The Secretary shall file these resolutions with the minutes of the Board meetings.

3.14 Telephonic Conference. Directors or any committee members may participate in a meeting of the Board or committee by means of telephonic conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

3.15 Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board. In the absence of a Board resolution, the fiscal year shall be the calendar year.

ARTICLE IV OFFICERS

4.1 Designation. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Board may appoint other officers as it finds necessary and such officers shall have the authority to perform

the duties prescribed by the Board. Any two offices may be held by the same person, except the offices of President and Secretary. Officers need not be Directors, but must be Owners. -

4.2 Election and Term. The officers of the Association shall be elected annually by the Board. They shall hold office at the pleasure of the Board.

4.3 Removal and Vacancies. Upon the affirmative vote of a majority of the Board, any officer may be removed, either with or without cause. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled at any regular meeting of the Board or at any special meeting of the Board called for that purpose, for the unexpired portion of the term.

4.4 President. The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Members and of the Board. The President shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of Utah, including but not limited to the power to appoint committees from among the Members from time to time as the President may decide is appropriate to assist in the conduct of the affairs of the Association. The President may fulfill the role of Treasurer in the absence of the Treasurer. The President may cause to be prepared and may execute amendments, attested by the Secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

4.5 Vice President. The Vice President shall perform the functions of the President in his or her absence or inability to serve.

4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Members and the Board. The Secretary shall have charge of the Association's books and papers as the Board may direct and shall perform all the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Utah. The Secretary may cause to be prepared and may attest to execution by the President of amendments to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable. The Secretary may fulfill the role of Treasurer in the absence of the Treasurer.

4.7 Treasurer. The Treasurer shall be responsible for the Association's funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Board and shall perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Utah. The Treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Board. Except for reserve funds described below, the Treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in

prudent investments, as the Board decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the Treasurer, and executed by two (2) Directors.

4.8 Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.9 Execution of Documents. The Board, except as in these Bylaws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board, no officer, agent, committee member, or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

4.10 Statements of Unpaid Assessments. The Treasurer, Manager, or in their absence, any officer having access to the books and records of the Association may prepare, certify, and execute statements of unpaid Assessments (“**Statements**”). Pursuant to § 57-8a-206(1) (a) of the Community Association Act, a Statement shall be issued with respect to a Lot upon the written request of the Owner thereof. The Association may charge a reasonable fee for preparing Statements. The amount of this fee and the time of payment shall be established by resolution of the Board, but shall not exceed \$10 in accordance with § 57-8a-206(1) (a) (ii) of the Community Association Act. Also in accordance with § 57-8a-206(1)(b) of the Community Association Act, the Statement is binding in favor of any person who relies in good faith on the Statement upon the remaining Owners, Manager and Board. Pursuant to § 57-8a-206(1)(b) of the Community Association Act, unless the Manager or the Board complies with a request for a Statement from an Owner within ten (10) days of its receipt of the same, any unpaid Assessment that became due prior to the date the Owner’s request was made is subordinate to a lien held by the person requesting the Statement.

4.11 Committees. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

ARTICLE V ENFORCEMENT

5.1 Board’s General Rights of Enforcement of Provisions of this and Other Instruments. The Board, as the agent and representative of the Owners and Members, shall have the right to enforce, by any proceeding at law or in equity, the covenants set forth in the Declaration, these Bylaws, and/or any and all restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, Declaration or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of the Declaration, or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant.

5.2 Abatement and Enjoyment of Violations by Owners. In addition to the provisions set forth in Section 5.1 above, the violation of any of the Association Rules or the breach of any provision of the Governing Documents shall also give the Board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws to:

5.2.1 Enter a Lot or Community Area in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any improvement, structure, thing or condition (except for additions or alterations of a permanent nature that may exist in that Lot) that is existing and creating a danger to the Owners in the Property contrary to the intent and meaning of the provisions of the Governing Documents. The Board shall not be deemed liable for any manner of trespass by this action; or

5.2.2 Enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

5.3 Fine for Violation of Governing Documents. The Board may adopt resolutions providing for fines or other monetary penalties for the infraction of the Governing Documents. Fines will be levied after notice thereof and an opportunity to be heard. The Board may levy fines in amounts that it, in its sole discretion, shall determine to be reasonable for each violation of the Governing Documents, including those violations which persist after notice and an opportunity for a hearing is given. In accordance with § 57-8a-208(2) of the Community Association Act, before assessing a fine under this Section 5.3, the Board shall notify the Owner of the violation and inform the Owner that a fine will be imposed if the violation is not remedied within the time provided in the Governing Documents, which shall be at least 48 hours. As set forth in § 57-8a-208(3) of the Community Association Act, a fine assessed under this Section 5.3 shall be made only for a violation of a rule, covenant, condition, or restriction that is specifically listed in the Governing Documents, shall be in the amount designated by the Board and shall accrue interest and late fees as determined by the Board in a resolution. Unpaid fines may be collected as an unpaid Assessment and shall be secured by the Assessment Lien. Pursuant to § 57-8a-208(4) of the Community Association Act, an Owner who is assessed a fine under this Section 5.3 may request an informal hearing to protest or dispute the fine within fourteen (14) calendar days from the date the fine is assessed. A hearing requested by an Owner shall be conducted in accordance with the standards adopted by the Board and no interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered in accordance with § 57-8a-208(4)(c).

5.4 Rental or Lease of Lots by Owners. If an Owner of a Lot rents or leases his, her or its Lot, then the following terms and conditions shall apply:

5.4.1 Rental Agreement. Any Owner who rents or leases his, her or its Lot shall file with the Board or the Manager a copy of the rental or lease agreement affecting the applicable Lot. The provisions of these Bylaws shall apply with equal force to the occupants, guests, and tenants (“**Occupants**”) of Lots.

5.4.2 Owner Responsible. Any Owner who rents or leases or otherwise permits any other person to utilize his, her or its Lot (regardless of duration) shall be responsible for the conduct of his, her or its Occupants, and upon written notice from the Board or the Manager, said Owner shall be responsible for correcting violations of the Governing Documents committed by such Occupants.

5.4.3 Tenants' Violations. If an Owner fails to correct violations by his, her or its Occupants upon notice, the Board or the Manager shall be deemed to be the agent of the Owner and empowered to take any enforcement action the Owner would be entitled to take, the reasonable costs of such action, including but not limited to fees and costs paid to third parties, to be assessed to the Owner and payable within thirty (30) days of assessment. Such costs shall be collected and enforced in the same manner as Assessments and shall be secured by the Assessment Lien.

5.4.4 Remedies for Violations. The power of the Board or the Manager hereunder shall include but not be limited to any and all legal remedies available under the laws of the State of Utah. Any Owner by the act of renting or leasing or otherwise permitting any other person to utilize his, her or its Lot shall be deemed to have consented to these procedures and shall indemnify and save harmless the Association, the Board and the Manager from and against any and all liability therefor. It is expressly understood that the remedies available to the Association, the Board or Manager shall include but not be limited to the right to seek eviction of the Occupant without the Association, the Board or Manager incurring any liability to the Owner.

5.4.5 Future Lease Payments. If an Owner who is leasing his, her or its Lot fails to pay an Assessment levied against his, her or its Lot for more than sixty (60) days after the Assessment is due, the Board may, upon compliance with § 57-8a-310 of the Community Association Act, demand that the Lessee pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other period payment, until the amount due to the Association is paid in full.

5.5 Specific Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable fines, which shall be secured by the Assessment Lien against the Lot of the violator, and to suspend a Member's right to vote or any person's right to use the Community Area for violation of any duty imposed under the Governing Documents; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Lot or to suspend a Member's right to vote due to nonpayment of Assessments. In addition, the Board may suspend any services provided by the Association to a Member or the Member's Lot if the Member is more than thirty (30) days delinquent in paying any Assessment or other charges owed to the Association. In the event that any Owner or Occupant of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be individually assessed against such Owner or Occupant; provided, however, if the fine is not paid by the Owner or Occupant within the time period set by the Board, the Member shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Governing Documents shall not be deemed a waiver of the right of the Board to do so thereafter.

5.6 Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than fourteen (14) calendar days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within fourteen (14) calendar days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 14-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and the Association Rules by any Person.

5.7 Hearing. If a hearing is requested within the allotted 14-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, a proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

5.8 Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article V, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

ARTICLE VI INDEMNIFICATION

6.1 Indemnification of Directors and Officers. To the maximum extent permitted by the Nonprofit Act or any other applicable law, the Association may indemnify any present or former Director, officer, committee member, or employee of the Association (collectively referenced, "Association Officials") in all cases in which an Association may indemnify an Association Official (including the estate, executor, administrator, heirs, legatees, or devisees of each such person). Without limiting the foregoing, the Association may indemnify its Association Officials in all cases in which it may do so under § 16-6a-902 of the Nonprofit Act, and shall indemnify its Association Officials in all cases in which it is required to do so under § 16-6a-903 of the Nonprofit Act. This provision constitutes authorization of indemnification as contemplated in § 16-6a-906 of the Nonprofit Act, so that the Association may indemnify Directors once a determination has been made in the specific case that indemnification is permissible in the circumstances because the Director has met the applicable standard of conduct set forth in § 16-6a-902 of the Nonprofit Act, as referenced above. The Association shall

consider and act as expeditiously as possible on any and all requests by an Association Official for indemnification.

6.2 Advances of Expenses. Pursuant to the provisions of §§ 16-6a-904 and 16-6a-907 of the Nonprofit Act, if a determination is made that an Association Official has met the statutory requirements for advancement of expenses, and if an authorization of payment is made, following the procedures and standards set forth in § 16-6a-906 of the Nonprofit Act, then the Association may pay for or reimburse the reasonable expenses incurred by an Association Official who is a party to a proceeding in advance of final disposition of the proceeding.

6.3 Scope of Indemnification. The indemnification and advancement of expenses authorized by this Article VI is intended to permit the Association to indemnify to the fullest extent permitted by the laws of the State of Utah any and all persons whom it shall have power to indemnify under such laws from and against any and all of the expenses, disabilities, or other matters referred to in or covered by such laws; notwithstanding anything to the contrary, the Association shall have no obligation to indemnify or provide for the advancement of expenses to any Association Official to the extent that such liability, damage, injury or other expense is covered by insurance proceeds.

6.4 Other Rights and Remedies. The rights to indemnification and advancement of expenses provided in this Article VI shall be in addition to any other rights which a party may have or hereafter acquire under any applicable law, contract, order, or otherwise.

6.5 Insurance. The Board shall obtain liability insurance coverage for the officers and Directors of the Association in such amounts as deemed appropriate and adequate by the Board.

6.6 Severability. If any provision of this Article shall be held to be invalid, illegal or unenforceable for any reason, the remaining provisions of this Article shall not be affected or impaired thereby, but shall, to the fullest extent possible, be construed so as to give effect to the intent of this Article that each party covered hereby may be entitled to the fullest protection permitted by law.

ARTICLE VII RECORDS

7.1 Records and Audits. The Association shall maintain financial records, and such other records as required by the Declaration or the Nonprofit Act. The cost of any audit shall be a common expense of the Association.

7.2 Examination. The Membership register, books of account and minutes of the meetings of the Association, of the Board and of committees of the Board, and all other records maintained by the Association or Manager, shall be made available for examination and copying by any Member or by any of their duly authorized attorneys, at the expense of the Person examining the records during normal business hours and for a non-commercial purpose reasonably related to his, her or its interest as a Member, at the office where the records are maintained. Upon receipt of an authenticated written request from a Member along with the fee prescribed by the Board to defray the costs of reproduction, the Manager or other custodian of the records of the Association shall prepare and transmit to the Member a copy of any and all of

the records of the Association requested. The Association may, as a condition to permitting an Owner to inspect the membership register or to its furnishing information from the register, require that the Owner 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 Association and the Owner's interest in the Association. The Members' inspection privileges do not apply to the personnel records of the employees of the Association and the records of the Association relating to another Member. The Board shall establish reasonable rules with respect to:

7.2.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection;

7.2.2 Hours and days of the week when such an inspection may be made; and

7.2.3 Payment of the cost of reproducing copies of documents requested by a Member.

7.3 Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association, subject only to the right of the Association to require that the Director agree in writing not to use, or allow the use of, the information from the membership register for commercial or other purposes not reasonably related to the business of the Association and the Director's interest in the Association.. The right of inspection by a Director includes the right to make a copy of relevant documents at the expense of the Association.

7.4 Records. The books and accounts for the Association shall be kept in accordance with generally accepted accounting principles under the direction of the Treasurer. At the close of each fiscal year, the books and records of the Association shall be prepared by an independent public accountant approved by the Association, and financial statements shall be prepared by said accountant and distributed to all Members.

ARTICLE VIII ASSESSMENTS

All Assessments shall be made in accordance with the general provisions of the Declaration. The Treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Property, specifying and itemizing the maintenance, repair and replacement expenses of the Property. Such records shall be available for examination by the Members during regular business hours. In accordance with the actions of the Board in assessing expenses against the Lots and Members, the Treasurer shall keep an accurate record of such Assessments and of the payments thereof by each Member.

**ARTICLE IX
AMENDMENT TO BYLAWS**

9.1 By Members. These Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of a majority of the Total Votes of the Association. Provided, however, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

9.2 Limitation on Amendments. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

**ARTICLE X
MISCELLANEOUS**

10.1 Notices. Unless otherwise provided in these Bylaws, all notices demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid, or if sent by electronic transmission to:

10.1.1 If to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the street address of such Member's Lot (consent to electronic notice is deemed granted in the event a Member provides a fax number or e-mail address to the Association); or

10.1.2 If to the Association, the Board, or the Manager, at the principal office of the Association or the Manager, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section 10.1.

10.2 Conflicts. If there are conflicts between the provisions of Utah law and Governing Documents, the provisions of Utah law and the Declaration, the Articles, these Bylaws and the Association Rules (in that order) shall prevail.

10.3 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason or any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10.4 Severability. The provisions of these Bylaws and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

10.5 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

10.6 Use of Technology. In recognition of the opportunities offered through computers and continuing advancements in technology, the Association may, as a common expense, provide for or offer services, which make use of computers and other technological

opportunities. For example, to the extent Utah law permits, and unless otherwise specifically prohibited in these Bylaws, the Association may send required notices by electronic means, hold Board or Association meetings and permit attendance and voting by electronic means, and send and collect Assessments and other invoices electronically.

10.7 Effective Date. These Bylaws shall take effect upon adoption by the Board.

10.8 Seal. The Board may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the words "Corporate Seal."

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Rockwell Park Association, Inc., a Utah nonprofit corporation;

That the foregoing Bylaws constitute the Bylaws of said Association, as duly adopted by an Action by Written Consent of the Board in Lieu of Organization Meeting dated September __, 2019.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association (if any) this ___ day of September 2019.

Secretary

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