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MASTER DECLARATION OF  
COVENANTS, CONDITIONS, AND  
RESTRICTIONS, AND RESERVATION  
OF EASEMENTS  
  
FOR  
  
TERRAINE  
  
IN  
  
WEST JORDAN, UTAH

THIS MASTER DECLARATION INCLUDES IMPORTANT SPECIAL DECLARANT RIGHTS IN ARTICLE 19, AND IMPORTANT CONFLICT AND LITIGATION AVOIDANCE AND RESOLUTION PROVISIONS, MEDIATION AND ARBITRATION REQUIREMENTS, AND WARRANTY LIMITATIONS AND DISCLAIMERS IN ARTICLE 20.

# **MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, AND RESERVATION OF EASEMENTS**

## **FOR TERRAINE**

### **INTRODUCTION AND STATEMENT OF PURPOSE**

Wood Ranch Development, LLC, a Utah limited liability company, acting by and through Third Cadence LLC, a Utah limited liability company, as Project Manager, is the qualified “Master Developer” of certain real property known as Terraine, located in the City of West Jordan, Utah (the “Project”), has established and recorded this Master Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for Terraine (this “Master Declaration”) to establish a governance structure and standards and procedures for the development, administration, maintenance and preservation of Terraine as a master-planned, mixed-use, new urbanist community which will include multiple housing types, recreational amenities, community gathering areas, and open space.

The guiding principles of Declarant in developing Terraine are to (1) create a strong sense of community grounded in healthy living, adventure and connection; (2) establish connectivity through the physical development of distinct Neighborhoods and landscapes that honor Utah’s Great Basin, complemented by the creation of distinct gathering spaces including a homeowners association hub (“HOA Hub”) and Village Center (as defined in the Master Development Agreement); (3) provide open space and a variety of recreation amenities for community residents to gather and connect; (4) create diverse programs, activities and services that facilitate neighbor-to-neighbor interaction and community engagement (5) support a balanced approach to transportation reflective of our commitment to stewardship, which provides multiple and safe modes of travel, including pedestrian, bicycle, and vehicle, through interconnected street design; and (6) enrich quality of life for residents and create long-term property value for Owners within the Project.

An integral part of the development of the Project is the formation of a master homeowners association, as a Utah nonprofit corporation (the “Terraine Master Owners Association, Inc.”), to own, operate, and maintain various common areas, common elements, and community improvements, and to administer and enforce the Governing Documents consistent with the Utah Community Association Act, as set forth in Utah Code § 57-8a- 101 *et seq.*, and the Utah Revised Nonprofit Corporation Act, Utah Code § 16-6a-101 *et seq.*

Separate from and in addition to the Terraine Master Owners Association, Inc., Declarant has or will establish a community council (the “Terraine Community Council”) pursuant to a recorded Covenant for Community for Terraine (“Covenants for Community”) to administer and maintain community facilities within the Project for the benefit of the community that are not owned or operated by the Master Owners Association, consistent with the Master Development Agreement.

The Terms and Conditions in this Master Declaration are established for the mutual benefit and burden of the Master Owners Association, present and future Owners, Occupants, Lenders, and others acquiring any interest in the Project. This Master Declaration is intended and shall run with the land and shall be binding upon Declarant, and the Owners and their respective successors and assigns, and any other Person that now, or hereafter, has any legal, equitable, or beneficial interest in any portion of the Project.

By taking title to a Unit, each Owner joins in and accepts the intent, purpose, and objectives of the Master Declaration and agrees to be bound by it, and acknowledges the benefits received from its existence and from Declarant’s development of the Project and accepts the burdens and responsibilities that accompany these benefits.

Capitalized terms in this Master Declaration are defined in Article 1 herein, or in other sections of this Master Declaration.

## ARTICLE 1 DEFINITIONS

As used herein, unless the context otherwise requires:

- 1.1 “Act” shall mean and refer to the Community Association Act codified at Utah Code § 57-8a-101 *et seq.*
- 1.2 “Articles” shall mean and refer to the Articles of Incorporation for the Terraine Master Owners Association, Inc.
- 1.3 “Bylaws” shall mean and refer to the bylaws of the Master Owners Association.
- 1.4 “City” shall mean and refer to the City of West Jordan, a political subdivision of the State of Utah, located in Salt Lake County, Utah.
- 1.5 “Common Areas” shall mean and refer to the real and personal property for the common use and enjoyment of the Owners not dedicated to the City or designated as Benefitted Common Area or Neighborhood Association common area that is or will be owned, administered, and/or maintained by the Master Owners Association. Common Areas shall include but are not be limited to the following: (a) all Common Areas designated as such the Plat, including any area designated as open space not dedicated to the City; (b) Project entry monuments, if any; (c) Community Recreational Amenities not administered or maintained by the Terraine Community Council; (d) all utility installations and all equipment connected with or in any way related to the furnishing of utilities for the common use and for the Common Area; (e) any fence or wall on common property; (f) any roadway, lane, alley or cul-de-

sacs within the Project not dedicated to the City or designated as Benefitted Common Area or Neighborhood Association common area; (g) and all other parts of the Project necessary or convenient to its existence, maintenance, and safety, or normally in common use, reserved for the exclusive use and enjoyment of the Owners and their respective family members, tenants, guests, and invitees.

- 1.6 “Common Expenses” shall mean and refer to the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Common Areas which is maintained by the Master Owners Association; (b) management and administration of the Master Owners Association, including, but not limited to, compensation paid by the Master Owners Association to managers, accountants, attorneys, consultants, and employees; (c) landscape maintenance and other services; (d) insurance and bonds required or allowed by this Master Owners Declaration; (e) the establishment of reserves; (f) other miscellaneous charges incurred by the Master Owners Association as provided for or allowed in the Act or the Governing Documents; and (g) any other expenses of the Master Owners Association arising from the operation of the Master Owners Association and not otherwise defined or precluded by the Governing Documents or any applicable law.
- 1.7 “Community Recreational Amenities” shall mean and refer to any and all of the private recreation improvements constructed in the Project which shall be owned and maintained by the Master Owners Association for the use and benefit of Owners and Occupants in the Project.
- 1.8 “Community-Wide Standards” shall mean and refer to the standard of use, conduct, architecture, landscaping, and aesthetic matters generally prevailing in the Project or initially established by Declarant consistent with the requirements of the Development Agreement and/or standards described in this Master Declaration, Design Guidelines, or Rules. The Community-Wide Standards may or may not be set forth in writing.
- 1.9 “Declarant” shall mean and refer to Wood Ranch Development, LLC, a Utah limited liability and approved, authorized assigns under the Master Development Agreement.
- 1.10 “Declarant Control Period” shall mean and refer to the period of time during which Declarant owns any property within the Project.
- 1.11 “Design Guidelines” shall mean and refer to standards and requirements detailed in the Terraine Architectural + Landscape Pattern Book dated December 1, 2021 established for the Project, as the same may be amended. The term Design Guidelines may be expanded to include additional design or architectural guidelines, other design documents identified in the Design Guidelines, Neighborhood Pattern Books, and rules and requirements adopted by Declarant for the Project.
- 1.12 “Design Review Committee” shall mean and refer to the committee of the Master Owners Association responsible for review and approval of home and landscaping plans, construction and installation of the improvements identified therein in conformance with the requirements of the Design Guidelines.

- 1.13 “Governing Documents” shall mean and refer to this Master Declaration and any recorded supplements or amendments thereto, the Plat, the Bylaws, the Rules, Articles, and any other written instrument by which Declarant or Master Owners Association may exercise power or manage, maintain, or otherwise affect the Project.
- 1.14 “Lender” shall mean and refer to a holder of a mortgage or deed of trust on a Unit.
- 1.15 “Lot” shall mean and refer to an individual lot depicted as a separately identified parcel on the Plat which may be independently owned and conveyed. The term “Lot” includes the dwelling constructed thereon as the context may require or permit. The term “Lot” does not include Common Areas, Benefitted Common Area or property dedicated to the City or the public. More than one Lot is referred to herein as “Lots.”
- 1.16 “Manager” shall mean and refer to the Person or Persons engaged by the Board to manage the Association.
- 1.17 “Master Owners Association” shall mean and refer to Terraine Master Owners Association, Inc., the membership of which shall include and be comprised of the Owners. The Master Owners Association shall be incorporated as a Utah nonprofit corporation.
- 1.18 “Master Declaration” or “Declaration” shall mean and refer to this Master Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Terraine including all attached exhibits other than any Bylaws, and all valid supplements and/or amendments to this Master Declaration.
- 1.19 “Master Development Agreement” shall mean and refer to that certain Master Development Agreement [for Terraine] approved by the City of West Jordan, Utah and recorded on December 16, 2021 with the Office of Recorder for Salt Lake County, Utah as Entry No. 13849047, Book 11283, beginning at Page 3445.
- 1.20 “Neighborhood” or “Neighborhoods” shall mean and refer to one or more of the distinct neighborhood communities which are or may be developed within the Project. A Neighborhood which includes Benefitted Common Area or is a Service Area may be referred to as a “Benefitted Neighborhood.”
- 1.21 “Neighborhood Association” shall mean and refer to any sub community association or condominium owners association under the Utah Condominium Ownership Act, Utah Code §§ 57-8-1 *et seq.*, that is or may be established for a particular Neighborhood or phase of the Project.
- 1.22 “Occupant” shall mean and refer to an individual, other than an Owner, in possession of, using, or living on a Unit within the Project, including, without limitation, family members, tenants, and invitees of an Owner or an Occupant.
- 1.23 “Owner” shall mean and refer to the Person or Persons who are vested with record title to a Unit, and whose interest in the Unit is held (in whole or in part) in fee simple, according to the records of the Office of Recorder for Salt Lake County, Utah. The term “Owner” shall not include a mortgagee or trustee or beneficiary under a trust deed unless and until such party acquires title to a Unit pursuant to

foreclosure or any arrangement or proceeding in lieu thereof. More than one Owner is referred to herein as “Owners.”

- 1.24 “Person” shall mean and refer to a natural person, corporation, estate, limited liability company, partnership, trustee, association, agency, or any other legal entity. More than one Person is referred to herein as “Persons.”
- 1.25 “Plat” shall mean and refer to the record of survey map or maps for a phase or phases of the Project of record and on file with the Office of Recorder for Salt Lake County, Utah, and all recorded amendments thereto.
- 1.26 “Project” shall mean and refer to the Terraine master-planned development and all structures and improvements thereon including the Units and the Common Areas.
- 1.27 “Property” as previously defined herein, shall include all easements and rights appurtenant thereto.
- 1.28 “Rules” shall mean and refer to the rules and regulations adopted by the Master Owners Association.
- 1.29 “Service Area” shall mean and refer to a group of Units or a particular Neighborhood designated as a separate Service Area pursuant to this Master Declaration for the purpose of receiving services or benefits from the Master Owners Association which are not provided to all Units within the Project. A Service Area may be comprised of more than one type of dwelling and may include noncontiguous Units. A Service Area may or may not correspond to a particular Neighborhood. A Unit may be assigned to more than one Service Area.
- 1.30 “Service Area Assessments” shall mean and refer to assessments levied against the Units in a particular Service Area to pay for Service Area Expenses.
- 1.31 “Service Area Expenses” shall mean and refer to the estimated and actual expenses which the Master Owners Association incurs or expects to incur for the benefit of Units within a particular Service Area, which may include amounts for reserves for capital repairs and replacements.
- 1.32 “Subdivision Improvements” shall mean and refer to all improvements that have or will be constructed or installed within the Project not part of any Unit that are necessary to provide public road access and/or utility service to the Unit, and includes such other and further construction or installations required to comply with any requirement of the Master Development Agreement.
- 1.33 “Supplement to Declaration” shall mean and refer to any amendment or supplement to this Master Declaration for a particular phase and/or designating Benefitted Common Area and assigning Units or a Neighborhood or Neighborhoods thereto. A Supplement to Declaration may also include Additional Covenants applicable only to a particular Neighborhood or a particular type of housing product within a Project phase.
- 1.34 “Terms and Conditions” shall mean and refer to any one or all of the terms, covenants, rights, obligations, and restrictions set forth in the Governing Documents.

- 1.35 “Unit” shall mean and refer a subdivided unit or condominium unit within the Project depicted as a separately identified parcel on the Plat or condominium instrument, which may be independently owned and conveyed and is zoned or otherwise intended for development, use and occupancy as an attached or detached dwelling and is sometimes referred to herein as a “Residential Unit.” The term “Unit” includes the dwelling and the Lot, if any, and all other improvements thereon. In the case of attached dwellings, or a building or other structure containing multifamily housing, or a building within a condominium project, each dwelling shall be deemed to be a separate Unit. A parcel of land shall be considered a single Unit until a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Unit. The term “Unit” does not include Common Area and Facilities, Neighborhood Sub-Association common area, Benefitted Common Area, or property dedicated to the City or the public.

## ARTICLE 2 THE PROJECT

- 2.1 Nature of the Project. The Project is a master-planned, mixed-use, new urbanist community, which will be distinctly designed and developed to foster healthy living and connection to the unique sagebrush ecosystem of Utah’s Great Basin. The community vision and plan will be intentionally developed in ten (10) successive phases. Pursuant to the Master Development Agreement, the Project, when completed, may include up to 3,068 Residential Units and will lean into the Declarant’s commitment to stewardship, include publicly accessible and programmable open space, trails, neighborhood parks, community gardens, community gathering spaces, and a community pool complex. Reflecting the diverse ways people want live today, the Project will contain several different types of housing, including detached single-family homes, attached and detached townhomes, multi-plexes, stacked flats, and apartments. Certain phases of the Project may be developed under a condominium form of ownership. The Project is not a cooperative and is not a condominium.
- 2.2 Binding Effect of Governing Documents. Declarant hereby declares and that the Project and all of the Units within the Project shall be held, transferred, mortgaged, encumbered, occupied, used, and improved subject to the Terms and Conditions in this Master Declaration which shall constitute equitable servitudes, covenants, and conditions running with the land and shall be binding upon and inure to the benefit of the Master Owners Association, Declarant, and each Owner, including his/her/their heirs, executors, administrators, personal representatives, successors and assigns. Phases of the Project shall be made subject to this Declaration and the Terms and Conditions herein and the jurisdiction of the Master Owners Association by recording of a Supplement to Declaration. By acquiring any ownership interest in a Unit and/or by residing within the Project, each Owner and Occupant consents to, and agrees to be bound by, each and every Term and Condition in the Governing Documents.

- 2.3 Project Name. The Project is named “Terraine” Notwithstanding, the name commonly used by the Master Owners Association or others for the Project may be different than the name identified in this Master Declaration and on the Plat.
- 2.4 Modifying or Changing the Name of the Project. The name of the Project may be modified or changed pursuant to a lawful amendment to this Master Declaration and in accordance with applicable land use management codes.
- 2.5 Registered Agent. The registered agent of the Master Owners Association shall be as provided for in entity filings of the Master Owners Association.

### ARTICLE 3

#### DESCRIPTION OF THE UNITS, LIMITED COMMON AREAS, AND OWNERS ALLOCATED INTERESTS AND VOTING RIGHTS

- 3.1 The Unit.
- (a) Each Unit generally consists of all structures on or within the boundary of the Lot, including, but not limited to, all exterior and interior walls, floors, ceilings, roofs, foundations, and fixtures, and, in all dwelling walls shared with or abutting another Unit, the Unit shall extend to the center of the wall, which shall form the boundary of the Units sharing that wall. Subject to dividing lines between Units.
  - (c) All pipes, wires, conduits, chutes, flues, ducts, shafts, public utility, water or sewer lines, or any other similar fixtures lying inside the designated vertical boundaries of a Unit or located beyond the vertical boundaries of the Unit but designated and designed to serve only that Unit, shall be part of the Unit.
  - (d) Unless otherwise indicated on the Plat, a Unit developed as part of multi-family housing shall include all exterior doors, door jams, windows, window sills, window frames, cantilevers and popouts, garages, garage doors, and any porch and/or patio not otherwise identified as appurtenant Limited Common Area, and all elements and utility lines designed to serve only that Unit.
- 3.2 Limited Common Area.
- (a) The Limited Common Area appurtenant to a Unit, if any, shall consist of areas identified on the Plat as limited common area or limited common ownership or that is spatially associated with that Unit.
  - (b) The right to the exclusive use of the Limited Common Area shall be appurtenant to the respective Unit where so identified and may not be severed from the ownership of the Unit.
- 3.3 Allocated Interest of Each Unit in the Common Expense and in the Votes of the Master Owners Association. Each Unit shall have an equal Allocated Interest in the Master Owners Association. Any difference in square footage, location, size, value,



or other aspect of any Unit shall not be a reason to alter or change any Allocated Interest. The Owners of the Units shall be entitled to vote their respective Allocated Interest for those matters related to the Master Owners Association that Owners are permitted or required to vote or approve, subject to the restrictions for delinquent Owner accounts in Article 5, and the rights reserved to Declarant during the Declarant Control Period as set forth in Article 19 of this Master Declaration.

ARTICLE 4  
ORGANIZATION AND GOVERNANCE OF THE  
MASTER OWNERS ASSOCIATION

- 4.1 Organization of Master Owners Association. The Master Owners Association shall serve as the organizational body for all Owners. The Master Owners Association shall be organized and operate as a Utah non-profit corporation under the Utah Revised Nonprofit Corporation Act, Utah Code § 16-6a-101 *et seq.*
- 4.2 Membership. Membership in the Master Owners Association at all times shall be comprised exclusively of the Owners. Each Owner shall be a member of the Master Owners Association for so long as such Owner has an ownership interest in a Unit and such membership shall automatically terminate when the Owner ceases to have an ownership interest in a Unit. Upon the transfer of an ownership interest in a Unit, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. If titled ownership to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held.
- 4.3 Board of Directors. Except as otherwise provided in this Master Declaration, the Bylaws, or the Articles, the Board, in all instances, shall act on behalf of the Master Owners Association. Any reference to an act, right, or obligation of the Master Owners Association in the Governing Documents may only be exerted or complied with through an action of the Board. Except as otherwise provided in this Article 4, the number, tenure, and qualifications for the Board of Directors shall be as set forth in the Bylaws.
- 4.4 Owner Representation on Board During Declarant Control Period. To ensure Owner representation in governance of the Master Owners Association during the Declarant Control Period, in addition to the Board Members appointed by Declarant up to two (2) Owners may be elected by the Master Association members to the Board as follows: Upon closing on the sale of fifty percent (50%) of the Units in the Project, as determined by Declarant, one (1) Owner from the Project may be elected to the Board of Directors by the Association members. Upon closing on the sale of sixty-seven percent (67%) of the Units in the Project, as determined by Declarant, an additional Owner may be elected to the Board of Directors by the Association members (for a total of two (2) elected Board members prior to turnover of governance of the Association to the Association members at the end of the Declarant Control Period). An Owner elected by the Association members to the Board during the Declarant Control Period shall serve a two (2) year term as provided in the Bylaws.

- 4.5 Transition to Owner Control of Board. The transition to a Board elected exclusively by the Association members is set forth in the Bylaws.
- 4.6 Limitation on Authority of Board Members and Officers.
- (a) Except as provided in this Master Declaration or in the Bylaws, no individual Board Member or officer of the Association shall have authority to or is authorized to act on behalf of the Master Owners Association to:
    - (i) amend or terminate any Governing Document;
    - (ii) elect or remove members of the Board;
    - (iii) establish or change the qualifications, powers and duties, requirements, or terms of Board Members or of the Board; or
  - (b) authorize or agree to any deviation or exception from the Terms and Conditions.
- 4.7 No Estoppel or Reliance on Actions or Authorizations Contrary to Governing Documents. No one may rely upon any authorization (from the Board or anyone else) contrary to the terms of the Governing Documents regardless of the circumstances under which it is given, and no claim or defense of estoppel or waiver or similar equitable or legal claim or defense may be raised by anyone related to any such alleged reliance. It is the responsibility of anyone interacting with, purchasing, occupying, or visiting a Unit within the Project to verify that anything that the Master Owners Association does, does not do, or authorizes related to the Project or the Master Owners Association is in compliance with the terms of the Governing Documents.
- 4.8 Registration with the State. In compliance with § 57-8a-105 of the Act, the Master Owners Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required under the Act.
- 4.9 Availability of Association Records. The Master Owners Association shall make available to the Owners copies of the Governing Documents and the corporate records, meeting minutes, books, and financial statements related to the operations of the Association consistent with the requirements of the Act and §§ 16-6a-1601 through 1603, 16-6a-1605, and 16-6a-1606 of the Utah Revised Nonprofit Corporation Act. Subject to any legal requirements otherwise, the Association shall make available to Lenders and insurers of any Lender, copies of the Governing Documents and copies of corporate records, meeting minutes, books, and financial statements related to the operations of the Association within thirty (30) days of receipt of a written request.

ARTICLE 5  
GENERAL RIGHTS AND RESPONSIBILITIES OF THE MASTER OWNERS  
ASSOCIATION

- 5.1 Rights and Responsibilities of the Master Owners Association. The Master Owners Association shall have the rights and responsibilities set forth in this Article 5 in addition to any others set forth in the Governing Documents or provided by law.
- 5.2 Maintenance. The Master Owners Association shall make provisions for completing all maintenance, repair, and replacement requirements and obligations of the Master Owners Association, consistent with the Master Development Agreement. This shall include the right to modify, remove fixtures from, add fixtures and structures to, place signs upon, and otherwise modify the Common Areas or Benefitted Common Area. The Master Owners Association shall do all such other and further acts that the Board deems necessary to preserve and protect the Common Areas, Benefitted Common Areas, and the Project, in accordance with the general purposes specified in this Master Declaration and the Community-Wide Standards.
- 5.3 Paying Expenses. The Master Owners Association shall provide for the payment of Master Owners Association expenses.
- 5.4 Setting and Collecting Assessments. The Master Owners Association shall establish, collect, and account for Assessments as necessary to operate the Project consistent with the requirements of the Governing Documents.
- 5.5 Adopting and Enforcing Rules. The Master Owners Association may adopt Rules for the regulation and operation of the Project, including additional design or architectural requirements and/or restrictions. If Rules are adopted, they shall be consistently and uniformly enforced. The Rules may address any issues including those addressed in any other Governing Documents and may include restrictions and regulations specific to a particular Project phase, Benefitted Neighborhood, Benefitted Common Area, and/or Service Area. The Rules may supplement, clarify, and add detail to issues or items addressed in the other Governing Documents so long as the Rules do not contradict the same. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive, subject to a judicial determination if any is timely sought. The standard for adoption of Rules is one of reasonableness. A Rule must be reasonable in light of the circumstances pertaining to the situation or issue addressed by the Rule.
- 5.6 Hiring Managers and Delegating Responsibilities. The Master Owners Association shall hire a Manager to assist the Board in the management and operation of the Project and the Master Owners Association and the Board may delegate and/or assign its powers and obligations in the Governing Documents to the manager, employees, or other agents as it deems appropriate; provided, however, that only the Board shall have the right to approve Master Owners Association budgets, and regular and special Assessments, and to provide a hearing requested to dispute a fine. Any powers and duties delegated to any Manager or other Person may be revoked by the Board at any time, with or without cause. **THE BOARD HAS NO**

**AUTHORITY TO ENTER INTO ANY MANAGEMENT AGREEMENT OR CONTRACT INCONSISTENT WITH THE TERMS OF THESE GOVERNING DOCUMENTS OR THAT PROVIDES FOR ANY TERMINATION FEE OR REQUIREMENT FOR TERMINATION ONLY FOR CAUSE.**

- 5.7 Enforcement Rights and Remedies. In addition to any other rights and/or remedies allowed or provided in the Governing Documents for any violation of the Governing Documents, the Master Owners Association may: (a) impose fines; (b) collect rents directly from tenants if Owners fail to pay Assessments; (c) suspend voting rights; (d) suspend use of Community Recreation Amenities; and (e) take any other action or seek any other remedy allowed by the Act or other applicable Utah law.
- 5.8 Discretion in Enforcement.
- (a) Subject to the discretion afforded in this section, the Board uniformly and consistently shall enforce and implement the Terms and Conditions in the Governing Documents.
  - (b) The Board shall use its business judgment to determine whether to exercise the Master Owners Association's powers and authority granted herein and/or under the Act, including whether to (i) impose sanctions, (ii) pursue legal action for a violation of the Governing Documents, (iii) compromise a claim made by or against the Board or the Master Owners Association; and (iv) pursue a claim for an unpaid Assessment.
  - (c) Consistent with Subsection (b) of this Section, the Master Owners Association may not be required to take enforcement action if, after fair review and acting in good faith and without conflict of interest, the Board determines that under the particular circumstances: (i) the Master Owners Association's legal position does not justify taking any or further enforcement action; (ii) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (iii) a minor or technical violation has or may have occurred and the violation is not material as to a reasonable individual or does not justify expending the Master Owners Association's resources; or (iv) it is otherwise not in the Master Owners Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria.
  - (d) Subject to Subsection (e) of this Section, if the Board decides under Subsection (c) above to forego enforcement, the Master Owners Association is not prevented from later taking enforcement action.
  - (e) The Board shall not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action.
- 5.9 Establishing Hearing Procedures. The Board shall have the authority to create a reasonable hearing process applicable in case the Master Owners Association shall take enforcement action against an Owner or in any situation where hearing process is required by law. The Board shall not be under any obligation to offer a hearing

process, except as required by law or by the Governing Documents, and in any such process, shall have the authority to designate the procedure related to any such hearing and to make any and all final determinations of issues subject to the hearing process. The Board may establish the hearing process on an as-needed basis for particular matters as they arise or may set forth a process in the Rules applicable generally to such matters that it designates. Any such hearing process shall provide, at a minimum for: (a) at least two weeks' notice of the hearing to the Owner, and (b) a reasonable time period under the circumstances for the Owner to present their own testimony, the testimony of others, argument, authority, evidence, and other information the Owner deems relevant to the disputed issue.

- 5.10 Annual Meeting. The Master Owners Association shall arrange for and conduct an annual meeting of the Owners as provided for in the Bylaws and shall arrange for and conduct such other meetings of the Master Owners Association as shall be properly requested pursuant to the Governing Documents or the law.
- 5.11 Payoff Information Fees. The Master Owners Association is expressly authorized to charge a fee to provide payoff information related to the transfer, refinance, or closing of sale or other transfer of a Unit. The payoff fee shall be fifty dollars (\$50.00); however, the Board may increase or decrease the fee amount if the new amount is identified in the Rules and is consistent with the Act.
- 5.12 Other Necessary Rights. The Master Owners Association shall have any other right that is reasonably necessary to carry out the terms of the Governing Documents.

## ARTICLE 6 BUDGETS & ASSESSMENTS

- 6.1 Purpose of Assessments. Amounts collected by the Master Owners Association shall be used for the management, maintenance, care, preservation, operation, and protection of the Project, enhancing and preserving the value of the Project, and in the furtherance of carrying out or satisfying any other duty or power of the Master Owners Association.
- 6.2 Budget and Regular Assessment.
  - (a) The Board is authorized and required to adopt a budget for the following fiscal year prior to the beginning of each fiscal year. The Board may revise that budget from time to time as it deems appropriate.
  - (b) The budget shall cover the period of the next fiscal year. The budget shall estimate the total Common Expenses to be incurred for the next fiscal year (or that fiscal year for a revised budget), which shall be broken down into reasonably detailed expense categories. The budget shall include a line item that identifies the amount to be placed into the reserve fund. The budget also shall include an estimate of Benefitted Common Area Expenses for each Benefitted Common Area and Service Area Expenses for each Service Area and may include contingencies and other estimates as the Board deems appropriate.

- (c) The Board shall determine the amount of the regular Assessments to be paid by the Owners of each Unit by dividing the total budgeted amount for the Common Expense by the Allocated Interest for each Unit, subject to Declarant rights in Section 19.6 herein.
  - (d) The Board shall determine the amount of Benefitted Common Area Assessments to be paid by the Owners of the Units assigned to each such Benefitted Common Area by dividing the total budget amount for the each of the Benefitted Common Area Expenses by the number of Units assigned to each such Benefitted Common Area.
  - (e) The Board shall determine the amount of Service Area Assessments to be paid by the Owners within each Service Area by dividing the total budget amount for each Service Area Expenses by the number of Units assigned to each such Service Area.
  - (f) The Board shall present the adopted budget to the Owners at an annual or special Master Owners Association meeting.
  - (g) Except during the Declarant Control Period, a budget may be disapproved within forty-five (45) days after the date of the meeting at which the budget was presents if: (i) the holders of at least fifty-one percent (51%) of the total Allocated Interests in the Master Owners Association vote to disapprove the budget; and (b) such vote is taken at a special meeting called for that purpose in accord with the requirements set forth in the Bylaws.
- 6.3 Payment of Assessments. Unless otherwise established by the Board and communicated to each Owner, each Owner shall pay to the Master Owners Association the Owner's regular Assessment, Benefitted Common Area Assessment and Service Area Assessment, as may be the case, annually or on such quarterly or monthly installment basis as the Board or the Manager may determine.
- 6.4 Adjustments to Regular Assessments. In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it may then revise the budget and each Owner's share of the new budget total based on the Owner's Allocated Interest. Upon notice of the adjustment, and unless modified by the Board, each Owner thereafter shall pay to the Master Owners Association the Owner's adjusted regular Assessment.
- 6.5 Adjustments to Benefitted Common Area Assessments or Service Area Assessments. In the event the Board determines that the estimate of total charges for the current year is, or will become, inadequate to meet Benefitted Common Area Expenses or Service Area Assessments, for any reason, the Board may then revise the appropriate budget and each Owner's share of the new budget total based on the Owner's proportional share of the Benefitted Common Area Expenses or the Service Area Expenses, as the case may be. Upon notice of the adjustment, and unless modified by the Board, each Owner thereafter shall pay to the Master Owners Association the Owner's adjusted Benefitted Common Area Assessment or adjusted Service Area Assessment.

- 6.6 Personal Obligation for Assessment. Each Owner of a Unit, by acceptance of a deed or other instrument creating the ownership interest required to be an Owner as defined herein, hereby personally covenants and agrees with each other Owner and with the Master Owners Association to pay to the Master Owners Association the Assessments as provided for in the Governing Documents, including any Benefitted Common Area Assessments and Service Area Assessments. Any and all Assessment, together with such interest, collection charges, and attorneys' fees and costs authorized by the Governing Documents, shall be the personal obligation of the Owner of such Unit.
- 6.7 Billing and Collection Procedures. The Board shall have the right and responsibility to adopt Rules setting forth procedures applicable to Assessments provided for in this Declaration and for the billing and collection of all Assessments, provided that such procedures are not inconsistent with the provisions herein. Such procedures and policies may include, but are not limited to, the date when Assessment payments are due and late, establishing late fees and collection charges, and establishing interest that may be charged on unpaid balances. The failure of the Master Owners Association to send a statement to an Owner or an error in any such statement (other than a Certificate of Payment) shall not relieve any Owner of liability for any Assessment or charge under the Governing Documents.
- 6.8 Certificate of Payment. Consistent with § 57-8a-206 of the Act, the Master Owners Association, within ten (10) business days after receipt of written request, shall furnish to any Owner liable for Assessments or such other Person for whom an Owner has given written permission in a form acceptable to the Master Owners Association, a written statement or certificate, signed by an officer or authorized agent of the Master Owners Association, setting forth the Assessments relating to a specified Unit which have been paid and/or are due, and the amount of delinquency, if any. Each such certificate shall be conclusive in favor of a Person who relies on the written statement in good faith. The Board is authorized to charge a ten-dollar (\$10.00) fee for the issuance of a certificate; provided, however, the Board may increase or decrease this fee amount if the new amount is identified in the Rules and is consistent with the Act.
- 6.9 Special Assessments. Subject to any limitations in this Master Declaration for the particular type of expense, the Master Owners Association is expressly authorized to set and collect special Assessments, payable as may be determined by the Master Owners Association (in lump sums or over a period of time), to pay for any Common Expenses. Notwithstanding the wording or terms of any notice of special Assessment, a special Assessment shall be deemed assessed, for all purposes, on the date that the payment for the Assessment is due.
- 6.10 Special Assessments to a Particular Unit or Units within a Particular Neighborhood. Special Assessments may be levied by the Master Owners Association against a particular Unit and its Owner or against Units within a Particular Neighborhood and their respective Owners for:

- (a) Costs incurred in bringing an Owner or Unit into compliance with the provisions of the Governing Documents;
  - (b) Any other charge not included in a Benefitted Common Area Assessment or Service Area Assessment designated by the Board or the Manager as pertaining to the individual Unit or to Units within a Particular Neighborhood consistent with the Governing Documents;
  - (c) Fines, late fees, collection charges, and interest; and
  - (d) Attorneys' fees, costs and other expenses relating to any of the above.
- 6.11 Acceptance of Materials or Services. In the event the Master Owners Association undertakes to provide materials or services that are not otherwise required in the maintenance of the Project or Benefitted Common Area or in a Service Area, which benefits an individual Unit, and which can be accepted or not by the Unit Owner, such Owner, in accepting such materials or services, agrees that the costs thereof may be a special Assessment pertaining to that Unit, as may be determined by the Board, in its discretion.
- 6.12 Application of Excess Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board, in its discretion, may apply the excess to reserves, credit the excess against future Assessments or refund the excess to the Owners in proportion to the Allocated Interests of each Unit in the Common Expenses of the Project, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Master Owners Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year. In the event that amount budgeted for any Benefitted Common Area or Service Area proves to be excessive in light of the actual Benefitted Common Area Expenses or Service Area Expenses, the Board, in its discretion, shall either: (a) credit the excess against future Benefitted Common Area Assessments for the particular Benefitted Common Area with the excess, or (b) credit the excess against future Services Area Assessments for the particular Service Area that had an excess, as the case may be, or (c) refund the excess to the Owners of the Units assigned to the Benefitted Common Area that had the excess or assigned to the Service Area that had an excess, as the case may be.
- 6.13 No Offsets. All Assessments shall be payable at the time and in the amount specified by the Master Owners Association, and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Board is not properly exercising its duties and power, a claim in the nature of offset or that the Master Owners Association owes the Owner money, or that the Master Owners Association is not complying with its obligations as provided for in the Governing Documents.



- 6.14 How Payments Are Applied. Unless otherwise provided for in the Rules, all payments for Assessments shall be applied to the earliest charges first. Owners shall have no right to direct the application of their payments on Assessments or to require application of payments in any specific order, to specific charges, or in specific amounts.

## ARTICLE 7

### NONPAYMENT OF ASSESSMENTS & JOINT AND SEVERAL LIABILITY OF OWNERS FOR ALL PAST UNPAID ASSESSMENTS

- 7.1 Delinquency. Assessments not paid within the time required shall be delinquent. Whenever an Assessment is delinquent, the Board may, at its option, invoke any or all of the remedies granted in this Article 7. The Master Owners Association's choice of one remedy shall not prejudice or constitute a waiver of the Master Owners Association's right to exercise any other remedy. Each Owner, by taking title to a Unit, vests in the Master Owners Association, or its assigns, the right and authority to bring actions at law or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.
- 7.2 Collection Charges and Interest. If the Master Owners Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply: The Assessments shall be due within thirty (30) days of invoicing. Payments received after thirty (30) days from invoicing may be charged an initial late fee of thirty-five dollars (\$35.00). Thereafter, an additional late fee charge of thirty-five dollars (\$35.00) per month may be added for each month that an Owner's account has an unpaid balance. In addition to late fees, interest shall accrue on all unpaid balances, including on any unpaid prior attorney fees and late charges, at the rate of two percent (2%) per month or such other amount as may be set forth by the Master Owners Association in the Rules and allowed by law. Delinquent accounts may be turned over by the Master Owners Association to attorneys or to a collection company and additional collection charges and attorneys' fees and costs may be added to the amounts owed.
- 7.3 Joint and Several Liability of Owner and Future Owners for All Past and Presently Accruing Unpaid Assessments. To the extent permitted by law, the Owner and any future owners of a Unit are jointly and severally liable for all Assessments related to that Unit accruing prior to and during the time that an Owner is an Owner. An Owner is not liable for any Assessments accruing after he/she has lawfully transferred title to the Unit to another Owner; provided, however, that the recording of a deed to a Person that has not agreed to take ownership of the Unit shall not be considered a legal conveyance of title. The obligation imposed by this Section is separate and distinct from any lien rights associated with the Unit.
- 7.4 Lien. The Master Owners Association has a lien on each Unit for all Assessments, which include, but are not limited to, late fees, interest, collection charges, attorneys' fees, court costs, and other costs of collection (which shall include all costs and not be limited by those costs that may be awarded under the Utah Rules of Civil Procedure). This lien shall arise and be perfected as of the date of the recording of this Master Declaration and shall have priority over all encumbrances

recorded after this Master Declaration is recorded, except as otherwise provided by law. If an Assessment is payable in installments, the lien is for the full amount of the Assessment from the time the first installment is due, unless the Master Owners Association provides otherwise in the notice of Assessment. The Master Owners Association shall also have a lien on each Unit for all fines imposed against an Owner by the Master Owners Association. This lien shall arise and be perfected when (a) the time for appeal described in § 57-8a-208(5) of the Act has expired and the Owner did not file an appeal; or (b) the Owner timely filed an appeal under § 57-8a-208(5) of the Act and the district court issued a final order upholding the fine. The Master Owners Association's lien shall have priority over each other lien and encumbrance on a Unit except only: (i) a lien or encumbrance recorded before this Declaration is recorded; (ii) a first or second security interest on the Unit secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Master Owners Association; and (iii) a lien for real estate taxes or governmental assessments or charges against the Unit. The Master Owners Association may, but need not, record a notice of lien on a Unit.

- 7.5 Action at Law. The Master Owners Association may bring an action to recover a delinquent Assessment personally against the Owner obligated to pay the same. Any attorneys' fees and costs incurred in such action shall be assessed against the delinquent Owner and the Owner's Unit and added to the amount in delinquency (plus judgment interest and collection charges, if appropriate).
- 7.6 Foreclosure Sale. The Master Owners Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Declarant appoints Melyssa D. Davidson as trustee, who qualifies under Utah Code § 57-1-21(1)(a)(i). Declarant hereby conveys and warrants pursuant to Utah Code § 57-1-20 and 57-8a-302 to Melyssa D. Davidson, with power of sale, the Unit, and all improvements to the Unit for the purpose of securing payment of Assessments under the terms of the Declaration. The Master Owners Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.
- 7.7 Homestead Waiver. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Master Declaration (whether such liens are now in existence or are created at any time in the future), the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.
- 7.8 Termination of Delinquent Owner's Rights. The Master Owners Association shall have all rights provided for in the Act to terminate a delinquent Owner's right to utilize Community Recreation Amenities and/or the right to vote, provided, however, that before termination of such rights, the delinquent Owner be provided at least fourteen (14) days prior notice, in accordance with the notice requirements in the Bylaws, of:
- (a) the impending termination of rights if payment is not received;
  - (b) the amount(s) past due, including any interest and late charges; and

(c) the right to request a hearing before the Board.

- 7.9 Requiring Tenant to Pay Rent to Master Owners Association. The Master Owners Association shall have a right to demand and collect rent from any tenant occupying any Unit for which an Assessment is more than sixty (60) days late, subject to the notice requirements in the Act.
- 7.10 Attorneys' Fees Incurred as a Result of Nonpayment of Assessments. In addition to any attorneys' fees and costs in Article 19 of this Master Declaration, the Master Owners Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner's failure to timely pay Assessments, including but not limited to attorneys' fees and costs incurred to: (a) obtain advice about a default; (b) collect unpaid Assessments; (c) file lawsuits or other legal proceedings related to a default in an effort to collect unpaid Assessments; (d) file pleadings, notices, objections, and proofs of claim in any bankruptcy proceeding; (e) examine the debtor or others related to collections; (f) monitor any bankruptcy proceedings including, but not limited to, regular monitoring of an Owner's progress in a chapter 13 plan for the duration of the plan; (g) file relief from stay motions, objections, or other adversary proceedings in bankruptcy (and all related activities including seeking and responding to discovery, taking depositions or examinations, introduce evidence, hiring and paying expert witnesses, filing motions and other pleadings, attending trials, hearings, or other court proceedings, including as reasonably necessary related to assert any non-dischargeability of debts, to assert claims against the bankruptcy estate or co-debtors, to challenge exemptions, to pursue any appropriate adversary proceeding, or for any other reason related to the ultimate attempt to collect unpaid Assessments); and (h) foreclose a lien, secure lien rights, or prepare any notice of lien. This provision is to be construed broadly to permit the Master Owners Association to recover any reasonable fees and costs in any way related to an Owner's default in the payment of Assessments and the ultimate collection of those Assessments.
- 7.11 Master Owners Association Responsibility after Foreclosure. If the Master Owners Association takes title to a Unit pursuant to a foreclosure (judicial or non-judicial), the Master Owners Association shall not be bound by any of the provisions related to the Unit that are otherwise applicable to any other Owner, including but not limited to: obligations to pay assessments or maintain the Unit.

## ARTICLE 8 DESIGN CONTROLS

- 8.1 Overarching Design Plan for Terraine. Terraine is premised on the fundamental concepts of conservation, balance, and community. The Design Guidelines are intended to ensure all building and landscape designs are compatible with the site, overall environment, and the design objectives of Terraine.
- 8.2 Design Review Committee. Subject to the exemptions granted Declarant during the Declarant Control Period, the Design Review Committee shall be composed of at least three (3) individuals appointed by the Board or Declarant. Persons serving on the Design Review Committee shall serve at the pleasure of

the Board. Members of the Design Review Committee may or may not be Board Members or members of the Master Owners Association and may include one or more paid professionals, such as an architect, to perform such services. In the absence of Design Review Committee appointments, the Board may serve as the Design Review Committee. The Design Review Committee shall enforce the Design Guidelines and shall have and may exercise all the powers, duties and responsibilities set out in this Declaration. The Design Review Committee delegate some or all of its obligations to a paid design professional.

- 8.3 Design Review Fees. The operating costs of the Design Review Committee, including the services of its planning consultants, professions and other staff, shall be covered through a fee paid to the Design Review Committee by Owners applying for plan review and approval, consistent with § 57-8a-109(2) of the Act. The Design Review Committee shall make available to all Owners a current design review fee schedule, which may be modified from time to time in accordance with the Act. Fees must be paid in full before any review by the Design Review Committee commences and the unused portion thereof, in any, is refundable.
- 8.4 Building Permits and Other Governmental Approvals Are Separate from Master Association Design Review Process. Any approval of the Design Review Committee authorized or required under this Master Declaration is an entirely different than and separate from any building permit or other permit or approval that may be required under City ordinance or by any other governmental entity. Any and all necessary building permits and City or other governmental approvals must be obtained prior to the commencement of construction or work. Notwithstanding any other provision in this Article or the Design Guidelines, the Design Review Committee shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building codes, zoning or other land-use regulations; (b) the accuracy or content of any construction documents or specifications prepared by any architect, engineer or any other Person; (c) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist; or (d) any failure to carry out any construction in accordance with plans or specifications.
- 8.5 Design Approval and Pre-Approval Rights Reserved to Declarant. Work performed by or on behalf of Declarant for Subdivision Improvements and infrastructure and the initial construction of homes by Declarant or its assigns shall not require approval of the Design Review Committee. Bulk-builder plans and multi-family housing builder plans may be pre-approved by Declarant for a particular phase or phases of the Project and such plans shall not be subject to the design review process or require approval of the Design Review Committee.
- 8.6 Renewable and Energy Saving Devices. This Master Declaration shall not be amended, and the Master Owners Association shall not adopt any Rules to prohibit or have the effect of prohibiting reasonably sited and designed solar

collectors, clotheslines, or other energy devices based on renewable resources on buildings erected on a Unit, provided, however, that the same is properly maintained in good and working order and in slightly condition. The Master Owners Association may, however, adopt Rules to the extent allowed under the Act and/or applicable law regulating the appearance, location, and/or operation of the same so as to avoid or limit negative impact on neighboring Owners and Occupants and to ensure compliance with Community Standards.

## ARTICLE 9

### EASEMENTS, ACCESS RIGHTS, AND RIGHT TO USE COMMON AREAS

- 9.1 Owner Rights and Nonexclusive License to Use Common Areas. Subject to all other terms and conditions of the Governing Documents, each Owner shall have the right and a nonexclusive license for use and enjoyment of the Common Areas and the right and nonexclusive license for the use and enjoyment of the Benefitted Common Area to which that Owner's Unit has been assigned, if any, subject to any restrictions related to such use. Such rights and nonexclusive license shall be appurtenant to and shall pass with title to the Unit and in no event shall such appurtenant rights be separated therefrom. Authorized Occupants shall have the same access and use rights to the Common Areas and assigned Benefitted Common Area, if any, as the Owner whose Unit the Occupant is occupying. All such rights shall be subject to any Rules established by the Board.
- (a) Notwithstanding anything to the contrary in foregoing Section, an Owner's rights and license for the use and enjoyment of the Common Areas shall be subject to any other limitation in the Governing Documents and the following:
- (i) The right of the Master Owners Association to impose reasonable limitations on the number of Occupants per Owner or guests who at any given time are permitted to use the Common Areas and/or Community Recreation Amenities; and
  - (ii) The right of any governmental or quasi-governmental body having jurisdiction over the Project to access and to have rights of ingress and egress over and across any roadway, parking area, or developed open space contained within the Project for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal services.
- 9.2 Master Owners Association Easements and Access Rights. The Master Owners Association shall have nonexclusive easements with the right of access over and across each Unit and building, to make inspections, to prevent or mitigate damage to Common Areas or Benefitted Common Area, and to maintain, repair, replace or effectuate the restoration of the Common Areas and any other property or improvements for which the Master Owners Association is responsible for maintaining, including any Benefitted Common Area or Service Area, which are accessible from such Unit. The Master Owners Association shall have a nonexclusive right to grant permits, licenses, and easements upon, across, over,

under, and through the Common Areas, Benefitted Common Area, and Service Area for purposes necessary for the proper operation of the Project.

- (a) The right to hook-up, tie-in, connect to and utilize the water, power, gas, or other utility lines, valves, pipes, equipment, meters and systems servicing a Unit for the purpose of providing water, power, gas, or other utilities to the Common Areas or other parts of the Project in common use or necessary or convenient for the maintenance, operation, or management of common property by the Master Owners Association is reserved to Declarant and the Master Owners Association; provided, however, that the Master Owners Association shall pay the actual cost of the water, power, gas, or other utility service utilized by the Master Owners Association to the Owner of any such Unit.

- 9.3 Utilities. Easements and rights-of-way over, under and through the Project for the installation and maintenance of electrical lines, telephone lines, cable television lines, fiber optics, water lines, gas lines, sanitary sewer lines, drainage facilities, telecommunication fixtures and equipment, utility fixtures and equipment, and such other lines, fixtures, or equipment needed or determined by the Board to be helpful in serving the Project, the Units, or the Owners are hereby reserved to Declarant and the Master Owners Association, together with the right to grant, alter, and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use and enjoyment of the Common Areas and the Units by the Owners or Occupants. The Master Owners Association shall have the power to grant and convey, in the name of the Master Owners Association or for all of the Owners as their attorney-in-fact, to any Person, easements and rights-of-way in, on, over or under the Common Areas and Units for the purpose of constructing, erecting, operating, or maintaining lines, cables, wires, wireless transmission or reception equipment, conduits, or other devices for electricity, cable television, power, telecommunications, internet, telephone, public sewers, storm water drains and pipes, water systems, irrigation systems, water heating and gas lines or pipes and any other public, quasi-public, or private improvements or facilities. There is also reserved to Declarant and to the Master Owners Association the right and authority to contract with one or more providers for fiber optics, internet, streaming services, cable, phone, and other services and related equipment and fixtures for the Project or portions of the Project as may be determined by Declarant or the Master Association to be beneficial for Owners.

Each Owner, by taking title to a Unit, expressly consents to such easements and rights-of-way and authorizes and appoints the Master Owners Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. Such Owner and those claiming by, through or under an Owner agree to execute promptly all such documents and instruments and to do such other things as may be necessary or convenient to effectuate the same at the request of the Master Owners Association. However, no easement or right of way can be granted pursuant to this paragraph if it would permanently and materially interfere with the use, occupancy, or enjoyment by any Owner of such Owner's Unit.

- 9.4 Easements for Encroachments. If any portion of the Common Areas or any Subdivision Improvement encroaches upon any Unit, or if any Unit encroaches upon any other Unit or the Common Areas as a result of the manner in which the Subdivision Improvements are constructed or due to settling, shifting, alteration, replacement, repair or restoration by Declarant or the Master Owners Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement or structure.
- 9.5 No View Easements. Views from a Unit and/or the Project are not assured or guaranteed in any way. There is no warranty or guarantee concerning the preservation of any view or view plane from the Project and each Owner and Occupant in such Owner's Unit acknowledges and agrees that there are no view easements or view rights appurtenant to any Unit or the Project.

ARTICLE 10  
USE RESTRICTIONS AND CONDITIONS

- 10.1 Rules. The Master Owners Association shall have authority to promulgate and enforce such reasonable Rules and procedures as may aid the Master Owners Association in carrying out any of its functions to ensure that the Project is maintained and used in a manner consistent with the interest of the Owners and Community-Wide Standards. Pursuant to § 57-8a-218(15) of the Act, the requirements of § 57-8a-218, subsections (1) through (12) of the Act, except subsection (1)(b)(ii), are hereby modified and shall not apply to the Master Owners Association.
- 10.2 Restrictions on Ownership. Units within Terraine are intended primarily for Owner occupancy and not for use as investment or rental properties. In furtherance of this purpose, no Owner may own more than two (2) Unit within the Project. An Owner who holds title to two (2) Units must occupy one (1) of the Units. The provisions of this Section 10.2 shall not apply to ownership of multi-family housing buildings.
- 10.3 Nuisance. No noxious or offensive activity shall be carried on upon the Project, nor shall any activity that might be or become an annoyance or nuisance to the Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance or decrease the value of the Units. No Owner or Occupant shall engage in activity within the Project in violation of any law, ordinance, statute, rule, or regulation of any local, City, county, state, or federal body. Any violation of this Master Declaration or other Governing Documents may be deemed a nuisance and may be actionable under this Section.
- 10.4 Restrictions on Temporary Structures. Subject to the exemptions granted to Declaration in Article 19 herein, no structure or building of a temporary character, including a trailer or shack may be located anywhere within the Project or used therein unless it is approved by the Board.

- 10.5 Parking. The Master Owners Association may adopt Rules relating to the parking of vehicles within and in the area of the Project by Owners, Occupants, and their respective family members, tenants, and invitees, including, without limitation: (a) the right to remove or immobilize or cause to be removed or immobilized any vehicles that are improperly parked; (b) restrictions on the size, type and condition of vehicles allowed within the Project; (c) restrictions on the time period and duration of temporary parking; and (d) the assessment of fines to Owners who violate the Rules or Owners associated with people who violate such Rules. The Master Owners Association may restrict or limit parking on City or public roadways within the Project by Owners, Occupants and by people associated with the use of Units. Notwithstanding anything to the contrary in this Section or elsewhere in the Master Declaration, nothing in this Section shall be construed to give the Master Owners Association any general police powers over the public portions of the project or the portion of the Project dedicated to the City.
- 10.6 Restriction on Repair Work. No repairs of any motor vehicles, detached machinery, equipment, or fixtures shall be permitted to be made outside of Owner's garage except as may be permitted by the Board in the Rules.
- 10.7 No Unsightly Items. All rubbish, debris, recycling, unsightly materials, or similar objects of any kind shall be regularly removed from Units and shall not be allowed to accumulate therein or thereon. Refuse containers, machinery, and equipment not a part of the Unit, shall be prohibited on Unit unless screened from view of neighboring Units and Common Areas.
- 10.8 Residential Occupancy. No trade or business may be conducted in or from a Unit unless:
- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell, from any other Units, or the Common Areas;
  - (b) the business activity conforms to all zoning and legal requirements for the Project and required governmental licensure for the business activity;
  - (c) the business activity does not involve solicitation of Owners and Occupants of the Project;
  - (d) the business activity does not create parking issues or increased vehicle traffic in the Project from clients, customers, vendors, service providers or other individuals coming into the Project who do not reside in the Project, as determined by the Board, in its sole discretion.
  - (e) the business activity is not inconsistent with the residential use of the Unit and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners and Occupants of the Project;



- (f) the business activity is disclosed to the Board before business is commenced, along with a description of the business activity, a statement of the amount of space required in the Unit for such activity, and a description of any impact on the Project;
  - (g) the business activity will not result in the increase of the cost of any of the Master Owners Association's insurance;
  - (h) the Owner of the Unit resides in the home from which the business activity is conducted; and
  - (i) the Board's ongoing requests for information related to the business as necessary to determine compliance with this paragraph are responded to fully and completely.
- 10.9 No Re-subdivision or Timeshare of Unit. No Unit shall be split, subdivided, separated or timeshared into two or more Units or property interests (whether temporally or spatially), and no Owner of a Unit shall sell or lease part thereof, provided; however, that this section 10.9 shall not be interpreted to preclude an Owner from having an internal or external accessory dwelling unit which complies with City code and all other applicable law. No subdivision plat or covenants, conditions, or restrictions shall be recorded by any Owner or other Person with respect to any one Unit. No subdivision plat or covenants, conditions, or restrictions related to any Unit or the Project shall be recorded on the Project unless the Board and/or Owners (as required in this Declaration) have first approved the plat or the proposed covenants, conditions, or restrictions. Any plat or covenants, conditions, or restrictions recorded in violation of this Section shall be null, void, and of no legal effect.
- 10.10 Snow Removal and Snow Stockpiling. The Master Owners Association may establish locations within the Project, which may change from time to time, to stockpile snow and ice accumulated during winter months which may encroach on Common Areas and Facilities or Benefitted Common Area. No Owner, Occupant or invitee may block, obstruct, impair, impede, or otherwise interfere with any snow removal or snow stockpiling by the Master Owners Association.

## ARTICLE 11 AREAS OF OWNER RESPONSIBILITY

- 11.1 Areas of Owner Responsibility. Except to the extent that maintenance, repair and upkeep of dwelling or building exteriors and/or Lot landscape maintenance has been assumed by the Master Owners Association or a Neighborhood Association, each Owner shall be responsible for the maintenance, repair, and upkeep of the Owner's Unit, including snow and ice removal during winter months. Likewise, each Owner shall be responsible to maintain the landscaping and other improvements to the Owner's Unit. Each Owner of a Unit shall be responsible for the maintenance and upkeep of any landscaped park strip area adjacent to the Owner's Lot, if any. Except to the extent installation of the initial Lot landscaping is included in the written purchase agreement for the Unit, each Owner shall be

responsible for initial landscaping for the Lot, including, sod, trees, shrubs, and flowers in accordance with the Design Guidelines and applicable City ordinance. Initial landscaping shall be completed within nine (9) months of closing on the sale of the Lot. Unless otherwise provided in a Neighborhood Association's governing documents or on the Plat, an Owner shall be responsible to maintain any Limited Common Area appurtenant to the Owner's Unit in neat and tidy condition.

## ARTICLE 12 INSURANCE

- 12.1 Insurance Requirements. The provisions of Part 4 of the Act governing insurance shall apply to the Master Owners Association. It is the intent of this Section that any future changes to the insurance law applicable to community associations shall apply to this Master Owners Association.
- 12.2 Property Insurance. The Master Owners Association shall maintain blanket property insurance or guaranteed replacement cost insurance on the physical structure of all attached dwellings, limited common areas appurtenant to such attached dwellings, fixtures, betterments, and the structure service equipment and Common Areas and facilities within the Project insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. Pursuant to § 57-8a-405(4) of the Act, the requirement for the Master Owners Association to maintain blanket property insurance or guaranteed replacement cost insurance shall not apply to single-family detached dwellings that are not physically attached to any other dwelling or to a Common Areas structure. An Owner of a Unit that is single-family detached dwellings shall be responsible to obtain property insurance coverage for their own Unit. The Masters Owners Association shall provide notice to each Owner of the Owner's obligation for the Master Owners Association's policy deductible and of any change in the amount of the deductible. However, the failure to provide notice shall not invalidate or affect any other provision in this Declaration.
- 12.3 Insurance specific to a Benefitted Neighborhood. Insurance specific to a Benefitted Common Area or a Service Area may be obtained by the Master Owners Association and the cost included in the Benefitted Common Area Expenses, or in the Service Area Expenses, as the case may be.
- 12.4 Comprehensive General Liability (CGL) Insurance. The Master Owners Association shall maintain CGL insurance insuring the Master Owners Association, the agents and employees of the Master Owners Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Areas and the Owner's membership in the Master Owners Association. The coverage limits under such policy shall not be less than two million dollars (\$2,000,000) covering all claims for death of or injury to any one individual or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Master Owners Association or another Owner.

- 12.5 Director's and Officer's Insurance. The Master Owners Association shall maintain Directors' and Officers' liability insurance protecting the Board, the officers of the Master Owners Association, and the Master Owners Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (a) include coverage for volunteers and employees; (b) include coverage for monetary and non-monetary claims; (c) provide for the coverage of claims made under any fair housing law or similar state or federal statute or that are based on any form of discrimination or civil rights claims; and (d) provide coverage for defamation. In the discretion of the Board, the policy may also include coverage for any Manager and any employees of the Manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.
- 12.6 Other Coverage. The Master Owners Association may maintain such other insurance coverage as may be determined by the Board, in its discretion or as may be required by law.

### ARTICLE 13 AMENDMENT

- 13.1 General Amendment Requirements. Except as otherwise provided herein and subject to the rights and authority reserved to Declarant in Article 19 herein and elsewhere in this Master Declaration, this Master Declaration may be amended only by an instrument in writing. Owners holding Allocated Interests totaling not less than sixty-seven percent (67%) of the total Allocated Interest must vote in favor of approving the amendment in a meeting of the Owners held for that purpose or by written consents. The vote of approval of any one Owner of a Unit is sufficient if there are multiple owners of the Unit.
- 13.2 Scope of Amendments. Subject to Article 19 herein, this Master Declaration may be amended to add new rights, restrictions, and obligations, or to remove or modify existing rights, restrictions, and obligations. The right to amend shall be broadly construed to permit any change to the rights, restrictions, obligations, and other terms in this Master Declaration. This Master Declaration may be amended to make a particular section of the Act applicable to the Master Owners Association, including a section that would not otherwise be applicable to the Master Owners Association.
- 13.3 Execution and Effective Date of Amendments. An amendment that has been adopted as provided in Section 13.1 shall be executed by the President and the Secretary of the Board shall certify that the amendment has been approved and adopted and that the procedures and requirements necessary to amend the Declaration have been complied with. The amendment shall be effective when it is recorded in the Office of the Recorder for Salt Lake County, Utah.
- 13.4 Changes to Plat or Boundaries of the Master Owners Association. The Master Owners Association may adopt an amended Plat, supplemental Plat, correction to the Plat, or boundary agreement related to any boundary in or around the Project, including any boundary to any Unit or Units upon the approval by vote of sixty-

seven percent (67%) of Owners in the same manner as required to amend this Declaration. Any such Plat may make material changes to the existing or prior Plat including deleting, adding, or modifying Common Areas, deleting, adding, or modifying Benefitted Common Area, or other changes in the layout of the Project. If any such amendment affects any boundary of a Unit, that Unit Owner must consent. If the approval required herein is obtained, each and every other Owner: (a) shall sign, consent to, and execute any further documents required for the finalization, recording, and/or governmental approval of any such document regardless of whether they approved of or consented to the change in the Plat; and (b) grants the Master Owners Association power of attorney to sign necessary documents on that Owner's behalf as necessary for the agreement, amendment, or correction.

- 13.5 Amendments to Benefitted Common Area. Subject to Article 19 herein, any Supplement to Declaration or other recorded instrument designating a Benefitted Common Area may be in the same manner as an amendment to this Master Declaration described in Section 13.1 above.
- 13.6 Amendment to Service Area. Subject to Article 19 herein, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Master Owners Association special benefits or services from the Master Owners Association which are not provided to all Units. Upon receipt of a petition signed by a majority of the Owners of the Units within the proposed Service Area, the Board shall examine and consider the terms upon which the requested benefits or services might be provided and shall notify the Owners in the proposed Service Area of such terms and attendant expenses (which may include a reasonable administrative charges). If such a petition is approved by the Board and by Declarant during the Declarant Control Period, and by the Owners holding at least sixty-seven percent (67%) of the Allocated Interests within the proposed Service Area, the Master Owners Association shall provide the requested benefits or services under the terms and conditions established by the Board. The costs and administrative charges associated with such benefits or services shall be assessed as Service Area Assessments to the Units within such newly formed Service Area.
- 13.7 Amendment to Conform to Law. The Board may, without the approval of the Owners, amend this Declaration to conform the Declaration to any applicable legal requirements otherwise applicable to the Master Owners Association, but only to the extent necessary to eliminate any conflict with the law, to add provisions required by law, or to add provisions that embody rights or obligations otherwise binding on the applicable parties as a matter of law. This procedure may also be used to change the Declaration to add or conform to any requirements necessary for Owners to obtain government insured or guaranteed financing such as through VA, FHA, FNMA, or similar programs or to comply with any directive of any federal, state, or local government agency. The following procedures and requirements must be complied with for any such amendment:
- (a) The Master Owners Association must obtain from an attorney who has a significant experience and a regular practice in area of community

association law, a written opinion explaining in detail and opining that the proposed amendment may be sought pursuant to this section,

- (b) The members of the Board must unanimously agree to the Amendment at the time it is recorded,
- (c) The Board must provide to the Owners: (i) the proposed amendment instrument; (ii) the language of this section of the Declaration; (iii) the law that conflicts with the existing Declaration language or the provisions that must be complied with to permit owners to obtain financing; (iv) the attorney opinion letter required for the amendment; and (v) a notice in which the Master Owners Association (1) notifies the Owner that it intends to amend the Declaration pursuant to this section, (2) provides the Owner a right to object to the amendment within thirty (30) days, and (3) provides instructions on how, when, and where to properly return the objection. The Board may include further explanation, information, and recommendations regarding the proposed amendment in the information provided to the Owners.
- (d) Within forty-five (45) days of providing the information to the Owners required by this Section 13.7, no more than thirty percent (30%) of the Allocated Interest holders have objected, in writing, to the amendment.
- (e) Having otherwise complied with all of the requirements of this Section 13.7, the President shall execute the amendment instrument verifying that this Section has been complied with to the best of their knowledge and that no more than thirty percent (30%) of the Allocated Interest holders objected after having received proper notice. The amendment shall be effective upon the recording of the instrument in the office of the recorder of Salt Lake County.

#### ARTICLE 14 RESERVES

14.1 Requirement for Reserves. The Master Owners Association shall obtain a reserve analysis and shall maintain a reserve fund for the maintenance, repair, and replacement of the Common Areas to the extent required by law.

- (a) Reserve funds may be collected as part of regular or special Assessments.
- (b) In formulating the Master Owners Association's annual budget, the Master Owners Association shall include a reserve fund line item for Common Areas in an amount the Board determines, based on the reserve analysis, to be prudent. For purposes of this Section, a reserve fund line item means the line item in the Master Owners Association's annual budget that identifies the amount to be placed into the reserve fund.
- (c) Within 45 days after the day on which the Master Owners Association adopts the annual budget, the Owners may veto the reserve fund line item by a fifty-one percent (51%) vote of the total Allocated Interests in the Master Owners Association at a special meeting called by the Owners for

the purpose of voting whether to veto a reserve fund line item. If the Owners veto a reserve fund line item and a reserve fund line item exists in a previously approved annual budget of the Master Owners Association that was not vetoed, the Master Owners Association shall fund the reserve account in accordance with that prior reserve fund line item.

- (d) The Master Owners Association may retain surplus Master Owners Association money as additional reserves rather than refund it to the Owners or credit it to future Assessments.
- (e) The Master Owners Association shall segregate money held for reserves from regular operating and other accounts.
- (f) Unless otherwise provided in the Act, the Master Owners Association shall cause a reserve analysis with an onsite evaluation to be conducted no less frequently than every six (6) years. The Master Owners Association shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three (3) years. The Reserve analysis shall include, at a minimum: (i) a list of the components identified in the reserve analysis that will reasonably require reserve funds; (ii) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis; (iii) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis; (iv) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and (v) a reserve funding plan that recommends how the Master Owners Association may fund the annual contribution set forth in the reserve analysis. The reserve analysis and updates shall project a minimum of thirty (30) years into the future.
- (g) The Master Owners Association shall annually provide Owners a summary of the most recent reserve analysis or update and provide an opportunity for Owners to discuss reserves and to vote on how to fund the reserves and in what amount. The Master Owners Association shall provide a copy of the complete reserve analysis or update to an Owner who makes a written request for a copy.

14.2 Exceptions for Benefitted Common Area and Service Area Reserves. The requirements set forth in Subsections 14.1 (b), (c), and (e) shall not apply to reserves, if any, for a Benefitted Common Area or Service Area. A reserve analysis prepared for any Benefitted Common Area or Service Area shall comply with Subsection 17.1(g) and a copy provided to the Owners of those Units assigned to the Benefitted Common Area or Service Area, as the case may be.

ARTICLE 15  
ESTABLISHMENT AND ADMINISTRATION OF  
GEOTECHNICAL ASSURANCE FUND

- 15.1 Establishment of Geotechnical Assurance Fund. Consistent with the Master Development Agreement, a fund shall be established and maintained from which an Owner who is not the initial purchaser of the Unit may seek reimbursement for foundation, home repairs, and site damage related to subsidence or soil conditions not compensated for by the general contractor for the Unit or the Owner's individual property insurance policy, up to a maximum of fifteen thousand dollars (\$15,000.00) per claim. No claim may be made by an Owner (a) who has not first sought insurance coverage from any available insurance, or (b) after seven (7) years from the date a certificate of occupancy was first issued for the Unit.
- 15.2 Funding and Administration of Geotechnical Assurance Fund. The Geotechnical Assurance Fund shall be funded from a portion of the Reinvestment Fees in accordance with the Reinvestment Fee Covenant in the Covenants for Community. Until the Geotechnical Assurance Fund is fully funded in the amount of five hundred thousand dollars (\$500,000.00), the Community Council shall direct half (50%) of the reinvestment fee amounts collected to the Geotechnical Assurance Fund. Once the Geotechnical Assurance Fund is fully funded, all reinvestment fee amounts collected may be utilized for other purposes, including, but not limited to community programming and facilities, as allowed by law. Consistent with Utah Code § 57-1-46(1)(e)(ii), the administration of the Geotechnical Assurance Fund may be assigned by the Community Council to the Master Owners Association.
- 15.3 Rules to Effectuate Purpose of Geotechnical Assurance Fund. The Master Owners Association may promulgate Rules to effectuate the purpose of the Geotechnical Assurance Fund, consistent with Utah law. However, in no event shall such rules allow for this fund to be diverted from its primary purpose, which is to assure compensation for uncompensated foundation, home repairs, and/or site damage related to subsidence or soil conditions.
- 15.4 Termination of Geotechnical Assurance Fund. The Geotechnical Assurance Fund shall terminate automatically upon the early of (a) the date which is seven (7) years after the last Unit in the Project is issued a certificate of occupancy, or (b) the date when the Geotechnical Assurance Fund has paid out five hundred thousand dollars (\$500,000.00) in qualifying claims (the "Geotechnical Assurance Fund Termination Date"). Upon the Geotechnical Assurance Fund Termination Date, the Master Owners Association's obligation for administration of the Geotechnical Assurance Fund shall cease.

- 15.5 Use of Unused Geotechnical Assurance Funds by Community Council. Unused Geotechnical Assurance Fund amounts remaining after the Geotechnical Assurance Fund Termination Date, if any, may be utilized by the Community Council for community facilities, activities, services, and programing consistent with Utah Code 57-1-46.
- 15.6 No Obligation Imposed on the Master Owners Association. Nothing in this Article 15 shall create any obligation on the part of the Master Owners Association to pay any amounts for the soil conditions on any property within the Project. The only obligation imposed by the Master Development Agreement and this Article 15 is the establishment and administration of the Geotechnical Assurance Fund by the Master Owners Association from which qualifying claims may be paid in strict conformity with the provisions set forth and applicable Utah law.

ARTICLE 16  
UNIT LEASING AND NON-OWNER OCCUPANCY

- 16.1 Master Declaration and Rules Govern Non-Owner Occupancy. The leasing, rental and non-owner occupancy of Units shall be governed by this Article 16, and by the Rules, if any, adopted by Declarant or the Master Owners Association. For the purpose of this Article 18, the following definitions shall apply:
- (a) “Non-Owner Occupied Unit” means:
    - (i) For a Unit owned in whole or in part by a natural person or persons, the Unit is occupied by someone when no individual Owner occupies the Unit as the individual Owner’s primary residence; or
    - (ii) For a Unit owned entirely by one or more entities or trusts, the Unit is occupied by anyone.
  - (b) “Family Member” means:
    - (i) Any family member of an Owner or an Owner’s spouse within three (3) degrees of consanguinity; or
    - (ii) in the case of a Unit owned by a trust or other entity created for estate planning purposes, an individual occupying the Unit if the trust or other estate planning entity that owns the Unit was created for the estate of (1) a current Occupant of the Unit; or (2) the parent, child, or sibling of the current Occupant of the Unit.
  - (c) “Long-term leasing” means: to lease, rent, or permit other Non-Owner occupancy for at least thirty (30) consecutive days.
- 16.2 Restriction on Leasing and Non-Owner Occupancy; No Leasing for First Twelve Months. Units within the Project are primarily intended for Owner occupancy. No Owner of a Unit may make their Unit available for lease or rent within the first twelve (12) months of transfer of title. Thereafter, an Owner may make their Unit available for lease or other Non-Owner occupancy in accordance with this Article



16, provided, however, no Owner may make more than one (1) Unit within the Project available for lease or other Non-Owner occupancy.

16.3 Expressly Authorized Rules. The Board, in its discretion, may adopt Rules:

- (a) Regarding reporting and procedural requirements related to Non-Owner Occupied Units and the Occupants of those Units, including requiring informational forms to be filled out by Owners and Occupants identifying Occupant vehicles, Occupant contact information, and the like;
- (b) Establishing other reasonable administrative provisions consistent with and as it deems appropriate to enforce the requirements of this Declaration; and
- (c) Limiting the total number of Non-Owner Occupied Units within a phase if necessary to satisfy the requirements of a Lender for financing the purchase of Units.

16.4 Requirements for Unit Leasing and Non-Owner Occupancy. Owners who make their Units available for lease or for rent or other arrangement for Non-Owner Occupancy shall comply with the following provisions:

- (a) If required in the Rules or requested by the Board, a copy of any lease or other agreement for non-owner occupancy shall be delivered to the Master Owners Association within the time period provided for in the Rules or required by the Board;
- (b) Only Long-term leasing is permitted;
- (c) An Occupant may not occupy any Unit for transient, short-term (less than thirty (30) days), hotel, resort, vacation, or seasonal use (whether for pay or not);
- (d) Any listing or advertisement of a Unit for lease, rent, or other Non-Owner occupancy shall make clear that Long-term leasing is required and short-term lease, rent or other Non-Owner occupancy is prohibited;
- (e) Except for Long-term leasing of a City-approved internal or external accessory dwelling unit within a Unit or on a Lot, lease of only a portion of a Unit is prohibited.
- (f) The Owner shall be responsible for the Occupants of the Units and for any invitee of any Occupant and shall ensure their compliance with this Master Declaration and Rules. In addition to any other remedy for non-compliance with this Declaration, the Master Owners Association shall have the right (but not the obligation) to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending Occupant. The Master Owners Association, the Board, and the Manager shall not be liable for any action taken pursuant to this Subsection and the Owner shall indemnify and pay the defense costs of the Master Owners Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this Subsection.

- 16.5 Exceptions for Family Members. If only Family Members occupy a Unit, then notwithstanding anything to the contrary herein:
- (a) Subsections 16.4(a) and 16.4(b) above shall not apply to that occupancy;
  - (b) No written agreement regarding occupancy needs to be created between the Family Member and the Owner; and
  - (c) Any written agreement regarding occupancy, to the extent it exists, may not be requested by the Board until an Occupant has violated a provision of the Governing Documents and if requested, may only be requested related to remedying or taking action as a result of such a violation.

ARTICLE 17  
RIGHTS OF LENDERS

- 17.1 Rights of Lenders. The provisions of this Article 17 are for the benefit of holders, insurers, and guarantors of first mortgages and first position deeds of trust on Units in the Project.
- 17.2 Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage or first position trust deed encumbering a Unit within the Project that makes written request to the Master Owners Association (such request to state the name and address of such holder, insurer, or guarantor, and street address of the Unit) thereby becoming an “Eligible Holder” will be entitled to time written notice of:
- (a) Any condemnation loss or any casualty loss that affects a material portion of the Project or affects any Unit on which there is a first mortgage, or first position deed trust deed held, insured, or guaranteed by such Eligible Holder;
  - (b) Any delinquency in the payment of Assessment or charges owned by a Unit subject to a first mortgage or first position trust deed of such Eligible Holder, where such delinquency has continued for a period a sixty (60) days;
  - (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Master Owners Association; and/or
  - (d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.
- 17.3 Priority. No provision of this Master Declaration or any other Governing Document shall be construed to give any Owner or other party priority over any rights of a first mortgagee or first position trust deed holder in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking.
- 17.4 Owner Obligation to Provide Lender Information. Upon request, an Owner shall be obligated to furnish the Master Owners Association the name and address of the holder of any mortgage or trust deed encumbering such Owner’s Unit.

- 17.5 Failure of Lender to Respond. Consistent with § 57-8a-210 of the Act, any first mortgagee or first position trust deed holder who receives a written request to respond to or consent to any action shall be deemed to have approved such action if the Master Owners Association does not receive a written response within sixty (60) days of the date of the Master Owners Association request, provided such request was sent in accordance with the provisions of the Act.

ARTICLE 18  
GENERAL PROVISIONS

- 18.1 Enforcement. The Master Owners Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Terms and Conditions, including the right to prevent the violation of any such Terms and Conditions and the right to recover damages and other sums for such violation, including, but not limited to attorneys' fees and costs incurred in conjunction with such enforcement. Additionally, each Owner, by taking title to a Unit, acknowledges and agrees that because a breach of the Governing Documents will result in immediate and irreparable injury to the Master Owners Association and its other members for which they will not have an adequate remedy at law, the Master Owners Association, if any such breach shall occur, be attempted, or be threatened, shall be entitled to an order of specific performance and to a temporary and permanent injunction enjoining such breach and to any and all other remedies to which the Master Owners Association may be entitled pursuant to the Governing Documents or applicable law, without posting bond or furnishing other security and without proving special damages or irreparable injury, together with an award of attorneys' fees.
- 18.2 Limited Liability of Officers and Directors. To the fullest extent permitted by applicable law, neither the Board nor any officer of the Master Owners Association shall be liable to any Owner or the Master Owners Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error or negligence.
- 18.3 Limits on Variances. The Board, in extenuating circumstances, may grant variances from the Terms and Conditions set forth in Master Declaration if the Board determines, in its discretion: (a) either that the Term and Condition would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Master Declaration has rendered such Term and Condition obsolete and unreasonable to enforce; and (b) that the activity permitted under the variance will not have any negative financial affect or any other materially adverse effect on the Owners or Occupants of the Project and is consistent with the Community-Wide Standards and not prohibited by the Development Agreement. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then existing Board. No variance may be granted that is inconsistent with the Development Agreement, City Ordinance, or the Act. No variance may be granted

that relates to the payment of Assessments unless, after reasonable investigation under the circumstances, it clearly appears that the Owner is incapable of paying the Assessment and the Unit is being or has been transferred to a new Owner either voluntarily or involuntarily through foreclosure.

- 18.4 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in a Unit, each Owner and Occupant consents to the rights reserved to Declarant and the Master Owners Association in this Master Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriate documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Master Declaration, the Plat and the Bylaws. By such acceptance, each Owner and Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effectuate the same. Such acceptance may also be deemed an appointment of the Master Owners Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on such Owner's or Occupant's behalf. Such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Master Owners Association's reserved rights as set forth in this Master Declaration and shall not be affected by the disability of any such Owner or Occupant.
- 18.5 No Warranty or Guarantee of Security. Neither Declarant nor the Master Owners Association, in any way, shall be considered an insurer, guarantor, or provider of security from criminal conduct within or relating to the Project. Neither Declarant nor the Master Owners Association shall be liable for any loss or damage by reason of criminal conduct arising, for any reason, including any failure to provide security or any ineffectiveness of security any measures undertaken. Each and every Owner and Occupant in the Project acknowledges that neither Declarant nor the Master Owners Association has any duty to any Owner or Occupant related to security or to prevent criminal conduct. By taking title to a Unit and/or residing in the Project, each Owner and Occupant acknowledges and agrees that neither Declarant nor the Master Owners Association nor the Board are insurers of the safety or well-being of Owners or Occupants or any of their personal property as it relates to criminal conduct, and specifically waives any such claim and assumes all risks for loss or damage to Persons or property resulting from criminal conduct.

- 18.6 Reasonable Accommodation. Notwithstanding anything to the contrary in this Master Declaration, the Master Owners Association, upon receipt of a written opinion from its counsel that such action is required by federal or state fair housing law, may make or permit reasonable accommodation or modification to the Project that are otherwise prohibited by the Governing Documents to accommodate an Owner or Occupant with a disability (as defined by applicable law at the time the accommodation is requested). Reasonable accommodation or modification may include modification to a Unit, the Common Areas, or deviations from provision of the Governing Documents. Any such modification and accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else.
- 18.7 No Representations and Warranties. **EACH OWNER AND OCCUPANT UNDERSTANDS, AGREES, AND ACKNOWLEDGES THROUGH TAKING TITLE OR RESIDING IN THE PROJECT THAT NEITHER THE MASTER OWNERS ASSOCIATION NOR THE BOARD HAS MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND RELATED TO THE PROJECT AND THAT THE OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE PROJECT.**
- 18.8 Legal Costs Associated with Disputes Between Owner and Master Owners Association. If the Master Owners Association utilizes legal counsel to enforce any Term and Condition after notice to the Owner that the Master Owners Association intends to enforce the Term and Condition or after the Owner communicates or demonstrates an intent not to comply with the Term and Condition, the Master Owners Association may assess all reasonable attorneys' fees and costs associated with such enforcement to the Owner, regardless of whether a lawsuit is initiated or not. The term "costs" as used in this section shall include all costs including copying costs, deposition costs, expert witness fees, investigative costs, service costs, and filing fees paid to courts. "Costs" is specifically defined in this Master Declaration to be broader and to include costs that are not included in costs, as the term is used in the Utah Rules of Civil Procedure.
- (a) Exception to Owner's Liability for Fees and Costs. If, related to (i) any dispute with an Owner, (ii) any challenge by an Owner to a position of the Master Owners Association on a Term and Condition, or (iii) a request of an Owner for direction on the application of a Term and Condition, the Master Owners Association incurs legal fees or costs related to the interpretation and application of a Term and Condition that the Master Owners Association could not establish an initial position on without having incurred the fees and costs or that results in a substantial modification to a prior position taken by the Master Owners Association, then those fees or

costs shall not be assessed to any Owner and shall be paid by the Master Owners Association. This provision shall not apply if a lawsuit is currently pending with regard to the Owner and the issues arise as part of the lawsuit.

- 18.9 Applicability of the Act. Declarant intends that the Project shall be governed by the Act, except where (in compliance with the Act) this Master Declaration has included specific provisions that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Master Declaration that are contrary to the Act shall govern the Project to the extent allowed by the Act. In the case of any conflict between this Master Declaration and the Act, to the extent the Act does not legally allow this Master Declaration to contain provisions contrary to the Act, the Act shall control and this Master Declaration shall be deemed modified accordingly, but only to the extent necessary to come into compliance with the Act.
- 18.10 Interpretation. The provisions of this Master Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a mixed-housing residential master-planned community and for the maintenance of the Project. To the extent permitted by law, the provisions of the Governing Documents shall not be interpreted for or against or strictly for or against the Master Owners Association, any Owner, or any other Person subject to their terms. Whenever the context of the Governing Documents requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.
- 18.11 Cumulative Remedies. All rights, options, and remedies of the Master Owners Association and the Owners in the Governing Documents are cumulative, and none shall be exclusive of any other, and the Master Owners Association and the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief that may be provided by law; simultaneously, consecutively, or alternatively.
- 18.12 Severability. Invalidation of any one or a portion of the Terms and Conditions by judgment or court order shall in no way affect any other Terms and Conditions, all of which shall remain in full force and effect.

ARTICLE 19  
DECLARANT RIGHTS

- 19.1 Special Declarant Rights. Notwithstanding any other provisions in the Governing Documents to the contrary, Declarant shall have the all rights and powers provided for in this Article 19. If any other article in this Master Declaration contains the words “notwithstanding anything to the contrary,” or words of similar import, the article shall all nonetheless be subject to the terms in this Article 19.
- 19.2 Right to Appoint the Board During Declarant Control Period. Declarant shall have the right to appoint and remove Board Members during the Declarant Control Period. In the appointment of Board Members, Declarant shall not be bound by any qualifications for Board Members in the Governing Documents. Declarant may elect to have a Board of fewer than the required number of members until the Declarant Control Period ends. Declarant may assume (and shall be presumed to have assumed unless Declarant notifies the Master Owners Association otherwise) the powers of the Board without appointing Board Members pursuant to the rights granted in the Articles of Incorporation to Declarant.
- 19.3 Declarant Retains All Rights and Authority During Declarant Control Period. During the Declarant Control Period, Declarant shall retain control, power, and authority over, and all decision-making ability or authority for the Master Owners Association and/or the Project. During the Declarant Control Period, Declarant may also assume (and shall be presumed to have assumed unless Declarant notifies the Master Owners Association otherwise) the powers and authority of the Design Review Committee without the Board’s appointment of Design Review Committee members. During the Declarant Control Period, Declarant may pre-approve plans and/or waive design review fees for a bulk-lot builder or multi-family housing builder.
- 19.4 Easement Rights. Declarant shall have and hereby retains an easement for access over, under, across and through the entire Project and may utilize, allow anyone else to utilize, or may grant easements over, under across, and through any easement right reserved to anyone in the Master Declaration. Declarant shall have and hereby retains the right and authority to contract with one or more providers for fiber optic, internet, cable, phone and other services for the Project or a portion thereof.
- 19.5 Right to Amend Plat. Subject to approval from the City, during the Declarant Control Period, Declarant shall have the right to amend, change, or modify any Plat, subject only to the requirement that Declarant get approval from any Owner of a Unit that has any boundary modified by the Plat.
- 19.6 Assessment Exemption. Declarant and its assigns shall be exempt from any Assessments including any Regular Assessment, Benefitted Common Area Assessment, Service Area Assessments, or special Assessment.

- 19.7 Right to Amend Master Declaration, Bylaws, Articles of Incorporation, and Rules. Until the expiration of the Declarant Control Period, Declarant shall have the right to unilaterally amend, revise, and modify this Master Declaration, any Supplement to the Declaration establishing a Benefitted Common Area or Service Area or Additional Covenants, the Bylaws, the Articles of Incorporation, and the Rules in any way and at any time, including adding, removing, or changing substantive and material provisions, without any additional approvals from anyone including, but not limited to the Owners. Pursuant to § 57-8a-217(6) of the Act, Declarant's promulgation or amendment of any Rules shall be exempted from the Act's rule-making process. Any amendment to the Bylaws or this Master Declaration shall be effective upon the recordation of the amendment duly executed by an authorized officer of Declarant. When recorded, any such amendment shall be binding upon the Project and all Persons having an interest therein including Owners. Without limiting the generality of the foregoing, Declarant alone may amend or terminate this Master Declaration prior to the closing of a sale or transfer of any Unit.
- 19.8 Right to Designate Benefitted Common Area and Service Area and Modify Prior Designations. Until the expiration of the Declarant Control Period, Declarant shall have the unilateral authority and sole right to designate Benefitted Common Area and Service Area and to designate the particular Units or Neighborhood assigned to such Benefitted Common Area or Service Area, as the case may be. During the Declarant Control Period, Declarant shall have the unilateral authority and sole right to modify any previously designated Common Area or Service Area and to adjust or modify the assignments of Units or the Neighborhood or Neighborhoods respectively thereto.
- 19.9 Assignment of Special Declarant Rights. Declarant, at any time, by recording a written notice, may assign or transfer all or some of its control, power, authority, or decision-making ability to the Master Owners Association or any other Person prior to the end of the Declarant Control Period. In the case of the abandonment of the Project by Declarant, the cessation of business by Declarant, or the foreclosure of any undeveloped property that is subject to the provisions of this Master Declaration, the rights of Declarant as provided for in this Master Declaration may be exercised by any owner of the undeveloped land within the project or to be expanded into the Project.
- 19.10 Exceptions from Use Restrictions. Declarant shall not be bound by any use restriction in the Master Declaration as it relates to the Units owned by Declarant.
- 19.11 No Modification of Declarant Rights. Any Declarant Rights in the Governing Documents and, specifically, in this Article 19, may not be substantively or procedurally altered during the Declarant Control Period without the written consent of Declarant. Any document or amendment purporting to do so without the proper consent shall be void *ab initio*.



- 19.12 Use of Units and Common Areas and Facilities for Development and Sales Activities. During the Declarant Control Period, Declarant or its assigns shall have the right to use any Unit owned by it, and any part of the Common Areas and Facilities and any part of any Benefitted Common Area in furtherance of any activities designed to accomplish or facilitate development, construction, improvement, and sale of all Units within the Project, and the construction and improvement of all Common Areas, Benefitted Common Area, and private and public recreation amenities, from time to time. Declarant or its assigns shall have the right to maintain one or more sales offices. Such offices may be located on any Unit with the permission of the Owner of that Unit, or in one or more separate structures, trailers, or facilities placed in the Project for the purpose of aiding Declarant's development efforts. Declarant or its assigns shall also have the right to maintain any number and size of promotional, advertising, or directional signs, banners, or similar structures or devices at any place or places in the Project. Declarant or its assigns shall also have the right to designate by signs or otherwise any street or other parking as parking for sales only or to otherwise restrict and use any Common Area parking.
- 19.13 Right to Use Common Areas for Special Events. Declarant or its assigns may use the Common Areas and Benefitted Common Area to sponsor special events for charitable, philanthropic, political, or marketing purposes, subject to the following conditions: (a) the availability of the Common Areas; (b) payment of costs and expenses incurred and indemnification of the Master Owners Association against any loss or damage resulting from the special event; (c) return of the Common Areas in the same condition as existed prior to the special event.
- 19.14 Declarant Rights Do Not Impose Obligations. Declarant Rights provided for in this Article 19 shall not be construed to impose any obligation, legal or equitable, related to any matter or issue to which they might apply. The Master Owners Association and each Owner, by taking title to a Unit, waive and disclaim any such duty and affirmatively acknowledge that no such duty exists or should be imposed as a result of the Special Declarant Rights.
- 19.15 Declarant Exemption from Statutory Obligations. Pursuant to § 57-8a-217(6) of the Act, Declarant is hereby exempt from the provisions of § 57-8a-217 of the Act. Pursuant to § 57-8a-211(10) of the Act and Article 17 herein, § 57-8a-211(2)-(9) of the Act shall not apply or have any effect during the Declarant Control Period and, as allowed specifically by law, Declarant shall have no duty whatsoever to obtain a Reserve Analysis or to fund any Reserve Fund during the Declarant Control Period.

ARTICLE 20  
CONFLICT AND LITIGATION AVOIDANCE

- 20.1 Statement of Intent. Every Owner is capable of obtaining an inspection and is permitted to perform any inspection on any Unit that the Owner is purchasing or may otherwise be acquiring and on any aspect of the Project. Having had the ability

to inspect prior to purchasing a Unit, it therefore is acknowledged that it is unfair and improper thereafter to seek to have Declarant change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, each Owner (by taking title to a Unit) and Declarant acknowledge and agree that litigation is an undesirable method of resolving certain conflicts in that it is slow, expensive, uncertain, and can often negatively impact the value, sale, and ability to obtain financing for the purchase of Unit for years, unfairly prejudicing those Owners who must sell or who want to sell their respective Units during any period when litigation is pending. For this reason, each Owner, by taking title to a Unit, and Declarant agree and acknowledge that certain disputes simply shall not be pursued, to the extent permitted by law, and that other disputes shall be pursued only through certain specific alternative dispute resolution mechanisms and only after full disclosure, right to cure periods, and knowing approval of the Owners. The intent of this Article 20 is to eliminate, to the extent possible, claims against or involving Declarant and claims related to the operation and administration of the Master Owners Association during the Declarant Control Period, and to the development of the Project, including the Common Areas, the Benefitted Common Area, the Units, and Community Recreation Amenities in the Project, and, when and if any such claim is permitted as a matter of law or pursuant to this Master Declaration, to ensure that every opportunity is made to resolve the claim outside of litigation. This effort shall include, but not be limited to, the right to cure and the requirements for mediation and arbitration.

Notwithstanding anything to the contrary in the foregoing, this Article 20 shall not apply to (a) actions brought by the Master Owners Association to enforce the provisions of this Declaration against Owners (including, without limitation, the foreclosure of liens), (b) the exercise of the right of an Owner to request a hearing under section 57-8a-208 of the Act, (c) the exercise of the right of an Owner under section 57-8a-227 related to Master Owners Association records, (d) the exercise of the right of an Owner under section 57-8a-211(8) regarding an Owner's right to compel production of a reserve analysis, (e) the imposition and collection of Assessments, or (f) counterclaims brought by the Association in proceedings instituted against.

- 20.2 Waiver of Subrogation and Release. The Master Owners Association and each Owner, by and upon taking title to a Unit, waives any right to subrogation against Declarant in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Master Owners Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against Declarant (including principles, officers, managers, shareholders, members, employees, agents, and representatives). To the full extent permitted by law, the Master Owners Association and Owners hereby release Declarant (including principles, officers, managers, shareholders, members, employees, agents and representatives) from any and all liability to the Master Owners Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss,

injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or its principles, officers, managers, shareholders, members, employees, agents and representatives. The Master Owners Association and each Owner agree that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Master Owners Association or any Owner to recover thereunder. The Master Owners Association and all Owners shall indemnify and defend Declarant (including its principles, officers, employees, owners, or representatives) from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

20.3 Declarant Litigation.

- (a) For any claim against Declarant, to the extent allowed herein or by law after the following efforts at dispute resolution have been completed: (i) Right to Cure: the Owner shall provide to Declarant a Notice of Claim (defined below) and permit Declarant one hundred eighty (180) days to cure or resolve the claim, prior to initiating any lawsuit, claim, or dispute resolution process; (ii) if the dispute is not resolved within the 180-day Right to Cure period, the parties agree to mediate the dispute prior to taking further action. If additional, different, or modified claims, causes of action or legal theories for recovery (including damages, damage calculations) are added or asserted against Declarant that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this section shall be triggered and any pending action, including any mediation or arbitration, shall be stayed for the 180-day period to facilitate Declarant's right to cure such additional, different, or modified claims.
- (b) For any claim allowed by law or by this Master Declaration, the parties agree to binding arbitration of all claims asserted against Declarant by either the Master Owners Association or any Owner, with the initiating party advancing all arbitration costs subject to assignment of those costs by the arbitrator in a final decision on the merits. In the event the parties are unable to agree regarding an arbitration service, the American Arbitration Association shall administer the proceedings and the rules applicable to construction disputes shall apply. The arbitration rules shall be subject to the requirements of this Master Declaration and shall be modified accordingly in case of any conflict between the Rules and this Master Declaration.
- (c) "Notice of Claim" shall mean and include the following information: (i) the nature of the claim; (ii) a specific breakdown and calculation of any alleged damages; (iii) a detailed description of the claim along with any supporting opinions, information, or other factual evidence upon which the claim is based; (iv) a recitation of all efforts taken to avoid, mitigate, or minimize the claim and alleged damages arising therefrom; and (vi) the names, phone numbers, and addresses of every Person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

- (d) Notwithstanding any other provision in this Master Declaration, and to the fullest extent permitted by the law, an Owner shall not and agrees not to commence or maintain any litigation, arbitration, or other action against Declarant (including principles, officers, managers, shareholders, members, employees, agents and representatives), for any reason, including, but not limited to, the Declarant's administration and operation of the Master Owners Association during the Declarant Control Period, or any damages arising therefrom.
- (e) Notwithstanding any other provision in this Master Declaration, and to the fullest extent permitted by the law, the Master Owners Association shall not and cannot commence or maintain any litigation, arbitration, or other action against Declarant or its principles, officers, managers, shareholders, members, employees, agents and representatives, for any reason, including but not limited to, Declarant's administration and operation of the Master Owners Association during the Declarant Control Period, or any damages arising therefrom.
- (f) The Master Owners Association shall indemnify and defend Declarant (including its principles, officers, managers, shareholders, members, employees, agents and representatives) against any litigation, arbitration, or the assertion of any claim arising out of or related to Declarant's administration and operation of the Master Owners Association during the Declarant Control Period or the development and/or construction of the Project and/or any damages arising therefrom.
- (g) The Master Owners Association and the Owners take ownership and possession of the Units and Common Areas and Facilities "AS IS," with all faults and with no warranties of any kind except as otherwise required by law. **DECLARANT SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR OF HABITABILITY, TO THE FULL EXTENT ALLOWED BY LAW.**
- (h) If otherwise allowed by law notwithstanding the terms of this Article 20, prior to the Master Owners Association making any demand or commencing any mediation, arbitration, or litigation (any "action") against a Declarant, the Master Owners Association must have a properly-noticed meeting of the Owners, with all attorneys, experts, and other Persons expected to be involved in the claim present at the meeting. Those Persons present, including the Board, must permit discussion among the Owners and questions from the Owners and must respond to all reasonable questions of the Owners related to the proposed claims. The notice for the aforesaid meeting must include the following information:
  - (i) a statement must be made on the first page of such notice in large, bold font: "The Master Owners Association is contemplating serious and potentially time-consuming and expensive litigation against the Declarant of this project. This litigation could cost you money in the

form of increased assessments and will likely impact the resale value of your Unit and your ability to sell your Unit while this litigation is pending. This litigation could take years to resolve. You should think seriously about this issue and attend the meeting on this issue;”

- (ii) a budget and detailed breakdown of all costs and legal fees reasonably estimated to be caused by the expected litigation including a breakdown of any costs and fees to be advanced by anyone including any attorney or other representative of the Master Owners Association under any contingency arrangement, and all those costs and fees to be paid directly by the Master Owners Association, all of which shall assume the litigation will last five years (unless it is reasonably expected to last longer in which case the longer period shall be used for this estimate) and require a trial on the merits;
- (iii) a detailed explanation of where any money to be paid by the Master Owners Association will be obtained including a per Unit breakdown of all costs and fees per year, assuming the litigation will last five years;
- (iv) a written statement of each Board Member indicating that member’s position on the litigation;
- (v) a legal opinion on the likelihood of success of any such litigation or arbitration from an attorney not associated with the attorney or law firm who is anticipated to bring any such action, analyzing the applicable law, Governing Documents, and all relevant and known factual information; and
- (vi) a detailed description of the alleged claims against Declarant and of all efforts by the Master Owners Association to resolve those claims prior to commencing any action.

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

- (i) The existence of procedures and/or requirements in this Article 20 applicable to claims against Declarant that are barred or limited in other provisions of this Master Declaration shall not be construed as permitting

any such claims or as contradictory to a prohibition or limit on such claims in other provisions in this Master Declaration. The procedures and requirements to assert a claim (including, but not limited to, the right to cure requirements, the meeting and Owner approval requirements, the mediation requirement, and the arbitration requirements) that are prohibited by this Declaration are provided solely in case any such claim is permitted by law notwithstanding the terms of this Master Declaration.

- 20.4 Landowners. All Persons owning land that is initially or subsequently incorporated into the Project and who sign the Master Declaration or any amendment thereto or Supplement to Declaration subjecting that land to the Master Declaration and incorporating it into the Project, shall be afforded the same rights, protections, and litigation avoidance procedures that are provided for Declarant in this Article 20.

Dated this 1<sup>st</sup> day of MAY, 2024.

**WOOD RANCH DEVELOPMENT, LLC**, a Utah limited liability company

By: **THIRD CADENCE LLC**, a Utah limited liability company

Its: Project Manager

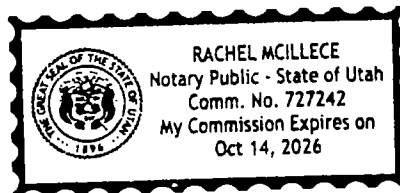
By:   
Ty McCutcheon

Its: Manager

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

On this 1, day of May, 2024, personally appeared before me, a notary public, Ty McCutcheon, whose identity is personally known to me, (proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he is the duly authorized representative of Third Cadence LLC, and that said document was signed by him on behalf of the company with all necessary authority, and acknowledged to me that said company executed the same.

  
Notary Public



**EXHIBIT A  
LEGAL DESCRIPTION**

**TERRAINE PLAT 1**

The real property referred to in the foregoing Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Subdivision are located in West Jordan City in Salt Lake County, Utah and are described more particularly as follows:

Beginning at a point on the Westerly Right-of-Way Line of State Road 111 (Bacchus Highway), said point lies North 00°06'38" West 4244.495 feet along the Quarter Section Line and West 138.346 feet from the South Quarter Corner of Section 27, Township 2 South, Range 2 West, Salt Lake Base and Meridian and running thence along said State Road 111 (Bacchus Highway) South 08°02'22" West 70.000 feet; thence North 81°57'38" West 427.320 feet to a point on a 515.000 foot radius tangent curve to the right, (radius bears North 08°02'22" East, Chord: North 78°21'39" West 64.667 feet); thence along the arc of said curve 64.710 feet through a central angle of 07°11'57"; thence North 74°45'41" West 175.572 feet to a point on a 515.000 foot radius tangent curve to the right, (radius bears North 15°14'19" East, Chord: North 59°50'49" West 265.096 feet); thence along the arc of said curve 268.114 feet through a central angle of 29°49'43"; thence North 44°55'57" West 62.623 feet to a point on a 515.000 foot radius non tangent curve to the right, (radius bears North 42°34'23" West, Chord: South 58°45'19" West 202.323 feet); thence along the arc of said curve 203.647 feet through a central angle of 22°39'24"; thence South 70°05'00" West 303.339 feet to a point on a 455.000 foot radius tangent curve to the left, (radius bears South 19°55'00" East, Chord: South 61°41'43" West 132.749 feet); thence along the arc of said curve 133.225 feet through a central angle of 16°46'35"; thence South 53°18'26" West 113.941 feet; thence North 36°41'34" West 89.897 feet to a point on a 210.000 foot radius tangent curve to the left, (radius bears South 53°18'26" West, Chord: North 58°48'01" West 158.064 feet); thence along the arc of said curve 162.055 feet through a central angle of 44°12'52"; thence North 80°54'27" West 355.670 feet; thence South 09°05'33" West 124.000 feet; thence North 80°54'27" West 4.000 feet; thence South 09°05'33" West 100.000 feet; thence North 80°54'27" West 20.000 feet; thence South 09°05'33" West 54.044 feet; thence South 80°16'06" East 38.311 feet; thence South 09°43'54" West 26.644 feet; thence South 03°23'46" West 58.000 feet; thence South 03°23'46" West 42.000 feet; thence South 86°36'14" East 9.043 feet to a point on a 639.000 foot radius tangent curve to the right, (radius bears South 03°23'46" West, Chord: South 77°11'55" East 208.848 feet); thence along the arc of said curve 209.789 feet through a central angle of 18°48'38"; thence South 25°00'51" West 109.158 feet to a point on a 530.000 foot radius non tangent curve to the right, (radius bears South 21°37'44" West, Chord: South 66°40'42" East 31.311 feet); thence along the arc of said curve 31.316 feet through a central angle of 03°23'08"; thence



South 64°59'09" East 1170.954 feet to a point on a 470.000 foot radius tangent curve to the left, (radius bears North 25°00'51" East, Chord: South 70°22'26" East 88.270 feet); thence along the arc of said curve 88.400 feet through a central angle of 10°46'35"; thence South 75°45'44" East 4.269 feet to a point on a 530.000 foot radius non tangent curve to the right, (radius bears South 75°04'01" East, Chord: North 19°58'25" East 93.133 feet); thence along the arc of said curve 93.254 feet through a central angle of 10°04'52"; thence North 25°00'51" East 91.096 feet; thence North 64°59'09" West 99.585 feet; thence North 25°00'51" East 85.238 feet; thence North 19°38'58" East 102.796 feet; thence South 70°21'02" East 24.000 feet; thence South 71°23'05" East 60.002 feet; thence South 18°36'55" West 30.000 feet; thence North 71°23'05" West 60.543 feet; thence South 19°38'58" West 73.915 feet; thence South 25°00'51" West 21.362 feet; thence South 64°59'09" East 135.585 feet; thence South 25°00'51" West 156.096 feet to a point on a 470.000 foot radius tangent curve to the left, (radius bears South 64°59'09" East, Chord: South 20°13'53" West 78.377 feet); thence along the arc of said curve 78.468 feet through a central angle of 09°33'57"; thence South 75°45'44" East 45.313 feet to a point on a 461.500 foot radius tangent curve to the left, (radius bears North 14°14'16" East, Chord: South 78°25'08" East 42.782 feet); thence along the arc of said curve 42.798 feet through a central angle of 05°18'48"; thence South 81°04'32" East 14.575 feet; thence South 75°25'50" East 101.664 feet; thence South 81°04'32" East 183.781 feet to a point on a 471.500 foot radius tangent curve to the left, (radius bears North 08°55'28" East, Chord: South 83°53'53" East 46.435 feet); thence along the arc of said curve 46.454 feet through a central angle of 05°38'42"; thence South 86°43'14" East 136.933 feet; thence South 81°57'28" East 65.581 feet to said State Road 111 (Bacchus Highway); thence along said State Road 111 (Bacchus Highway) South 08°02'22" West 71.660 feet; thence North 80°53'58" West 89.620 feet; thence North 76°26'58" West 135.646 feet to a point on a 512.500 foot radius tangent curve to the left, (radius bears South 13°33'02" West, Chord: North 78°45'45" West 41.369 feet); thence along the arc of said curve 41.381 feet through a central angle of 04°37'34"; thence North 81°04'32" West 282.694 feet to a point on a 513.500 foot radius tangent curve to the right, (radius bears North 08°55'28" East, Chord: North 78°25'08" West 47.603 feet); thence along the arc of said curve 47.620 feet through a central angle of 05°18'48"; thence North 75°45'44" West 37.830 feet to a point on a 25.000 foot radius tangent curve to the left, (radius bears South 14°14'16" West, Chord: South 58°40'49" West 35.698 feet); thence along the arc of said curve 39.756 feet through a central angle of 91°06'55" to a point of compound curvature with a 487.500 foot radius tangent curve to the left, (radius bears South 76°52'39" East, Chord: South 12°09'34" West 16.389 feet); thence along the arc of said curve 16.389 feet through a central angle of 01°55'35"; thence North 75°45'44" West 25.034 feet to a point on a 512.500 foot radius non tangent curve to the right, (radius bears South 78°39'19" East, Chord: North 12°37'55" East 23.023 feet); thence along the arc of said curve 23.024 feet through a central angle of 02°34'27" to a point of reverse curvature with a 25.000 foot radius tangent curve to the left, (radius bears North 76°04'52" West, Chord: North 30°44'52" West 35.149 feet); thence along the arc of said curve 38.979 feet through a central angle of 89°20'00" to a point of reverse curvature with a 512.500 foot radius tangent curve to the right, (radius bears North 14°35'08" East, Chord: North 74°48'36" West 10.814 feet);

thence along the arc of said curve 10.814 feet through a central angle of 01°12'32" to a point of reverse curvature with a 4.500 foot radius non tangent curve to the left, (radius bears South 15°32'44" West, Chord: South 82°41'01" West 3.497 feet); thence along the arc of said curve 3.591 feet through a central angle of 45°43'26" to a point of reverse curvature with a 512.500 foot radius tangent curve to the right, (radius bears North 30°10'42" West, Chord: South 60°02'48" West 4.027 feet); thence along the arc of said curve 4.027 feet through a central angle of 00°27'01" to a point of compound curvature with a 5.500 foot radius tangent curve to the right, (radius bears North 29°43'41" West, Chord: South 83°35'20" West 4.354 feet); thence along the arc of said curve 4.477 feet through a central angle of 46°38'02" to a point of compound curvature with a 518.500 foot radius tangent curve to the right, (radius bears North 16°54'21" East, Chord: North 69°02'24" West 73.316 feet); thence along the arc of said curve 73.377 feet through a central angle of 08°06'30"; thence North 64°59'09" West 69.467 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 25°00'51" East, Chord: North 42°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 19°59'09" West 4.343 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 70°00'51" West, Chord: North 42°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence North 64°59'09" West 30.000 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 25°00'51" West, Chord: North 87°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence South 70°00'51" West 4.343 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 19°59'09" West, Chord: North 87°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 64°59'09" West 339.927 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 25°00'51" East, Chord: North 42°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 19°59'09" West 4.343 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 70°00'51" West, Chord: North 42°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence North 64°59'09" West 30.000 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 25°00'51" West, Chord: North 87°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence South 70°00'51" West 4.343 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 19°59'09" West, Chord: North 87°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 64°59'09" West 204.294 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 25°00'51" East, Chord: North 42°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 19°59'09" West 4.343 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 70°00'51" West, Chord: North 42°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence North 64°59'09" West 91.021 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 25°00'51" West, Chord: North 87°29'09" West 3.444 feet);

thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence South 70°00'51" West 4.343 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 19°59'09" West, Chord: North 87°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 64°59'09" West 172.048 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 25°00'51" East, Chord: North 42°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 19°59'09" West 4.343 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 70°00'51" West, Chord: North 42°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence North 64°59'09" West 10.000 feet to a point on a 25.000 foot radius tangent curve to the left, (radius bears South 25°00'51" West, Chord: South 70°00'51" West 35.355 feet); thence along the arc of said curve 39.270 feet through a central angle of 90°00'00"; thence South 25°00'51" West 22.886 feet; thence North 64°59'09" West 12.500 feet; thence North 25°00'51" East 0.386 feet; thence North 64°59'09" West 12.500 feet; thence North 25°00'51" East 22.500 feet to a point on a 25.000 foot radius tangent curve to the left, (radius bears North 64°59'09" West, Chord: North 19°59'09" West 35.355 feet); thence along the arc of said curve 39.270 feet through a central angle of 90°00'00"; thence North 64°59'09" West 20.000 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 25°00'51" West, Chord: North 87°29'09" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence South 70°00'51" West 4.343 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 19°59'09" West, Chord: North 87°29'09" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 64°59'09" West 48.060 feet to a point on a 481.500 foot radius tangent curve to the left, (radius bears South 25°00'51" West, Chord: North 75°47'41" West 180.598 feet); thence along the arc of said curve 181.673 feet through a central angle of 21°37'05"; thence North 86°36'14" West 105.401 feet to a point on a 5.500 foot radius tangent curve to the right, (radius bears North 03°23'46" East, Chord: North 64°06'14" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 41°36'14" West 4.343 feet to a point on a 4.500 foot radius tangent curve to the left, (radius bears South 48°23'46" West, Chord: North 64°06'14" West 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence North 86°36'14" West 10.000 feet to a point on a 25.000 foot radius tangent curve to the left, (radius bears South 03°23'46" West, Chord: South 48°23'46" West 35.355 feet); thence along the arc of said curve 39.270 feet through a central angle of 90°00'00"; thence North 86°36'14" West 22.000 feet; thence North 03°23'46" East 14.000 feet; thence North 86°36'14" West 41.000 feet; thence South 03°23'46" West 14.000 feet; thence North 86°36'14" West 39.500 feet; thence North 03°23'46" East 7.500 feet; thence North 86°36'14" West 124.000 feet; thence North 03°23'46" East 145.000 feet; thence North 86°36'14" West 23.000 feet; thence North 03°23'46" East 66.000 feet; thence South 86°36'14" East 38.000 feet; thence North 03°23'46" East 83.392 feet; thence North 86°36'14" West 16.000 feet; thence North 03°23'46" East 164.392 feet; thence South 86°36'14" East 1.000 feet; thence North 03°23'46" East 85.001 feet; thence North 86°36'14" West 7.031 feet; thence North

03°23'46" East 18.269 feet; thence North 04°30'06" West 60.500 feet to a point on a 612.000 foot radius non tangent curve to the right, (radius bears South 04°30'06" East, Chord: North 87°22'51" East 40.205 feet); thence along the arc of said curve 40.212 feet through a central angle of 03°45'53"; thence North 89°15'47" East 195.626 feet to a point on a 263.500 foot radius tangent curve to the right, (radius bears South 00°44'13" East, Chord: South 85°49'20" East 45.150 feet); thence along the arc of said curve 45.205 feet through a central angle of 09°49'46"; thence South 80°54'27" East 53.450 feet to a point on a 200.000 foot radius tangent curve to the left, (radius bears North 09°05'33" East, Chord: South 85°54'27" East 34.862 feet); thence along the arc of said curve 34.907 feet through a central angle of 10°00'00"; thence North 89°05'33" East 2.437 feet to a point on a 200.000 foot radius tangent curve to the right, (radius bears South 00°54'27" East, Chord: South 85°54'27" East 34.862 feet); thence along the arc of said curve 34.907 feet through a central angle of 10°00'00"; thence South 80°54'27" East 24.926 feet; thence North 09°05'33" East 177.233 feet; thence North 49°58'02" East 102.173 feet to a point on a 163.425 foot radius non tangent curve to the left, (radius bears North 43°27'55" East, Chord: South 61°46'15" East 85.896 feet); thence along the arc of said curve 86.916 feet through a central angle of 30°28'21"; thence South 77°00'25" East 17.965 feet to a point on a 275.163 foot radius tangent curve to the left, (radius bears North 12°59'35" East, Chord: North 88°51'03" East 134.460 feet); thence along the arc of said curve 135.835 feet through a central angle of 28°17'04"; thence North 74°42'31" East 84.515 feet to a point on a 310.245 foot radius tangent curve to the right, (radius bears South 15°17'29" East, Chord: North 87°38'25" East 138.857 feet); thence along the arc of said curve 140.043 feet through a central angle of 25°51'47"; thence South 13°53'23" West 258.498 feet; thence South 35°20'57" West 90.766 feet to a point on a 270.000 foot radius non tangent curve to the right, (radius bears South 35°11'01" West, Chord: South 45°45'17" East 85.050 feet); thence along the arc of said curve 85.405 feet through a central angle of 18°07'25"; thence South 36°41'34" East 29.897 feet; thence North 53°18'26" East 53.941 feet to a point on a 515.000 foot radius tangent curve to the right, (radius bears South 36°41'34" East, Chord: North 61°41'43" East 150.255 feet); thence along the arc of said curve 150.793 feet through a central angle of 16°46'35"; thence North 70°05'00" East 303.339 feet to a point on a 455.000 foot radius tangent curve to the left, (radius bears North 19°55'00" West, Chord: North 54°52'59" East 238.598 feet); thence along the arc of said curve 241.420 feet through a central angle of 30°24'03"; thence South 50°19'02" East 65.000 feet; thence South 44°55'57" East 59.482 feet to a point on a 445.000 foot radius tangent curve to the left, (radius bears North 45°04'03" East, Chord: South 59°50'49" East 229.064 feet); thence along the arc of said curve 231.671 feet through a central angle of 29°49'43"; thence South 74°45'41" East 175.572 feet to a point on a 445.000 foot radius tangent curve to the left, (radius bears North 15°14'19" East, Chord: South 78°21'39" East 55.877 feet); thence along the arc of said curve 55.914 feet through a central angle of 07°11'57"; thence South 81°57'38" East 427.320 feet to the point of beginning.

Property contains 15.305 acres.

Less & excepting therefrom the following described tract of land:

Beginning at a point that lies North 00°06'38" West 3833.571 feet along the Quarter Section Line and West 2495.133 feet from the South Quarter Corner of Section 27, Township 2 South, Range 2 West, Salt Lake Base and Meridian and running thence North 86°36'14" West 41.000 feet; thence North 03°23'46" East 257.187 feet to a point on a 4.500 foot radius tangent curve to the right, (radius bears South 86°36'14" East, Chord: North 25°53'46" East 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence North 48°23'46" East 5.757 feet to a point on a 5.500 foot radius tangent curve to the left, (radius bears North 41°36'14" West, Chord: North 25°53'46" East 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 03°23'46" East 205.314 feet to a point on a 5.500 foot radius tangent curve to the left, (radius bears North 86°36'14" West, Chord: North 19°06'14" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence North 27°49'53" West 6.663 feet to a point on a 3.000 foot radius tangent curve to the right, (radius bears North 62°10'07" East, Chord: North 12°13'04" West 1.615 feet); thence along the arc of said curve 1.635 feet through a central angle of 31°13'40"; thence North 03°23'46" East 51.853 feet to a point on a 3.000 foot radius tangent curve to the right, (radius bears South 86°36'14" East, Chord: North 40°51'13" East 3.649 feet); thence along the arc of said curve 3.923 feet through a central angle of 74°54'54"; thence North 78°18'41" East 11.005 feet to a point on a 226.000 foot radius tangent curve to the right, (radius bears South 11°41'19" East, Chord: North 85°24'52" East 55.893 feet); thence along the arc of said curve 56.036 feet through a central angle of 14°12'23" to a point of compound curvature with a 3.000 foot radius tangent curve to the right, (radius bears South 02°31'03" West, Chord: South 39°11'42" East 4.479 feet); thence along the arc of said curve 5.057 feet through a central angle of 96°34'30"; thence South 09°05'33" West 59.664 feet to a point on a 3.000 foot radius tangent curve to the right, (radius bears North 80°54'27" West, Chord: South 24°42'23" West 1.615 feet); thence along the arc of said curve 1.635 feet through a central angle of 31°13'40"; thence South 40°19'13" West 6.663 feet to a point on a 5.500 foot radius non tangent curve to the left, (radius bears South 35°54'27" East, Chord: South 31°35'33" West 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence South 09°05'33" West 150.679 feet; thence South 07°13'29" West 62.924 feet to a point on a 5.500 foot radius tangent curve to the left, (radius bears South 82°46'31" East, Chord: South 15°16'31" East 4.210 feet); thence along the arc of said curve 4.320 feet through a central angle of 45°00'00"; thence South 37°46'31" East 5.757 feet to a point on a 4.500 foot radius tangent curve to the right, (radius bears South 52°13'29" West, Chord: South 15°16'31" East 3.444 feet); thence along the arc of said curve 3.534 feet through a central angle of 45°00'00"; thence South 07°13'29" West 86.114 feet to a point on a 250.500 foot radius tangent curve to the left, (radius bears South 82°46'31" East, Chord: South 05°18'38" West 16.736 feet); thence along the arc of said curve 16.739 feet through a central angle of 03°49'43"; thence South 03°23'46" West 150.001 feet to the point of beginning.

Property contains 0.572 acres, 24937 square feet.

**EXHIBIT B**  
**BYLAWS**  
**OF**  
**TERRAINE MASTER OWNERS ASSOCIATION, INC.**

Declarant has established and adopted these bylaws as the Bylaws of Terraine Master Owners Association, Inc. (these “Bylaws”). These Bylaws and any valid amendments thereto shall be effective upon recording with the Office of Recorder for Salt Lake County, Utah and shall be binding on the Declarant, the Master Owners Association, and all present and/or future Owners and Occupants of the Project.

**ARTICLE 1**  
**DEFINITIONS**

- 1.1 Definitions. Unless otherwise defined herein, capitalized terms in these Bylaws are defined in the Master Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Terraine (“the Declaration”) shall have the same defined meanings when used in these Bylaws.

**ARTICLE 2**  
**ASSOCIATION MEMBERS**

- 2.1 Annual Meeting.
- (a) Requirement. During the Declarant Control Period, annual meetings are not required and will only be held in the sole discretion of the Declarant. Thereafter, an annual meeting of the Owners shall be held no less than once each calendar year.
  - (b) Date and Time. The date, time and location of the annual meeting shall be determined by the Board, in its discretion.
  - (c) Purpose. The Annual Meeting shall be held for the following purposes.
    - (i) electing members of the Board after termination of the Declarant Control Period.
    - (ii) review of the annual budget promulgated by the Board.
    - (iii) transacting such other business as may properly come before the meeting.
  - (d) Approval of Minutes. The minutes of the annual meeting may be approved by the Owners at the next annual meeting, or, in the Board’s discretion, by the Board.
  - (e) Election of Board Members. If the election of Board Members cannot be held at the annual meeting of the Owners, or at any adjournment thereof, the Board shall cause the election to be conducted by written ballot without a meeting consistent

with § 16-6a-709 of the Utah Revised Nonprofit Corporation Act, or at a special meeting of the Owners, to be convened as soon thereafter as may be convenient, or by such other means as may be permitted under applicable law.

2.2 Special Meetings.

- (a) **Who May Call.** During the Declarant Control Period, special meetings of the Owners may only be called by Declarant. Thereafter, special meetings of the Owners may be called by the Board, the President, or upon the written request of Owners holding not less than twenty-five percent (25%) of the total Allocated Interests of the Master Association.
- (b) **Requirements for Request for Special Meeting by Owners.** Any written request for a special meeting by Owners shall include a clear statement of the purpose of the requested special meeting and the signature of each Owner affirmatively supporting such request. Such written request shall be delivered to the Manager, or the President, who shall then call, provide notice of, and conduct a special meeting within sixty (60) days of receipt of a proper request. The special meeting shall be limited to the purpose identified on the request. No other issues may be discussed and/or decided upon at that special meeting.

2.3 Place of Meetings, Use of Teleconferencing and Video Conferencing. The Board may designate the office of the Manager or any place within the City as the place of meeting for any annual or special meeting. Alternatively, meetings may be held telephonically or via video conferencing (e.g., Skype, Zoom, FaceTime), provided meeting participants are able to hear and communicate with each other in real time.

2.4 Notice of Meetings. The Board shall cause written notice of the time and place, and, in the case of a special meeting, the purpose, for all meetings of the Owners (whether annual or special) to be delivered, not more than thirty (30) nor less than ten (10) days prior to the meeting.

2.5 Methods for Notice. Any notice to be given to an Owner, a Lender, or the Master Association under the provisions of the Governing Documents shall be in writing and shall be deemed valid if provided by any of the below methods:

- (a) **Notice to an Owner from the Master Association:**
  - (i) by email correspondence to an Owner: (1) sent to an email address provided by the Owner for the purpose of Master Association communications, or (2) emailed to an email address from which the Owner has communicated related to Master Association matters, and so long as no indication is received that the email may not have been delivered. Any notice sent by email shall be deemed delivered when sent;
  - (ii) by a written notice delivered personally to the Owner, which shall be effective upon delivery;
  - (iii) by a written notice placed in the United States mail, first-class postage prepaid, to the most recent address furnished by such Owner in writing to the Master Association for the purpose of



giving notice, or, if no such address shall have been furnished, to the street address of such Owner's Unit. Any notice so deposited in the mail shall be deemed delivered forty eight (48) hours after such deposit;

- (iv) by any other method that is fair and reasonable given the circumstances and the subject matter of the notice or otherwise allowed by law.
  - (v) Notwithstanding anything to the contrary in this Section, the Master Association shall send all notices to an owner by U.S. Mail if such Owner, by written demand, demands to receive notices from the Master Association by mail.
  - (vi) In the case of co-Owners, notice to one of the co- Owners is effective as notice to all such co-Owners. The Master Association shall not be required to give more than one notice per Unit. In case any two co-Owners send conflicting notice demands, notice shall be proper if mailed by first-class mail to the Unit address.
  - (vii) In case posting of a notice on the Unit is permitted, such posting is effective when posted on the front or primary access door to the Unit and any such posting may be removed by the Master Association the sooner of either (1) two (2) days after the event or action for which notice was given or (2) ten (10) days after the posting.
- (b) Notice to Master Association from an Owner. An Owner's notice to the Master Association shall be effective upon the satisfaction of any of the following delivery methods:
- (i) by written email correspondence to the Master Association: (1) that is sent to an email address provided by the Master Association in the prior twelve (12) months for the purpose of Master Association communications, or (2) that is emailed to an email address from which the Manager or the Board has communicated related to Master Association matters, and so long as no indication is received that the email may not have been delivered or received. Any notice sent by email shall be deemed delivered forty eight (48) hours after it is sent;
  - (ii) by a written notice delivered personally to the Manager or President, which shall be effective upon delivery; or
  - (iii) by a written notice placed in the United States mail, first-class postage prepaid, to the current registered business address of the Master Association. Any notice so deposited in the mail shall be deemed delivered forty eight (48) hours after such deposit;

- 2.6 Owners of Record. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Board may designate a record date, which shall not be more than thirty (30) or less than ten (10) days prior to the meeting. If no record date is designated prior to sending notice of the meeting, the first date on which a notice of the meeting is sent shall be deemed to be the record date for determining Owners entitled to notice of or to vote at the meeting. The Person appearing in the records of the Master Association on such record date as the Owners of record of Units in the Property shall be deemed to be the Owners of record entitled to notice of and to vote at the meeting of the Owners.
- 2.7 Quorum. Those Owners and the holders of proxies entitled to cast votes present at an annual or special meeting shall constitute a quorum for the transaction of business, subject, however, to higher percentage approval thresholds required for amendment of Governing Documents or other matters for which the affirmative votes of a higher percentage of Owners is required.
- 2.8 Proxies. At any meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner or by the Owner's attorney when duly authorized in writing and delivered prior to the start of the meeting to the Secretary of the Master Owners Association or to the Manager or such other officer or individual who has been authorized by the Master Owners Association to accept proxies at the meeting. If a Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any joint Owner of such Unit and such proxy holder may exercise the vote for the jointly-owned Unit, provided, however, that if written objection is made by the other joint Owner(s) and delivered to the Master Association within ten (10) days of the vote at issue, the vote exercised by such proxy holder shall be invalidated.
- 2.9 Voting. With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, one vote for each Unit of such Owner, provided such Owner is current on all Assessments. The exercise of an Owner's voting right may be restricted by the Board if the Owner is delinquent on their Assessment obligation. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting shall be necessary for the adoption of any matter voted on by the Owners, unless a greater proportion is required by these Bylaws, the Declaration, the Act, or the Utah Revised Nonprofit Corporations Act. When a Unit is jointly owned, any joint Owner may exercise the vote for such Unit on behalf of all joint Owners of the Unit. In the event of two conflicting votes by joint Owners of one Unit, no vote shall be counted for that Unit. In no event shall fractional votes be exercised in respect to any Unit.
- 2.10 Ballots and Written Consent. The Master Association may utilize written consents and ballots with or without a meeting consistent with the requirements of the Revised Nonprofit Corporation Act. The use of electronic signatures and online, email, or other electronic voting, ballots or consents is permitted to the fullest extent permitted by law.
- 2.11 Minutes of Meetings. The secretary shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (a) the identification of the Persons present at the

meeting in person and by proxy; (b) the date of the meeting; (c) the identification of any issue that is voted on or decided in the meeting; (d) the number of votes cast for and against any issue decided upon; and (e) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this Section does not invalidate any action taken at a meeting.

- 2.12 Action Taken Without a Meeting. Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code §16-6a-707. Any action so approved shall have the same effect as though taken at a meeting of the Owners

### ARTICLE 3 BOARD OF DIRECTORS

#### 3.1 Number, Tenure, Qualifications, and Election.

- (a) **Number of Board Members.** The Board shall be composed of an odd number of at least three (3) but no more than seven (7) individuals meeting the qualifications stated below, subject to Declaration provisions governing Owner Representation on the Board during the Declarant Control Period, and further subject to the Declarant Rights set forth in the Declaration.
- (b) **Qualifications for Board Service.** Except as provided in Article 19 of the Master Declaration regarding the Declarant Control Period, to serve on the Board, an individual must be a Unit Owner or the spouse of a Unit Owner, current on payment of Assessments and at least eighteen years old. If an Owner is a corporation, estate, limited liability company, partnership, trust, or other legal entity, an individual who is an officer, principle, shareholder, partner, member, manager, trustee, or beneficiary of such Owner, as the case may be, may be a member of the Board, provided the individual is at least eighteen (18) years old and the Owner is current on Assessments. Upon election to the Board, a Board Member shall comply with applicable federal and state law applicable to Directors. Failure and refusal to comply with federal and state law applicable to a Director shall immediately and automatically disqualify such individual from service on the Board.
- (c) **Board Member Term.** Except during the Declarant Control Period, and except for the terms of one (1) of the Board Members of the initial Board elected by the Owners at the end of the Declarant Control Period to create staggered terms, the term of a Board Member shall be two (2) years. In the interest of maintaining institutional knowledge, the Board Members of the initial Board elected by the Owners at the end of the Declarant Control Period may determine among themselves who will serve a one (1) year term and who will serve a two (2) year term so as to create staggered Board Member terms going forward.
- (d) **Term Limits.** Except during the Declarant Control Period, a Board Member may serve no more than two (2) consecutive terms. An individual who has served two (2) consecutive terms (i.e., four (4) years) must sit out at least two (2) years before seeking another term as a Board Member.

- (e) Nominations. At or before the annual meeting or any subsequent meeting at which the election is held, an Owner may submit his/her/their own name or the name of any other individual willing and otherwise qualified person to serve on the Board.
- (f) Disqualification. If any Board Member is alleged to not meet the qualification requirements in these Bylaws, the Board shall promptly investigate and verify whether the Board Member is qualified or not. If the Board Member is not qualified, the Board Member's membership on the Board shall terminate automatically retroactive to the date that notice of an alleged lack of qualification was provided to the Master Association or, if no notice was provided, to the date that the Board established that the Board Member was not qualified. If a Board Member becomes unqualified or was not qualified under the Governing Documents, but was nonetheless elected to or permitted to remain on the Board, the decisions and actions of the Board and that Board Member are not subject to challenge on this basis up to the time that the Master Association is notified in writing as provided for in this Section.
- (g) Removal for Failure to Participate. If any Board Member shall fail to appear at three (3) successive regular Board meetings in a row or fifty percent (50%) or more of the regular Board meetings within any calendar year, after having received proper notice of the meetings and after the Board has attempted in good faith to schedule meetings consistent with all of the Board Members' schedules, the other Board Members may by unanimous vote remove that member and appoint a new Board Member to serve the remainder of the term of the Board Member removed.

### 3.2 Board Meetings.

- (a) Regular Meetings. The Board shall hold regular meetings at least annually, or more often in its discretion.
- (b) Who Is Entitled to Attend. Consistent with § 57-8a-226 of the Act, Owners may attend meetings and may be present for all discussion, deliberation, and decisions except when the Board is in executive session.
- (c) Special Meetings. Special meetings of the Board may be called by or at the request of any two Board Members or the President. Notice of any special meeting shall be given at least 48 hours prior thereto to each Board Member. Except as provided by law, no notice of special meetings is required to be provided to Owners, although any Owner may attend a special meeting if the Owner appears at the physical location of the meeting in person.
- (d) Quorum and Manner of Acting. A majority of the Board Members shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Board Members present at any meeting at which a quorum is present and for which proper notice was provided to the Board Members shall be the act of the Board. The Board Members shall act only as a Board, and individual Members shall have no powers as such.
- (e) Place and Notice of Meetings. The Board may designate any place in the City as the place of meeting for any regular meeting called by the Board but shall in good faith attempt to hold meetings at the office of the Manager or in as close a proximity

to the Project as reasonably possible. During the Declarant Control Period, regular meetings of the Board may be held without notice of the date, time, place or purpose of the meeting. Thereafter, all Board Members shall be given at least five (5) days' notice of regular meetings. Special meetings of the Board shall require at least two (2) days' notice of the date, time, and place. Notice of the purpose of the special meeting shall not be required.

- (f) Use of Teleconferencing and Video Conferencing. If reasonably available and convenient for the Board, regular and/or special Board meetings may be held telephonically or via video conferencing (e.g., Skype, Zoom, FaceTime), provided Board members and Owners, if any, are able to hear and communicate with each other in real time.
- (g) Executive Session.
  - (i) The Board or a Committee may, by motion and a vote, continue deliberations and discussions in executive session and, if they enter executive session, shall discontinue any executive session by motion and a vote.
  - (ii) The discussions in executive session shall be confidential and shall not be disclosed to anyone outside of the meeting except as authorized by the Board or a Committee of the Board. Documents analyzed in executive session may be confidential for other reasons provided for by law or in the Governing Documents, but they are not confidential merely as a result of having been discussed or presented in executive session.
  - (iii) Executive sessions may be held to discuss and make decisions related to the following matters:
    - (1) Pending or prospective legal proceedings and issues related to the Master Association, its operations, or its governance, including but not limited to meetings with the Master Association's counsel;
    - (2) Contracts and purchases related to the Master Association, including but not limited to the negotiations, potential breaches, reviews of contracts, and the terms of any purchases;
    - (3) Master Association personnel issues, including reviews, discipline issues, termination issues, compensation issues, and the terms of engagement; and
    - (4) Rule violations by Owners or Occupants, including but not limited to the discussion of complaints and whether to impose fines or utilize any particular remedy to address particular violations.

### 3.3 Informal Action and Action by Board Members without a Meeting.

- (a) Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting if each Board Member, in writing, either:
  - (i) votes for the action; or

- (ii) votes against or abstains from voting and does not exercise their right to demand that action not be taken without a meeting.
  - (b) An action taken by writing pursuant to this Section shall include a description the action to be taken and shall be effective on the date the Association receives writings reasonably describing or referencing the action taken or reply thereto signed by each Board Member and not revoked (the “Effective Date”).
  - (c) Action taken under this Section is effective only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the Board Members then in office were present and voted.
  - (d) A Board Member may revoke consent to any action given pursuant to this section by a written revocation describing the action and stating that the member has changed their vote. To be effective, the revocation must be received before the Effective Date.
  - (e) Action taken pursuant to this Section shall be considered as effective as an action taken at a meeting of the Board.
  - (f) For purposes of this Section, “signed” or “signature” is any indication on the document (whether paper or electronic) that the document is from and consented to by the person who is purported to have sent it. For example, a signature block or typed name at the bottom of an email satisfies the requirement for a signature.
- 3.4 Compensation. No Board Member shall receive compensation for any services that he/she may render to the Master Association as a Board Member ; provided, however, that a Board Member may be reimbursed for expenses incurred in the performance of his/her duties as a to the extent such expenses are unanimously approved by the Board.
- 3.5 Resignation and Removal. A Board Member may resign at any time by delivering a written resignation to any member of the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Board Member may be removed and replaced at any time, with or without cause, by the affirmative vote of at least fifty percent (50%) of the Allocated Interest of the Master Owners Association at a special meeting of the Owners duly called for such purpose.
- 3.6 Vacancies. If vacancies shall occur in the Board by reason of the death, resignation, removal for failure to attend meetings, or disqualification of a Board Member, the Board Members then in office shall continue to act, and such vacancies shall be filled by a vote of the Board Members then in office, even though less than a quorum may be available. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election by the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his/her/their predecessor.

## ARTICLE 4 OFFICERS

- 4.1 Officers. The officers of the Master Association shall be a president or chairperson (the “President”), vice-president or vice chairperson (“Vice-President”), secretary (the “Secretary”), and treasurer (the “Treasurer”).
- 4.2 Election, Tenure and Qualifications. The officers of the Master Association shall be chosen by the Board annually at the first meeting of the Board following the annual meeting. Each such officer shall hold such office until a successor has been elected or until such officer’s death, resignation, disqualification, or removal, whichever first occurs. A Board Member may hold more than one office during the Declarant Control Period and during any period in which there are only three (3) Board Members, except the President shall not also serve as the Vice President or Secretary. All officers must be Board Members during the entire term of their respective offices.
- 4.3 Subordinate Officers. The Board may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine. Subordinate officers need not be members of the Master Association.
- 4.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Board Member or to the Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by the Board at any time, with or without cause.
- 4.5 Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting. During the time that any office is vacant, and no other officer is available to perform the duties of that office as required below, the Board shall ensure that the duties and responsibilities of the office are performed.
- 4.6 The President. The President shall preside at meetings of the Board and at meetings of the Owners. At all meetings, the President shall have all authority typically granted to the person presiding over a meeting including but not limited to: (a) the right to control the order of the meeting; (b) the right to arrange for the removal of any disruptive persons who may include but not be limited to any person who (i) refuses to abide by rules or requests of the presiding person related to the order of the meeting and when speaking is permitted, or (ii) engages in vulgar, threatening, or otherwise inappropriate language or gestures; (c) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in “Robert’s Rules of Order” or “The Modern Rules of Order”; and (d) the right to designate the Manager or any other person to preside over any meeting at which the President is present. The President shall sign on behalf of the Master Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board. The President shall have the general authority to implement decisions of the Board and shall oversee the operations of the Master Association. The President shall have authority in case of emergency to take action without Board approval as is necessary and prudent to preserve and protect property. The President shall be responsible for the duties of any other office while that office is vacant.

- 4.7 The Vice President. The Vice President shall also act in the place and stead of the President in the event of the President's absence or inability or refusal to act. The Vice President shall perform such other duties as required by the Board.
- 4.8 The Secretary. The Secretary shall keep the minutes of the Master Association and shall maintain such books and records as these Bylaws, the Declaration, the law, or any resolution of the Board may require such person to keep. The Secretary shall also act in the place and stead of the President in the event of the President and Vice President's absence or inability or refusal to act. The Secretary shall perform such other duties as required by the Board.
- 4.9 The Treasurer. The Treasurer shall have the custody and control of the funds of the Master Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Master Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall have authority and obligation to generally implement the requirements of governing documents as it relates to the funds of the Master Association. The Treasurer shall also act in the place and stead of the President in the event of the President, Vice President, and Secretary's absence or inability or refusal to act. The Treasurer shall perform such other duties as required by the Board.
- 4.10 Compensation. No officer shall receive compensation for any services rendered to the Master Association as an officer; provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

## ARTICLE 5 COMMITTEES OF THE BOARD

- 5.1 Designation of Committees. The Board may from time to time by resolution designate such committees (each a "Committee") as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers, including, without limitation, a Design Review Committee and Neighborhood Committees. The membership of each such Committee designated hereunder shall include at least one (1) Board Member. A Committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate any Committee at any time.
- 5.2 Proceedings of Committees. Each Committee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such Committee may from time to time determine. Each such Committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board.
- 5.3 Quorum and Manner of Acting. At each meeting of any Committee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such Committee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such Committee. The members of any Committee designated by the Board hereunder shall act only as a Committee, and the individual members thereof shall have no powers, as such. A Committee may exercise the authority granted by the Board.



- 5.4 Resignation and Removal. Any member of any Committee designated hereunder by the Board may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such Committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any member of any Committee designated by it thereunder.
- 5.5 Vacancies. If any vacancy shall occur in any Committee designated by the Board due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the Committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

## ARTICLE 6 INDEMNIFICATION

- 6.1 Indemnification. No Board Member, officer, or member of a Committee (including any member of the Design Review Committee) shall be personally liable for any obligations of the Master Association or for any duties or obligations arising out of any acts or conduct of said Board Member, officer, or Committee member performed for or on behalf of the Master Association. The Master Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer of the Master Association, or a member of a duly formed Committee, as well as such person's heirs and administrators, from and against any and all claims, judgments, and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer of the Master Association, or member of a Committee or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him/her as such Board Member, officer, or Committee member, and shall advance and reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that the Master Association shall have the right, in its sole discretion, to defend such person from all suits or claims; provided further, however, that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's gross negligence or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Master Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted.
- 6.2 Other Indemnification. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be provided under any statute, agreement, vote of disinterested Board Member's, or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. The indemnification herein provided shall continue as to any person who has ceased to be a Board Member, officer, Committee member, or employee, and shall inure to the benefit of the heirs, executors, and administrators of any such person.
- 6.3 Settlement by Master Association. The right of any person to be indemnified shall be subject always to the right of the Master Association by the Board, in lieu of such indemnity, to settle any such claim, action, suit, or proceeding at the expense of the Master

Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

## ARTICLE 7 AMENDMENTS

- 7.1 Amendments. Except as permitted specifically herein or required by the Act, these Bylaws may be amended by the affirmative vote of Owners holding at least sixty-seven percent (67%) of the Allocated Interest in the Master Association at a meeting called for that purpose provided, however, that during the Declarant Control Period, any such amendment shall require the approval of Declarant. Nothing in this Section shall be construed to limit the Declarant's unilateral right to amend these Bylaws (or the Declaration or Rules) during the Declarant Control Period as set forth in the Declaration.
- 7.2 Execution of Amendments. Upon obtaining the required vote, an amendment shall be signed by the President and Secretary of the Master Association, who shall certify that the amendment has been properly adopted to as required by these Bylaws. An amendment complying with the requirements of these Bylaws and the Declaration shall be effective when the amendment has been recorded in the Office of Recorder for Salt Lake County, Utah.

## ARTICLE 8 WAIVER OF IRREGULARITIES

- 8.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of ascertaining persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:
- (a) if the objecting person was in attendance at the meeting, they are waived if no objection to the particular procedural issue is made at the meeting.
  - (b) if the objecting person was not in attendance at the meeting but has proper notice of the meeting, they are waived if no objection to the particular procedural issue is made within ten (10) days of the date the meeting is held,
  - (c) if the objecting person was not in attendance at a meeting, did not have proper notice of the meeting, but had actual notice of the meeting before it occurred, they are waived if no objection to the particular procedural issue is made within ten (10) days of the date of the meeting,
  - (d) if the objecting person was not in attendance at the meeting and did not have actual and proper notice of the meeting before it occurred, within thirty (30) days of receiving actual notice of the occurrence of the meeting or of any decision that was made at the meeting.
  - (e) for any action, vote, or decision that occurred without a meeting, within thirty (30) days of receiving actual notice of the occurrence of the action, vote, or decision.
- 8.2 Requirements for Objections. All objections except those made in person at a meeting shall be in writing. Whenever made, objections must be specific, shall include identification of the specific provision of the Governing Document or other law that has

been violated, and shall include a brief statement of the facts supporting the claimed violation.

8.3 Irregularities that Cannot Be Waived. The following irregularities cannot be waived under the prior subsection:

- (a) Any failure to comply with the provisions of the Declaration.
- (b) Any failure to obtain the proper number of votes or approvals required to pass a particular measure.

ARTICLE 9  
TURNOVER OF GOVERNANCE OF THE MASTER OWNERS ASSOCIATION  
FROM DECLARANT TO OWNERS

9.1 Special Meeting of Owners and Board Election. Within sixty (60) days of termination of the Declarant Control Period, Declarant or the Board shall call a special meeting of the Owners for the purpose of:

- (a) Board Member elections by the Owners;
- (b) review of current Master Owner Association financials with Owners; and
- (c) such other purposes as Declarant may determine related to turnover of governance of the Master Owners Association from Declarant to the Owners.

9.2 Transition Committee. Prior to termination of the Declarant Control Period, the Board, in its discretion, may establish a Transition Committee to solicit nominations of Owners and other individual willing and otherwise qualified person to serve on the initial Board to be elected by the Owners and/or to do such other and further things as may be needed to facilitate a smooth transition of governance.