

WHEN RECORDED, RETURN TO:
Bach Rentals, LLC
11650 South State Street, Suite 300
Draper, Utah 84020

DOC # 20190040162

Restrictive Page 1 of 37
Russell Shirts Washington County Recorder
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By BACH RENTAL LLC



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR REDHAWK

(a Residential Planned Unit Development)

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR REDHAWK, a residential planned unit development (hereinafter the "**Declaration**") is made effective as of the date evidenced below by BACH RENTALS, LLC, a Utah limited liability company (hereinafter "**Declarant**").

RECITALS:

A. Declarant is the owner of fee simple title to that certain real property situated in the City of St. George, County of Washington, and more particularly described on the Plat (as defined below), including without limitation those Lots described on Exhibit A attached hereto (hereinafter the "**Property**").

B. Declarant will create within and upon the Property a strictly residential subdivision complex made up of approximately 19 townhomes to be known as Redhawk. In order to do so, Declarant desires to establish protective covenants and conditions and restrictions upon the Property and each and every portion thereof; which will constitute a general scheme for the improvement, development and management of said Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of the environment within Redhawk.

C. To provide efficient management for Redhawk and to preserve its value, desirability and attractiveness, Declarant will incorporate a Utah nonprofit corporation called Redhawk Owners Association, and Declarant delegates and assigns to such Association the powers of managing Redhawk, of maintaining and administering the Common Facilities, of administering and enforcing all covenants, conditions and restrictions, of collecting and disbursing funds pursuant to the assessments and charges hereinafter created and referred to and of performing such other acts as shall generally benefit Redhawk.

D. Declarant will hereafter hold and convey title to all of the Property subject to the protective covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of its interest as the same may from time to time appear in the Property shall be held and conveyed subject to the following covenants, conditions restrictions and easements which are hereby declared to be for the benefit of said interests in the Property, and the owners of said interests, their successors and assigns.

ARTICLE 1. DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

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

1.2 "Articles" and "Bylaws" shall mean the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended. The Articles, among other things, establish the Board to manage the affairs of the Association. The Bylaws, among other things, set forth the number of persons constituting the Board, the method of the Board's selection, the Board's general powers, the method of calling a meeting of Members of the Association and the Members required to constitute a quorum for the transaction of business.

1.3 "Assessments" shall include each and all of the Assessments hereinafter defined:

(a) "Capital Improvement Assessment" shall mean a charge against each Owner and such Owner's Lot representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common Facilities which the Association may from time to time authorize pursuant to the provisions of this Declaration.

(b) "Reconstruction Assessment" shall mean a charge against each Owner and such Owner's Lot representing a portion of the cost to the Association for reconstruction of any portion or portions of the Common Facilities pursuant to the provisions of this Declaration.

(c) "Regular Assessment" shall mean a charge against each Owner and such Owner's Lot representing a portion of the cost to the Association for Common Expenses.

(d) "Special Assessment" shall mean a charge against a particular Owner and such Owner's Lot, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and such Owner's Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or the Association Rules, together with attorney's fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

1.4 "Association" shall mean Redhawk Owners Association, a Utah nonprofit corporation, incorporated under the laws of the State of Utah, and its successors and assigns.

1.5 "Association Rules" shall mean the rules adopted from time to time by the Association pursuant to ARTICLE 7 hereof.

1.6 "Building" shall mean any structure which (a) is permanently affixed to the land, and (b) has one or more floors and a roof, including but not limited to a residential townhome.

1.7 "Board" shall mean the Board of Directors of the Association.

1.8 "Bylaws" means the Bylaws of the Association (initially attached hereto as Exhibit B), as they may be amended from time to time.

1.9 "City" shall mean the City of St. George, Utah, a municipal corporation of the State of Utah.

1.10 "Common Areas" shall mean, refer to, and include: (a) the real property and interests which are submitted to this Declaration or which comprise the Project, excluding all Lots as defined herein; (b) all common areas and facilities designated as such on the Plat and all property on the Plat excluding the Lots; (c) all Limited Common Areas and facilities (except when the context otherwise requires for maintenance or use purposes) designated on the Plat; (d) in general, all apparatus, installations and facilities included within the Project and existing for common use; (e) the Project's roads (except the public roads when the context requires for maintenance purposes); (f) all portions of the Project not specifically included within the individual Lots; (g) all other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; (h) all common areas as defined in the Act, whether or not enumerated herein, but excluding Limited Common Areas when the context requires for maintenance or use purposes.

1.11 "Common Expense" shall mean the actual and estimated costs of:

(a) maintenance, management, operation, repair, and replacement of the Common facilities, and all other areas within the Property and outside of the Property which are maintained by the Association, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas, etc., as provided in this Declaration or pursuant to agreement with the City or other governmental agency or authority;

(b) unpaid Special, Reconstruction and Capital Improvement Assessments;

(c) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(d) the costs of utilities, trash pickup and disposal, gardening and other services benefiting the Owners and their Lots to the extent such services are paid for by the Association;

(e) The costs of fire, casualty, liability, workmen's compensation and other insurance covering the Common Facilities;

(f) The costs of any other insurance obtained by the Association; reasonable reserves as deemed appropriate by the Board;

(g) The costs of bonding the members of the Board, any professional managing agent: or any other person handling the funds of the Association;

(h) Taxes paid by the Association;

(i) Amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Facilities or portions thereof;

(j) The costs of any other item or items approved by the Board and incurred in connection with the Common Facilities, this Declaration, the Articles or the Bylaws, or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration.

1.12 "Common Facilities" shall mean:

(a) all real property and the improvements and fixtures thereto and the personal property thereon owned by or leased to the Association from time to time for the use and benefit of the Owners, including, without limitation, streets, landscaped areas, parks, open spaces, paths, trails and slopes; and

(b) all property rights, improvements, fixtures and personal property owned by or leased to the Association from time to time for the common use and benefit of the Owners and situated upon public property or the private property of the Owners, including, without limitation, all easements running in favor of the Association and the improvements, fixtures and personal property situated within or upon said easements, landscaping, irrigation systems and associated pumps and hardware, street lighting systems, project identification, directional and street signs, and street fixtures. The Common Facilities shall be designated in each final subdivision plat recorded by Declarant with regard to the Property and shall be conveyed by Declarant to the Association concurrently with the recording thereof. Declarant shall convey the Common Facilities to the Association free of all liens and encumbrances except current real property taxes (which taxes shall be prorated as of the date of the conveyance), title exceptions of record and the covenants, conditions, reservations, restrictions and easements contained in this Declaration.

1.13 "Declarant" shall mean Bach Rentals, LLC.

1.14 "Design Guidelines" shall mean the guidelines prepared by Declarant setting forth certain architectural standards and specifications regarding the location and design of the Improvements, construction materials, lighting, landscaping, signage and other matters relating to Improvements on the Property. The Design Guidelines are incorporated in this Declaration by reference. Copies of the Design Guidelines are available at the office of the Association.

1.15 "Fines" shall mean and refer to fines levied by the Association against an individual or entity for violations of the Governing Documents. Fines shall be enforced and collected consistent with the Act and are deemed an assessment herein and may be collected as such.

1.16 "Governing Documents" shall mean and refer to a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, rules and regulations, and architectural or design guidelines

1.17 "Hazardous Material" means (a) any waste, material or substance (whether in the form of a liquid, a solid or a gas and whether or not airborne), which is deemed to be a pollutant or a contaminant, or to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious to public health or to the environment, and which is or may become regulated by or under the authority of any applicable local, state or federal laws, judgments, ordinances, orders, rules, regulations, codes or other governmental restrictions or requirements, any amendments or successor(s) thereto, replacements thereof or publications promulgated pursuant thereto (collectively "Environmental Regulations" and individually, an "Environmental Regulation"); (b) petroleum; (c) asbestos; (d) polychlorinated biphenyls; and (e) any radioactive material. In addition to the foregoing, the term "Environmental Regulations" shall be deemed to include, without limitation, local, state and federal laws, judgments, ordinances, orders, rules, regulations, codes and other government restrictions and requirements, any amendments and successors thereto, replacements thereof and publications promulgated pursuant thereto, which deal with or otherwise in any manner relate to, environmental matters of any kind.

1.18 "Improvements" shall mean any object, thing or activity of any kind installed, located or occurring on the Property which changes the external appearance of any portion of the Property, of any Lot or of any structure or thing affixed on the Property or any Lot, from its external appearance as it existed immediately prior to the installation, location or occurrence of the object, thing or activity. Improvements include, but are not limited to, all Buildings, structures, landscaping and lawns, exterior walkways, parking areas, drives and truck loading areas, signs, fences, poles, walls, utility lines, lighting, excavations, grading, berms, storm drain, drainage facilities, repairs, alterations, painting and all other structures or objects of any type or kind installed or constructed on the Property.

1.19 "Institutional Mortgagee" shall mean a Mortgagee which is a bank, or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any insurance company, any federal or state agency, or any other institution specified by the Board.

1.20 "Limited Common Areas" means all of the Property identified as limited common area on the Plat, this Declaration, or any area designated as such in a subsequent amendment to the Plat or this Declaration. Limited Common Areas are Common Areas limited to the use of a certain Lot or Lots to the exclusion of other Lot Owners.

1.21 "Lot" shall mean each or any individual lot as more particularly described in this Declaration, and any other lot or parcel shown on any recorded final subdivision plat filed by the Declarant to the extent such lots or parcels are part of the Property. References in this Declaration to a specific Lot shall refer to the particular Lot as set forth in, this Declaration and, as applicable, on the recorded final subdivision plat for such Lot. After the recording of the applicable subdivision plat, a Lot may not be subdivided without the consent of the Declarant. After the Turnover Date, a Lot may not be subdivided without the consent of sixty-six and two-thirds percent (66-2/3%) of all Owners. Each Owner waives the right of partition as may be permitted under applicable law.

1.22 "Member" shall mean every individual or entity who qualifies for membership in the Association pursuant to ARTICLE 2, including Declarant so long as Declarant qualifies for membership pursuant to said Article.

1.23 "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Lot.

1.24 "Mortgagee" shall mean the mortgagee or beneficiary under any Mortgage. A "First Mortgagee" shall refer to a Mortgagee whose Mortgage has priority over any other Mortgage encumbering a specific Lot.

1.25 "Occupant" shall mean and include the Declarant, the Owners, their respective heirs, successors and assigns (including Mortgagees) and any person who shall be from time to time entitled to the use and occupancy of space located within the Project under any lease, sublease, license or concession agreement, or other instrument or arrangement under which such rights are acquired.

1.26 "Owner" shall mean one or more persons or entities who are alone or collectively the record owner of fee simple title to a Lot, including Declarant, and the purchaser under an installment land sales contract, but excluding those having such interest merely as security for the performance of an obligation.

1.27 "Permittees" shall mean all Occupants and all other invitees of Occupants.

1.28 "Plat" means the plat entitled Redhawk recorded at the Recorder's Office of Washington County, as the same may be amended or substituted.

1.29 "Project" shall mean all of the Property, together with all of the Buildings and other Improvements constructed thereon.

1.30 "Property" shall mean the real property described on the Plat and any other real property that may become subject to this Declaration.

1.31 "Set Back" shall mean the distance from the property line of the Lot to the Building or improvement that is subject to the Set Back requirement provided in this Declaration, the Design Guidelines for the Project, and in any recorded final subdivision plat affecting the Project or in the City's applicable zoning ordinance.

1.32 "Turnover Date" shall mean the earlier of: (i) six (6) months after the date that Declarant no longer owns any Lots; or (ii) the date the Declarant, at its sole and absolute discretion, selects as the Turnover Date for the Property then covered by and subject to this Declaration, evidenced by an instrument recorded in the Office of the Utah County Recorder, or (iii) twenty years after the date this Declaration is recorded in the records of the Washington County Recorder.

ARTICLE 2. PROPERTY DESCRIPTION; MEMBERSHIP IN THE ASSOCIATION

2.1 Property Subject the Declaration and Bylaws. The real property which is, and shall be, transferred, held, sold, conveyed, used, occupied and improved subject to the Act and to this Declaration, the Governing Documents, and all agreements, decisions and determinations made by the Association is all of the real property and interests described in the Plat, including any property annexed into the Project, and including the Lots described on Exhibit A attached hereto, which Declaration and covenants, conditions and restrictions therein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and to any other person who may in any manner use the Property or any part thereof submitted to the provisions of this Declaration, and shall inure to the benefit of each Owner thereof. To the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control. The Project is not a cooperative.

2.2 Description and Legal Status of Lots. The Plat shows the Lots, their locations, dimensions from which their areas may be determined together with the definitions above, and the Common Areas. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

2.3 Form of Lot Conveyance - Legal Description of Lot. Each conveyance or purchase contract for the sale of a Lot and every other instrument affecting title to a Lot may describe that Lot by the number shown on the Plat with appropriate reference to said Plat and to this Declaration, as each shall appear on the records of the Washington County Recorder, State of Utah, and in substantially the following form:

Lot ____, REDHAWK, a residential planned unit development, according to the official plat thereof recorded with the office of the Washington County Recorder, State of Utah.

2.4 Membership. Every Owner shall be a Member of the Association subject to the terms of this Declaration, the Articles, Bylaws and Association Rules. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall also be subject to the terms and provisions of the Articles and Bylaws of the Association to the extent the provisions thereof are not in conflict with this Declaration. Membership in the Association shall be appurtenant to each Lot and may not be separated from the interest of an Owner in any Lot. Ownership of a Lot shall be the sole qualification for membership in the Association; *provided, however*, that a Member's voting rights or

privileges in the Common Facilities, or both, may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules. Not more than one membership in the Association shall exist with respect to ownership of a single Lot.

2.5 Transfer. The membership held by any Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance or encumbrance of such Lot and then only to the transferee or Mortgagee of such Lot. Any attempt to separate the membership in the Association from the Lot to which it is appurtenant shall be void and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in such Owner's name to the transferee of such Owner's interest in such Lot, the Association shall have the right to record the transfer upon the books of the Association so that the name of the Member corresponds with the ownership of the Lot set forth in the Utah County Recorder's office.

2.6 Voting Rights. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws, and Association Rules. The Association shall have one class of Members. Each Member shall be entitled to one (1) vote for each Lot such Member owns. When more than one person owns a portion of the interest in a Lot, each such person shall be a Member, but the vote for such Lot shall be exercised as they among themselves determine. Absent any other agreement among co-Owners of a single Lot, (i) a single co-Owner appearing at an Association meeting will be entitled to cast the one vote for the Lot, and (ii) if multiple co-Owners appear at an Association meeting, each co-Owner will have a prorata fractional vote based upon the ownership interests of the co-Owners appearing at such meeting. In no event shall more than one vote be cast with respect to any single Lot. The Association shall not be required to recognize the vote or written consent of any co-Owner that is not authorized to vote based upon a written designation of all such co-Owners delivered to the Association.

2.7 Approval of Members. Unless a different percentage is otherwise provided for in this Declaration, the Articles of the Bylaws, the vote of a majority of the Members shall be required to approve any matter before the Members. Votes may be taken at a meeting held pursuant to the requirements set forth in the Bylaws, or by an action by written consent. Quorum requirements for meetings of the Members shall be set forth in the Bylaws.

2.8 Declarant's Control of Association Prior to Turnover Date. Prior to the Turnover Date, the Declarant has the right to appoint all of the members of the Board and the officers of the Association. Declarant may (but shall not be required to) at any time relinquish all or any part of Declarant's control and rights set forth herein.

ARTICLE 3. COVENANT FOR MAINTENANCE ASSESSMENTS

3.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants and agrees to pay, and each Owner of any Lot by acceptance of a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments and Reconstruction Assessments, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest, late charges and costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment fell due, and of each subsequent Owner other than a Mortgagee. Any subsequent Owner of a Lot shall be deemed to have notice of the Assessments, whether or not a lien has been filed. No Owner may waive or otherwise escape liability for

an Assessment by abandonment of the Lot. Notwithstanding the foregoing, an Assessment shall not be charged to the Declarant for Lots held by the Declarant that have not yet received a certificate of occupancy from the City.

3.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the comfort, health, safety, security and welfare of the Owners and to perform the duties and exercise the powers of the Association enumerated in its Articles, Bylaws, and this Declaration.

3.3 Regular Assessments. The amount and timing of payment of Regular Assessments shall be determined by the Board pursuant to the Articles and Bylaws after giving due consideration to the current maintenance, operational, and other costs and the future needs of the Association. Not later than thirty (30) days prior to the beginning of each fiscal year of the Association, the Board shall estimate the total Common Expenses to be incurred for the upcoming fiscal year. The Board shall then determine the amount of the Regular Assessment to be paid by each Owner. Written notice of the annual Regular Assessments shall be sent to every Owner; provided that failure to provide adequate notice does not relieve the Owner's obligation to pay the Regular Assessment. Each Owner shall thereafter pay to the Association his Regular Assessment in installments as established by the Board. In the event the Board shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Owner, and the date or dates when due.

3.4 Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy in any fiscal year, a Capital Improvement Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or replacement of a described capital improvement upon the Common Facilities to the extent the same is not covered by the provisions affecting Reconstruction Assessments in ARTICLE 10 hereof, including the necessary fixtures and personal property related thereto. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association.

3.5 Rate of Assessment. All Regular, Reconstruction and Capital Improvement Assessments shall be fixed by the Board at a rate computed and assessed with respect to each improved Lot in the ratio that such Lot bears to the total number of all improved Lots. All Regular, Reconstruction and Capital Improvement Assessments may be collected at intervals selected by the Board. For purposes of this paragraph, "improved Lots" means Lots that have a Building located thereon and that have received a certificate of occupancy. Prior to the Turnover Date, the Declarant must approve the allocation of Assessments to unimproved Lots.

3.6 Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the Assessments on a specified Lot have been paid, and the amount of delinquency, if any. A reasonable charge (not to exceed 25% of the then monthly Regular Assessment) may be collected by the Board for the issuance of these certificates, such certificates shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

3.7 Exempt Property. The following portions of the Property shall be exempt from the Assessments created herein: all properties dedicated to and accepted by, or otherwise acquired by a public authority; and the Common Facilities.

3.8 Special Assessments. Special Assessments shall be levied by the Board against a Lot to reimburse the Association for costs incurred in bringing an Owner and such Owner's Lot into compliance with the provisions of this Declaration, the Articles, the Bylaws or Association Rules, or any other charges designated as a Special Assessment in this Declaration, the Articles, Bylaws, or Association Rules, together with attorneys' fees, interest and other charges related thereto as provided in this Declaration. In the event the Association undertakes to provide materials or services which benefit one or more individual Lots and which can be accepted or not by individual Owners, such as tree trimming, such Owners in accepting such materials or services agree that the costs thereof shall be a Special Assessment.

3.9 Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to all Lots within the Property on the first day of the month following the conveyance of the first Lot within the Property by Declarant to an Owner other than Declarant. In the event the amount budgeted to meet Common Expenses for any year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the Regular Assessment or may abate collection of Regular Assessments as it deems appropriate.

3.10 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

3.11 Reserves. The Regular Assessments shall include reasonable amounts as determined by the Board collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Facilities. After the Turnover Date, all amounts collected as reserves, whether pursuant to the preceding sentence of this Section or otherwise, shall be deposited by the Board in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association.

ARTICLE 4. NONPAYMENT OF ASSESSMENTS

4.1 Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said due date (the "delinquency date"). If any such Assessment is not paid within fifteen (15) days after the delinquency date, a late charge equal to five percent (5%) of the late payment shall be levied and the Assessment shall bear interest from the delinquency date, at the rate of eighteen percent (18%) per annum.

4.2 Enforcement Rights. The Association shall have the right to take any of the following actions against one or more Owner(s) after the delinquency date:

(a) The Association may bring an action to recover a money judgment against the Owner for unpaid Assessments, interest, late fees, costs, and attorneys' fees.

(b) The Association may foreclose the Association's lien against the Lot for the unpaid Assessments, interest, late fees, costs, and attorneys' fees pursuant to the Act.

(c) The Association may, after giving notice and an opportunity to be heard in accordance with the Act, terminate an Owner's right to receive utility services and access and use of Common Facilities, including limiting or terminating key card access to the Project's amenities and Common Areas.

(d) Subject to the Act, the Association may require tenants of a Lot to make future lease payments directly to the Association so long as Assessments remain unpaid for such Lot.

4.3 Other Remedies. The Association shall have all other rights and remedies available under the Act and by applicable law, including the right to assess fines and suspend voting rights for any period during which any Assessment against an Owner's Lot remains unpaid.

4.4 Lien. The Assessments imposed, together with damages, fines, interest, costs of collection, late charges, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for enforcement of the Governing Documents, shall be a charge and continuing lien upon each of the Lots against which the assessment or charge is made in accordance with the terms and provisions of this Article and shall be construed as a real covenant running with the land. If an Assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment.

4.5 Personal Obligation and Costs of Collection. Assessments imposed under this Declaration, together with late charges and interest, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Lot at the time when the assessment became due. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his/her/its share of the unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

4.6 Appointment of Trustee. The Declarant, the Association and each Owner hereby appoints Meridian Title Company, a licensed title insurance company, or such attorney who has been retained by the Association at the time a foreclosure is initiated, as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8a, Utah Code Ann., as may be amended from time to time. The Association may, without amendment or supplement to this Declaration, appoint a successor trustee at any time by filing for record in the office of the county recorder a substitution of trustee.

4.7 Enforcement of Lien. The Declarant hereby conveys and warrants pursuant to U.C.A. § 57-1-20 and 57-8a-302 (or other applicable section of the Act) (as the same may be amended from time to time) to the trustee, and each successor trustee, with power of sale, each Lot and all improvements to each Lot for the purpose of securing payment of Assessments under the terms of the Declaration. The lien may be foreclosed judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

4.8 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this Article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability or lien for any Assessments thereafter becoming due.

4.9 Intent. No provision of this Article shall be interpreted so as to limit in any way the rights of the Association for collection of Assessments.

ARTICLE 5. COVENANTS, CONDITIONS AND RESTRICTIONS

5.1 Permitted Use. No Lot shall be used except for residential townhome purposes. All Buildings must comply with the Design Guidelines.

5.2 Rentals. Subject to approval by applicable governmental agencies, nightly rentals of units to third parties shall be permitted.

5.3 Waste Disposal. No trash, garbage or waste material, including, but not limited to, scraps, grass, shrub or tree clippings, lumber, metals and plant waste, shall be kept, stored or allowed to accumulate on any portion of the Property except in an approved bin or contained within an enclosed structure appropriately screened from view. All trash, garbage and other waste materials shall be regularly removed from each Lot and the Property. Incineration of trash, garbage, or waste materials on the Property is prohibited; *provided, however*, that the Association is permitted to burn weeds.

5.4 Emissions/Discharge, Etc. To maintain a degree of protection of the investment which Owners in the Project make, the following are prohibited within the Project:

(a) Emission of smoke, fumes, odors, gases, vapors, steam, dust, sweepings, dirt, cinders or other particles or substances into the atmosphere which are detectable outside the boundaries of the Lot where created and/or which may be detrimental to the health, safety, welfare or comfort of any Owner of any other person, to the condition of any other portion of the Property, or to any vegetation within the Property.

(b) Discharge of fluids, gases, solid wastes or other harmful materials into any drainage canal, storm drain, or other waterway which may adversely affect the health, safety, welfare or comfort of any Owner or other person or the condition of any portion of the Property.

(c) Discharge of glare or heat, subsonic or ultrasonic sounds, or atomic, electromagnetic, microwave, ultra-violet, laser or other radiation which is detectable from any point exterior to the Lot upon which the operation is being conducted.

(d) Recurrent or continuous emission of sound or noise from any Lot which may be heard without instruments outside the boundaries of the Lot of origination.

(e) Recurrent or continuous ground vibrations perceptible without instruments at any point exterior to the Lot of origination.

(f) Physical hazard by reason of fire, radiation, explosion or other similar cause to either the Property or the surrounding area.

(g) Persisting unsightly condition (as determined by the Board in its sole discretion) on any Lot which is visible from any street or any other portion of the Property.

(h) Excessive risk of fire or explosion that increases the casualty insurance premiums for improvements on adjacent Lots.

(i) Violation of any applicable statute, ordinance, rule, regulation, permit or other validly imposed requirement of any governmental body.

5.5 Hazardous Materials.

(a) Restriction on Hazardous Materials. Any Hazardous Material brought upon, kept, used, generated, stored, treated, disposed of or released in or about any Lot, or soils or groundwater of the same, by any Owner of such Lot, any Occupant or Permittee of such Owner, or any party acting on behalf of any of them and in a manner which does not comply with applicable Environmental Regulations shall be referred to herein as a "Hazardous Condition". In the event any Hazardous Condition occurs on a Lot, the Owner of such Lot shall promptly take all actions at its sole expense as are reasonably necessary to correct said violation to the satisfaction of the regulating entity.

(b) Indemnity. If an Owner of a Lot breaches the obligations stated in Section 5.5(a) above or if a Hazardous Condition exists at any time, then the Owner of such Lot shall indemnify, defend and hold the Owners of each other Lot within the Property harmless from any and all claims, judgments, damages, penalties, fines, costs, expenses, liabilities or losses, including, without limitation, (1) diminution in value of the Property, (2) damages for the loss or restriction on use of usable space or of any amenity of the Property, (3) sums paid in settlement of, payment of, or in order to comply with any claims, suits, actions, judgments, proceedings, or investigations, (4) costs, expenses, reasonable attorneys' fees, consultant fees, expert fees and incidental costs incurred in connection with any of the above or any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental or quasi-governmental entity. The obligations contained in this ARTICLE 5 shall survive the termination of this Declaration.

5.6 Restrictions on Signs. No signs, flags, or advertising devices of any nature, including without limitation, commercial, political, informational, or directional signs or devices, shall be erected or maintained on any Lot or other part of the Project, without the prior inspection and written approval of the Association, except as may be necessary temporarily to caution or warn of danger. If the Association consents to the erection of any such signs or devices, the same shall be removed promptly at the request of the Association.

5.7 Pets and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or in the Common Areas except for service animals of Owners or their guests or invitees with disabilities and except that household pets may be kept or housed in units when expressly permitted in writing by the Association. Each Owner who desires to keep a pet on such Owner's Lot shall apply in writing to the Association for permission to keep such pet. In no event shall any pet be permitted in any portions of the Common Areas unless carried or on a leash. Each Owner who keeps a pet on a Lot shall promptly remove all pet waste from the Common Areas and Common Facilities. Each Owner who keeps a pet on a Lot shall indemnify and hold all other Owners and the Association harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such pet in the Project. Certain breeds of dogs that are commonly known for aggression (i.e., pit bulls) may be banned by the Association. If a pet disturbs other Owners by barking or biting or in other ways becoming obnoxious, the Association will give notice to the Owner of such pet to cause such annoyance to be discontinued; and if such annoyance is not discontinued and corrected, the Association may revoke its permission to keep the pet in the Project and the pet shall be removed therefrom.

5.8 No Alterations. No Owner shall, without the prior written consent of the Association in each specific instance, make, or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or

integrity of the Buildings or other Improvements, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to the Project. No satellite dishes, outdoor antennas or other similar appliances shall be installed outside of a Building that is visible from outside such Lot.

5.9 No Obstructions. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever, unless the Association shall consent thereto in writing.

5.10 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept on any Lot, in the Common Areas, or in any other part of the Project that would result in cancellation of the insurance on the Project or any part thereof, nor shall anything be done or kept on any Lot that would increase the rate of insurance on the Project or any part thereof over that which the Association, but for such activity, would pay. Nothing shall be done or kept on any Lot or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or guest of any Owner, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner or by the guests, tenants, licensees, or invitees of such Owner. No trampolines shall be permitted anywhere within the Project. No TV dishes or outdoor antennas shall be allowed without the specific prior written consent of the Association.

5.11 Parking Restrictions. No recreational vehicles, trailers, or boats shall be parked within the Project, except on a temporary basis not to exceed seven (7) days. All abandoned vehicles left on the Project over seven (7) days may be removed from the Project by the Association at the expense of the owner of said vehicle.

5.12 Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Association for the governance of the Lots, the Common Areas, and the Project, as such rules and regulations may be modified, amended, and construed by the Association.

5.13 Construction Period Exemption. During the course of actual construction of any permitted structures or improvements within the Project, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; *provided, however,* that during the course of such construction, nothing shall be done which will result in a violation of any said provisions, covenants, conditions, or restrictions upon completion of the construction.

5.14 Yard Sales. Yard sales, garage sales, estate sales, sample sales and similar kinds of sales activity from Lots is not permitted without the consent of the Association.

ARTICLE 6. GENERAL CONSTRUCTION REQUIREMENTS

6.1 Construction of Improvements on Each Lot. All work performed in the construction, maintenance, repair replacement, alteration or expansion of any Improvement on a Lot shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (a) access to or from any other Lot, or part thereof, to or from any of the Common Facilities, (b) construction work being performed on any other Lot; or (c) the use, enjoyment or occupancy of any other Lot by any Owner, Occupant or Permittee of that Lot. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot shall be in compliance with all applicable laws, rules, regulations, orders and ordinances of the city, county, state and federal government, or any

department or agency thereof; and no such work shall cause any Improvement located on any other Lot to be in violation of any such laws, rules, regulations, orders or ordinances. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot shall be done in a good and workmanlike manner and in accordance with good engineering standards.

6.2 Staging of Construction of Improvements. Staging for the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot, including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment, shall be limited to such Lot.

ARTICLE 7. DUTIES AND POWERS OF THE ASSOCIATION

7.1 General Duties and Powers of the Association. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) enter into agreements to allow occupants to use amenities outside the Project, and to charge such fees and impose such restrictions as may be deemed necessary by the Association regarding such use;

(b) enforce the provisions of this Declaration, the Articles and the Bylaws by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules as provided in the Bylaws and Section 7.2 below, which shall include the establishment of a system of fines or penalties enforceable as Special Assessments;

(c) acquire, maintain and otherwise manage all of the Common Facilities and all facilities, improvements and landscaping thereof, and all personal property acquired by the Association, and maintain all other areas within and in the vicinity of the Property which the Association deems appropriate to maintain or is obligated to maintain, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas, as provided in this Declaration or pursuant to agreement with the City or other governmental agency or authority;

(d) pay any real and personal property taxes and other charges assessed against the Common Facilities unless the same are separately assessed to the Owners;

(e) obtain, for the benefit of the Common Facilities, all water, gas and electric, refuse collections and other services;

(f) grant easements where necessary for utilities and sewer facilities over the Common Facilities to serve the Property as provided in ARTICLE 13 below;

(g) contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(h) delegate its powers to committees, officers, or employees as provided in the Bylaws, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of townhome developments or

planned unit developments to perform all or any part of the duties and responsibilities of the Association;

(i) establish and maintain a working capital and contingency fund in an amount to be determined by the Board;

(j) have the power of entry upon any Lot where necessary in connection with construction, maintenance or repair for the benefit of the Common Facilities, or the Owners;

(k) at its sole discretion, provide trash pickup and disposal and snowplowing service for the benefit of the Owners and their Lots;

(l) acquire real property by lease or purchase for offices or other facilities that may be necessary or convenient for the management of the Common Facilities, the administration of the affairs of the Association or for the benefit of the Members;

(m) at its sole discretion, contract for communication services (e.g., cable television, Internet, telephone, etc.) for the benefit of the Owners who have subscribed for the service; and

(n) have the power to establish in cooperation with the City a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right to convey or lease, with or without the payment of monetary consideration, all or any portion of the Common Facilities to said district.

(o) protect the rights of the Lots to have access to those certain amenities located at Grayhawk Apartments under that certain Amenity Use Agreement (“Amenity Agreement”) approved by the City, pursuant to which the occupants of a Lot will have a perpetual easement to use the amenities described in the Amenity Agreement; provided that use of such amenities may be temporary suspended for failure to pay monthly dues or to abide by the rules governing the use of such amenities.

(p) protect the rights of the Lots to qualify for short term rentals with the City, which right is conditioned, among other things, maintaining the perpetual access to the Grayhawk amenities under the Amenity Agreement; and failure to do so will result in loss of short term rental rights for all Lots.

7.2 Association Rules. The Board shall also have the power pursuant to the procedures set forth in the Bylaws to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules"). The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Facilities; *provided, however*, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner in the same manner established in this Declaration for the delivering of notices. Upon such delivery, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Mortgagee upon request. In the event of any conflict between any such Association Rules and any other provisions of this Declaration, the Articles or the Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

7.3 Delegation of Powers. The Association shall have the right according to law, to delegate any of its powers under this Declaration, the Articles and Bylaws; *provided, however*, no such delegation, whether to a professional management company, committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

7.4 Schedule of Fines and Penalties. The Association has the authority, from time to time, to set forth in the Association Rules a schedule of fines and penalties for violations of the Association's Governing Documents.

ARTICLE 8. REPAIR AND MAINTENANCE

8.1 Repair and Maintenance by Association. Without limiting the generality of the statement of duties and powers contained in this Declaration, the Association shall have the duty to accomplish the following upon the Lots, Common Facilities or other land within and about the Project in such manner and at such times as the Board shall prescribe:

(a) maintain the Common Facilities in a clean, safe, attractive, and first-class condition at all times, and maintain all other areas within and in the vicinity of the Property which the Association deems appropriate to maintain or is obligated to maintain in a clean, safe, attractive, and first-class condition at all times, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas;

(b) repair, restore, replace and make necessary improvements to the Common Facilities;

(c) maintain all storm drains, drainage facilities and easements which constitute Common Facilities in accordance with the requirements of any applicable flood control district;

(d) cause the appropriate public utility to maintain any utility easements located within the Common Facilities;

(e) maintain the public rights-of-way within the Project; and maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote of Members holding not less than sixty-six and two-thirds percent (66-2/3%) of the voting power of the Members.

8.2 Repair and Maintenance by Owner. Every Owner shall:

(a) maintain such Owner's Lot and all improvements located therein in a clean, safe, attractive and first-class condition at all times, and in compliance with this Declaration, the Articles, Bylaws and the Association Rules;

(b) repair any structural or visible defects or damages to Improvements, keep the exterior of Buildings and other structures on such Owner's Lot in good clean, safe, attractive, and first-class condition and painted as required, keep such Owner's Lot free from weeds, trash and debris, and keep all lighting clean and functional.

(c) maintain, repair, replace, and keep in a clean, sanitary and attractive condition at all times, the Limited Common Areas appurtenant to such Owner's Lot. Any driveway shared by two or more Lots shall be maintained, repaired and replaced by the Owners of such Lots with each

such Owner sharing equally in the costs thereof, unless otherwise agreed in writing as to a given driveway by all of the Lot Owners sharing such driveway.

(d) as necessary, clear snow and ice from such Owner's Lot and Limited Common Area, including driveway, and from any walkway or entryway servicing only such Owner's Lot.

8.3 Standards for Maintenance and Construction.

(a) Maintenance of the exterior of Buildings and Improvements shall be accomplished in accordance with the Design Guidelines.

(b) Throughout any period of construction upon a Lot, the Owner of such Lot shall keep the Lot and all streets used by construction equipment or trucks in clean and safe condition, shall remove daily all trash, rubbish, debris, mud and dirt therefrom, shall take all measures necessary or appropriate to control dust, blowing sand and erosion, whether by wind or water, on the Lot and shall so conduct all such construction so as not to interfere with free and ready access to existing Buildings and neighboring Lots.

8.4 Right of Association to Maintain and Install. In the event any Owner fails to maintain the exterior of such Owner's Building or Lot or the Improvements thereon, the Association may cause such maintenance to be accomplished as hereinafter set forth.

(a) Upon finding by the Board of a deficiency in such maintenance, the Board shall give notice of deficiency to the responsible Owner which shall briefly describe the deficiency and set a date for hearing before the Board or a committee selected by the Board for such purpose. The Board may delegate its power under this Section 8.4(a) to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt and which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine adverse witnesses. If the Board or any such committee renders a decision against the responsible Owner, it shall further set a date by which the deficiency is to be corrected by the responsible Owner. A decision of such committee may be appealed to the Board, but a decision of the Board shall be final.

(d) If the deficiency continues to exist after the time limitation imposed by a final decision of the Board or any such committee, the Board or such committee may cause such maintenance to be accomplished.

(e) In the event the Board or such committee elects to cause such maintenance to be accomplished, the following shall apply;

(i) The responsible Owner shall have no more than ten (10) days following the receipt of written notice of such election from the Board or such committee to select a day or days upon which such maintenance work shall be accomplished;

(ii) The date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period;

(iii) If said Owner does not select such day or days within said ten (10) day period, the Board or such committee may select a day or days upon which such work may be accomplished which shall be not less than twenty-five (25) nor more than fifty-five (55) days from the last day of said ten (10) day period; and

(iv) Unless the Owner and the Board otherwise agree, such maintenance shall take place only during daylight hours on any day, Monday through Saturday, excluding holidays.

(f) If the Association pays for all or any portion of such maintenance, such amount shall be a Special Assessment to the affected Owner and Lot.

ARTICLE 9. INSURANCE

9.1 Types. The Association, to the extent available, shall obtain and continue in effect in its own name the following types of insurance:

(a) A comprehensive policy of public liability insurance covering the Common Facilities with a limit of not less than One Million Dollars (\$1,000,000) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobiles and liability for property of others, and such other risks as shall customarily be covered with respect to similar real estate developments in the area of the Property, shall specifically name Declarant as an "additional insured" so long as Declarant owns a Lot in the Property.

(b) A policy of fire and casualty insurance with extended coverage for the full replacement value of the Common Facilities (including all building service equipment and the like), without deduction for depreciation, with an "agreed amount endorsement" or its equivalent and clauses waiving subrogation against Declarant, Members and the Association and persons upon the Property with the permission of a Member, such insurance to afford protection against at least loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, and such other risks as shall customarily be covered with respect to similar real estate developments in the area of the Property.

9.2 Waiver By Members. As to each of said policies which will not be voided or impaired thereby, the Members hereby waive and release all claims against the Association, the Board, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

9.3 Other Insurance: Annual Review. The Association may purchase such other insurance as it may deem necessary, including, but not limited to, plate-glass insurance, workmen's compensation, officers' and directors' liability, and errors and omission insurance. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Common Facilities in light of increased construction costs, inflation, practice in the area in which the Property is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

9.4 Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in ARTICLE 10 hereof. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers.

ARTICLE 10. DESTRUCTION OF IMPROVEMENTS

In the event of partial or total destruction of Improvements upon the Common Facilities, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be insufficient to accomplish such repair or restoration, a Reconstruction Assessment may be levied by the Association to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. In the event any excess insurance proceeds remain, the Board shall distribute pro rata such excess funds to the Members, subject to the prior rights of Mortgagees whose interest may be protected by insurance policies carried by the Association. The rights of an Owner and the Mortgagee of his Lot as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Lot. All amounts collected as Reconstruction Assessments shall only be used for the purposes set forth in this Article and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Such funds shall not be commingled with any other funds of the Association.

ARTICLE 11. EMINENT DOMAIN

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Facilities, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. In the event of a taking of less than all of the Common Facilities, the rules as to restoration and replacement of the Common Facilities and the improvements thereon shall apply as in the case of destruction of improvements upon the Common Facilities. In the event of a total taking, the Board shall distribute pro rata any award to the Members. The rights of an Owner and the Mortgagee of such Owner's Lot as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Lot.

ARTICLE 12. RIGHTS TO THE COMMON FACILITIES

12.1 Members' Right of Enjoyment. There is hereby reserved and established for the benefit of each Owner and such Owner's Occupants and Permittees a nonexclusive easement for use and enjoyment in and to the Common Facilities, and such right shall be appurtenant to and shall pass with the interest required to be an Owner to every Lot, subject to the following provisions:

- (a) The right of the Association to establish reasonable rules and regulations pertaining to the use of the Common Facilities.
- (b) The right of the Association subject to the approval rights of Mortgagees pursuant to ARTICLE 15 hereof, to dedicate or transfer all or any part of the Common Facilities to any

public agency, authority or utility or other entity for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer, including, without limitation, the conveyance, lease or other transfer of any portion of the Common Facilities to a special tax assessment district or to the City, shall be effective unless approved by Members holding not less than sixty-six and two-thirds percent (66-2/3%) of the voting power of the Members.

(c) The right of the Association to establish, in cooperation with the City, a special assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right of the Association to convey, lease or otherwise transfer, subject to the provisions of subsection 12.1(b) above, all or any portion of the Common Facilities to said district.

12.2 Waiver of Use. No Member may exempt such Member from personal liability for Assessments duly levied by the Association, nor release the Lot owned by such Member from the liens and charges hereof, by waiver of the use and enjoyment of the Common Facilities or the abandonment of his Lot.

ARTICLE 13. EASEMENTS

13.1 Owners' Rights and Duties; Utilities and Communication Lines. The rights and duties of the Owners with respect to water, sewer, electricity, gas, telephone, cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer, water, electricity, gas, telephone and communication lines, storm drain, or drainage facilities are installed within the Property, there is hereby reserved and established for the benefit of the Owners of any Lot served by said lines or facilities a nonexclusive easement to the full extent necessary therefore, to enter upon the Lots owned by others, or to have utility companies enter upon the Lots owned by others, in or upon said lines or facilities, or any portion thereof, to repair, replace and generally maintain said lines and facilities as and when the same may be necessary as set forth below, provided that such Owner or utility company shall promptly repair any damage to a Lot caused by such entry as promptly as possible after completion of work thereon.

(b) Wherever sanitary sewer, water, electricity, gas, telephone or communication lines, storm drain, or drainage facilities are installed within the Property, which lines or facilities serve more than one (1) Lot, the Owner of each Lot served by said lines or facilities shall be entitled to the full use and enjoyment of such portions of said lines or facilities which service such Owner's Lot.

(c) The foregoing provisions of this Section shall not be deemed to give any Owner the right to connect to any utility line or facility without first complying with all the requirements of the utility company providing the service in question, including without limitation, the payment of all required connection fees and related charges.

13.2 Utilities. Easements over the Property for the installation and maintenance of electric, telephone, communication lines, water, gas, sanitary sewer lines, storm drain, and drainage facilities as shown on the recorded subdivision maps of the Property are hereby reserved and established for the benefit of each Owner and their respective successors and assigns.

13.3 Common Area Easements. The following nonexclusive easements are hereby reserved and established for the benefit of each Owner, and the Occupants and Permittees of each Owner:

(a) Nonexclusive easements over, upon, across and between each Lot for the purpose of pedestrian traffic between each Lot and (1) each other Lot which is contiguous thereto; (2) the public streets and private streets now or hereafter abutting or located on any portion of the Property; (3) the Common Facilities; (4) the parking areas now and hereafter located on each Lot; and (5) over and across the Common Areas located on each Lot; limited, however, to those portions of each Lot which are improved by the Owner thereof from time to time for pedestrian walkways and made available by such Owner for general use, as such portions may be reduced, increased or relocated from time to time by each such Owner.

(b) Nonexclusive easements for the purpose of vehicular traffic over, upon, across and between each Lot and (1) the public streets and alleys now and hereafter abutting any portion of the Property; and (2) the Common Facilities; limited, however, to those portions of the Property which are improved by the Owner thereof from time to time for vehicular access ways as such portions may be relocated from time to time by such Owner.

(c) Nonexclusive easements over, upon, across and between the access points and driving lanes from time to time established on each Lot for the purpose of providing ingress, egress, and access to (1) the easements hereby created; (2) the public streets and private streets now and hereafter abutting any portion of the Property; and (3) the Common Facilities.

(d) Nonexclusive easements in and to the parking areas from time to time located on each Lot for access to and use for vehicular parking purposes.

(e) A storm drain easement (as described on the Plat) that will allow for the flow of storm water to/from a Lot, a Limited Common Area, or the Common Area.

13.4 Access Easement. All Lots have been granted an easement to use the driveway, access ways, sidewalks, walkways, exits, entrances and other paved areas of the area known as Grayhawk Apartments pursuant to that certain Declaration of Access Easement dated January 8, 2019, and recorded January 9, 2019 as Document No. 20190000981 in the office of the Washington County Recorder.

ARTICLE 14. NATURE OF EASEMENTS AND RIGHTS GRANTED

14.1 Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of the Property and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights, the particular areas of the Property which are benefited by such easements shall constitute the dominate estate, and the particular areas of the Property which are burdened by such easements and rights shall constitute the servient estate.

14.2 Nature and Effect of Easements. Each and all of the easements, covenants, restrictions and provisions contained in this Declaration:

- (a) are made for the direct, mutual and reciprocal benefit of the Owners, Occupants and Permittees of the respective Lots;
- (b) create mutual equitable servitudes upon each Lot in favor of the other Lots;
- (c) constitute covenants running with the land; and

(d) shall bind every person or entity having any fee, leasehold or other interest in any portion of the Property at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, restriction or provision in question, or to the extent that such easement, covenant, restriction or provision is to be performed on such portion.

ARTICLE 15. RIGHTS OF LENDERS

15.1 Filing Notice: Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Lot within the Property. Such notice need not state which Lot or Lots are encumbered by such Mortgage, but shall state whether such mortgagee is a First Mortgagee. Wherever the approval of all or a specified percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or a specified percentage only of those Mortgagees which have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section, a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

15.2 Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Lot, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot, except as otherwise provided in this Article.

15.3 Curing Defaults. A Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale, shall not be obligated to cure any breach of the provisions of this Declaration which occurred before such Mortgagee or transferee acquired title if such breach is noncurable or of a type which is not practical or feasible to cure, and such Mortgagee did not have notice of such breach at the time Mortgagee acquired its lien or security interest in the Lot or Lots. The determination of the Board made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all Mortgagees.

15.4 Relationship With Assessments Liens.

(a) The lien provided for in ARTICLE 3 hereof for the payment of Assessments shall be subordinate to the lien of any Mortgage which is recorded prior to the date any such Assessment becomes due.

(b) If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a Mortgage: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and (2) the foreclosure of the lien of said Mortgage, the acceptance of a deed in lieu of foreclosure of the Mortgage or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as

"Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

(c) Any Mortgagee who obtains title to a Lot by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale, shall take title to such Lot free of any lien or claim for unpaid Assessments against such Lot which accrue prior to the time such Mortgagee or purchaser takes title to the Lot, except for liens or claims for a share of such Assessments resulting from a reallocation of such Assessments to all Lots within the Property.

(d) Nothing in this Section shall be construed to release any Owner from his obligation to pay for any Assessment levied pursuant to this Declaration.

15.5 Other Rights of Institutional Mortgagees. Any Institutional Mortgagee, or its mortgage servicing contractor, shall, upon written request to the Association, be entitled to:

(a) Inspect the books and records of the Association during normal business hours; and

(b) Receive the annual audited financial statement of the Association ninety (90) days following the end of the Association's fiscal year; and

(c) Receive written notice of all annual and special meetings of the Members or of the Board, and Institutional Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; *provided, however,* nothing contained in this Section shall give an Institutional Mortgagee the right to call a meeting of the Board or of the Members for any purpose or to vote at any such meeting; and

(d) Receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the Owner whose Lot is encumbered by such Institutional Mortgage, which default has not been cured within sixty (60) days of a request therefore by the Association; *provided, however,* the Association shall only be obligated to provide such notice to Institutional Mortgagees whose written request therefore to the Association specifies the Lot or Lots to which such request relates.

15.6 Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

15.7 Voting Rights of Institutional Mortgagees. In the event of a default by the Owner of any Lot in any payment due under the terms of any Institutional Mortgage or the promissory note secured thereby, the Institutional Mortgagee or his representative shall have the right, upon giving written notice to such defaulting Owner and the Association and placing of record a notice of default, to exercise the voting rights of such defaulting Owner attributable to such Lot at any regular or special meeting of the Members held during such time as such default may continue. Any such Owner's voting Rights shall be restored to him at such time as such default is cured.

15.8 Notice of Destruction or Taking. In the event that any Common Facilities, or any portion thereof, is substantially damaged or is made the subject of any condemnation proceeding in eminent domain

or is otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any Institutional Mortgagee affected by such destruction, taking or threatened taking. As used herein, "substantially damaged" shall mean exceeding Ten Thousand Dollars (\$10,000). If requested in writing by an Institutional Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such Institutional Mortgagee.

ARTICLE 16. GENERAL PROVISIONS

16.1 Enforcement. Either the Association or any Owner shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation; *provided, however*, that the Association shall have the exclusive right to enforce assessment liens. The Association or any Member shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles, Bylaws, or Association Rules, and any amendments thereto. Failure by the Association, Declarant or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles and the Bylaws, in any certain instance or on any particular occasion, shall not be deemed a waiver of such right on any such future breach of the same covenant, condition or restriction.

16.2 Not a Public Dedication. Nothing contained in this Agreement shall, or shall be deemed to, constitute a gift or dedication of any portion of the Property to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purposes expressed herein.

16.3 Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

16.4 Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, Occupants, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded; after which time said covenants, conditions and restrictions shall be automatically extended for a successive period of ten (10) years, unless an instrument, signed by a majority of the then current Members has been recorded, at least one (1) year prior to the end of any such period agreeing to change said covenants, conditions and restrictions in whole or in part.

16.5 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of townhomes on the Property and for the maintenance of the Property and the Common Facilities. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

16.6 Amendments. Subject to the other provisions of this Declaration, including, without limitation, the rights of Mortgagees and/or First Mortgagees pursuant to ARTICLE 15 hereof, or otherwise, this Declaration may be amended only as follows:

(a) On or Prior to Turnover Date. At all times prior to the Turnover Date, this Declaration may be amended, altered or modified by a Supplementary Declaration approved and signed by the Declarant. No other Members will be required to approve such amendment. Prior to the Turnover Date, no amendment will be effective without the consent of the Declarant.

(b) After Turnover Date. After the Turnover Date, this Declaration may be amended, altered or modified by Supplementary Declaration after the affirmative vote of not less than sixty-six and two-thirds percent (66-2/3%) of the voting power of the Members, and further, this amendment provision shall not be amended to allow amendments by the vote of less than sixty-six and two-thirds percent (66-2/3 %) of the voting power of the Members; *provided, however*, any amendment or modification of ARTICLE 3 (Assessments) and ARTICLE 4 (nonpayment of Assessments) hereof shall require the prior written approval of not less than seventy-five percent (75%) of the voting power of the Members.

(c) To the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control; provided, however, that the Declarant shall have the right to amend any of the Governing Documents to make any such documents consistent with an amendment to the Act.

Prior to the Turnover Date, the Supplementary Declaration needs to be signed only by the Declarant. After the Turnover Date, proper approval of all amendments shall be shown by a certificate of the President or Secretary of the Association, attached to the Supplementary Declaration to be recorded, certifying that the signature of a sufficient number of Members approving the amendment are on file in the office of the Association. No such amendment shall be effective until the Supplementary Declaration is recorded in the Office of the Utah County Recorder's Office.

16.7 Singular Includes Plural. Whenever the context of this Declaration requires, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

16.8 Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenants, easement, or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

16.9 Attorneys' Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Special Assessment with respect to the Lot involved in the action.

16.10 Notices. Any notice to be given to an Owner or a Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally, sent by fax or email, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice or, if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice sent by fax or email shall be deemed delivered the earlier of twenty-four (24) hours after being sent or confirmed receipt. Any notice deposited in the mail shall be deemed delivered the earlier of forty-eight (48) hours after such deposit or confirmed receipt. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners, on behalf of all co-Owners, and shall be deemed delivered on all such co-Owners.

(b) Notice to a Mortgagee or its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished to the Association by such Mortgagee or such contractor for the purposes of notice.

16.11 Effect of Declaration. This Declaration is made with the intent to establish a general scheme for the use, occupancy and enjoyment of the Property and each and every Lot and portion thereof. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

16.12 Personal Covenant. To the extent the acceptance of a conveyance of a Lot creates a personal covenant between the Owner of such Lot and Declarant or other Owners, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

16.13 Non-liability of Officials. To the fullest extent permitted by law, neither the Board, nor any other committee of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties.

16.14 Pre-Litigation Requirements. Notwithstanding any other provision to the contrary in this Declaration and in addition to any requirement under Utah law, the Association shall not file, commence or maintain any lawsuits, actions or legal proceedings against Declarant, the individual managers, owners, members or officers of Declarant, Declarant's contractors, or any other person or entity involved in the construction of the improvements on the Property unless and until all of the following requirements have been satisfied:

(a) The Association has obtained a legal opinion from an attorney licensed to practice law in Utah having at least ten (10) years of experience in litigation practice, with the legal opinion providing in substance the following: (i) a description of the factual allegations and legal claims to be asserted in the action; (ii) an analysis of the facts and legal claims explaining why it would be in the best interests of the Association to file and pursue such action, taking into account the anticipated costs and expenses of litigation, the likelihood of success on the merits of the claims, and the likelihood of recovery if a favorable judgment is obtained by the Association; and (iii) providing a budget of the estimated amounts of legal fees, costs, expert witness fees and other expenses likely to be incurred in connection with such action (the "Litigation Budget");

(b) A copy of the opinion letter described above has been provided to all Owners, and, after the Owners have had a reasonable period of time to review the opinion letter, the decision to file the subject action has been approved by Owners (excluding Declarant) who collectively hold at least sixty-six and two-thirds percent (66-2/3%) of the total votes in the Association; and

(c) The Association has collected funds from the Owners, by special assessment or otherwise, equal to at least one-half (1/2) of the Litigation Budget as set forth in the opinion letter obtained pursuant to requirements above.

(d) If any claims or actions falling within the scope of this Section 16.14 are filed without satisfying all of the requirements set forth above, such claims/action shall be dismissed without prejudice and shall not be re-filed unless and until all such requirements have been satisfied. In any action to enforce the requirements of this Section 16.14, the prevailing party shall be entitled to an award of reasonable attorney fees and costs. For purposes of clarity, this Section 16.14 and the requirements set forth herein shall not apply to any actions or legal proceedings filed by the Association to recover payment of any type of assessment or other amounts required to be paid by Owners to the Association under this Declaration, nor does this Section apply to claims or actions that individual Owners may file relating solely to their own properties. Individual Owners, however, shall not be allowed to file or pursue any actions or claims belonging to other Owners or to the Association.

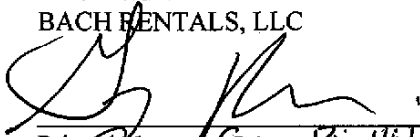
(e) Notwithstanding anything herein to the contrary, this Section 16.14 may not be amended or omitted without the prior written consent of the Declarant.

16.15 Leases. Any agreement for the leasing or rental of a Lot (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws and the Association Rules. Said lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease his Lot shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, Bylaws and Association Rules.

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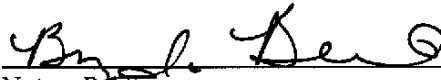
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the 20 day of September, 2019.

DECLARANT:
BACH RENTALS, LLC


Printed Name: Greg Rindlsbacher
Title: Managing Member

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this ___ day of September, 2019, by Greg Rindlsbacher, as an authorized agent of Bach Rentals, LLC, on behalf of such company.


Notary Public

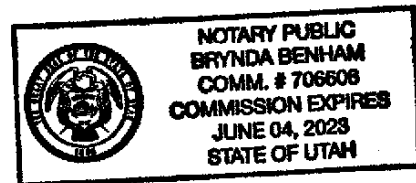


EXHIBIT A

LEGAL DESCRIPTION

Lots 1-19, REDHAWK, a residential planned unit development, according to the official plat thereof recorded with the office of the Washington County Recorder, State of Utah.

EXHIBIT B

**BYLAWS
OF
REDHAWK OWNERS ASSOCIATION**
(a Utah nonprofit corporation)

These Bylaws are adopted for the governance of REDHAWK OWNERS ASSOCIATION, a Utah nonprofit corporation (herein referred to as the "Association").

SECTION 1. ARTICLES OF INCORPORATION

Any reference herein made to this Association's Articles will be deemed to refer to its Articles of Incorporation and all amendments thereto at any given time on file with the Utah Division of Corporations and Commercial Code, together with any and all certificates theretofore filed by the corporation with the Utah Division of Corporations and Commercial Code.

SECTION 2. DECLARATION

2.1 Declaration. Reference is made to that certain Declaration of Covenants, Conditions and Restrictions for Redhawk Homes (the "Declaration") dated _____, 2019 and recorded on _____, 2019, as Document No. _____, in the Office of the Washington County Recorder. All capitalized terms as used in these Bylaws shall have the same meanings as set forth in the Declaration. The Declaration, as it may be amended or supplemented from time to time, is incorporated herein by reference. Capitalized terms not defined herein shall have the same meaning as set forth in the Declaration.

SECTION 3. MEMBERSHIP

3.1 Annual Meetings. Each annual meeting of the Members shall be held at such time and place as determined by the Board for the purpose of electing directors and transacting such other business as may come before the meeting. Notwithstanding the requirement for an annual meeting of the Members, the members of the Board may be elected by mail ballot.

3.2 Special Meetings. Special meetings of the Members may be held at such places and at such times as may be fixed by the Board whenever called in writing by the president, a majority of the members of the Board or by the Members holding twenty percent (20%) or more of the total votes entitled to be cast by all Members.

3.3 Notice of Meetings. Each Member of the Association shall be notified by the secretary by written notice not less than ten (10) days nor more than sixty (60) days before the date of the annual meeting, stating the place, day and hour of the meeting. Special meetings may be called in like manner after ten (10) days' notice, but any such notice also shall designate the purpose of the meeting and the items on the agenda (including the general nature of any proposed amendment to the Declaration, Articles, or Bylaws, and any proposal to remove a director or officer). Notices need only be given to Members appearing as such on the books of the Association at the time of the delivery or mailing of the notices.

3.4 Quorum. At any regular or special meeting of the Members after the Turnover Date, the Members holding more than twenty-five per cent (25%) of the total votes, represented in person or by proxy, entitled to be cast by all Members shall constitute a quorum for the transaction of business. A

quorum shall be necessary to elect directors and transact any other business. In the absence of a quorum, a majority of the Members present, either in person or by proxy, may adjourn the meeting to a time not less than three (3) nor more than thirty (30) days from the time the original meeting was called. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

3.5 Qualification; Record Date. Membership shall be limited to every Owner. The foregoing does not include persons or entities who hold an interest merely as security for the performance of an obligation. For the purpose of determining Members entitled to notice of and to vote at any meeting of the Association, or any adjournment, thereof, the Board may designate a record date, which shall not be more than fifty (50) nor less than ten (10) days prior to such meeting. If no record date is designated, the date on which notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of and to vote at the meeting.

3.6 Voting. Subject to the Declarant's priority voting rights prior to the Turnover Date, the Association shall have a single class of membership. Prior to the Turnover Date, the Declarant shall have the right, without obligation, to maintain absolute control over the Association by appointing or removing members of the Board and the officers of the Association without the necessity of a vote or a meeting of the Members. After the Turnover Date, Declarant shall retain the voting rights of a Member for Lots then owned by the Declarant.

(a) Unless a different percentage is otherwise provided for in the Declaration, the Articles or these Bylaws, the vote of a majority of Members shall be required to approve any matter before the Members.

(b) When more than one person owns a portion of the interest in a Lot, each such person shall be a Member, but the vote for such Lot shall be exercised as they among themselves determine. Absent any other agreement among co-Members of a single Lot, (i) a single co-Member appearing at an Association meeting will be entitled to cast the one vote for the Lot, and (ii) if multiple co-Members appear at an Association meeting, each co-Member will have a prorata fractional vote based upon the ownership interests of the co-Members appearing at such meeting. In no event shall more than one vote be cast with respect to any single Lot. The Association shall not be required to recognize the vote or written consent of any co-Member that is not authorized to vote based upon a written designation of all such co-Members delivered to the Association.

3.7 Informal Action by Members. Subject to the notice requirements of Utah Code § 16-6a-707, as amended, any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting if either of the following requirements are met:

(a) A written ballot either in printed form or electronic form is distributed (or otherwise made available) to every Member entitled to vote setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal and providing a reasonable time for the Member to complete and return the ballot to the Association, and a sufficient number of completed ballots are received back from Members of the Association, within the time allotted in the ballot instructions, to satisfy the vote requirements of the Declaration, the Articles, and these Bylaws, or

(b) If one or more consents in writing setting forth the action taken, are signed by Members having not less than the minimum number of votes that would be necessary to authorize or take the action if such action were considered at a properly convened meeting of the Members.

3.8 Proxies. Any Member entitled to vote may vote by proxy at any meeting of the members (and at any adjournment thereof) which is specified in such proxy, provided that his or her proxy is

executed in writing by such Member or his or her duly authorized attorney in fact. No proxy shall be valid after twelve (12) months from the date of its execution, unless such proxy specifically provides that it is coupled with an interest and is irrevocable. The burden of proving the validity of any undated, irrevocable or otherwise contested proxy at a meeting of the Members will rest with the person seeking to exercise the same. A facsimile or other electronic communication appearing to have been transmitted by a Member or by his duly authorized attorney in fact may be accepted as a sufficiently written and executed proxy.

3.9 Election Inspectors. The Board, in advance of any meeting of the Members, may appoint an election inspector or inspectors to act at such meeting (and at any adjournment thereof). If an election inspector or inspectors are not so appointed, the chairman of the meeting may, or upon request of any person entitled to vote at the meeting will, make such appointment. If any person appointed as an inspector fails to appear or to act, a substitute may be appointed by the chairman of the meeting. If appointed, the election inspector or inspectors (acting through a majority of them if there be more than one) will determine the Members entitled to vote, the authenticity, validity and effect of proxies and the number of Members represented at the meeting in person and by proxy; they will receive and count votes, ballots and consents and announce the results thereof; they will hear and determine all challenges and questions pertaining to proxies and voting; and, in general, they will perform such acts as may be proper to conduct elections and voting with complete fairness to all Members.

3.10 Organization and Conduct of Meetings. Each meeting of the Members will be called to order and thereafter chaired by the chairman of the Board if there is one; or, if not, or if the chairman of the Board is absent or so requests, then by the president; or if both the chairman of the Board and the president are unavailable, then by such other officer of the Association or such Member as may be appointed by the Board. The Association's secretary will act as secretary of each meeting of the Members; in his or her absence the chairman of the meeting may appoint any person (whether a Member or not) to act as secretary for the meeting. After calling a meeting to order, the chairman thereof may require the registration of all Members intending to vote in person and the filing of all proxies with the election inspector or inspectors, if one or more have been appointed (or, if not, with the secretary of the meeting). After the announced time for such filing of proxies has ended, no further proxies or changes, substitutions or revocations of proxies will be accepted. If directors are to be elected, a tabulation of the proxies so filed will, if any person entitled to vote in such election so requests, be announced at the meeting (or adjournment thereof) prior to the closing of election polls. Absent a showing of bad faith on his part, the chairman of a meeting will, among other things, have absolute authority to fix the period of time allowed for the registration of Members and the filing of proxies, to determine the order of business to be conducted at such meeting and to establish reasonable rules for expediting the business of the meeting (including any informal or question and answer portions thereof).

3.11 Notices. Notice to a Member shall be deemed to have been properly delivered when delivered personally, sent by fax or email, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Member in writing to the Association for the purpose of giving notice or, if no such address shall have been furnished, then to the street address of such Member's Lot. Any notice sent by fax or email shall be deemed delivered the earlier of twenty-four (24) hours after being sent or confirmed receipt. Any notice deposited in the mail shall be deemed delivered the earlier of forty-eight (48) hours after such deposit or confirmed receipt. In the case of co-Members, any such notice may be delivered or sent to any one of the co-Members, on behalf of all co-Member, and shall be deemed delivered on all such co-Members. To reduce the administrative burden of the Association, all Members are required to provide an email address for purposes of notices under these Bylaws, the Association Rules, and the Declaration.

3.12 Irregularities. All informalities and/or irregularities in calls, notices of meetings and in the manner of voting, credentials, and methods of ascertaining those present shall be deemed waived if no objection is made at the meeting.

SECTION 4. DIRECTORS

4.1 Management. The control and management of the Project shall be vested in a Board of Directors of not less than three (3) nor more than seven (7) members. Except for those directors designated by the Declarant, each director must be a Member of the Association, a spouse of a Member, or an officer, director, or principal of a legal entity which is a Member. Until the Turnover Date, the Board of Directors shall consist of three (3) members, all of whom the Declarant shall appoint, remove, and replace at such times as the Declarant deems fit to do so. Within a reasonable time following the Turnover Date, the Board shall call a special meeting at which the Members shall elect not less than three (3) nor more than seven (7) directors, or the Board shall conduct the election by mail ballot. The majority of the directors first elected following the Turnover Date shall be elected to serve a term of two (2) years, and a minimum of one (1) of the directors shall be elected to serve a term of one (1) year. Upon the expiration of the initial term of office of each such director elected subsequent to the Turnover Date, a successor shall be elected to serve a term of two (2) years. Thereafter, all directors shall be elected to serve two (2) year terms. The Board will have the power to increase or decrease its size within the aforesaid limits and to fill any vacancies which may occur in its membership, whether resulting from an increase in the size of the Board or otherwise, and such appointed Board members shall hold office until the next annual meeting of the Members.

4.2 Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are permitted by law, the Declaration, the Articles or these Bylaws. The powers of the Board shall include but not be limited to the following:

- (a) To provide the necessary management and accounting and other services required in connection with operation and maintenance of the Project;
- (b) To enforce liens against Lots in the event of default by a Member in payment of money under the Declaration, and to enforce any other provisions thereof;
- (c) To authorize in their discretion refunds of excess Assessments; and
- (d) To enforce such Association Rules pertaining to use and occupancy of the Lots and Common Areas and Common Facilities, as may be adopted by the Association and which are consistent with these Bylaws, the Articles and the Declaration.

4.3 Election and Term of Office. Except as otherwise provided herein, the directors shall be elected annually at the annual meeting of Members to serve two (2) year terms and shall hold office until their successors have been duly elected and qualified and hold their first meeting.

4.4 Quorum. A quorum for the transaction of business at any meeting of the directors shall consist of a majority of the Board of Directors then in office.

4.5 Annual and Regular Meetings. An annual meeting of the directors shall be held within ten (10) days after the adjournment of, and at the place of, the annual meeting of the Members. Additional regular meetings of the directors may be held without notice at regular intervals at such places and at such times as the Board may from time to time by resolution provide.

4.6 Special Meetings. Special meetings of the Board shall be held at such times and places as may be designated by the Board whenever such meetings are called orally or in writing by the president or a majority of the Board. Notices of special meetings shall be given by the secretary to each director, orally or in writing, at least three (3) days before the time fixed for the meeting. Such notices shall advise each director of the time, place and general purpose of the meeting, and shall be delivered personally, or shall be given by fax or email, or, if sent by mail, such three (3) days' notice shall be deemed to have been given if the notice is postmarked at least five (5) days before the date of the meeting. By unanimous consent of the directors, special meetings of the Board may be held at any time without call or notice, or waiver of call and notice.

4.7 Written Consent. Any action which could be taken by the directors at a duly convened annual or special meeting of the Board may be taken without a meeting if the written vote of all directors are received and the action is approved by either (i) all directors, or (ii) a majority of directors after compliance with Section 16-6a-813 of the Act.

4.8 Removal of Directors. All directors shall be subject to removal at any time by the affirmative vote of the majority of Members at a properly called meeting of the Members for such purpose.

4.9 Vacancies. In the event of the death, resignation, or discharge of a director for any reason, such vacancy shall be filled by vote of the majority of the directors present at a properly called meeting of the Board, and the director elected to fill such a vacancy shall complete the term of office of the director so replaced.

4.10 Compensation; Expenses. No director shall receive compensation for any service he may render to the Association as a director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

4.11 Committees. The Board shall from time to time appoint committees as deemed appropriate in carrying out its purpose.

SECTION 5. OFFICERS

5.1 Designation of Officers. The directors shall elect the officers of the Association at an annual meeting of the directors; *provided, however,* that elections of additional officers may be held at any other meeting of the Board specifically called for such purpose. The officers of the Association shall consist of a president, vice president, secretary and treasurer, any two of which offices, other than president and secretary, may be held by one person. Each elected or appointed officer of the Association must be a Member or a spouse of a Member.

5.2 President. The president shall be the chief executive of the Association. The president shall preside at all meetings of the Board; shall have general charge of the activities of the Association; shall sign on behalf of the Association all contracts and other written instruments to be executed by the Association or shall delegate authority to sign such contracts and written instruments as agent for the Association; shall execute, certify and record amendments to the Declaration on behalf of the Association; and shall see that all resolutions of the Board are carried into effect. The president shall do and perform such other acts and duties as may be required of him by the Board, but such authority shall be subject to the control and direction of the Board at all times. One or more vice presidents may also be elected to assist the president.

5.3 Secretary. The secretary shall keep a permanent and complete record of all proceedings of each meeting of the Members and each meeting of the Board; shall give or cause to be given, when

required, notice of all meetings of the Members and/or the Board; shall keep an accurate list of all Members of the Association and their addresses; shall execute, certify and record amendments to the Declaration on behalf of the Association; shall furnish copies of the minutes of the meetings of the Board after each such meeting; and shall perform such other duties as may be prescribed by the Board or the president.

5.4 Treasurer. The treasurer shall have custody of the Association's funds and shall keep or cause to be kept full and accurate accounts of receipts and disbursements, and shall deposit or cause to be deposited all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board. The treasurer shall disburse the funds of the Association as may be ordered by the Board, demanding proper vouchers for such disbursements. The treasurer shall prepare and submit or cause to be prepared and submitted a written financial report at each annual meeting of the Members, and shall render to the president an account of all his transactions as treasurer and such additional reports of the financial condition of the Association as the Board may require. The treasurer may be required to furnish a surety bond in an amount determined by the Board, the premium of which shall be paid by the Association.

5.5 Other Employees. The Board may engage the services of such other employees and professionals, including but not limited to property managers, attorneys, accountants and contractors, as may from time to time be deemed necessary or advisable to accomplish the objects, purposes and duties of the Association.

5.6 Removal of Officers; Vacancies. All officers, agents and employees shall be subject to removal at any time by the affirmative vote of the majority of the members of the Board then in office. Any vacancy caused by removal, resignation, death or for any other reason whatsoever may be filled by the Board as the Board may deem appropriate.

5.7 Compensation. The president, secretary and treasurer shall not receive any compensation for their services rendered to the Association as such officers. However, such officers may be reimbursed for their actual expenses incurred in the performance of their duties. The Board may fix and pay such compensation for other officers or employees of the Association as the Board deems proper.

5.8 Certification of Amendments. Any amendment to the Declaration which requires affirmative written assent or vote of the Members shall be executed, certified, and recorded on behalf of the Association by the president or secretary of the Association.

SECTION 6. ASSESSMENTS

6.1 Regular Assessments. Assessments against each Lot shall commence on the day after the conveyance of each respective Lot (Assessments will be prorated for partial months). Until the Turnover Date, Declarant shall be obligated to pay to the Association any deficiencies in monies available to pay common expenses due to the Declarant not having paid an Assessment on unsold Lots and which are necessary for the Association to be able to pay all common expenses in a timely manner. The Declarant shall be entitled to a reimbursement for any amounts contributed to the Association that exceed the amount of Assessments that otherwise would have been charged to the Declarant under the Declaration. Not later than ten (10) days prior to the beginning of each fiscal year, the Board shall adopt a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total common expenses to be incurred for such fiscal year. The Board may, but is not required to, send a written summary of the budget to all Members within thirty (30) days after the adoption of the proposed budget. The Board shall notify each Member of the amount of the regular Assessment to be paid by each Member during the forthcoming fiscal year (and of the amount of monthly installments to be paid).

6.2 Special Assessments. In addition to regular Assessments, the Board may levy special Assessments and capital improvement Assessments as provided in the Declaration.

6.3 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Declaration.

6.4 Non-Payment of Assessments. Any Assessment which is not paid when due shall be delinquent. Whenever an Assessment is delinquent, the Association may, at its option, invoke any or all of the sanctions provided for in the Declaration (e.g., interest, late charge, legal action, suspension of services and suspension of right to use Common Facilities, foreclosure of lien against Lot, etc.). Whenever an Assessment is delinquent, the voting rights of such Members shall be suspended until the Assessments are brought current.

SECTION 7. ASSOCIATION RULES

The Board may from time to time adopt, amend, repeal, and enforce reasonable Association Rules governing the use and operation of the Project, including without limitation, the Common Facilities, to the extent that such Association Rules are not inconsistent with the rights and duties set forth in the Declaration, the Articles, or these Bylaws. Copies of Association Rules adopted by the Board, including amendments and revisions thereof, shall be made available to all Members electronically from time to time, and at any time to any Member requesting same.

SECTION 8. INDEMNIFICATION OF OFFICERS AND DIRECTORS

8.1 Limitation of Liability. The liability of the officers and directors of the Association shall be limited as set forth in the Articles.

8.2 General Indemnification. The Association shall indemnify all directors, officers, and committee members and all former directors, officers, and committee members of the Association, and all persons who may have served at the request of the Association, as a director, officer, employee, or agent of another corporation or entity (whether for profit or not for profit), or otherwise, from and against any and all claims, judgments, liabilities, fines, taxes, penalties, interest, amounts paid in settlement and reasonable expenses (including attorneys fees) to which such person shall become subject by reason of having served in such capacity, or by reason of any action alleged to have been taken or any failure to take any action in such capacity (except in relation to matters as to which the director, officer or agent shall be adjudged in an action, suit or proceeding to be liable for negligence or misconduct in the performance of his or her duty), if the director, officer or agent acted in good faith and in a manner reasonably believed to be in (and not opposed to) the best interests of the Association and the director, officer or agent had no reasonable cause to believe the conduct was unlawful.

8.3 Advance of Expenses. The Association may pay for or reimburse the reasonable expenses incurred by directors, officers, or committee members and former directors, officers, and committee members of the Association, and persons who may have served at the request of the Association, as a director, officer, employee, or otherwise, who is a party to a proceeding in advance of final disposition of the proceeding if the requirements of Utah Code Section 16-6a-904 are met.

8.4 Insurance. Unless otherwise prohibited by Utah law, the Association may purchase and maintain, at the Association's expense, insurance on behalf of any person who was or is a director, officer, or committee member of the Association, or who was or is serving at the request of the Association as a director, officer, employee, or agent, against any liability asserted against him or incurred by him in any such capacity arising out of his status as such, whether or not the Association would have the power to

indemnify him against such liability under Utah law, as the same may hereafter be amended, modified, or adopted.

SECTION 9. AMENDMENTS TO BYLAWS

Prior to the Turnover Date, the Board, at any regular or special meeting, shall have the power to make, amend, and repeal the Bylaws by vote of a majority of the Board, provided that written notice of intention to make, amend or repeal the Bylaws in whole or in part shall have been given in the notice of the meeting, and except that if the provisions hereof have been approved by the Federal Housing Administration or by the Veterans Administration, the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while the Declarant has the right to control the Association. From and after the Turnover Date, at a regular or special meeting, the Members shall have the power to make, amend, and repeal the Bylaws by vote of a majority of the Members, provided that written notice of intention to make, amend, or repeal the Bylaws in whole or in part shall have been given in the notice of the meeting. These Bylaws may not be amended in a manner which is inconsistent with or conflicts with the terms of the Declaration or Articles, and in the event of any such amendment which is inconsistent or conflicts, the amendment shall be considered void.

SECTION 10. FISCAL MANAGEMENT

10.1 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31. The commencement date of the fiscal year herein established shall be subject to change by the Board should corporate practice subsequently dictate.

10.2 Books of Account. Books of account of the Association shall be kept under the direction of the treasurer on a consistent basis in accordance with good accounting practices.

10.3 Contracts. Unless otherwise provided herein or by the Board, all contracts shall be executed on behalf of the Association by the president.

SECTION 11. CONSTRUCTION

Any discrepancies or conflicts between the provisions of the Utah Code Annotated, the Declaration, the Articles, the Bylaws, and the Association Rules shall, unless otherwise provided, be resolved by giving priority first to the statutes, second to the Declaration, third to the Articles, fourth to the Bylaws, and fifth to the Association Rules.

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