



When recorded return to:
Corinne Schmalz, c/o Ence Homes
619 South Bluff St., Tower 2
St. George, UT 84770

**FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF SENTIERI CANYON AT DIVARIO SUBDIVISION**

FACTION, LLC, a Utah limited liability company (hereinafter "Declarant") hereby amends the following portions of the Declaration of Covenants, Conditions and Restrictions for Sentieri Canyon at Divario Subdivision (hereinafter "Declaration") as set forth herein, pursuant to its authority under Article 7 of said Declaration, which Declaration was recorded on the 22nd day of October, 2019, as DOC No. 20190043856 in the records of the Washington County Recorder, and affecting the real property located in Washington County, Utah, more particularly described as recorded phase of Sentieri Canyon at Divario Subdivision, as follows:

Phase 1 Lots: per the Official Plat of Sentieri Canyon at Divario Subdivision, Phase 1, said Lots being: SG-SCD-1 through SG-SCD-50, inclusive; and

All future Phases, including the Lots thereof, as annexed or expanded to Sentieri Canyon at Divario Subdivision, in accordance with the provisions of the Declaration thereof, as cited.

The Declarant, hereby amends and modifies the Declaration, as follows:

The language of Article 2, Section 2.3 shall be deleted, which Section language currently reads, as follows:

"2.3. CARE AND MAINTENANCE OF LANDSCAPING AND OTHER LOT FEATURES. During the Development Phase, and continuing thereafter until changed by a two-thirds (2/3) vote of the Owners, the Association shall be responsible for maintenance of landscaping:

- 1) of the front yard, and
- 2) of the side-yard areas of each Lot; side-yard shall be considered to be that area extended from the front foundation line of the Home to the rear foundation line; however, in the instance that a gate or wall is placed at or near the front foundation line, preventing access to the side yard, such enclosed side yards shall NOT be maintained by the Association.

An Owner shall be responsible for the maintenance of such side yards and all other areas of the Owner's Lot, including any walls, fences or other barriers that surround the Home and/or Lot. The Owner of each Lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement for access to make repairs upon adjoining Lots and structures; provided however, that:

- (A) Any damage caused by such entry shall be repaired at the expense of the Owner whose property was the subject of the repair work which caused the same;
- (B) Any such entry shall be made following proper notification the adjoining Lot Owner(s) and only at reasonable times and with as little inconvenience as possible to the adjoining Lot Owner; and
- (C) In no event shall said easement be deemed to permit entry into the interior portion of any Home on said adjoining Lot(s).

In the event any Owner fails to perform any maintenance that is the responsibility of the Owner in a manner so as not to detract from the appearance of the Property, or affect adversely the value or use of any other Lot(s), the Board shall

have the right to have maintenance performed on the Lot and the cost of said maintenance shall be added to and become part of the assessment to which such Lot is subject.”

Said language, as above-quoted, shall be replaced in Section 2.3 with language which shall read, as follows:

2.3. CARE AND MAINTENANCE OF LANDSCAPING AND OTHER LOT FEATURES. During the Development Phase, and continuing thereafter until changed by a two-thirds (2/3) vote of the Owners, the Association shall be responsible for maintenance of landscaping:

- 1) of the front yard, and
- 2) of the side-yard areas of each Lot; side-yard shall be considered to be that area extended from the front foundation line of the Home to the rear foundation line; however, in the instance that a gate or wall is placed at or near the front foundation line, preventing access to the side yard, such enclosed side yards shall NOT be maintained by the Association.
- 3) the landscape strips located in the rock retaining walls behind Lots 15, 16, 19, 20, 23, 24, 41, 44, 45, 49 and 50.

An Owner shall be responsible for the maintenance of such side yards and all other areas of the Owner's Lot, including any walls, fences or other barriers that surround the Home and/or Lot. The Owner of each Lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each Lot shall be subject to an easement for access to make repairs upon adjoining Lots and structures; provided however, that:

(A) Any damage caused by such entry shall be repaired at the expense of the Owner whose property was the subject of the repair work which caused the same;

(B) Any such entry shall be made following proper notification the adjoining Lot Owner(s) and only at reasonable times and with as little inconvenience as possible to the adjoining Lot Owner; and

(C) In no event shall said easement be deemed to permit entry into the interior portion of any Home on said adjoining Lot(s).

In the event any Owner fails to perform any maintenance that is the responsibility of the Owner in a manner so as not to detract from the appearance of the Property, or affect adversely the value or use of any other Lot(s), the Board shall have the right to have maintenance performed on the Lot and the cost of said maintenance shall be added to and become part of the assessment to which such Lot is subject.”

The language of Article 3, Section 3.4(aa) shall be deleted, which Section language currently reads, as follows:

(aa) Landscaping. Front and side-yard landscaping (side-yard shall extend from the front foundation line to the rear foundation line of the Home) shall be installed by Declarant, or its agent, as part of the initial construction of the Home on a Lot. Not less than 20% of the front-yard area shall be sod. The cost of said landscaping shall be the sole responsibility of the “to-be Owner” of the Lot/Home. Such landscaping shall be completed prior to the date of a City-issued Certificate of Occupancy (“CO”) or occupancy of a Home on a Lot, whichever first occurs.

Within six (6) months after receipt of a Certificate of Occupancy or the Settlement Closing on a Home, the Owner must have substantially completed the landscaping of the rear portion of the Lot, as approved by the ACC. All rear-yard landscaping shall be done appropriately, in keeping with standards reflected in the front and side-yard landscaping. Features of rear-yard landscaping may include, among others, xeriscaping to facilitate water conservation, lawn areas or accents, trees, shrubs, and planting beds. All rear-yard landscaping must include a clock-controlled

automatic irrigation system; access to such clock shall be located on the exterior of the Home, to facilitate access by the Association during maintenance or emergencies and/or the absence of the Owner. All rear-yard landscaping shall be maintained by each Lot Owner at a reasonable standard compatible with front and side-yard maintenance by the Association, and with other Homes in the Property. Shrub and tree planting on corner Lots shall be located so as not to create a hazard for the movement of vehicles along streets, in accordance with local ordinances. All landscaping installed by any party other than Declarant must be approved by the ACC. In the event a Lot Owner delays the installation of rear-yard landscaping beyond the time the Declarant has landscaped the front and side yard areas, and in the event the Owner's own physical labor or Owner's contractor damages the front or side yard landscaping while completing the rear-yard landscaping, the Lot Owner, at his/her own expense, shall restore the front and/or yard landscaping to its original condition.

Failure by the Lot Owner to complete rear-yard landscaping as provided in this Section may result in the following action. The Association shall notify the Lot Owner that a violation has occurred. This notification shall be in writing and delivered to the Owner by certified mail. The Association may levy a Five Hundred Dollar (\$500.00) fine against a Lot Owner so-notified of violation of this provision. The fine shall be deemed a Single Lot Assessment and shall be a charge against the Owner and shall be a lien on the Lot as provided herein. The Lot Owner shall have 45-days from the date of receipt of Notification to complete the rear-yard landscaping of the Lot. Failure by the Lot Owner to complete the rear-yard landscaping within the allotted 45-days shall result in an additional One Hundred Dollar (\$100.00) fine, to be levied each and every month until the landscaping is complete. Said fine or fines, as levied, shall be a charge against the Owner and shall be a continuing lien on the Owner's Lot as provided herein.

Notwithstanding the above provisions, the ACC may extend the time frame an Owner has in which to complete the rear-yard landscaping of a Lot, and any such extension will be determined on a case-by-case basis.

The Association shall maintain the front landscaping and the side-yard landscaping extending from the front foundation line of the Home to the rear foundation line, OR TO ANY WALL, BARRIER OR GATE in the side-yard."

Said language, as above-quoted, shall be replaced in Section 3.4(aa) with language which shall read, as follows:

"(aa) Landscaping. Front and side-yard landscaping (side-yard shall extend from the front foundation line to the rear foundation line of the Home) shall be installed by Declarant, or its agent, as part of the initial construction of the Home on a Lot. Not less than 20% of the front-yard area shall be sod. The cost of said landscaping shall be the sole responsibility of the "to-be Owner" of the Lot/Home. Such landscaping shall be completed prior to the date of a City-issued Certificate of Occupancy ("CO") or occupancy of a Home on a Lot, whichever first occurs.

Within six (6) months after receipt of a Certificate of Occupancy or the Settlement/Closing on a Home, the Owner must have substantially completed the landscaping of the rear portion of the Lot as approved by the ACC. The rear portion of Lots 15, 16, 19, 20, 23, 24, 41, 44, 45, 49 and 50 includes the strip of property located in the rock retaining walls below the wrought iron fence and installation of the landscape for this area shall be the responsibility of the Owner of the Lot. All rear-yard landscaping shall be done appropriately, in keeping with standards reflected in the front and side-yard landscaping. Features of rear-yard landscaping may include, among others, xeriscaping to facilitate water conservation, lawn areas or accents, trees, shrubs, and planting beds. All rear-yard landscaping must include a clock-controlled automatic irrigation system; access to such clock shall be located on the exterior of the Home, to facilitate access by the Association during maintenance or emergencies and/or the absence of the Owner. All rear-yard landscaping shall be maintained by each Lot Owner at a reasonable standard compatible with front and side-yard maintenance by the Association, and with other Homes in the Property with the exceptions outlined in Section 2.3 regarding the maintenance of the strip of landscape located in the rock retaining walls. Shrub and tree planting on corner Lots shall be located so as not to create a hazard for the movement of vehicles along streets, in accordance with local ordinances. All landscaping installed by any party other than Declarant must be approved by the ACC. In the event a Lot Owner delays the installation of rear-yard landscaping beyond the time the Declarant has landscaped the front and side yard areas, and in the event the Owner's own physical labor or Owner's contractor damages the front or side yard landscaping while completing the rear-yard landscaping, the Lot Owner, at his/her own expense, shall restore the front and/or yard landscaping to its original

condition.

Failure by the Lot Owner to complete rear-yard landscaping as provided in this Section may result in the following action. The Association shall notify the Lot Owner that a violation has occurred. This notification shall be in writing and delivered to the Owner by certified mail. The Association may levy a Five Hundred Dollar (\$500.00) fine against a Lot Owner so-notified of violation of this provision. The fine shall be deemed a Single Lot Assessment and shall be a charge against the Owner and shall be a lien on the Lot as provided herein. The Lot Owner shall have 45-days from the date of receipt of Notification to complete the rear-yard landscaping of the Lot. Failure by the Lot Owner to complete the rear-yard landscaping within the allotted 45-days shall result in an additional One Hundred Dollar (\$100.00) fine, to be levied each and every month until the landscaping is complete. Said fine or fines, as levied, shall be a charge against the Owner and shall be a continuing lien on the Owner's Lot as provided herein.

Notwithstanding the above provisions, the ACC may extend the time frame an Owner has in which to complete the rear-yard landscaping of a Lot, and any such extension will be determined on a case-by-case basis.

The Association shall maintain the front landscaping, the side-yard landscaping extending from the front foundation line of the Home to the rear foundation line, OR TO ANY WALL, BARRIER OR GATE in the side-yard, and the strips of landscape located in the rock retaining walls."

IN WITNESS WHEREOF, Declarant does hereafter execute this 1st Amendment as of the 14th day of January, 2020

DECLARANT: FACTION, LLC

By: Troy Ence, Manager

ACKNOWLEDGMENT

STATE OF UTAH)

COUNTY OF WASHINGTON)
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On this 14th day of January, 2020, before me personally appeared Troy Ence, whose identity is personally known to me, and who, being by me duly sworn did say that he is the Manager of FACTION, LLC, a Utah limited liability company, and that the foregoing document was signed by him on behalf of said company by proper authority and he acknowledged before me that the company executed the document and the document was the act of the company for its stated purpose.

Cornelia Schmale
Notary Public, Residing in Washington County, UT

