



When Recorded, Please Return To:

**AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS OF HERITAGE PLACE  
A MASTER COMMUNITY  
(Washington County, Utah)**

THIS AMENDED & RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HERITAGE PLACE, A MASTER COMMUNITY ("Master Declaration") is hereby adopted by Nisson Field, LLC, a Utah limited liability company, its successors and assigns, (hereinafter "Declarant") and is made effective as of the date recorded in the Washington County Recorder's Office.

**RECITALS:**

(A) This Master Declaration affects and concerns the real property located in Washington County, Utah and more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference ("Property", "Master Community" or "Project").

(B) On or about February 23, 2022, a Plat Map depicting Phase 1 of the Master Community was recorded in the Washington County Recorder's Office, as Entry No. 20220010830 ("Phase 1").

(C) On or about February 23, 2022, a Declaration of Easements, Covenants, Conditions, and Restrictions of Heritage Place ("Enabling Declaration") was recorded in the Washington County Recorder's Office, as Entry No. 20220010831.

(D) Pursuant to Article 12.2 of the Enabling Declaration and within the Declarant Control Period, Declarant hereby approved this Master Declaration and hereby amends, replaces and supersedes all prior declarations and amendments, rendering the prior declarations and amendments of no further force and effect. This Declaration, along with any future amendment(s), shall be the sole Declaration for the Property.

(E) Neighborhoods & Sub-associations. Subject to modification and expansion as the Project progresses, the following are anticipated to be distinct Neighborhoods within the Master Community. It is further anticipated that some of the Neighborhoods will be managed and subject to a sub-association.

1. Single Family Homes/Traditional Homes;
2. Patio Homes/Garden Homes; and
3. Townhomes.

Master Declaration  
for Heritage Place

It is the purpose and intent of the provisions of this Master Declaration that the Master Association shall be charged with and be responsible for the management of the Common Areas and open space within the Master Community. With Master Association approval, Sub-associations may be tasked with certain maintenance responsibilities where necessary and prudent.

(F) Declarant desires to subject the Property to the terms of this Master Declaration. Declarant intends to develop a residential development on the Property pursuant to the Community Association Act. Declarant will develop and convey all of the Lots within the Project subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions and easements, as set forth in this Master Declaration, as amended, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots/Units within the Project. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Master Declaration and any subsequent sub-association declarations. The Project does not constitute a cooperative.

(G) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Master Community, to create an entity which possesses the powers to maintain and administer the Common Areas and Limited Common Areas (where applicable) and otherwise administer and enforce the provisions of this Master Declaration. For such purposes, Declarant will cause to be registered with the Utah Department of Commerce Heritage Place Master Homeowner Association, Inc. (the "Master Association").

(H) The Master Association is governed by the terms of this Master Declaration, the Articles of Incorporation for Heritage Place Master Homeowner Association, Inc. ("Master Articles"), and the Bylaws for Heritage Place Master Homeowner Association, Inc. ("Master Bylaws") as amended, which Bylaws are attached hereto as **Exhibit "B"** and shall be recorded in Washington County Recorder's Office contemporaneously with the recording of this Master Declaration.

(I) Notwithstanding the foregoing, no provision of this Master Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Master Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; (4) assignment of Declarant's rights under this Master Declaration in whole or part; and (5) Declarant's rights with respect to subsequent phases, sub-associations, or the expansion/retraction of the Project.

(J) Supplemental or Neighborhood Declarations, as may be deemed appropriate by Declarant on a phase-by-phase basis to address differences in circumstances may be recorded related to expansion of the Project. During the Class B Control Period, approval must be obtained from Declarant for any supplemental declaration or amendments governing sub-associations.

(K) Upon the written approval of the Master Association, a Neighborhood Declaration may be recorded organizing a sub-association.

(L) These Recitals are made a part of this Master Declaration.

## COVENANTS, CONDITIONS AND RESTRICTIONS

### ARTICLE I DEFINITIONS

1.0 Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Master Declaration, shall have the following meanings:

(A) "Act" shall mean the Community Association Act, Utah Code § 57-8a-101 *et. seq.*

(B) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by Master Association in accordance with the Governing Documents, which shall govern the entire Master Community. The ACC may, in its sole discretion, delegate certain responsibilities to Neighborhood Sub-associations. Declarant shall retain the authority to appoint the Master Board and correspondingly the ACC until Declarant no longer owns any property within the Master Community.

(C) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Master Association, as provided in the Governing Documents, regardless of whether said assessment is identified as a regular assessment, master assessment, neighborhood assessment, lot-type assessment, special assessment, limited assessment, individual assessment, reserve assessment, capital improvement assessment, late fee or other charge. Sub-associations may also levy assessments separately to members within their respective sub-association.

(D) "Articles" see "Master Articles".

(E) "Bulk Service Contract" or "Bulk Service Provider" shall mean a service provider for items such as: internet, television, cable, satellite, telephone, data, solar power, and similar utilities and services.

(F) "Bylaws" see "Master Bylaws"

(G) "City" shall mean Washington, Utah and its appropriate departments, officials and committees.

(H) "County" shall mean Washington County, Utah and its appropriate departments, officials and committees.

(I) "Common Area(s)" shall mean all property designated on the recorded Plat(s) or described in this Master Declaration as Common Area, being intended ultimately to be owned by

the Master Association for the common use and enjoyment of all Members, together with all improvements thereon and all of the easements appurtenant thereto including, but not limited to: open space, private roads (if any), detention basin(s), Master Community amenities, private utility lines (not owned and maintained by the City or serving a single Lot/Unit), community signage, community mailbox (if any), visitor parking, subsequently constructed clubhouses or amenities (if any). Certain community amenities may be owned by sub-associations (as set forth in subsequent plats, recorded documents or governing documents). Members in the Master community enjoy corresponding rights of access along with maintenance responsibilities for community amenities. Subsequent Neighborhood Declarations, as approved by the Declarant and Master Association, may make further designations within said Neighborhoods with regard to Common Areas or amenities within sub-associations.

(J) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Master Association, including, without limitation, costs, expenses and liabilities for: (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas, (and any Limited Common Areas that are the responsibility of the Master Association if applicable); (B) providing facilities, services and other benefits to Owners as set forth in this Master Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments; (E) operating the Master Association; and (F) creating reserves for any such costs, expenses and liability as required by this Master Declaration or the Act.

(K) "Declarant" shall mean and refer to Nissan Field, LLC, and its successors and assigns.

1. "Declarant Related Entity or Entities" shall mean Declarant, parent companies, subsidiaries, assigns, successors, related or designated construction entities, or other entities established by Declarant or Declarant's members for the purpose of owning, developing, constructing and/or selling Lots or Units in the Subdivision. Declarant Related Entities shall include but are not limited to: Sullivan Homes.

(L) "Declaration" see "Master Declaration."

(M) "Dwelling" or "Unit" shall refer to any residential structure as the context requires, together with Improvements used in conjunction with such Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures and the like, shall be considered part of the Unit, whether located within or without said Unit. All pipes, wires, conduits, or other public utility installations serving only that Unit shall be considered part of the Unit. Exterior Improvements such as: steps, porches, driveways shall be considered part of the Unit.

(N) "Governing Documents" shall mean this Master Declaration, Plat(s), Master Bylaws, Master Articles, Master Rules, and any other documents or agreements binding upon the Master Association.

(O) "Improvement" shall mean all structures and appurtenances of every type and kind, including, but not limited to: buildings, facilities, amenities, Dwellings, Units, residences, garages, walkways, retaining walls, driveways, fences, landscaping, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building or Unit.

(P) "Limited Common Area" shall mean all property designated on the recorded Plat Map(s), or as described in sub-association documents as Limited Common Areas, which may be owned by individual sub-association but for the exclusive use and enjoyment of one or more appurtenant Lots/Units but fewer than all of the Lots/Units including, but not limited to: the private area immediately behind certain Unit, as depicted on the Plat(s) and may include rear patio areas, block walls with wings in a charcoal color on the border of the rear patio area, and other Improvements, as approved by Declarant or the ACC.

(Q) "Lot" shall mean any numbered lot shown on any official and recorded Plats, including all Improvement located thereon. Lot may also refer to the individual Dwelling/Unit. Lot may also be interchangeable with Dwelling/Unit in the context of townhomes.

(R) "Manager" shall mean any entity or person engaged by the Master Board to manage the Project.

(S) "Master Articles shall mean the Articles of Incorporation of the Master Association, as amended.

(T) "Master Association" shall mean the Heritage Place Master Homeowner Association, Inc. and, as the context requires, the duly elected and authorized Board of Directors through its officers, directors and managers.

(U) "Master Board" or "Board" means the Board of Directors of the Master Association elected pursuant to the Bylaws and serving as the management body of the Master Association.

(V) "Master Bylaws" shall mean the Bylaws of the Master Association, as amended.

(W) "Master Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions for Heritage Place, a Master Community, together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(X) "Member" or "Owner"

(Y) "Neighborhood", "Neighborhood Sub-association", or "Sub-association" shall mean a separate and distinct area within the Master Community, which may include a separate sub-association, with the consent of the Master Association, by the recording of a Neighborhood Declaration. At the time this Master Declaration is recorded, it is anticipated that that the following Neighborhoods will exist.

- Single Family Homes/Traditional Homes. It is anticipated that detached single-family homes will be governed by the Master Association.
- Patio Homes/Garden Homes. Patio homes include detached single-family homes and Improvements are subject to both the Master Declaration and any applicable sub-association declaration
- Townhomes. Townhomes may be detached or attached structures and Improvements are subject to both the Master Declaration and any applicable sub-association declaration.

Each Neighborhood may be subject to different Assessments; varying architectural and use restrictions, varying insurance requirements, and varying amenities and maintenance responsibilities, and other conditions specific to each Neighborhood.

(Z) "Person" shall mean a natural person or any legal entity with a right to hold title to real property in its own name in the State of Utah.

(AA) "Plat(s)" shall mean an official and recorded plat of the Master Community, including all subsequent phases, if any, when recorded, as approved by the City, and recorded in the office of the Washington Recorder, as it may be amended from time to time.

(BB) "Property," "Project," "Master Community" or "Subdivision" shall mean all phases of Heritage Place, all Lots, Common Areas, Limited Common Areas and other property, as shown on the Plat(s) and any future Plat(s).

(CC) "Rules" or "Master Rules" shall mean any instrument adopted by the Master Board for the regulation and management of the Master Community, as provided in the Governing Documents.

(DD) "Subdivision Improvements" shall mean all improvements that are necessary to provide public and/or private road access, utility service, and other necessary improvements for the development and sale of Lot and Units, including other construction work required to comply with any conditions of City or County or other governmental agencies to the approval of the Subdivision or any Plat(s) thereof.

(EE) "Undeveloped Land" shall, at any point in time, mean all of the real property as may be depicted in recorded plats and/or adjacent property that is brought into the Project by Declarant. Undeveloped Land may include, but is not limited to, property within the preliminary plat, which is attached hereto as **Exhibit C**.

(FF) "Yard" shall, for the purposes of this landscaping maintenance, be divided as follows: "front yard" shall mean the area from the front corners of a Dwelling moving forward to the public street. "Backyard" shall mean from the front corners of a Dwelling moving to the rear property line of the Lot. The purpose and intent is to keep a clean and more uniform appearance for front yards in the Subdivision and providing Owners with more freedom of design in the backyards, consistent with this Declaration and local ordinances. Backyards are maintained by the Owners. Setbacks may be established by the Master Association that are more restrictive than local

ordinances.

**ARTICLE II**  
**EASEMENTS & OTHER RIGHTS**

2.1 Easements & Rights Concerning Common Area. The Master Association shall have easements for any utility or any required maintenance in and through the Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom, or encumbered, pledged, assigned or otherwise alienated by an Owner. Any Owner may temporarily delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such Owner's Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

- (a) The Master Association shall be the trustee for all Owners with respect to easements, licenses, agreements, and conveyances of Common Areas, consistent with the Declaration and Utah law.

2.2 Easements & Rights Concerning Limited Common Area. The Master Association shall have a non-exclusive easement for any utility or any required maintenance in and through the Limited Common Area. With the exception of the rights and easements granted to the Master Association, the Owner(s) of a Lot shall have the exclusive use of all Limited Common Area appurtenant to their Lot.

- (a) The Master Association shall be the trustee for all Owners with respect to easements, licenses, agreements, and conveyances of Limited Common Areas, consistent with the Declaration and Utah law.

2.3 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

- (a) The right of the Master Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Master Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;
- (b) The right of the Master Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.
- (c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, utility

access/installation, and providing any other governmental or municipal service.

2.4 Reservation of Access and Utility Easements. Declarant hereby reserve an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights.

2.5 Management of Roadways. The Master Association, subject to the obligations of the City/County, shall be primarily responsible for the management, control, operation, care, maintenance, repair, replacement and upkeep of the private roads (if any) unless and until such responsibility is transferred to, and accepted by, a public agency, authority or utility in accordance with the provisions hereof. Public dedicated roadways shall be managed by the City/County. Notwithstanding, Owners in the Master Association enter into certain contractual obligations with regard to road use and parking.

2.6 Easements for Encroachments. If any part of the Common Areas/Limited Common Area, as improved by Declarant now or hereafter encroaches upon any Lot or if any structure constructed by Declarant on any Lot now or hereafter encroaches upon any other Lot or upon any portion of the Common Area/Limited Common Area, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Lot or upon any portion of the Common Area/Limited Common Area due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

2.7 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Units, (b) to maintain sales or leasing offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Project, (c) improvement of the Common Area/Limited Common Areas, and construction, installation and maintenance thereon of roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Members, and (d) construction, installation and maintenance on lands within, adjacent to, or serving the Property or Undeveloped Land.

2.8 Easement in Favor of Master Association. The Property is hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees, and independent contractors:

- (a) For inspection during reasonable hours of the Lots, Limited Common Areas, and Common Area in order to verify the performance by Owners or



- other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair, and replacement of portions of the Units, Limited Common Areas, and/or Common Areas as required by the Declaration; and
  - (c) For correction of emergency conditions in the Subdivision

2.9 Landscaping Easement. The Master Association shall have an easement and related access rights in order to maintain the Common Area landscaping or any other landscaping that is the Master Association's responsibility.

- (a) Unless changed by the Declarant in its sole discretion, the Declarant or initial builder shall design and install all front yard landscaping for the Lots in order to maintain a consistent appearance and comply with any local requirements.
- (b) The applicable association or sub-association shall perform general landscaping maintenance of the respective Common Areas, as determined between the Master Association and sub-association, and the front yards of the Lots.
  - i. The purpose and intent is to keep a clean and consistent appearance for front yards in the Subdivision and providing Owners with more freedom of design in the backyards, consistent with this Declaration and local ordinances. Backyards are maintained by the Owners. Setbacks may be established by the Master Association that are more restrictive than local ordinances.
  - ii. Play Structures. Play structures, trampolines, and other similar equipment may only be placed in backyards consistent with other rules and requirements of the associations.

2.10 Income generated from negotiation, installation or provision of certain utilities and amenities. Declarant and/or Declarant Related Entities invest time, experience, infrastructure and/or capital in the negotiation, provision or installation of certain utilities and amenities (e.g., internet, cable, fiber, phone, solar power, etc.) that provide services and benefits to owner in the Subdivision that would not otherwise be available or at a reduced cost. Any income gained by these parties from these efforts may be retained by the Declarant, Declarant Related Entities, or their assigns, even after the Declarant Control Period. The Association may enter into contracts with third parties related to the provisions of such utilities and amenities for the benefit of Owners in the Subdivision, which utilities and amenities may be paid for through Assessments. Owners contracting separately with individual third-party providers will still be required to pay any normal and customary access fee for applicable bulk rate contract services entered into by the Association.

2.11 SWPPP Compliance. Owners shall be responsible for construction activities on their Lots and their contractors with respect to SWPPP compliance. Owners shall indemnify Declarant and Declarant Related Entities for any fines, costs, fees or enforcement action against

Declarant for activities with regard to construction activities on an Owner's Lot or work provided by an Owners' contractors.

2.12 Amenity Creation & Trail Connections. The Declarant and Master Association have authority to develop and maintain amenities, trails and open space in the Property. Further, they may work with relevant government authorities or property owners for necessary or desired trail connections in or out of the Master Community.

2.13 Amenity Access. Members of a particular association or sub-association shall have access to that entity's amenities. Notwithstanding, a particular association or sub-association can restrict access to only members of that specific association or sub-association that owns and maintains such amenity.

2.14 Nisson Hill. Declarant reserves the right to sell/convey Nisson Hill and other opens space areas to the City.

2.15 Impact Fees. The Master Association shall have authority to impose Impact Fees for the cost of infrastructure and improvements benefiting the Lots, Common Areas, and Members of the Master Community. Impact Fees should be uniform for similar situated Lots and Units and their resulting benefit. Impact Fees are intended to offset the effect of development and occupancy of each Lot will have on the infrastructure, benefits and amenities within the Master Community. In the event Impact Fees collected are in excess of the cost of the infrastructure, amenity or facility for which the Impact Fee was levied, the Association may reimburse such amounts proportionate to the amount levied or may hold such funds for the future benefit of the Lots served by the Impact Fee. Impact Fees shall be treated as Special Assessments.

2.16 Trespass. Whenever the Master Association or Declarant is permitted by these covenants to correct, repair, clean, preserve, clean out or do any action on any portion of Subdivision, including Lots or Units, entering such areas, and taking such action shall not be deemed a trespass on the part of the Master Association, Declarant or their agents.

2.17 Delegation of Use. Any Owner may delegate, in accordance with the Governing Documents, their right of enjoyment to the Common Area and any Common Facilities located thereon to the Owner's invitees.

### ARTICLE III COMMON AREAS, LIMITED COMMON AREAS, UNITS & MAINTENANCE

3.1 Maintenance of Common Areas by the Master Association. The Association, or its duly authorized agent, shall furnish and be responsible for, at the Association's expense, the maintenance, repair and replacement of the Master Association Common Areas and shall maintain such in good order and repair, which generally includes the following:

- (a) Repair, maintenance and replacement of any entrance signage;
- (b) Project perimeter fencing, if any;
- (c) Structural components of Common Area retaining walls;
- (d) Light poles (if any);
- (e) Community mailboxes (if any);
- (f) Walkways and sidewalks that serve more than one Lot, the Common Area, or are located in the Common Area;
- (g) Private utility lines/infrastructure that serves more than one Lot or the common facilities that are not maintained by the City or County.
- (h) Landscaping. The Association shall perform general landscaping and irrigation maintenance in the Common Areas and front yards. Neighborhood Declarations may assign further landscaping responsibilities for respective sub-associations. The Association may adopt Rules to add further detail with regard to specific landscape maintenance provided by the Association and those responsibilities of Owners. Following the Class B Control Period, prior written permission must be obtained by the ACC to materially modify exterior landscaping on any Lot.
- (i) Snow Removal. The Association shall make reasonable and prudent efforts to contract with a third party for the removal of snow from relevant Common Areas. The Association may adopt Rules with regard to further details for snow removal performed by the Association in other areas in the Subdivision. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation.

3.2 Maintenance of Limited Common Areas. Unless expressly stated in subsequent Neighborhood Declarations, Owners shall maintain, repair and replace all Limited Common Areas.

3.3 Responsibility for Maintenance of Lots & Units. Unless otherwise expressly stated in the Master Declaration or Neighborhood Declarations, Owners shall be responsible for all maintenance of their Lots, Units and Improvements located thereon, and shall maintain such in good order and repair. Party Wall responsibility may be addressed in Neighborhood Declarations.

3.4 Repairs by Association. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within fifteen (15) days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement, including reasonable attorney fees, shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision. In addition, each Owner hereby grants to the Association a lien on the Lot to secure repayment of any sums advanced pursuant to

this section as an Individual Assessments.

3.5 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as constructed. No subsequent exterior alterations, improvements or remodeling, or significant changes in landscaping will be made without the advance consent of the Master Board. Declarant shall be exempt from this provision.

3.6 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss without review by the Master Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this Master Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent injury or dangerous conditions following loss or damage before re-construction begins. Such temporary measures may be taken without the consent or approval of the Master Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. Unless delayed by City/County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Master Association.

#### ARTICLE IV MEMBERSHIP, VOTING & CONTROL PERIOD

4.1 Each Owner shall be a member of the Master Association, so long as such Owner has an ownership interest in a Lot and such membership shall automatically terminate when the Owner cease to have an ownership interest in the Lot. Upon the transfer of an ownership interest in a Lot the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Master Association. If titled ownership to a Lot is held by more than one Person, the membership appurtenant to that Lot shall be shared by all such Person in the same proportional interest and by the same type of tenancy in which title to the Lot is held. Notwithstanding the foregoing, the Declarant shall also be granted voting rights as a Class "B" Member, as defined below.

4.2 The Master Association shall have two (2) classes of voting membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Unless otherwise stated herein, Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. In regard to the Apartment Building owners, there shall be allocated to the builder owner one (1) equal vote for each individual apartment unit within the building. Only an Owner that is current on

all Assessments and/or other fees thirty days in advance of the meeting or vote shall be deemed in good standing and entitled to vote. With regard to any approval that requires a specified percentage of total membership, the total membership shall be calculated from the total number of Owners eligible to vote at the time such approval is sought. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Master Association that Person shall be entitled to cast all votes appertaining to that Lot. But if more than one of such Person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Master Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

(b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive one hundred (100) votes for each recorded Lot or acre of property in the Undeveloped Land owned by Declarant. For purposes of Class "B" membership, the number of votes allocated to Apartment Buildings shall be the number of individual apartments units within the building multiplied by one hundred (100). The Class "B" membership shall also be entitled to appoint the members of the Master Board and Master Association during the Class "B" Control Period.

4.3 The Class "B" Control Period runs until ninety (90) days after the first to occur of the following:

- (a) Declarant no longer owns any Lots or Undeveloped Land; or
- (b) When, at its discretion, the Class B Member so determines.

4.4 Notwithstanding anything to the contrary in this Master Declaration, Declarant may exercise its discretionary termination of control in whole or in part as to any portion of the Subdivision at its sole election and determination. In doing so as to a portion of the Subdivision, it does not waive any reversionary or remaining control as to all other portions of the Subdivision, the control of which is not expressly terminated by Declarant.

#### ARTICLE V MASTER ASSOCIATION

5.1 Organization. The Master Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. Membership in the Master Association is deemed an appurtenance to the Lot and is transferable only in conjunction

with the transfer of the title to the Lot. The Master Association shall serve as the organizational body for all Members.

(a) **Neighborhood Sub-association(s).** During the Class B Control Period, the Master Association shall have the sole and absolute right to create one or more Sub-associations for purposes consistent with this Master Declaration including, but not limited to, the following which shall be provided for in a Neighborhood Declaration:

- i. Acquire and improve any Lot, tract, parcel or portion of the Tract.
- ii. Promulgate rules and regulations governing Neighborhood Association Common Area owned by or under the control of the Neighborhood Association and rules and regulations governing the reasonable use of Lots.
- iii. Determine the services, in addition to those furnished by the Master Association or Neighborhood Association, which are to be furnished to or for the benefit of the Members of the Neighborhood Association.
- iv. Assess the Neighborhood Association for collection of the Master Association Assessments or Owners directly.

5.2 **Master Declaration Controls.** Sub-association governing documents shall not be inconsistent with the terms and provisions of this Master Declaration and any inconsistency shall be governed by this Master Declaration. Neighborhood Sub-associations may be formed with the approval of the Declarant or Master Board and by satisfying all necessary legal requirements including, but not limited to, the preparation, execution and recording of Sub-association governing documents.

5.3 **Relationship between Association and Neighborhood Associations.** It is the purpose and intent of the provisions of this Master Declaration that the Master Association shall be charged with and responsible for the management of all activities in the Project including, in addition to all other duties and responsibilities set forth herein, the following:

- (a) The approval of all rules and regulations of each Neighborhood Sub-Association and providing of assistance, where deemed appropriate by the Master Association, to a Neighborhood Association in the enforcement thereof; and
- (b) Approval of responsibilities between the association with the collection of Assessments of each Neighborhood Sub-association

Nothing herein contained shall restrict or prohibit a Neighborhood Association from owning, in its own name, Common Area or other property related thereto, the use of which shall be restricted to Members of that neighborhood Association. However, it is the intent of this Master Declaration

that any such Common Area owned by a Neighborhood Association, the use and maintenance thereof and the activities of the Neighborhood Association, shall be consistent with and in furtherance of the Project objectives and the terms and provisions of this Master Declaration to assure that the whole of the Project is developed and approved as a quality residential community.

5.4 Enforcement Powers. The Master Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other enforcement and collection actions against an Owner and their Lot; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense; (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law.

(a) The Master Association shall have the exclusive right to initiate enforcement actions in the name of the Master Association. The Master Association may appear and represent the interest of the Project at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.

(b) The Master Association shall have the authority to initiate and compromise claims and litigation on behalf of the Master Association resulting from the enforcement of the Governing Documents. In the event that the Master Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Master Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

(c) The Master Board shall be afforded discretion to utilize its reasonable judgment to determine whether and how to: impose fines, record liens, pursue legal action, otherwise enforce the Governing Documents; or when and how to settle or compromise claims.

5.5 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Master Association. The Master Association has the power to levy assessments against each Lot as necessary to carry out its functions. Assessments shall be levied against all Lots in the Property, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with his/her interest in

a Lot, be deemed to covenant and agree to pay to the Master Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable.

- (a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal joint and several obligations of the Owner or Owners of such Lot at the time the assessment fails due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.
- (b) **Special Assessment.** The Master Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas.
- (c) **Individual Assessment.** The Master Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Project or otherwise causes the Master Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.
- (d) **Neighborhood Assessments.** Neighborhood Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Neighborhood Sub-associations. The Neighborhood Association has the power to levy assessments against each Lot as necessary to carry out its functions, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable. If the Neighborhood Sub-Association fails to levy and collect neighborhood assessments, the Master Association may elect to carry out those functions. Further, the Master Association may levy a Neighborhood Assessment to Owners in a specific Neighborhood for costs, special



services or amenities available for Owners within that Neighborhood that are provided by the Master Association.

- (e) Reserve Fund. The Master Association may levy a reserve fund assessment, as set forth in this article.
- (f) The Master Association may levy other assessments or fees, as authorized by the Governing Documents.

5.6 Budget. The Master Board is authorized and required to adopt a budget annually, which shall be presented to the Owners at a meeting of members.

(a) The Master Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget.

(b) The budget shall estimate and include the total amount for the Common Expenses, shall contain an appropriate amount for reserves, and may include an amount for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories.

5.7 Reserve Fund Analysis. Following the Class B Period, the Master Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years to analyze the cost of repairing, replacing or restoring Common Area that have a useful life of three years or more and a remaining useful life of less than 30 years. This reserve analysis should be reviewed no less frequently than every three (3) years and updated if necessary. The Master Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Master Board, to conduct the reserve analysis.

5.8 Reserve Fund Account Creation. The Master Association shall create a reserve fund account that is separate and distinct from the Master Association's general account, which account shall be funded from the reserve fund assessments. The amount of the reserve fund assessment shall be a separate line item in the approved budget. The Master Board shall cause an assessment to be made against all Owners in an amount sufficient, within the Master Board's discretion, to fund the reserve account.

5.9 Reinvestment Fee. With the exception of those Lots conveyed by Declarant or Declarant Related Entities, which shall be exempt from the Reinvestment Fee, the Master Association may levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the amount set by the Master Board from time to time, not to exceed one-half of one percent (.005) of the sale price of the Lot. At the time of recording this Declaration, there is no Reinvestment Fee being levied. Notwithstanding, the Board may in the future adopt by resolution a Reinvestment Fee consistent with this article.

5.10 One-time Initial Start-Up Development Assessment. With the exception of the Declarant, the initial Owner of record (following the Declarant and initial builder) of a Lot shall pay to the Master Association at closing an initial, start-up fee in an amount set by the Master Board from time to time not to exceed one-half of one percent (.005) of the sale price of the Lot. This fee shall be a one-time, initial start-up fee, shall not be prorated for any time left in the calendar year following closing, and is in addition to the prorated regular Assessment. The Association shall utilize this fee to assist in the administration, legal, operations, maintenance, and other expenses and costs related to Master Association for the management of the affairs of the Association and the Common Areas for the benefit of the Master Association and its Members.

5.11 Date of Commencement of Assessments. Assessments shall commence upon acquisition of a Lot. Notwithstanding, in the beginning phases of the Project, Declarant may elect to phase in certain assessments based upon the availability and construction schedule of certain amenities. Assessments shall be due and payable in a manner and on a schedule, as the Master Board may provide. Notwithstanding, Assessments for those Lots owned by Declarant or Declarant's Related Entities shall not commence until the completed Unit is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Master Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

5.12 Fines. The Master Association shall have the power to assess a fine against an Owner (or their Lot) for a violation of the terms and conditions of the Governing Documents in an amount and schedule established by the Master Board.

5.13 Hearing Process. The Master Board shall have authority to create a reasonable hearing process, consistent with the Act, applicable when the Master Association takes an adverse action related to any particular Owner(s).

5.14 Master Association Rules. The Master Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing the community.

- (a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217.

5.15 Statement of Account & Payoff Information. Upon a written request from an Owner that the Association provide the Owner with a statement of their account, the Association may charge a fee, not to exceed \$10.00, for providing such statements. In addition, when a request is made to the Association to provide payoff information needed in connection with the financing, refinancing, or closing of a Lot Owner's sale of their Lot, the Association may charge a fee not to exceed \$50.00.

**ARTICLE VI**  
**NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE**

6.1 **Delinquent Assessment.** Any assessment not timely paid shall be delinquent, and the Association may invoke any and all remedies to recover said delinquent assessments including by suit, judgment, lien, foreclosure, or other remedy authorized by the Governing Documents or the Act.

6.2 **Due Date, Charges & Interest.** Unless otherwise established by the Board through adopted policies, monthly assessments shall be due and payable on the first of each month and late if not received by the 15<sup>th</sup> of each month. The Board may charge a late fee in an amount set by the Board. In addition to late fees, interest at 18% per annum may accrue on all unpaid balances. The Board may also impose other reasonable charges imposed by a Manager related to collections.

6.3 **Lien.** Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Association.

6.4 **Foreclosure Sale.** The Association shall have all rights and power of foreclosure granted by the Act, both judicially and non-judicially. The Association may also bid for the Lot at foreclosure sale, acquire, hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of any Special Assessment that would have been charged had such Lot not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

6.5 **Other Remedies.** All rights and remedies of the Association shall be cumulative, and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy. The "One Action Rule" shall not be a defense to the enforcement of all rights and remedies of the Association. The Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

6.6 **Payment by Tenant.** The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

6.7 **Attorney Fees.** In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research,

memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Lot(s).

6.8 Appointment of Trustee. The Declarant hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, with power of sale, the Lot, and all Improvements to the lot for the purpose of securing payment of assessments under the terms of this Declaration.

#### ARTICLE VII ARCHITECTURAL RESTRICTIONS & ARCHITECTURAL CONTROL COMMITTEE

7.1 Design Guidelines. The Declarant and/or ACC may adopt Design Guidelines where desired to add additional detail and architectural restrictions.

7.2 Neighborhood Sub-Association. Sub-association governing documents may establish further architectural and design requirements and restriction, as approved by the ACC, applicable to Improvements and Units within a Sub-association.

7.3 Architectural Control Committee ("ACC"). An Architectural Control Committee may be appointed by the Declarant to oversee any construction, re-construction, remodeling or altering of exterior Improvements. If no ACC is appointed, Declarant or the Master Board will assume the duties and responsibilities of the ACC. The Master Association may coordinate and adopt a process with the Neighborhood Associations with regarding to any necessary coordination and approval of Improvements within the Neighborhood Associations. Declarant shall remain empowered to appoint the ACC until it turns over such authority in writing to the Master Association.

7.4 Approval by Master Board or ACC Required. Following the Class B Control Period, no exterior Improvement of any kind will be constructed or commenced on any Lot(s) within the Master Community without the prior, written approval of the ACC, which plans must be harmonious with existing Improvements and the existing character within the Subdivision. Approval of the ACC will be sought in the following manner:

- (a) Plans Submitted. A written rendering, prepared by a licensed architect or engineer when requested by the ACC, of the proposed remodeling or construction must be submitted. The Plans shall also include: (1) a description of how debris will be removed; (2) name, address and phone number of contractor(s) performing the work; (3) when construction or remodeling will begin and conclude; and (4) proposal to mitigate any nuisance to other Owner(s).
- (b) Review. Within 30 days from receipt of the submitted plans, the ACC will

review the plans and respond in writing to the Owner determining whether or not the plans comply with the conditions imposed by the Master Declaration and are consistent with and in architectural harmony with other Improvements within the Project. The ACC may: (1) approve the plans; (2) reject the plans; (3) request additional information; or (4) require that certain conditions be met.

- (c) Failure to Act. If the ACC fails to respond, the Owner may complete the construction in accordance with the submitted plans. Notwithstanding the Improvement(s) shall not violate the terms and condition of the Master Declaration and shall be in architectural harmony and consistent with the other Improvements in the Project.

7.5 Variances. The ACC cannot grant any variance that has the effect of modifying applicable zoning or building code regulations or directly violates the Governing Documents. The burden of obtaining a variance is entirely on the applicant.

7.6 Declarant, Master Board and ACC Not Liable. The Declarant, Master Board, ACC and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Project for their actions, inactions, or approval or disapproval of any set of plans submitted for review. The Owners' shall have no claim against the Declarant, Master Board or ACC as a result of the performance or failure to perform the duties created by this Master Declaration. Each Owner has an equal duty and right to enforce these covenants against every other Owner and may seek independent redress if it believes the Declarant, Master Board or ACC has acted improperly.

7.7 Limitations on Review. The ACC's review is limited to those matters expressly granted in this Master Declaration. The ACC shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the ACC prior to construction.

7.8 Architectural Review Fee. The ACC may charge a fee to an Owner submitting a plan for review not to exceed the actual costs to review the plans.

7.9 Landscaping Guidelines and Requirements. Landscaping of the 5' park strip along the front of each Lot shall (1) include two trees with their location and type determined by the ACC; and (2) further include only xeriscape landscaping including a number of plants with no grass allowed. Within the 5' park strip: (1) the irrigation system and the xeriscape landscaping shall be maintained in good condition and repair at all times by Owner; (2) The two required trees shall be maintained, including trimming, by Owner; (3) Water shall be provided by the Owner. Homes fronting Heritage Fields Drive shall have two trees with their location and type determined by the

Architectural Control Committee. Prior to occupancy, the owner of the Residence must have substantially completed the front landscaping of such Residence. Within twelve (12) months after the completion of construction of any Residence, the owner of such Residence must have substantially completed the rear landscaping of such Residence. All demolition, clearing, grubbing, stripping of soil, excavation, and compaction and grading must be performed within the confines of the Lot. Xeriscape landscaping is encouraged. Landscaping shall conform with the standard community wide landscaping plan approved by the city of Washington. In the event Owner does not maintain the landscape strip or front and back yard landscaping to community standards, the Association may do so and bill the Owner. Declarant reserves the right to modify and adjust these landscaping requirements in its sole discretion.

- (a) No living trees or shrubs shall be removed without written permission from the ACC.

7.10 Soils Tests. The ACC may require that the single family detached house owner obtain a soils test approval following the recommendations set forth in the soils test document. NOT WITHSTANDING ANY OTHER LANGUAGE CONTAINED HEREIN, BY ACCEPTING A DEED TO, OR CONVEYANCE OF, ANY LOT OR OTHER PART OR PORTION OF THE PROPERTY BY THE GRANTEE'S THEREIN NAMED OR BY THEIR LEGAL REPRESENTATIVES, HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS OR ASSIGNS, ANY LOT OWNERS ARE THEREBY WAIVING ANY CLAIMS AGAINST THE DEVELOPER OR ANY OF THE DEVELOPER'S OWNERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES IN ANY WAY RELATED TO THE SOIL CONDITIONS OF ANY LOT AND ANY EXCAVATION OR COMPACTION OF THE SOIL OF ANY LOT. EACH LOT OWNER OR POTENTIAL LOT OWNER IS HEREBY ADVISED TO OBTAIN A SOILS TEST AND RECOMMENDATION ON FOUNDATION PRIOR TO PURCHASING A LOT AND PRIOR TO COMMENCING CONSTRUCTION OF ANY STRUCTURE ON ANY LOT.

7.11 Declarant Exemption. Any and all Improvements constructed by Declarant and Declarant Related Entities on the Property are not subject to review and approval by the ACC and shall be exempt from the provisions of this Article.

#### ARTICLE VIII USE LIMITATIONS & RESTRICTIONS

8.1 Front Yard Displays: Front yard displays of any kind are discouraged and shall be approved by the Association with approval not necessarily granted.

8.2 Lights. Light used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light down and away from adjacent residences and away from the vision of passing motorists. Temporary and permanent holiday/Christmas-type lighting may only be turned on for limited hours and limited days as determined by the Association.

8.3 Zoning Regulations & Single Family. The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect

in the Project. No Lot may be occupied or used in a manner that is in violation of any statute, law, or ordinance. All Lots shall be used for single family purposes, as defined by local ordinance.

**8.4 Acceptable Business Uses.** No portion of the Subdivision may be used for any commercial business use. Notwithstanding, nothing in this provision is intended to prevent (a) the Declarant, or other builders, from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of the Subdivision Improvements or until 100% of the Lots are sold in the Subdivision, whichever occurs later; or (b) the use by any Owner of his Lot for a home occupation pursuant to City or County ordinance. Businesses, professions or trades may not: require heavy equipment, create a nuisance within the Project, or unreasonably increase the traffic flow to the Project.

**8.5 Passenger Vehicles and Recreational Vehicles & Equipment.** The Association may adopt rules further governing the parking and storage of all vehicles in the Project.

- (a) Recreational Vehicles & Equipment shall include, but is not limited to: watercraft, boats, trailers, motorhomes, buses, RVs, campers, camper vans, fifth wheel trailers, side-by-sides, atvs, snowmobiles, dirt bikes, maintenance equipment, commercial vehicles and equipment, and large trucks and other vehicles (over 23 feet in length, seven feet in width, or seven feet in height).
- (b) Passenger Vehicles are broadly defined to include all motorized vehicles of any type that are not defined as Recreational Vehicles & Equipment, generally including all commonly sized passenger vehicles.
- (c) No Recreational Vehicles shall be parked or stored upon any Lot or Dwelling except within an enclosed garage or on a cement pad behind a screened fence and behind the required front Dwelling set-back area. No such vehicles shall be parked overnight on any street located within the Project.
- (d) Motor vehicles that are inoperable shall not be permitted to accumulate upon any street or Dwelling or road areas adjacent thereto. In the event an inoperable motor vehicle remains upon any Lot or Dwelling or road area for a period exceeding thirty (30) days, the Association may remove the inoperable motor vehicle after a ten (10) day written notice. The cost of such removal shall attach as a valid lien against the Lot or Dwelling in favor of the persons, entities, or parties causing such removal.
- (e) Each Owner of a Lot shall provide sufficient space for parking of any and all vehicles off the roadways for any of said Owner's vehicles or his guest's vehicles per applicable zoning requirements. No overnight parking on parking lots shall be allowed, except as expressly authorized by the Master

Association.

- (f) No person shall park any Recreational Vehicles, unlicensed vehicles or inoperable vehicles within the Subdivision other than in an enclosed area or in an area screened from view as defined in the Design Guidelines. Garage doors shall remain closed at all times except when entering and exiting the garage.
- (g) No Passenger Vehicles or Recreational Vehicles & Equipment may be parked overnight on the streets in the Master Community.

**8.6 Animals, Livestock, Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or Unit, part or portion of the Property, except that dogs, cats or other domesticated household pets, two (2) or less in number may be kept in a residence constructed on the Project, provided they are not kept, bred or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws and ordinances and shall be on a leash when outside the Owner's residence.

**8.7 Trash and Rubbish.** All Lots shall be kept free of rubbish, weeds, and other unsightly items, and shall be maintained in such a manner as not to detract from the residential quality of the Subdivision. Trash, rubbish, garbage, or other waste shall not be kept except in covered containers. The Board may adopt further rules and policies governing trash containers and collection.

**8.8 No Short Term or Nightly Rentals.** Daily, nightly, weekly or monthly occupation is prohibited (whether pay or not), and Lots shall not be advertised or listed for short term rental on such sites as Airbnb, VRBO, HomeAway, Flipkey, Wimdu, House Trip and similar international, national or local providers.

**8.9 Long Term Leasing.** Any occupancy by tenant(s) for longer than six months shall be considered a long-term lease. Any long-term lease shall be in writing, shall be for an initial term of at least six months, and shall provide as a term of the agreement that the occupant shall comply with the Governing Documents, and that any failure to comply shall be a default under the lease. If a lease does not include these provisions, they shall nonetheless be deemed to be part of the lease and binding on the Owner and the occupant.

- (a) An Owner shall provide the Board with information identifying the occupants, vehicles, phone numbers, and other applicable contact information.
- (b) A copy of any lease agreement shall be delivered to the Association prior to occupation by the tenants.
- (c) An Owner must reside in a Lot for at least one year before a Lot may be rented.
- (d) Less than the entire Lot may not be rented (no room rentals are allowed).
- (e) The Owner(s) of a Lot shall be responsible for the occupant's or any



guest's compliance with the Governing Documents. In addition to any other remedy for noncompliance with this Declaration, the Association, following notice to the Owner, shall have the right to initiate a forcible entry and unlawful detainer action, or similar such action, with the purpose of removing the offending non-owner occupant. The Association, the Board, and the Manager shall not have any liability for any action taken pursuant to this subparagraph and the Owner shall indemnify and pay the defense costs of the Association, the Board, and the Manager arising from any claim related to any action taken in good faith by any of them pursuant to this subparagraph. For purposes of this subparagraph, each Owner in accepting the deed to a Lot expressly consents to such authority and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments and pursue any and all remedies available to remove the offending non-owner occupant.

- (e) The Board of Directors may adopt Rules requiring:
- (i) Reporting and procedural requirement related to non-owner-occupied Lots; and
  - (ii) Other reasonable administrative provisions consistent with, and as it deems appropriate to enforce, the requirements of this Declaration.

**8.10 External Energy Devices.** No energy producing devices including, but not limited to, solar panels and generators of any kind, shall be constructed, installed or maintained on the Property without the approval of the ACC. No solar electricity generating, or hearing equipment or device is permitted outside any Dwelling except such devices whose installation and use is protected by federal or Utah law. Notwithstanding such protection, an application for such equipment or device must be submitted for an approved by the ACC prior to installation and approval will be granted, in the sole discretion of the ACC, only if:

- a) First, such equipment or device is designed for minimal visual instruction when installed (i.e., is located in a manner which minimizes visibility from the street or an adjacent Lot and is consistent with the Design Guidelines); and
- b) Second, the equipment or device complies to the maximum extent feasible with the Design Guidelines within the confines of the applicable governmental regulations.

**8.11 Utilities; Antennae; Wireless Communication.** All utilities, wires, cables, antennae, and the like, of any kind (such as telephone, electrical, television, radio, and citizens band radios) must be placed underground except as may be expressly permitted and approved in writing by the ACC. No antenna, satellite dish, or other device for the transmission or reception of television or radio (including amateurs or ham radios) signals is permitted outside a Dwelling, except those devices whose installation and use is protected under federal law or regulations. Notwithstanding such protection an application for such an antenna or other device must be submitted to the ACC for approval and approval will be granted only if:

a) First, the antenna or other device is designed for minimal visual intrusion (i.e., is located in a manner that minimizes visibility from the street or an adjacent Lot and is consistent with the Design Guidelines); and

b) Second, the antenna or other device complies to the maximum extent feasible with the Design Guidelines within the confines of applicable federal regulations (i.e., without precluding reception of a quality signal or unreasonably increasing the cost of the antenna or device).

Notwithstanding the above Declarant and/or the Master Association may erect one or more antennas, satellite dishes, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Subdivision, should any master system or systems be used by the Master Association and require such exterior apparatus.

**8.12 Lot Upkeep.** All portions of a Lot outside enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot in a manner which unsanitary, unsightly, offensive, or detrimental to any other portion of the Master Community, as determined by the Master Board. Woodpiles or other material shall be properly screened and stored in such a manner so as not to attract rodents, snakes, and other animals and or create a fire hazard as the Master Board determines. No activities shall be conducted upon or adjacent to any Lot of within any structure on a Lot which are, or might be, unsafe or hazardous to any Person or property. Declarant or the Master Association shall be the right, but not the duty, to enter upon any property for the purpose of abating any unclean, unsightly, or unkept condition of buildings or grounds which tend to decrease the beauty of the specific area or the neighborhood as a whole. The cost of such abatement and any damage resulting from such entry shall bear the expense of the specific Lot Owner and said entry shall not be deemed as trespass.

**8.13 Nuisances.** No obnoxious or offensive activity shall be carried on upon any portions of Subdivision nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner of a Lot, tenant, or guest thereof in any area of Subdivision thereby diminishing the enjoyment of other Lots or Units by their owners. No hazardous or toxic substances or wastes as defined by applicable law shall be dumped within Subdivision. No plant, animal, device, or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of any portion of Subdivision by the Lot Owners, tenants, and guests thereof, may be maintained. Except for Declarant activities, the Master Board has the right in its sole discretion to determine a nuisance, and upon ten (10) days' written notification by the Master Board, the activity must cease.

**8.14 Fires.** No outdoor fire shall be built within subdivision without the Master Board's or Declarant's permission. No leaves, trash, garbage, or similar debris shall be burned except as permitted in writing by the Master Board or Declarant. Outdoor fire pits and fireplaces may be used by Owners in accordance with applicable law. Outdoor grilling shall be done with great care.

8.15 Signs. No sign shall be erected within the Master Community except in accordance with the criteria set forth in the Design Guidelines and/or Rules. Unless otherwise permitted in the Design Guidelines or Rules., "for sale" and "for rent" signs are prohibited from being placed in windows, yards, or other areas visible from the outside of the Owner's Residence. This restriction shall not apply to entry, directional, and marketing signs installed by Declarant or a Builder. The Master Association shall have the right to erect signs on the Common Area.

8.16 Storage Tanks. Underground fuel storage tanks are not permitted within Subdivision. Above ground tanks are not allowed.

8.17 Vacant Lots, Reserved Areas and/or Future Development. Unused and/or vacant lots, or property designated for future development are not to be trespassed upon for any reason.

8.18 Wildfire. Capturing, killing, or trapping wildlife is prohibited within the Master Community, except in circumstances imposing an imminent threat to the safety of Persons or pets.

8.19 Firearms. The discharge of firearms within the Master Community is prohibited. The term "firearm" includes "B-B" guns, pellet guns, airsoft, and other firearms of all types, regardless of size.

8.20 Storage of Goods. Storage (except in approved structures or containers) of furniture, fixtures, appliances, machinery, equipment, or other goods and chattels on the Common Area (except by the Master Association) or, if not in active use, any portion of a Lot which is visible from outside the Lot is prohibited.

8.21 Prohibited Conditions. The following conditions, structures, or activities are prohibited on any Lot:

- a) Dogs runs and animal pens of any kind, unless properly screened and approved;
- b) Shacks or other structures of a temporary nature on any Lot except as may be authorized by Declarant during the initial construction of improvements within the Master Community. Temporary structures used during the construction or repair of a Resident or other improvements shall be removed immediately after the completion of construction or repair.
- c) Except as expressly permitted pursuant to the Design Guidelines, permanent basketball goals, basketball standards, or backboards which are or would be visible from any street or Common Area; provided, portable basketball goals may be used on a Lot without prior approval, but must be stored so as not to be visible from any street or Common Area overnight or otherwise when not in use;
- d) Except as expressly permitted pursuant to the Design Guidelines, freestanding flagpoles; provided, flags may be displayed using a bracket or other approved device mounted to the Resident so long as the size of the flag displayed does not

exceed that of a standard United States flag (as determined) in the Master Board's discretion and as may be set forth in a Master Board rule).

- e) Compost piles or contained and statues other than specifically approved by the ACC; and
- f) Outside clotheslines or other outside facilities for drying or airing clothes.

8.21 Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees of other Lots. No noxious, illegal, offensive activity shall be carried on upon any portion of the Master Community, which in the Master Board's reasonable determination tends to cause embarrassment, discomfort, annoyance, or nuisance to others.

8.22 Pool Equipment. All pool equipment stored on any Lot shall be screened from view from outside the Lot.

#### ARTICLE IX INSURANCE

9.1 Insurance Requirement. The Master Association shall obtain insurance as required in this Master Declaration and as required by applicable law. The Master Association may obtain insurance that provides more or additional coverage than the insurance required in this Master Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies.

9.2 Property Insurance.

- (a) Blanket Policy of Property Insurance. The Master Association shall maintain a blanket policy of property insurance covering all Common Areas and Limited Common Areas in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
- (b) Master Association's Obligation for Property Insurance Deductible. The Master Association shall keep an amount equal to the Master Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
- (c) Master Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Master Board determines that a claim is likely not to exceed the Master Association's property insurance policy

deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Master Association's policy deductible; (b) an owner who does not have a policy to cover the Master Association's property insurance policy deductible is responsible for the loss to the amount of the Master Association's policy deductible; and (c) the Master Association need not tender the claim to the Master Association's insurer.

9.3 Comprehensive General Liability (CGL) Insurance. The Master Association shall obtain CGL Insurance insuring the Master Association, the agents and employees of the Master Association, and the Owner, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Master Association. The coverage limits under such policy shall not be less than one million dollars (\$1,000,000) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Master Association or another Owner.

9.4 Directors and Officers Insurance. The Master Association shall obtain Directors and Officers liability insurance protecting the Master Board, the Officers, and the Master Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). The policy shall:

- (a) Include coverage for volunteers;
- (b) Include coverage for monetary and non-monetary claims;
- (c) Provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims; and
- (d) Provide coverage for defamation. In the discretion of the Master Board, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

9.5 Insurance Coverage for Theft and Embezzlement of Master Association Funds. The Master Association may obtain insurance covering the theft or embezzlement of funds.

9.6 Named Insured. The named insured under any policy of insurance shall be the Master Association. Each Owner shall also be an insured under all property and CGL insurance policies.

9.7 Master Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Master Association's property insurance policy shall be payable the Master Association and shall not be payable to a holder of a security interest.

Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property if the property is to be repaired and restored as provided for in this Master Declaration. After any repair or restoration is complete and, if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Master Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Master Association, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

9.8 Owner Act Cannot Void Coverage under Any Policy. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Master Association and under direct authorization of the Master Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

9.9 Owners' Individual Coverage. EACH OWNER SHOULD PURCHASE INDIVIDUAL PROPERTY COVERAGE IN THE AMOUNT RECOMMENDED BY THE OWNER'S INDEPENDENT INSURANCE AGENT

9.10 Neighborhood Sub-association. Neighborhood Association shall obtain insurance as required by the Act and consistent with sub-association governing documents.

## ARTICLE X ANNEXATION & DE-ANNEXATION

10.1 Annexation. Additional phases of Subdivision may be added to the Property pursuant to the following procedures, and subject to the limitations as follows:

10.2 Annexation by Declarant. Declarant may from time to time and in its sole discretion expand the Property subject to this Declaration by the annexation of all or part of the lands initially constituting the Undeveloped Land. The annexation of any such land shall become effective upon the recordation of the office of the county Recorder of Washington County, Utah, (a) a subdivision plat or map covering the land to be annexed and (b) may include a supplemental declaration which (i) describes the land to be annexed or incorporated by reference to the description contained in the subdivision plat, (ii) declares that the annexed land is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the property subject to this Master Declaration, (iii) sets forth such additional limitations, restrictions, covenants and conditions as are applicable to the annexed land, (iv) states which portions of the annexed land are Common Areas and which portions are Lots within any new land classification, provided that the nature and incidents of any such new land classification shall be fully set forth in such

supplemental declaration or in another supplemental declaration previously filed with respect to some portion of the property, and (v) describes generally any improvements situated on the annexed land. Upon the recordation of a subdivision plat covering the land to be annexed such land shall become part of the Subdivision and subject to this Master Declaration, as amended.

10.3 Annexation by the Association. Following the Class B Control Period, the Association may annex land to the Subdivision by obtaining approval of such annexation from (a) the owner or owners of the land to be annexed and (b) 67% of the Owners. Nothing in this paragraph shall be construed to require any prior approval for, or to limit or present, any annexation performed by Declarant, so long as such annexation satisfies the limitations set forth herein.

10.4 No Obligation to Annex or Develop. Declarant has no obligation hereunder to annex any additional land to the Subdivision or to develop or preserve any portion of the Undeveloped Land in any particular way or according to any particular time schedule. No land other than the Property as defined on the date hereof and land annexed thereto in accordance with the terms of this Master Declaration shall be deemed to be subject to this Master Declaration, whether or not shown on any subdivision plat or map filed by Declarant or described or referred to in any documents executed or recorded by Declarant.

10.5 De-annexation. Declarant shall not have the right to delete all or a portion of the Undeveloped Property from being subject to the Master Declaration with an appropriate amendment to this Master Declaration.

#### ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Condemnation. Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation), the Board may act on behalf of the Association in negotiating and completing such transaction.

11.2 Damage & Destruction. Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board, or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

- (a) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Association, shall decide within sixty (60)

days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

- (b) In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association in a neat and attractive condition.
- (c) If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

11.3 Repurchase Option for Construction Defect Claims. In the event any Owner shall commence action against Declarant or Declarant' Related Entities for the purpose of constructing Units on the Lot (collectively "Declarant") in connection with any alleged construction defects in such Owner's Lot, Declarant shall have the option, but not the obligation, to purchase such Lot on the following terms and conditions:

- (a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner's warranty, in connection with the alleged defect:
  - (i) The purchase price paid by the original Owner of the Unit & Lot when originally purchased from Declarant;
  - (ii) The agreed-upon value of any improvements made to the Unit by anyone other than Declarant; and
  - (iii) The Owner's reasonable moving costs.
- (b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant' intent to exercise the option herein.
- (c) Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.
- (d) Exercise of the repurchase option as provided for herein above shall



constitute full and final satisfaction of all claims relating to the subject Unit and Lot. The Owner shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

(e) Declarant's option to repurchase granted herein with respect to any particular Unit and Lot shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Unit and Lot including all applicable tolling periods.

11.4 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

11.5 Consent, Power of Attorney, Waiver. By acceptance of a deed, lease, or other conveyance of an interest in Unit, each Owner or Occupant consents to the rights reserved to the Association in this Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Association, with full right of substitution, as the attorney-in-fact of such Owner or Occupant to execute such documents and to do such things on Owner's or Occupant's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period of the Association's reserved rights as set forth in this Declaration and shall not be affected by the disability of any such Owner or Occupant.

11.6 No Representations and Warranties. Each Owner and occupant understand, agrees, and acknowledges through taking title or residing in the Project that the Declarant, Association, and the Board have not made any representations or warranties of any kind related to the Project and that each Owner or occupant has not relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to the Project.

11.7 Amendment. At any time while this Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant's successors and assigns during the Class B Control Period at the sole discretion of the Declarant. Thereafter, the covenants herein contained can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the total votes of the Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

11.8 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Project is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the provision of

this Declaration against his/her Lot, whether or not there is any reference to this Declaration in the instrument by which he/she acquires interest in any Lot.

**11.9 Liberal Interpretation.** The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Project. Headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

**11.10 Right to Modify Lot Boundaries and Interior Boundary Lines.** Declarant reserves the unilateral right to modify Lot boundaries and interior boundary lines and/or combine Lots or Units so long as it owns the Lots; provided, however, such changes may not extensively alter the boundaries of the Common Area and facilities nor change the percentages of ownership interest.

**11.11 Violation Deemed a Nuisance.** Any violation of these covenants that is permitted to remain on the Property is deemed a nuisance and is subject to abatement by the Association.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Association. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including reasonable attorney fees and court costs.


(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. This Declaration is to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the contents contained in this Declaration in the future or against other similar violations.

Declarant

**Nisson Fields, LLC**

  
By: Shaun Sullivan  
Its: Co-Manager

STATE OF UTAH            )  
  : ss  
COUNTY OF WASHINGTON )

On this 10 day of August, 2022, personally appeared before me Shaun Sullivan, who being by me duly sworn, did say that he is an authorized co-manager of Nisson Fields, LLC, and that the within and foregoing instrument was signed on behalf of said limited liability company by authority and said member duly acknowledged to me that said limited liability company approved the same.

  
\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**Exhibit "A"**  
**Legal Description**

**HERITAGE PLACE LEGAL DESCRIPTION:**


BEGINNING AT A POINT THAT LIES NORTH 88°47'50" WEST ALONG THE SECTION LINE 1338.24 FEET AND SOUTH 00°54'46" WEST 516.96 FEET AND NORTH 88°37'36" WEST ALONG THE CENTER LINE OF 1575 SOUTH STREET 17.87 FEET TO THE EAST LINE OF HERITAGE COVE SUBDIVISION AS FILED IN THE WASHINGTON COUNTY RECORDERS OFFICE, WASHINGTON COUNTY, UTAH. THENCE ALONG SAID HERITAGE COVE THE FOLLOWING THREE (3) COURSES: 1) SOUTH 03°31'54" WEST 161.14 FEET, 2) SOUTH 98°56'09" WEST 113.08 FEET, AND 3) NORTH 88°47'46" WEST 14.97 FEET. FROM THE NORTHEAST CORNER OF SECTION 26, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, THE TRUE POINT OF BEGINNING, AND RUNNING THENCE SOUTH 01°12'16" WEST 194.08 FEET; THENCE SOUTH 00°54'46" WEST 327.59 FEET; THENCE SOUTH 89°25'19" EAST 132.43 FEET MORE OR LESS TO THE WEST LINE OF WASHINGTON FIELDS ROAD, THENCE ALONG SAID LINE THE FOLLOWING TWO (2) COURSES: 1) SOUTH 00°21'48" WEST 842.29 FEET, AND 2) SOUTHERLY ALONG A 862.80 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT. (LONG CHORD BEARS SOUTH 11°14'30" EAST A DISTANCE OF 364.03 FEET, CENTER POINT LIES SOUTH 89°03'37" EAST). THENCE ALONG SAID LINE THE FOLLOWING TWO (2) COURSES: 1) SOUTHEASTERLY ALONG A 860.10 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT. (LONG CHORD BEARS SOUTH 28°10'44" EAST A DISTANCE OF 154.21 FEET, CENTER POINT LIES NORTH 66°57'52" EAST), THROUGH A CENTRAL ANGLE OF 10°17'11" A DISTANCE OF 154.42 FEET, AND 2) SOUTHERLY ALONG A 25.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT. (LONG CHORD BEARS SOUTH 09°34'24" WEST A DISTANCE OF 34.03 FEET, CENTER POINT LIES SOUTH 56°40'41" WEST). THROUGH A CENTRAL ANGLE OF 85°47'27" A DISTANCE OF 37.43 FEET TO THE NORTH LINE OF 2000 SOUTH STREET. THENCE ALONG SAID LINE THE FOLLOWING FIVE (5) COURSES: 1) SOUTH 52°28'07" WEST 22.66 FEET, 2) SOUTHWESTERLY ALONG A 220.00 FOOT RADIUS CURVE TO THE RIGHT, (LONG CHORD BEARS SOUTH 68°53'04" WEST A DISTANCE OF 124.35 FEET, CENTER POINT LIES NORTH 37°31'53" WEST), THROUGH A CENTRAL ANGLE OF 32°49'54" A DISTANCE OF 126.07 FEET, 3) SOUTH 00°54'46" WEST 14.51 FEET AND 4) NORTH 89°02'31" WEST 1256.26 FEET MORE OR LESS TO THE EAST LINE OF SAID 300 EAST STREET. THENCE ALONG SAID LINE NORTH 00°30'22" EAST 1129.37 FEET; THENCE NORTH 87°20'34" WEST 16.51 FEET TO THE CENTER LINE OF SAID 300 EAST STREET. THENCE NORTH 00°30'22" EAST ALONG SAID LINE 151.78 FEET; THENCE LEAVING SAID ROAD AND RUNNING SOUTH 85°32'36" EAST 253.87 FEET; THENCE NORTH 23°58'24" EAST 198.45 FEET; THENCE NORTH 06°15'34" EAST 92.12 FEET TO THE SOUTH LINE SAID HERITAGE COVE. THENCE ALONG SAID LINE THE FOLLOWING EIGHT (8) COURSES: 1) SOUTH 38°59'31" EAST 59.91 FEET, 2) SOUTH 39°02'06" EAST 180.97 FEET, 3) SOUTH 80°17'20" EAST 76.66 FEET, 4) NORTH 31°49'57" EAST 437.65 FEET, 5) NORTH 39°02'40" WEST 105.55 FEET, 6) NORTH 46°59'09" EAST 34.26 FEET, 7) SOUTH 74°08'02" EAST 248.45 FEET AND 8) NORTH 30°16'37" EAST 184.62 FEET TO THE POINT OF BEGINNING.

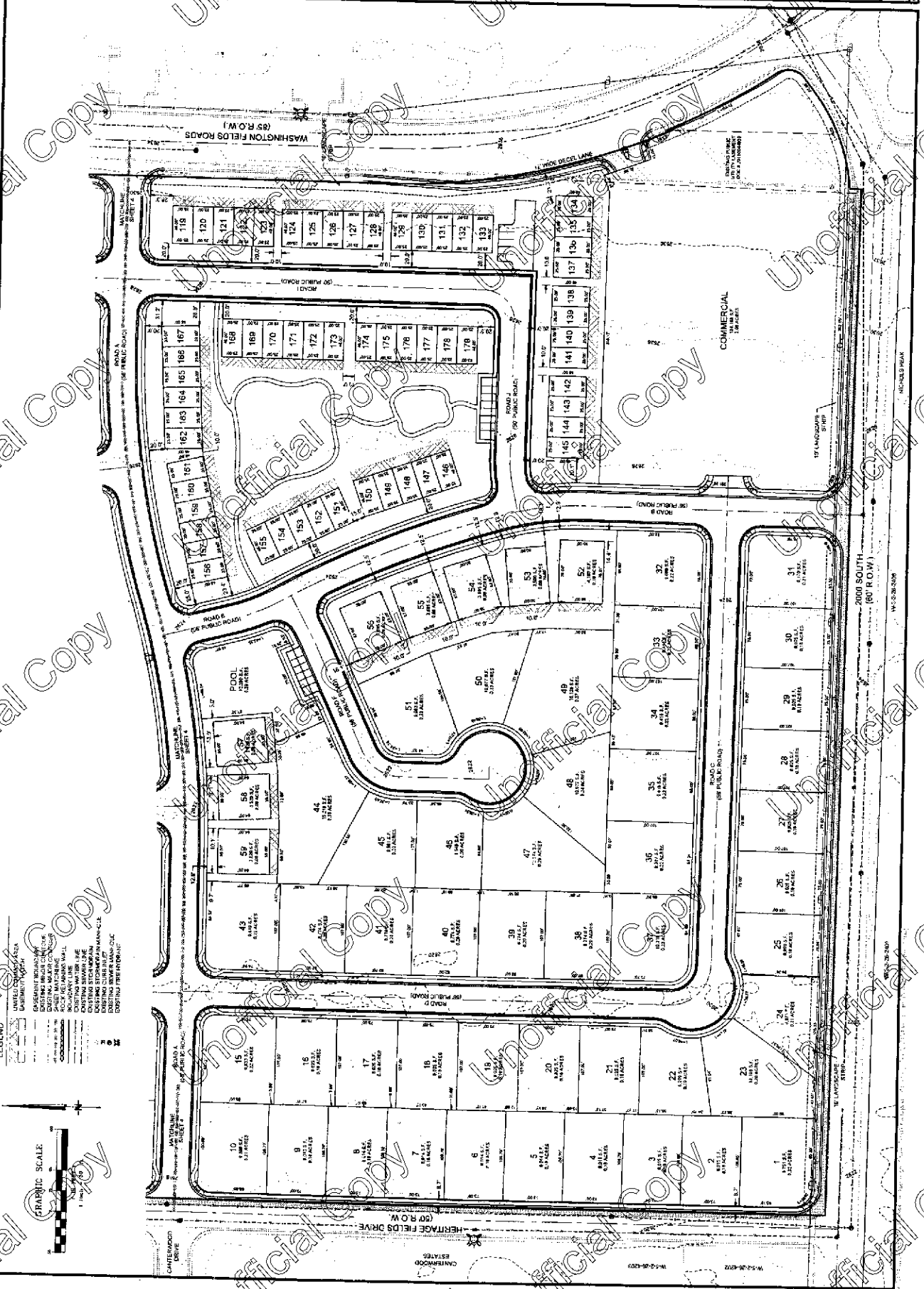
CONTAINING 1,931,949 SQUARE FEET OR 44.35 ACRES

- Tax I.D. W-S-2-26-14041
- W-S-2-26-14141
- W-S-2-26-1303
- W-S-2-26-1304
- W-S-2-26-1415
- W-S-2-26-131
- W-S-2-26-132
- W-S-2-26-133
- W-S-2-26-142
- W-S-2-26-135
- W-S-2-26-136




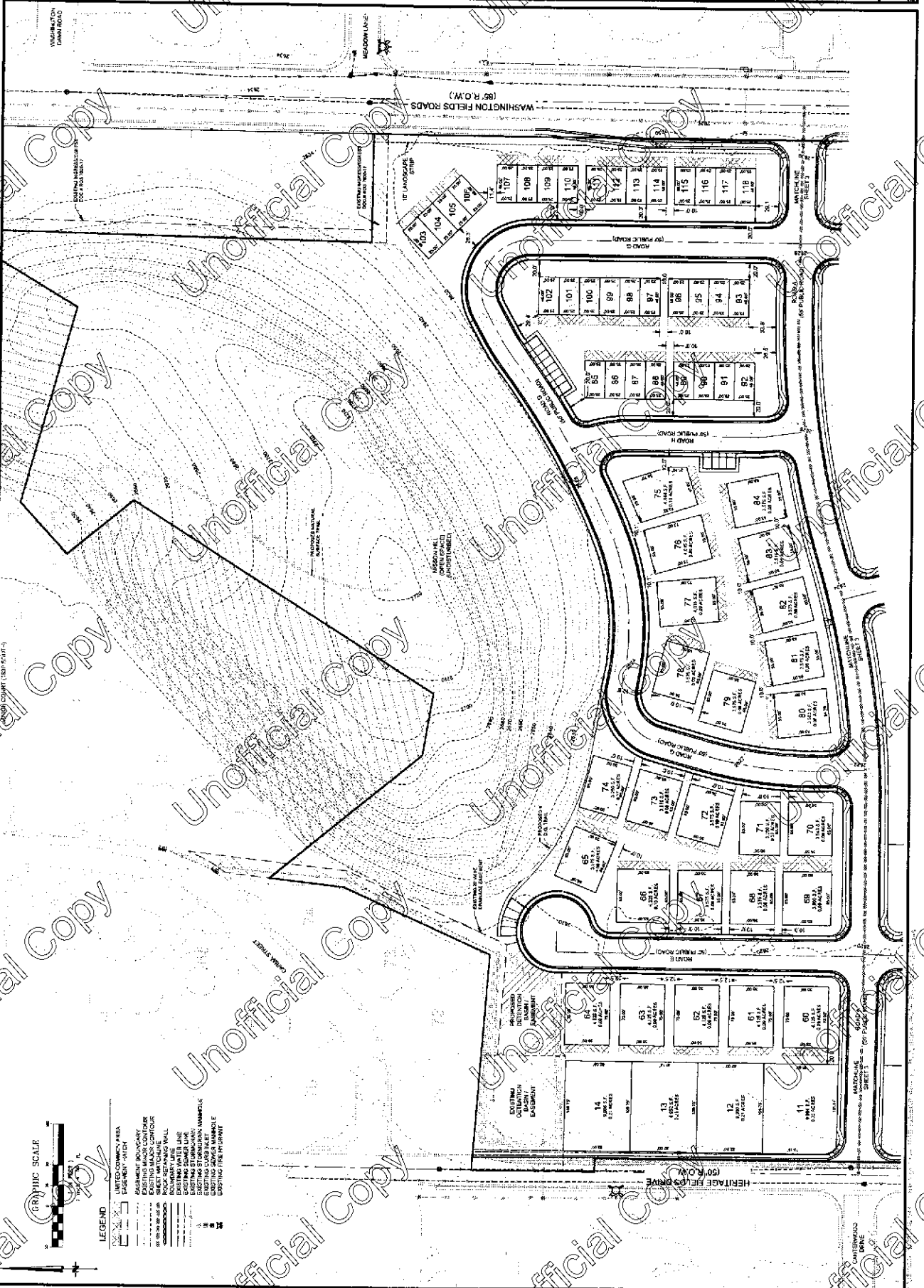


<p><b>BUSH &amp; GUDGELL, INC.</b>                  Engineers - Planners - Surveyors                  205 East Tennessee Suite #4                  St. George, UT 84770                  Phone: (435) 673-2277 Fax: (435) 673-3161                  www.bushandgudgell.com</p>		<p><b>SOUTH DETAIL</b>                  PRELIMINARY PLAT                  HERITAGE PLACE                  WASHINGTON CITY, UTAH</p>	<p>DATE: MAY 2022                  DRAWN: [Name]                  CHECKED: [Name]                  APPROVED: [Name]                  SCALE: [Scale]                  JOB NO.: [Job No.]</p>
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- LEGEND**
- UNITED STATES AREA
  - UNIMPROVED RIGHT-OF-WAY
  - EXISTING BOUNDARY
  - EXISTING MAJOR CONDUIT
  - EXISTING MINOR CONDUIT
  - ROCK RETAINING WALL
  - CONCRETE
  - ASPHALT DRIVE
  - EXISTING SEWER LINE
  - EXISTING WATER MAIN
  - EXISTING UTILITIES
  - EXISTING CONCRETE
  - EXISTING FRESH WATER

<b>BUSH &amp; GUGGEL, INC.</b> Engineers - Planners - Surveyors 205 East Tabernacle Street #4 St. George, Utah 84770 Phone (435) 673-2337 / Fax (435) 673-2161 www.bushandguggel.com			NORTH DETAIL PRELIMINARY PLAN HERITAGE PLACE WASHINGTON CITY, UTAH	SHEET NO. 4 OF 4
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<b>BUSH &amp; GUDGELL, INC.</b> Engineers - Planners - Surveyors 205 East Fairbanks Suite #4 St. George, Utah 84770 Phone (435) 673-2537 / Fax (435) 673-3165 www.bushandgudgell.com			<b>PHASING PLAN</b> HERITAGE PLACE WASHINGTON CITY, UTAH	DATE: 08/17/2022 DRAWN: JBT CHECKED: JBT SCALE: AS SHOWN
NO.	DATE	BY	REVISION	

