



WHEN RECORDED, MAIL TO:

RIVER RUN SF, LLC
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ANDREA ALLEN
UTAH COUNTY RECORDER
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RECORDED FOR RIVER RUN TOWNHOME ASSOCIA

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
RIVER RUN**

(A Residential Project in Spanish Fork City, Utah County, Utah)

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
RIVER RUN TOWNHOMES**

This *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for River Run* (this “**Declaration**”) is made and executed as of the date set forth on the signature page by RIVER RUN SF, LLC, a Utah limited liability company (“**Declarant**”).

1. RECITALS

1.1. On November 9, 2021, River Run Development LLC, a Utah limited liability company (“**Original Declarant**”), recorded a *Declaration of Covenants, Conditions, Easements and Restrictions of River Run Townhomes* (“**Original Declaration**”) in the office of the Utah County Recorder. The Original Declaration was recorded as Entry No. 189528:2021.

1.2. The Original Declaration encumbers the real property in Spanish Fork City, Utah County, State of Utah described on **EXHIBIT A** attached hereto (“**Property**”).

1.3. Original Declarant assigned to Declarant rights under the Original Declaration pursuant to that certain *Assignment of Declarant Rights* which was recorded in the office of the Utah County Recorder on June 21, 2023, as Entry No. 39932:2023.

1.4. Pursuant to Section 18.2 of the Original Declaration, Declarant may “unilaterally amend, modify, extend or revoke this Declaration for any purpose during the Declarant Control Period.” Under Section 2.18 of the Original Declaration, the Declarant Control Period continues while Declarant has Class B Membership in the Project. The Declarant Control Period has not expired, and Declarant wishes to amend and restate the Original Declaration as provided herein.

1.5. The Property has been developed, and will continue to be developed as, a residential project to be known as “River Run” or “River Run Townhomes” (“**Project**”).

1.6. The Project will be comprised of various residential Units.

1.7. Owners of Units are and will be members of the River Run Townhome Association, a Utah nonprofit corporation (“**Association**”).

1.8. The covenants, conditions, and restrictions contained in this Declaration and its Exhibits hereto shall run with the land. This Declaration shall be binding on all future Owners of Lots and Units in the Project.

1.9. The Project is **not** intended to be a cooperative. A portion of the Project **may** be a condominium project which may be subject to the provisions of the Utah Condominium Ownership Act (Utah Code § 57-8-1 *et seq.*).

1.10. For the avoidance of doubt, this Declaration supersedes and replaces in its entirety the Original Declaration effective as of the date this Declaration is recorded.

1.11. The Association's Bylaws have also been amended, superseded, and replaced in their entirety consistent with the provisions set forth on **EXHIBIT B**.

2. DEFINITIONS

Unless the context clearly indicates otherwise, certain terms as used in this Declaration, including the foregoing Recitals, shall have the meanings set forth in this Section 2. The plural of any word defined in this Declaration shall have the same meaning as the singular and vice versa.

2.1. "**Act**" means the Utah Community Association Act (Utah Code § 57-8a-101 *et seq.*). The term "Act" does not mean the Condominium Act.

2.2. "**Amendment**" means any amendment to this Declaration made in accordance with the Declaration and the Act.

2.3. "**Articles**" means the Association's Articles of Incorporation filed with the Utah Division of Corporations and Commercial Code.

2.4. "**Assessable Unit**" means each Unit, except for Exempt Units.

2.5. "**Assessments**" means any of the charges or assessments which the Association is authorized to impose or levy on the Owners, or Units pursuant to this Declaration or applicable law.

2.6. "**Association**" means the River Run Townhomes Owners Association, a Utah nonprofit corporation. Each Owner of a Unit shall automatically be a Member of the Association and shall have the voting rights identified in Section 20 of this Declaration.

2.7. "**Building**" means any of the residential building containing Units which is constructed within the Project. Buildings may be either Condominium Buildings or Townhome Buildings.

2.8. "**Board**" means the Board of Directors of the Association—as appointed or elected in accordance with this Declaration and the Bylaws.

2.9. "**Bylaws**" means the Bylaws of the Association, as amended from time to time. The initial Bylaws are attached hereto as **EXHIBIT B**.

2.10. "**Capital Improvement**" means any Building or common improvement within the Project with a useful life of more than three (3) years.

2.11. "**Common Areas and Facilities**" means the portions of the Project described in Section 6 of this Declaration.

2.12. "**Common Assessments**" means those assessments described in Section 19 to fund the Common Expenses and includes Regular Common Assessments and Special Common Assessments.

2.13. “**Common Expense Account**” means one or more deposit or investment accounts of the Association into which are deposited the Common Assessments.

2.14. “**Common Expenses**” means all expenses of the administration, maintenance, repair, or replacement of the Common Areas and Facilities and all other expenses denominated as Common Expenses by this Declaration or by the Act.

2.15. “**Common Wall(s)**” means the walls in each Townhome Building that divide and are located between any two (2) adjoining Units in a Townhome Building. The Common Walls are used by the Owners of adjoining Units in a Townhome Building and are subject to the provisions of Section 7.4 of this Declaration and the subsections thereof.

2.16. “**Condominium Act**” means the Utah Condominium Ownership Act, Utah Code § 57-8-1 *et. seq.*

2.17. “**Condominium Association**” means any sub-association organized to administer the provisions of a Condominium Declaration or to provide services to any of the Condominium Units within the Project.

2.18. “**Condominium Building**” means a Building within the Project identified on a Condominium Plat which contains Condominium Units.

2.19. “**Condominium Declaration**” means any declaration of condominium which is recorded as to any Condominium Building within the Project.

2.20. “**Condominium Plat**” means a plat for a Condominium Building identifying Condominium Units and other features which is recorded against any portion of the Property consistent with the Condominium Act.

2.21. “**Condominium Unit**” means any legally separate residential Unit constructed within a Condominium Building.

2.22. “**County Recorder**” means the elected recorder for the county of the State of Utah in which the Property is located. All documents to be recorded pursuant to this Declaration must be recorded in the office of the County Recorder.

2.23. “**Declarant**” means RIVER RUN SF, LLC, a Utah limited liability company.

2.24. “**Declarant Control Period**” means the period of time during which Declarant is authorized to exercise administrative control over the Association. The Declarant Control Period will continue until the Declarant elects to turn over administrative control of the Association to the Owners, but in no event will the Declarant Control Period continue beyond one hundred twenty (120) days after Declarant no longer owns any portion of the Property or Lots or Units within the Project.

2.25. “**Exempt Unit**” means a Unit in the Project while owned by Declarant or a Declarant affiliate, until the earliest to occur of (a) the acquisition of title to the Unit by a person or entity other than Declarant or a Declarant affiliate, or (b) one hundred eighty (180) days after

the municipal authority having jurisdiction thereover issues a certificate of occupancy for the Unit. In addition, each Lot that does not contain a fully constructed Townhome Unit with a certificate of occupancy shall be an "Exempt Unit," and each model Unit owned by the Declarant shall be an "Exempt Unit" so long as the same is used as a model Unit by the Declarant, a Declarant affiliate, or their assign(s).

2.26. "**Family Member**" means the parent, sibling, child, grandparent, or grandchild of an Owner and that Family Member's spouse and/or children.

2.27. "**Lease**" means any agreement for the leasing or rental of any Unit or portion of the Project.

2.28. "**Limited Common Areas and Facilities**" means a portion of the Common Areas and Facilities allocated by the Declaration or shown on the Plats for the exclusive use of one or more, but fewer than all, of the Units.

2.29. "**Lot**" means each of the tracts of land designated as a "Lot" on a Townhome Plat. As shown on the recorded Plat, each Townhome Unit will be constructed on a Lot. Ownership of the Lot and the Townhome Unit (when constructed on the Lot) shall be inseparable, and any conveyance of a Lot shall operate to convey title to the Townhome Unit constructed on the Lot. Likewise, any conveyance of a Townhome Unit shall operate to convey title to the Lot on which the Townhome Unit is located.

2.30. "**Manager**" means the person, firm, or company, if any, designated from time to time by the Association to manage, in whole or in part, the affairs of the Association and the Project.

2.31. "**Mortgage**" means any mortgage, deed of trust or other security instrument by which a Unit or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Unit or any part thereof or interest therein.

2.32. "**Mortgagee**" means (i) any persons or entities named as the mortgagee or beneficiary under any Mortgage by which the interest of any Owner is encumbered, (ii) any successor to the interest of such person or entity under such Mortgage, or (iii) any insurer or guarantor of such person or entity under such Mortgage.

2.33. "**Non-Owner Occupied Unit**" means: (i) for a Unit owned in whole or in part by an individual(s), the Unit is occupied by someone when no individual Owner or Family Member of the Owner occupies the Unit as the individual Owner's or Family Member's primary residence or second home; or (ii) for a Unit owned entirely by a trust or other entity created for estate planning purposes, the Unit is occupied by anyone other than the person(s) for whom the entity or trust was created for or a Family Member of such person(s).

2.34. "**Owner**" means any person or entity at any time owning in fee simple a Unit within the Project as such ownership is shown by the records of the County Recorder, State of Utah. The term "Owner" shall not refer to any Mortgagee, unless such Mortgagee has acquired title for other than security purposes.

2.35. **“Owner-Occupied”** means a Unit occupied as a primary residence or second home by Owner(s), Family Member of the Owner(s), or if the Owner is an entity or trust created for estate planning purposes, the person(s) for whom the entity or trust was created for or a Family Member of such person(s).

2.36. **“Plat”** means any final plat map for the Project, approved by the City, which has been recorded against any portion of the Property in the office of the County Recorder. A Plat may be either a Condominium Plat or a Townhome Plat.

2.37. **“Project”** means the Property and the Buildings, the Units, the Common Areas and Facilities and all improvements constructed on the Property, as approved by the applicable governmental authorities.

2.38. **“Property”** means that certain real property situated in Spanish Fork City, Utah County, State of Utah, more particularly described on **EXHIBIT A**, which legal description is incorporated by reference, on which the Buildings, the Units, and other improvements are located, together with any other real property included within the scope of this Declaration by means of a declaration of inclusion or similar instrument.

2.39. **“Regular Common Assessments”** means the annual assessments levied by the Association to pay the budgeted Common Expenses.

2.40. **“Rental Restrictions”** means the restrictions and requirements for all rental activity and Leases of the Units as set forth in Section 10 of this Declaration.

2.41. **“Special Common Assessments”** means assessments, which the Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

2.42. **“Total Votes of the Association”** means the total number of votes appertaining to all Units, as described in Section 20 hereof.

2.43. **“Townhome Building”** means a Building within the Project that contains Townhome Units.

2.44. **“Townhome Plat”** means a plat for any portion of the Project intended for Townhome Buildings which identifies individual Lots on which Townhome Units may be constructed and other features and which is recorded against any portion of the Property consistent with the Act.

2.45. **“Townhome Unit”** means any separate residential unit constructed within a Townhome Building.

2.46. **“Unit”** means each separate residential unit constructed within the Project. Units may be either Condominium Units or Townhome Units; provided, however, that the provisions of this Declaration which are applicable to a Townhome Unit are also applicable to the Lot on which such Townhome Unit is located, as depicted on a Plat for Townhome Buildings.

3. DESCRIPTION OF THE PROPERTY – EXPANDABLE PROJECT

3.1. In General. The Project consists of the Buildings, the Units, the Common Areas and Facilities, and the related improvements are or will be constructed on the Property.

3.2. Expandable. The Project may be expanded as described in Section 27 of this Declaration.

3.3. Limitation on Sub-Associations. There shall be no sub-associations on or applicable to the Property or the Project without the Declarant's express written consent. Any such sub-associations must be created, if at all, during the Declarant Control Period.

4. CONFIRMATION OF SUBMISSION TO DECLARATION AND APPLICABLE STATUTES

4.1. Subject to Declaration. The Project is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth in this Declaration—each and all of which are declared and agreed to be for the benefit of said Project. Each and all of the provisions in this Declaration shall be deemed to run with the land and shall be a burden and a benefit on the Property and shall be binding on any person acquiring, leasing, subleasing, or owning an interest in the real property and improvements comprising the Project or any part thereof.

4.2. Submission to the Act. Except as provided in Section 4.3 of this Declaration, the Project will be subject to the Act.

4.3. Submission to the Condominium Act. Any Condominium Buildings, as shown on a Condominium Plat, and any Condominium Units therein, will be subject to the provisions of the Condominium Act.

4.4. Condominium Specific Provisions. Notwithstanding any contrary provision of this Declaration, no Condominium Plats may be recorded against any portion of the Property, as the same may be expanded, without the Declarant's express written consent. Any such Condominium Plat must be recorded, if at all, during the Declarant Control Period. Condominium Buildings, as shown a Condominium Plat, and any Condominium Units therein, must be governed by the provisions of a specific Condominium Declaration, which must be approved in writing by the Declarant. The provisions of such Condominium Declaration will be in addition to the provisions of this Declaration; provided, however, that any provisions of this Declaration which conflict with, or are inconsistent with, the Condominium Act shall not be deemed to apply to any portion of the Project consisting of a Condominium Building.

5. DESCRIPTION OF UNITS AND BUILDINGS

5.1. Units and Buildings. Each Unit will be located within a Building. Each Building will contain two (2) or more Units.

5.2. Townhome Units. Townhome Units will include all components of a Building located on a Lot containing such Townhome Unit. Notwithstanding the foregoing, the Association

will maintain the exteriors and roofs of each Townhome Unit as provided below and the cost thereof shall be a Common Expense.

5.3. Condominium Units. The nature and characteristics of any Condominium Units will be identified and described in the applicable Condominium Declaration. The exterior of any Building containing Condominium Units will be maintained by the applicable Condominium Association.

6. COMMON AREAS AND FACILITIES

6.1. Scope of Common Areas and Facilities. The Common Areas and Facilities shall mean and include those portions of the Project that are designated as Common Areas and Facilities on a Plat or otherwise intended to be for the benefit of all Owners (but which are not dedicated to the public) including, as applicable: open space areas of the Project shown on a Plat as Common Areas and Facilities; common landscaping of the Project; non-public roadways, streets, and walkways, if any, within the Project; entry/exit gates and related improvements, if any, within the Project; any detention or retention ponds; and any other areas in the Project that are designated as Common Areas and Facilities. The Association (not the Owners individually) shall be responsible for all maintenance and repair and snow-removal of all Common Areas and Facilities including, without limitation, all private roadways and alleys within the Project.

6.2. No Modification to Common Areas and Facilities. No Owner, directly or indirectly, shall make any alterations to any of the Common Areas and Facilities without the prior written consent of the Board, including, without limitation, any changes to any of the exterior elements of the Units, the paint color of the exterior of the Units, the landscaping of the Project, or any other Common Areas and Facilities.

6.3. Conveyance of Common Areas and Facilities. To the extent any Common Areas and Facilities shown on any Plat have not previously been conveyed to the Association, this Declaration shall serve as an instrument of conveyance, and the recording of this Declaration shall operate to convey title to all Common Areas and Facilities to the Association. The Association shall be the vested legal owner of the Common Areas and Facilities.

6.4. Condominium Common Areas and Facilities. Notwithstanding the foregoing, or any contrary provision of this Declaration, any Common Areas and Facilities included within a Condominium Plat will be deemed to be owned by the Owners of the Condominium Units shown on such Condominium Plat collectively according to the fraction or percentage of undivided ownership allocable to such Owner as set forth in the applicable Condominium Declaration.

7. LIMITED COMMON AREAS AND FACILITIES AND COMMON WALLS

7.1. Limited Common Areas. Limited Common Areas and Facilities shall mean a portion of the Common Areas and Facilities, if any, which are reserved for the use of certain Owners to the exclusion of other Owners, as indicated by the Plats, to be for the exclusive use of one or more but fewer than all of the Units. Mechanical systems serving only certain Units shall be Limited Common Areas and Facilities with respect to the Units which they serve. Owners may not reallocate Limited Common Areas and Facilities between or among Units in which they have

an interest. The Association shall maintain and repair all Limited Common Areas and Facilities as a common expense of the Association.

7.2. Landscaping. Any landscaping on any Lot will be considered to be part of the Limited Common Areas and Facilities.

7.3. Snow Removal. The Association will provide snow removal services for the Limited Common Areas and Facilities. To the extent any driveway, walkway, or approach to a Unit is not within the scope of the Limited Common Areas and Facilities, the Owner of the applicable Unit will be responsible for appropriate snow removal of such driveway, walkway, or approach to a Unit.

7.4. Common Walls and Roofs for Townhome Units. Each Townhome Unit will have at least one Common Wall with another Townhome Unit. To the extent that a Townhome Unit is connected by or shares a Common Wall with another Townhome Unit, the following provisions shall govern the use, maintenance, repair, and restoration thereof:

7.4.1. Access. Each Townhome Unit sharing a Common Wall shall provide such access as may be reasonably necessary to permit the Owner of the other Townhome Unit sharing said Common Wall, and their respective agents and contractors, to maintain the integrity of the Common Wall, and to repair and restore it as necessary.

7.4.2. Damage Caused by Owners. Should any Common Wall be damaged or destroyed by the negligence or other act or omission of an Owner of one of the Townhome Units sharing the same—or said Owner's agents, employees, invitees, or guests—the Owner causing or permitting shall be liable, at its sole cost and expense, for all necessary repairs or restoration of said Common Wall and related damage to any Townhome Unit; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Unit sharing said Common Wall, shall first be applied toward the costs of repairing or restoring the Common Wall and related damages to the Townhome Units. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the affected Owners.

7.4.3. Damage Not Caused by Owners. Should any Common Wall be damaged or destroyed by any cause other than the negligent act or omission of the Owner of either Townhome Unit sharing said Common Wall—or said Owner's agents, employees, invitees or guests—the Owners of the Units sharing said Common Wall shall be equally liable for all necessary repairs or restoration of said Common Wall and related damage to either Townhome Unit; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Unit sharing said Common Wall shall first be applied toward the costs of repairing or restoring the Common Wall and related damages to the affected Townhome Units. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the affected Owners.

7.4.4. Recovery of Costs. Should any party fail or refuse to complete the repairs or restorations imposed upon it by these provisions, the other Owner, after giving written notice to said party of its intention to do so, may undertake said repairs or restorations and be entitled to reimbursement for all costs incurred in connection therewith from said party. Such reimbursement shall be made within thirty (30) days after completion of the work and delivery to said party of a statement and demand for payment setting forth all costs incurred. The Owner shall have a direct right of recovery against said party for said party's portion of the costs incurred in making the necessary repairs or restorations, and to recover interest thereon at the rate of eighteen percent (18%) per annum until paid in full, together with recovery of attorneys' fees and costs if collection efforts become necessary.

7.4.5. Disputes. In the event of a dispute or controversy between the Owners of Units sharing a Common Wall, as to any matter within or arising out of the provisions of this Section 7, or the respective use, maintenance, repair, or replacement of said Common Wall, such dispute or controversy shall first be submitted to the Board of Directors of the Association for decision. The decision of the Board with respect to the issues presented shall be binding upon the parties involved.

8. OWNERSHIP AND MAINTENANCE

8.1. Ownership of Lot. Each Unit may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, used, occupied, improved, and otherwise affected in accordance with the provisions of this Declaration. Nothing herein will prohibit a Unit from being owned by more than one person in the form of a tenancy in common or other form of joint undivided ownership.

8.2. Use of Common Areas and Facilities. Subject to the limitations contained in this Declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Areas and Facilities and the exclusive right to occupy and use their Unit and any Limited Common Areas and Facilities designated for exclusive use by such Owner or all Owners.

8.3. Rights Pertaining to Units. Except as otherwise provided herein, each Owner shall have the exclusive right to paint, repaint, tile, wax, paper, carpet, or otherwise decorate the interior surfaces of the walls, ceilings, floors, and doors forming the boundaries of such Owner's Unit and the surfaces of all walls, ceilings, floors, and doors within such boundaries.

8.4. Owner Maintenance. Each Owner shall keep the interior of such Unit, including without limitation, interior walls, windows, ceilings, floors, and permanent fixtures and appurtenances thereto, in a sanitary condition and in a good state of repair. In the event that any Unit should develop an unsanitary condition or fall into a state of disrepair, and in the event that the Owner of such Unit should fail to correct such condition or state of disrepair promptly following written notice from the Board, the Board shall have the right, at the expense of the Owner and without liability to the Owner for trespass or otherwise, to enter said Unit and correct or eliminate said unsanitary condition or state of disrepair. The Board shall have the right, if reasonably necessary, to enter into any Unit for the purpose of cleaning, maintenance, repairs (including emergency repairs), and for the purpose of abating a nuisance or a known or suspected dangerous or unlawful activity.

8.5. Maintenance by Townhome Association. The Association shall be responsible for the maintenance, repair, and replacement of the following, the cost of which will be a Common Expense.

8.5.1. Common Areas. The Association will maintain all Common Areas and Facilities within the Project.

8.5.2. Landscaping. The Association will be responsible for all landscaping within the Project.

8.5.3. Building Exteriors and Roofs. Except for Condominium Buildings, which will be maintained by the applicable Condominium Association, the Association will maintain the exterior surfaces of the Buildings, excluding windows, doors, and garage doors. For the avoidance of doubt, the Association will maintain the roofs, trim, siding, gutters, railings, soffit, and fascia of the Buildings, including painting when necessary, but each owner will be responsible to repair, replace, and maintain windows, doors, and garage doors of such Owner's Townhome.

8.5.4. Snow Removal. The Association will be responsible for all Snow Removal for all private streets and common walkways or paths within the Project. However, the Association will not be responsible for snow removal within the boundaries of any Lot, which shall be the responsibility of the applicable Owner.

8.6. Maintenance of Limited Common Areas. Any Limited Common Areas will be maintained jointly by the Owners benefitted by such Limited Common Areas and will not be the responsibility of the Association, unless the Board votes to assume the maintenance of the same or the maintenance of such Limited Common Areas is necessary to properly maintain the Common Areas and Facilities of the Project.

8.7. Limits on Changes to Units. Owners of adjoining Units may not reallocate or change the boundaries of such Units.

8.8. Limits on Changes to Lots. Except as otherwise provided herein, no Owner may subdivide a Lot.

8.9. Exterior Colors. No Owner shall materially alter the exterior color or appearance of a Building or an Owner's Unit without prior written approval from the Board, which may be granted or withheld in the Board's discretion.

9. TITLE TO UNITS

9.1. Nature of Ownership. Title to a Unit may be held or owned by any person or entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

9.2. No Severance of Lot. Title to any Townhome Unit within the Project shall not be separated from the associated Lot. Each Townhome Unit and the Lot on which such Townhome Unit is located shall always be conveyed, devised, encumbered, and otherwise affected jointly.

Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Townhome Unit, or any part thereof, shall be construed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Townhome Unit and the Lot, together with all appurtenant rights created by law and by this Declaration, including appurtenant membership in the Association as herein set forth.

9.3. No Timeshares. No Owner shall be permitted to timeshare, or allow any form of interval ownership of or interval right to use, any Unit within the Project.

9.4. Ownership of Common Areas and Facilities. Except for Common Areas and Facilities shown on a Condominium Plat, the Common Areas and Facilities shall be owned by the Association, and no Owner may bring any action for partition thereof.

9.5. Mortgages. Each Owner shall have the right to encumber his/her/their interest in a Unit with a Mortgage. However, no Owner shall attempt to or shall have the right to encumber the Common Areas and Facilities or any part thereof (except as allowed under the Condominium Act). Any Mortgage of any Unit within the Project shall be subordinate to all the provisions of this Declaration and, in the event of foreclosure, the provisions of this Declaration shall be binding upon any Owner whose title is derived through foreclosure by private power of sale, judicial foreclosure, or otherwise.

9.6. Liens for Labor or Materials. No labor performed or services or materials furnished with the consent of, or at the request of, an Owner may be the basis for the filing of a lien against the Unit of any other Owner, or against any part thereof, or against any other property of any other Owner, unless the other Owner has expressly consented to or requested the performance of such labor or furnishing of such services. Express consent shall be deemed to have been given by the Owner in the case of emergency repairs. Labor performed or services or materials furnished for the Project, if authorized by the Association and provided for in the Declaration, shall be deemed to be performed or furnished with the express consent of each Owner. The Owner may remove his/her/their Unit from a lien against two (2) or more Units or any part thereof by payment to the holder of the lien of the fraction of the total sums secured by such lien which is attributable to his/her/their Unit.

9.8. Rights of Mortgagees. Nothing in this Declaration shall adversely impact the rights of a Mortgagee or its assignee to take any of the following actions: (i) foreclose or take title to a Unit pursuant to the remedies in the Mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of default by an Owner subject to such Mortgage; or (iii) sell or lease a Unit acquired by the Mortgagee or its assignee.

10. RESTRICTIONS ON USE AND RENTAL RESTRICTIONS

10.1. Residential Use Only. All Units are intended to be used for residential use only in accordance with applicable zoning ordinances. The Units are restricted to such uses. Units may be rented or leased only in accordance with the Rental Restrictions set forth in below.

10.2. Nuisances and Safety Hazards. No noxious, destructive, or offensive activity shall be carried on or placed in or upon any Unit—or in the Common Areas and Facilities, or Limited

Common Areas and Facilities, or any part thereof—which shall interfere with the legal rights of other Owners, nor shall anything be done therein which is or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property. Without limiting the breadth of the foregoing, aluminum foil, newspapers, or any other similar materials may not be used to cover the windows in any Unit. The Common Areas and Facilities shall be used only in a manner which is consistent with a residential Project.

10.3. Signs. No signs, flags, or advertising devices of any nature, including, without limitation, informational or directional signs or devices, shall be erected or maintained on any part of the Project without the prior written approval of the Board, except as may be customary in marketing a Unit “for sale” in accordance with reasonable sign restrictions that the Board is authorized to adopt and enforce.

10.4. Remodeling and Construction Work. No Owner shall, without the prior written consent of the Board, do any act that would (i) impair the structural soundness or integrity of the Building or the safety of property, (ii) impair any easement or hereditament appurtenant to the Project, or (iii) make or permit to be made any alteration, improvement, or addition to the Common Areas and Facilities. Owners may remodel or redecorate the interior space of their Units, without Board approval, so long as the remodeling or redecoration involves quality workmanship and materials and does not impair the structure integrity of the Buildings.

10.5. No Obstruction of Common Areas. There shall be no obstruction of the Common Areas and Facilities by any Owner. Owners shall neither store nor leave any of their property in the Common Areas and Facilities, other than Limited Common Areas and Facilities appurtenant to their Unit, except with the prior consent of the Board.

10.6. Insurance and Ordinances. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would result in cancellation of the insurance on the Project or any part thereof. Nothing shall be done or kept in any Unit which would increase the rate of insurance on the Project or any part thereof over what the Association would pay in the absence of such activity without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in the Common Areas and Facilities or any part thereof which would be in violation of any statute or rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas and Facilities or any part thereof shall be committed by any Owner or guest, lessee, licensee, or invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or his/her/their guests, lessees, licensees, or invitees.

10.7. Rules and Regulations. Each Owner shall comply strictly with all rules and regulations adopted by the Board of the Association for the governance of the Units, the Common Areas and Facilities and the Project, as such rules and regulations may be modified, amended, and construed by the Association in the sole and reasonable discretion of the Board.

10.8. Restrictions on Rentals and Leases. No more than forty-nine percent (49%) of the total number of Units in the Project may be leased or otherwise be Non-Owner Occupied Units at any given time. The Association may enforce this restriction by rules and regulations duly adopted by the Board. All Non-Owner Occupied Units shall have a written Lease between the Owner and the lessee of such Unit subject in all respects to the provisions of this Declaration, the Articles, and Bylaws. Any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. All such Leases shall be in writing and a current copy of the active Lease shall be filed with the Association. The Association may also require other reasonable cooperation from an Owner, including providing including requiring that the Owner provide notice of a Lease to any professional manager retained by the Association. The Owner shall be responsible and liable for any damage to the Project caused by its lessee. The Owners of the Non-Owner Occupied Units must obtain all permits and licenses, if any, required by the City to lease the Unit.

11. ASSOCIATION AND BOARD

11.1. Mandatory and Automatic Membership. Each Owner shall be a member of the Association. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Unit is held by more than one person, the membership appurtenant to that Unit shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Unit is held. An Owner shall be entitled to one membership for each Unit owned by such Owner. Each membership shall be appurtenant to the Unit to which it relates and shall be transferred automatically by conveyance of that Unit. Ownership of a Unit within the Project cannot be separated from the Association membership appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Unit shall constitute a devise, encumbrance, conveyance, or other disposition, respectively, of such Owner's membership in the Association and the rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Unit.

11.2. Management. The management and maintenance of the Project, and the administration of the affairs of the Association, shall be conducted by a Board (also known as the Board of Directors) consisting of at least three (3) natural persons as provided in the Bylaws. The Board shall be elected as provided in this Declaration and in the Bylaws.

11.3. Powers of the Board. Except as otherwise provided herein, the Board shall have all the powers, duties and responsibilities that are now or may hereafter be provided by the Act, this Declaration, and the Bylaws, including but not limited to the following:

11.3.1. To make and enforce all rules and regulations covering the operation and maintenance of the Project and the Units.

11.3.2. To carry out through a Manager those of its functions which are properly the subject of delegation. The Manager so engaged shall be an independent contractor and not an agent or employee of the Association or Board, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by law and by the terms of the agreement with the Board, be authorized to

perform any of the functions or acts required or permitted to be performed by the Board itself.

11.3.3. To engage the services of accountants, attorneys, or other employees or agents and to pay to said persons a reasonable compensation therefor.

11.3.4. To operate, maintain, repair, improve and replace the Common Areas and Facilities.

11.3.5. To determine and pay the Common Expenses.

11.3.6. To assess and collect the proportionate share of Common Expenses from the Owners, as provided in Section 19 hereinafter.

11.3.7. To enter into contracts, deeds, leases, and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.

11.3.8. To open bank accounts on behalf of the Association and to designate the signatories.

11.3.9. To purchase, hold, sell, convey, mortgage, or lease any one or more Units in the name of the Association or its designee.

11.3.10. To bring, prosecute and settle litigation for itself, the Association, and the Project, provided that it shall make no settlement which results in a liability against the Board, the Association or the Project in excess of \$50,000 without the prior approval of a majority of the Total Votes of the Association at a meeting or by written ballot distributed to Owners by mail; provided, any settlement which would be paid from proceeds of insurance which may be settled by the Association's insurance carrier and which in either case results in no actual liability of funds of the Association in excess of \$20,000 shall not require Association approval.

11.3.11. To obtain insurance for the Association with respect to the Buildings and the Common Areas and Facilities, as well as worker's compensation insurance, as needed.

11.3.12. To repair or restore the Project following damage or destruction or a permanent taking by the power of or in the nature of eminent domain or by an action or deed in lieu of condemnation not resulting in the removal of the Project from the provisions of the Act.

11.3.13. To own, purchase or lease, hold, and sell or otherwise dispose of, on behalf of the Association, items of personal property necessary to or convenient to the management of the business and affairs of the Association and the Board and to the operation of the Project, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances, and supplies.

11.3.14. To keep adequate books, documents, and records and to implement the policies and procedures for the inspection of the books, documents, and records of the Project by Owners in accordance with the terms of the Bylaws. The Association or the Board shall make available to the Owners, Mortgagees and the holders, insurers, and guarantors of the First Mortgage on any Unit current copies of the Declaration, Articles, Bylaws, and other rules governing the Project and other books, records, and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.

11.3.15. To do all other acts necessary for the operation and maintenance of the Project, including the maintenance and repair of any Unit if the same is necessary to protect or preserve the Project.

11.3.16. To prepare, adopt, amend, and disseminate budgets and other information from time to time in accordance with the terms of the Bylaws.

11.3.17. To grant conveyances, easements, and rights-of-way over the Common Areas and Facilities.

11.3.18. Members of the Board, the officers and any assistant officers, agents, and employees of the Association (i) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument, or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal liability in tort to any Owner or any person or entity, direct or imputed, by virtue of acts performed by them, except for their own willful misconduct or bad faith, nor for acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse, or condition of the Project, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

11.3.19. When a member of the Board is sued for liability for actions undertaken in his role as a member of the Board, the Association shall indemnify him for his losses or claims, and undertake all costs of defense, until and unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the cost of defense and may recover costs already expended from the member of the Board who so acted. Members of the Board are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Townhome but may be recovered from persons whose gross negligence gave rise to the damages.

11.4. Conveyance of Common Areas. Except with the Declarant's express written consent, neither the Board nor the Manager, if any, shall sell any Property of the Association except as permitted by the Act and this Declaration.

12. RIGHTS OF THE ASSOCIATION

12.1. Maintenance. Where the Association is responsible for maintenance of any component of the Project, the Association shall make reasonable efforts to keep the same in a good, clean, attractive, safe, and sanitary condition, order, and repair; provided, however, that nothing shall minimize the obligations of Owners pertaining to Maintenance as provided herein.

12.2. Access. Some of the Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the cleaning, repair, or replacement of any Common Areas and Facilities or for making any emergency repairs at any time and when necessary to prevent damage to the Common Areas and Facilities or to any Unit. The Association shall also have the irrevocable right to have access to any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, painting, landscaping, construction, or reconstruction for which the Association is responsible or for the purpose of abating a nuisance or a known or suspected dangerous or unlawful condition. Such entry shall be made with as little inconvenience to the Owners as is practicable under the circumstances and any damage caused thereby shall be repaired by the Association.

12.3. Capital Improvements. Additions or Capital Improvements to the Project which cost \$100,000 or less (as measured by 2024 dollars adjusted over time for inflation) may be authorized by the Board alone, so long as the Association has such funds available to it without imposing a special assessment. Additions or Capital Improvements the cost of which exceeds \$100,000 (as measured by 2024 dollars adjusted over time for inflation) must, prior to being constructed, be authorized by at least a majority of the undivided ownership in the Project.

12.4. No Exterior Modification by Owner. Unless the Board provides express written consent, no Owner shall enlarge or otherwise modify the exterior of his/her/their Unit or Limited Common Areas and Facilities or add any devices or structures such as, for illustration and not limitation, fences, greenhouses, solariums, room additions, or decks.

12.5. Allocation of Insurance Expense. Should any improvement or modification to a Unit or to the Project by an Owner cause any increase in the cost of the Association's insurance, painting, or other expense, such increase in expense shall be added to the applicable Owner's monthly assessment. Further, any such additional expense affected thereby and applicable to non-yearly periodic maintenance projects such as, but not limited to, roofing, staining, or painting, shall also be added to any special assessment of the Owner.

13. INSURANCE

13.1. Required Insurance. Subject to Section 13.2, all insurance held by the Association shall comply with the following terms and conditions.

13.1.1. Master Policy. A "master" or "blanket" type policy of property or hazard insurance covering the entire Project, including: Common Areas and Facilities; the Buildings including all Units (other than the interior contents thereof); fixtures, building

service equipment, personal property and supplies comprising a part of the Common Areas and Facilities or owned by the Association, but excluding land, foundations, excavations, and other items normally not covered by such policies. References herein to a “master” or “blanket” type policy of property or hazard insurance are intended to denote single entity townhome insurance coverage. As a minimum, such “master” or “blanket” policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement, and by all other perils which are customarily covered with respect to projects similar to the Project in construction, location, and use, including (without limitation) all perils normally covered by the standard “all risk” endorsement, where such endorsement is available. Such “master” or “blanket” policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all elements of the Project covered by such policy, exclusive of land, foundations, excavation, and other items normally excluded from coverage. If the Board deems such advisable, the insurance policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (i) a Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance); or (ii) a Replacement Cost Endorsement (under which the insurer agrees to pay up to one-hundred percent (100%) of the property’s insurable replacement cost but no more) and, if the policy includes a co-insurance clause, an Agreed Amount Endorsement (which waives the requirement for co-insurance). Unless the Board otherwise determines, the maximum deductible amount for such a policy covering the Common Areas and Facilities shall be Ten Thousand Dollars (\$10,000.00) and for losses related to individual Units that are covered by such a policy, the maximum deductible related to each individual Unit shall be Five Thousand Dollars (\$5,000.00).

13.1.2. Flood Hazard. If a Unit within the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, a “master” or “blanket” policy of flood insurance shall be maintained covering the Building (a separate policy is required for each separate multi-story Building that houses Units), any machinery and equipment that are not part of a Building and all Common Areas and Facilities within the Project (hereinafter “**Insurable Property**”) in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Administration Program for the Building and any other Insurable Property within any portion of the Project located within a designated flood hazard area; or (ii) one hundred percent (100%) of the insurable value of all such facilities. The maximum deductible amount for any such policy shall be the lesser of Twenty Thousand Dollars (\$20,000.00) or two percent (2%) of the policy face amount.

13.1.3. Name of Insured. The name of the insured under each policy required to be maintained by the foregoing Sections 13.1.1 and 13.1.2 shall be the Association. Declarant shall be named as an additional insured party. Notwithstanding the requirement of the two immediately foregoing sentences, each such policy may be issued in the name of an authorized representative of the Association, including any Insurance Trustee, defined below, with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Insurance Trustee, for the use and benefit of the individual Owners. Loss

payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner and each such Owner's Mortgagee. Each Owner and each such Owner's Mortgagee, if any, shall be beneficiaries of such policy. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

13.1.4. Mortgage Provisions. Each policy required to be maintained by the foregoing Sections 13.1.1 and 13.1.2 shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Project is located. In addition, such mortgage clause, or another appropriate provision of each such policy, shall provide that the policy may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Mortgagee which is listed as a scheduled holder of a Mortgage in the policy.

13.1.5. Other Provisions. Each policy required to be maintained by the foregoing Sections 13.1.1 and 13.1.2 shall provide, if available, for the following: recognition of any insurance trust agreement; a waiver of the right of subrogation against Owners individually; the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively or the Association; and the policy is primary in the event the Owner has other insurance covering the same loss.

13.1.6. Endorsements. In contracting for the policies of insurance required to be maintained by the foregoing provisions of this Section 13.1, the Board shall make reasonable efforts to secure, if the Board deems such advisable, coverage which provides the following endorsements: (i) "Inflation Guard Endorsement", (ii) "Building Ordinance or Law Endorsement", if the enforcement of any building, zoning, or land use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction); and (iii) "Boiler and Machinery Coverage Endorsement", if the Project has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000.00) or the insurable value of the Building containing the boiler or machinery. In lieu of obtaining this as an endorsement to the commercial package property, the Association may purchase separate stand-alone boiler and machinery coverage.

13.1.7. Employees, Directors, and Officers. The Association shall at all times maintain in force and pay the premiums for "blanket" fidelity bonds for all directors, officers, members, and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association whether or not that individual receives compensation for services. Furthermore, where the Association has delegated some or all of the responsibility for the handling of funds to the Manager, the Manager shall provide "blanket" fidelity bonds, with coverage identical to such bonds required of the Association, for the Manager's officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage required shall be based upon the Association's best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the

custody of the Association, or the Manager, as the case may be, at any given time during the term of each bond. The bonds required shall meet the following additional requirements: (i) the fidelity bonds shall name the Association as obligee; (ii) the bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; (iii) the premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by the Manager for its officers, employees, and agents) shall be paid by the Association as part of the Common Expenses; and (iv) the bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association.

13.1.8. Common Areas. The Association shall maintain in force, and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Common Areas and Facilities, Building exteriors, public ways in the Project, all other areas of the Project that are under the Association's supervision, and any commercial spaces owned by the Association, if any, whether or not such spaces are leased to some third party. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Project in construction, location, and use. Nevertheless, such coverage shall be for at least Two Million Dollars (\$2,000,000) for bodily injury, including deaths of persons, and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas and Facilities, Building exteriors, and legal liability arising out of lawsuits related to employment contracts of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to projects similar to the Project in construction, location, and use, including but not limited to (where economically feasible and if available), host liquor liability, contractual and all-written contract insurance, employers' liability insurance, and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Association or any other Owner. Such policy shall provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association and to each First Mortgagee which is listed as a scheduled holder of a Mortgage in such policy.

13.1.9. Insurance Trustee. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to herein as the "**Insurance Trustee**"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds

thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or any Insurance Trustee, shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests appear.

13.1.10. Carrier. Each insurance policy maintained pursuant to this Declaration shall be written by an insurance carrier which is licensed to transact business in the State of Utah, and which has a B general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide or an A or better rating from Demotech, Inc., or which is written by Lloyd's of London. No such policy shall be maintained where: (i) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against, an Owner, a Mortgagee, the Board, or the Association; (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Board, the Association, or Owner) from collecting insurance proceeds. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Board Members of the Association may deem appropriate from time to time.

13.1.11. Review. All insurance policies shall be reviewed at least annually by the Board to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Project which may have been damaged or destroyed. In addition, such policies shall be reviewed to determine their compliance with the provisions of this Declaration.

13.2. Compliance with Law. Notwithstanding the provision of Section 13.1, or any other provision of this Declaration, the Association shall maintain all policies of insurance, on terms and conditions deemed reasonable by the Board, which the Association is required to maintain under any applicable law, regulation, or rule enacted or adopted by any governmental entity with applicable legal jurisdiction.

14. DESTRUCTION OR DAMAGE

14.1: Appointment of Attorney-in-Fact. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association except as otherwise provided in this Declaration.

14.2. Nature of Repairs. Repair and reconstruction of the improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having substantially the same vertical and horizontal boundaries as before.

14.3. Process. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows:

14.3.1. The Association shall give timely written notice to any holder of any First Mortgage on a Unit in the event of substantial damage to or destruction of any part of the Common Areas and Facilities or a Unit subject to such First Mortgage.

14.3.2. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the Project damaged or destroyed.

14.3.3. If the proceeds of the insurance of the Association equal or exceed the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, such repair and reconstruction shall be carried out.

14.3.4. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project and if less than seventy-five percent (75%) of the Project is damaged or destroyed, such repair and reconstruction shall nevertheless be carried out. The Association shall levy a Special Common Assessment sufficient to provide funds to pay the actual costs of such repair and reconstruction to the extent that such insurance proceeds are insufficient to pay such costs. Such Special Common Assessment shall be allocated and collected as provided in Section 19 and its subsections, except that the vote therein specified shall be unnecessary. Further levies may be made in like manner if the amounts collected (together with the proceeds of insurance) are insufficient to pay all actual costs of such repair and reconstruction.

14.3.5. If the proceeds of the insurance maintained by the Association are less than the estimated costs to repair and reconstruct the damaged or destroyed part of the Project, and if seventy-five percent (75%) or more of the Project is damaged or destroyed, such damage or destruction shall be repaired and reconstructed, but only if within one hundred (100) days following the damage or destruction, Owners entitled to vote at least seventy-five percent (75%) of the votes of the Total Votes of the Association and Mortgagees that represent at least fifty-one (51%) of the votes of Units that are subject to Mortgages vote to carry out such repair and reconstruction. If, however, the Owners do not, within one hundred (100) days after such damage or destruction, elect by a vote of at least seventy-five percent (75%) of the votes of the Total Votes of the Association and Mortgagees that represent at least fifty-one (51%) of the votes of Units that are subject to Mortgages to carry out such repair and reconstruction, the Association shall record in the office of the County Recorder a notice setting forth such facts. Upon the recording of such notice, the following shall occur:

14.3.5.1. The Project shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of any sale resulting from such suit for partition, together with the net proceeds of the insurance of the Project, if any, shall be considered as one fund and shall be divided among all Owners in an amount equal to the pro-rata interests of the Owners in the Project.

14.3.5.2. In no event shall an Owner of a Unit or any other party have priority over the holder of any First Mortgage on such Unit with respect to the distribution to such Unit of any insurance proceeds.

14.4. Action by Association. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein. The Project shall be restored or repaired to substantially the same condition in which it existed prior to the damage or destruction, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before. Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original architectural plans and specifications.

14.5. Insurance Proceeds. If repair or reconstruction is to occur, the insurance proceeds held by the Association and any amounts received from Common Assessments shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds. If there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

14.6. Limits on Modification. Except for an Amendment approved by Declarant, as provided in Section 18.1, this Section 14 shall not be amended unless Owners entitled to vote at least sixty-seven percent (67%) of the Total Votes of the Association and, to the extent such amendment is materially adverse to Mortgagees, Mortgagees that represent at least fifty-one (51%) of the votes of Units that are subject to Mortgages consent and agree to such amendment and such consent and agreement is reflected in an instrument duly executed by the Association and recorded in accordance with the provisions of this Declaration.

15. TERMINATION

15.1. Threshold for Termination. Except as otherwise provided in this Declaration, the Project may be terminated only by agreement of Owners entitled to vote at least sixty-seven percent (67%) of the Total Votes of the Association and Mortgagees that represent at least fifty-one (51%) of the votes of Units that are subject to Mortgages at a meeting of Owners and Mortgagees duly called for such purpose at which a quorum is present.

16. EMINENT DOMAIN

16.1. Notice from Association. Whenever the Association is advised in writing of any proceeding is instituted that could result in the temporary or permanent taking, injury, or destruction of all or part of the Common Areas and Facilities or one or more Units or portions thereof by the exercise of the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation, the Board and each Owner and Mortgagee shall be entitled to timely written notice thereof and the Board shall, and the Owners and Mortgagees at their respective expense may, participate in the proceedings incident thereto.

16.2. Taking of Common Areas. With respect to the Common or Limited Common Areas and Facilities, any damages or awards shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein.

16.3. Update to Plat or Declaration. Changes in Units and in the Common Areas and Facilities resulting from a taking may be evidenced by an Amendment to this Declaration and the Plat, which need not be approved by the Owners.

17. MORTGAGEE PROTECTION

17.1. Records Available. The Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Units in the Project. Generally, these documents shall be available during normal business hours.

17.2. Effect of Assessment. The lien or claim against a Unit for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Unit if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Unit shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage or as not to burden a First Mortgagee which comes into possession or which obtains title shall be collected or enforced by the Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Unit affected or previously affected by the First Mortgage concerned.

17.3. Rights of Mortgagees. In the event any taxes or other charges which may or have become a lien on the Common Areas and Facilities are not timely paid, or in the event the required hazard insurance described in 13.1.1 lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefor from the Association.

17.4. Limitation. No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Units or the Common Areas and Facilities.

18. AMENDMENT

18.1. Declarant Amendments. During the Declarant Control Period, Declarant shall have the right to amend this Declaration at Declarant's sole discretion without the consent of any Owner. Any such amendment shall be effective when recorded in the real property records of the County Recorder.

18.2. Other Amendments. Except as provided elsewhere in this Declaration, any amendment to this Declaration or the Plats shall require the affirmative vote of at least sixty-seven percent (67%) of the Total Votes of the Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the County Recorder of an instrument executed by the Association. In such instrument an officer or a member of the Board of the Association shall certify that the vote required by this Section for amendment has occurred.

19. ASSESSMENT OF UNITS BY THE ASSOCIATION

19.1. Assessments Generally. The making and collection of Common Assessments by the Association from Owners of Units for their share of Common Expenses shall be pursuant to the Bylaws and subject to the following provisions:

19.1.1. Covenant for Assessments. Declarant, for each Unit owned by Declarant which is not an Exempt Unit, and each Owner, other than Declarant, by becoming an Owner of a Unit is deemed to covenant and agree to pay Assessments to the Association in accordance with this Declaration. Each Unit in the Project (except for Exempt Units) shall be liable for an equal share of the Common Expenses of the Association. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital reserve expenses. Such combined expenses shall constitute the Common Expenses, and the funds received from Common Assessments under this Section 19 shall be the Common Expense Account. Common Assessments shall include both Regular Common Assessments and Special Common Assessments. Regular Common Assessments must be made at least annually, based on a budget adopted at least annually by the Association in accordance with the provisions of this Declaration and the Bylaws. Regular Common Assessments shall be levied against each separate Unit annually.

19.1.2. Limit on Increase of Regular Common Assessments. After the Declarant Control Period, the Association may not impose a Regular Common Assessment per Unit which is more than twenty percent (20%) greater than the previous year's Regular Common Assessment, without first obtaining the vote of Owners, constituting a quorum, casting a majority of the Total Votes of the Association at a meeting of the Association. Such percentage increase shall be calculated without regard to any increase attributable to an

increase in real estate taxes against the Units. The Association shall provide notice, by first class mail to all Owners, of any increase in the Regular Common Assessments not less than fifteen (15) nor more than sixty (60) days prior to the date the increased Regular Common Assessment is due.

19.1.3. Special Common Assessments. In addition to the Regular Common Assessments, the Association may levy in any calendar year, Special Common Assessments applicable to that year only. However, in any fiscal year, except as otherwise provided in this Declaration, the Board shall not, without the vote or written assent of Owners, casting a majority of the Total Votes of the Association at a meeting or by written ballot, levy Special Common Assessments which in the aggregate exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year. All Units within the Project, except Exempt Units, shall pay an equal portion of any Special Common Assessment. These provisions with respect to the imposition or allocation of Special Common Assessments shall not apply when the special assessment is to pay an increase in real property taxes. The Board shall provide notice by first class mail to all Owners of any Special Common Assessments not less than fifteen (15) nor more than sixty (60) days prior to the date such Assessment is due. Special Common Assessments shall be paid as determined by the Board and the Board may permit Special Common Assessments to be paid in installments extending beyond the fiscal year in which the Special Common Assessment is imposed.

19.1.4. Specific Assessments. The Association may also levy a Specific Assessment against an Owner or an Owner's Unit: (i) to reimburse the Association for costs incurred in bringing an Owner and/or an Owner's Unit into compliance with the provisions of this Declaration, the Bylaws, rules and regulations of the Association, or any other governing instrument of the Project; (ii) to cover costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying a Specific Assessment for this purpose; or (iii) to pay the costs, including overhead and administrative costs, of providing services to the Owner or the Owner's Unit in accordance with this Declaration, including the provisions of Section 20, or pursuant to any menu of special services which may be offered by the Association or the Manager. Specific Assessments for special services may be levied in advance of the provision of the requested service.

19.1.5. Penalties. All Assessments shall be due as determined pursuant to this Declaration and the Bylaws. Assessments and any installments thereof not paid on or before ten (10) days after the date when due shall be delinquent and shall bear interest at the rate of eighteen percent (18%) per annum, or at such lower rate of interest as may be set by the Board, from the date when due until paid. In addition, Owners who do not pay their Common Assessments when due shall be subject to a late fee of fifty dollars (\$50.00), adjustable from year to year at the discretion of the Board. All payments of Assessments shall be first applied to accrued interest and late fees, and then to the Assessment payment first due. All Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment was entered, in proportion to their liabilities for Common Expenses. If any Common Expense is caused by the misconduct of

any Owner, the Association may assess that expense exclusively against such Owner's Unit(s).

19.1.6. Lien for Collection. There shall be a lien upon the applicable Unit for all unpaid Assessments, together with late fees, interest, and costs (including attorneys' fees) charged pursuant to the Declaration and the Act. The lien for unpaid Assessments and related charges shall be effective upon recordation in the office of the County Recorder of a written notice of lien by the Board or the Manager. The written notice of lien shall set forth the amount of the Assessment, the date(s) due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment. Such lien may be enforced by sale or foreclosure conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by law including specifically, but without limitation, the method recognized under the laws of the State of Utah for the enforcement of a mechanics' lien which has been established in accordance with the provisions of Chapter 1, Title 38, Utah Code, as amended from time to time. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees), and such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any Assessments against the Unit which shall become due during the period of foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Board shall have the right and power on behalf of the Association to bid at any foreclosure sale and to hold, lease, mortgage, or convey the subject Unit in the name of the Association. In furtherance of such foreclosure rights, the Association may bring an action at law against the Owner personally obligated to pay the same or the Association may foreclose the lien in accordance with the provisions of the Act. The Board hereby appoints Cottonwood Title Insurance Agency, Inc., a Utah corporation, as trustee for the purposes of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code, and made applicable hereto by Title 57, Chapter 8a, Utah Code. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1, Utah Code. The Declarant hereby conveys and warrants pursuant to Utah Code §§ Sections 57-1-20 and 57-8a-302 to Cottonwood Title Insurance Agency, Inc., with power of sale, the Lots and Units and all improvements to the Lots and Units for the purpose of securing payment of Assessments under the terms of the Declaration. Each Owner also hereby conveys all of its right, title, and interest in its Unit to such trustee, in trust, with a power of sale, to secure each Owner's obligations under the Declaration, including but not limited to the obligation to pay all Assessments. The Association may, through its duly authorized agents, bid on the Unit at any foreclosure sale and acquire, hold, lease, mortgage and convey the same. The lien of the Association shall be superior (prior) to all other liens and encumbrances except liens and encumbrances recorded before recordation of this Declaration, a First Mortgage on a Unit, and assessments, liens, and charges in favor of the state or any political subdivision thereof, for taxes and other governmental assessments or charges past due and unpaid on the Unit. The lien procedures described herein do not prohibit actions to recover sums for which the Act creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. The Board, upon written

request, shall furnish to an Owner a statement setting forth the amount of unpaid Assessments against the Unit. This statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Board, the Manager, and every Owner, in favor of all who rely on such statement in good faith.

19.1.7. Personal Obligation. In addition to the lien on property, the amount of any Assessment against any Unit shall be the personal obligation of the Owner of such Unit to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiver of the use and enjoyment of any of the Common Areas and Facilities or by abandonment of his Unit or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment of unpaid assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including reasonable attorneys' fees.

19.1.8. Limit on Personal Obligation. The personal obligation of an Owner to pay unpaid Assessments against his Unit as described in Section 19.1.7 shall not pass to successors in title unless assumed by them; provided, however, that a lien to secure unpaid assessments shall not be impaired, nullified, or otherwise affected by the sale or transfer of the Unit unless foreclosure by a First Mortgagee is involved in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale but shall not relieve any subsequent Owner from paying further Assessments.

19.1.9. Assessment of Exempt Units. All Exempt Units shall be exempt from the Assessments (including Regular Common Assessments and Special Common Assessments). Declarant shall remain a Class B Member in the Association at all times until Declarant surrenders such Class B Membership status in writing in accordance with the provisions of Section 20, notwithstanding its temporary exemption status from the required Assessment payments. On the date on which a Unit loses its status of being an Exempt Unit, then it shall automatically be subject to its share of Assessments from that date forward.

19.1.10. Assessment for Condominium Units. Any Condominium Units within the Project may be exempt from any Assessments under this Declaration if: (a) such Condominium Units are subject to assessments under a Condominium Declaration and the applicable Condominium Association actually assesses such assessments; and (b) such Condominium Association has entered into an agreement with the Association to pay a for any services provided to Condominium Units including a pro-rata portion of any Common Areas and Facilities which directly benefit the applicable Condominium Units. Any decision to declare Condominium Units exempt from Assessments under this Declaration shall be made by the Declarant during the Declarant Control Period and by the Board thereafter. If the Condominium Units are not exempt from Assessments under this Declaration, then notwithstanding any contrary provision of this Declaration, the Assessments to Condominium Units shall only include the portion of the Common Expenses which are directly associated with or attributable to the Condominium Units.

19.2. Reserve Funds. The Board shall not expend funds designated as reserves for any purpose other than the repair, restoration, replacement, or maintenance of major components of the Common Areas and Facilities for which the Association is responsible and for which the reserve fund was established. Reserve funds shall **not** be used for any other purpose, including, without limitation, for litigation or binding arbitration of any kind. The Board may authorize the temporary transfer of money from the reserve account to the Association's operating account from time to time to meet short-term cash flow requirements and pay other expenses. Any such funds so transferred shall constitute a debt of the Association and shall be restored and returned to the reserve account within three (3) years of the date of the initial transfer; provided, however, the Board may, upon making a documented finding that a delay in the restoration of such funds to the reserve account would be in the best interests of the Project and Association, delay such restoration until the time it reasonably determines to be necessary. The Board shall exercise prudent fiscal management in the timing of restoring any transferred funds to the reserve account and shall, if necessary, levy a Special Common Assessment to recover the full amount of the expended funds within the time limit specified above. Any such Special Common Assessment shall not be subject to the limitations set forth in herein. At least once every three (3) years, or as otherwise required under the Act, the Board shall cause a study to be conducted of the reserve account of the Association and its adequacy to satisfy anticipated future expenditure requirements. The Board shall, thereafter, annually review the reserve account study and shall consider and implement necessary adjustments to reserve account requirements and funding as a result of that review. Any reserve account study shall include, at a minimum:

19.2.1. Replacement Improvements. Identification of the major improvements or components thereof which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a useful life of less than thirty (30) years.

19.2.2. Useful Life. Identification of the probable remaining useful life of the components identified in Section 19.2.1 above, as of the date of the study.

19.2.3. Replacement Cost. An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified in Section 19.2.1 above, during and at the end of its useful life.

19.2.4. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

For purposes of this Section 19.2, the term "reserve account requirements" means the estimated funds which the Board has determined, with the assistance of a third-party reserve analyst or otherwise, are required to be available at a specified point in time to repair, replace or restore those major components which the Association is obligated to maintain. The Board shall comply with the provisions of the Act pertaining to a reserve analysis and the funding of a reserve account.

19.3. Right to Collect Rent. If an Owner shall at any time lease his Unit and shall default in the payment of Assessments, the Board may, at its option, so long as such default shall continue, demand and receive from any lessee of the Owner the rent due or becoming due, and the payment

of such rent to the Board shall be sufficient payment and discharge of such lessee and the Owner for such assessments to the extent of the amount so paid.

19.4. Reserve Analysis. The Board and the Association shall comply with the requirements of the Act concerning a Reserve Analysis and Reserve Funds as set forth in Utah Code § 57-8a-211, as the same may be amended. Further, when a newly constructed Unit is first sold to its initial Owner, additional charges may be imposed at the closing of the sale transaction to provide initial funding of the Association's general operating account (in addition to the Reinvestment Fee described below), but the amount so collected shall be more than three (3) months of general Assessments.

19.5. Covenant For Reinvestment Fees. Each time any Unit (Condominium Unit or Townhome Unit) in the Project is sold, a Reinvestment Fee shall be paid to the Association. The initial Owner purchasing a Unit (following completion of construction), and each subsequent Owner (purchaser) of such Unit, by taking title thereto covenants under this Section 19.5 to pay to the Association, upon and as a result of a transfer of the Unit, a fee that is dedicated to benefitting the Association ("Reinvestment Fee") as allowed under Utah Code § 57-1-46 (as the same may be amended from time to time). If not paid at the closing of such Owner's purchase of a Unit (i.e., the buyer in such transaction is to pay the fee), the Reinvestment Fee shall be due and payable to the Association within the first calendar month of ownership of the Unit. The Reinvestment Fee shall be dedicated to meeting the Association's reserve account obligations, and, if the reserve account is adequately funded, to pay for the Association's regular operating expenses or any other purpose allowed by law for the Association's reserve account. The initial amount of the Reinvestment Fee will be **One Thousand Dollars (\$1000.00)** and may be adjusted from time to time thereafter by the Board. Amounts paid as Reinvestment Fees are not to be considered advance payments of any Assessments. In its sole discretion, the Declarant may exempt any transfer of a Lot or Unit from the Reinvestment Fee during the Declarant Control Period.

20. VOTING

20.1 Classes. The Association shall have two (2) classes of membership. The members of the Association will have the voting rights set forth in this Section 20 and in **EXHIBIT B** attached hereto.

20.2 Class A Members. Each Owner of a Unit, which is an Assessable Unit, shall be a Class A Member of the Association and each Owner is allotted one (1) vote per Unit owned by such Owner. Each Class A Membership shall be held jointly by all Owners of such Unit.

20.3 Class B Member. Declarant shall be the only Class B Member of the Association and shall be entitled to one hundred (100) votes for each Unit owned by Declarant and one hundred (100) votes for each Lot owned by Declarant (as shown on a Plat) without a Unit, provided however, that Declarant's Class B Membership status is not dependent or contingent upon Declarant's ownership of any Unit(s) and Lot(s) within the Property. Declarant shall be entitled to cast such votes (100 votes for each townhome Lot owned by Declarant) even if such Units or Lots are temporarily classified as Exempt Units. This provision is intended to ensure that Declarant retains majority voting control over the affairs of the Association until such time as Declarant's votes in the Association are fewer than all other Owners' votes in the Association. Declarant's

Class B Membership will cease when Declarant no longer owns any Lots or Units in the Project, or upon Declarant's express surrender of Class B Membership status, which surrender must be in a written instrument signed by Declarant and recorded in the office of the County Recorder, which instrument shall specify the date of surrender of Class B Membership. If the instrument specifies no date, the surrender date shall be the date of recording of the instrument. Declarant has the sole and absolute discretion to determine the date of its surrender of Class B Membership.

20.4 Allocation of Votes. All matters requiring a vote of the Members shall be decided by a majority of the Total Votes of the Association (including, without limitation, the votes pertaining to the Class B Member). During the Declarant Control Period, however, all matters requiring a vote of the Members or otherwise submitted to a vote of the Members shall be approved and implemented if and only if the Declarant also approves such matters. When Declarant is no longer a Class B Member of the Association, then (i) the Class B Membership shall cease being a class of membership; (ii) there shall no longer be any Class B votes of the Association; and (iii) all matters submitted to a vote of the Association shall be decided solely by the votes of the Class A Members.

21. EASEMENTS

21.1. Encroachment. If any part of the Common Areas and Facilities encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas and Facilities, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to be encumbrances either on the Common Areas and Facilities or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project; by error in the Plat; by settling, rising, or shifting of the earth; or by changes in position caused by repair or reconstruction of the Project or any part thereof.

21.2. Utility Lines. If any utility line of any kind is constructed such that it crosses through, over, or under one or more Units in order to provide service to another Unit, or if, after construction, it becomes necessary to install a utility line through, over or under one or more Units in order to provide service to another Unit, a perpetual easement for such utility line(s) is hereby granted for the installation, maintenance, repair (or replacement), and operation of all such utility line(s).

21.3. Ingress and Egress. Each Owner shall have the unrestricted right to ingress and egress over, upon, and across the Common Areas and Facilities as necessary for access to the Unit such Owner is occupying and to any Limited Common Areas and Facilities appurtenant to such Unit, and shall have the right to the horizontal, vertical, and lateral support of such Unit and such rights shall be perpetual and shall be appurtenant to and pass with title to each Unit.

21.4. Use by Association. The Association shall have an easement, including, without limitation, an easement through, over, and across the Lots and the Units to make such use of the Common Areas and Facilities as may be necessary or convenient to perform the duties and

functions that each is obligated or permitted to perform pursuant to this Declaration, including, without limitation, the right to construct and maintain the Common Areas and Facilities for use by the Owners and the Association.

21.5. Repairs. Some of the Common Areas and Facilities are or may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the irrevocable right to have access to each Unit and to all Common Areas and Facilities from time to time during such reasonable hours as may be necessary for the maintenance, cleaning, repair (emergency or otherwise), or replacement of any Common Areas and Facilities or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas and Facilities or to any Unit. In addition, agents of the Association may enter any Unit when necessary in connection with any cleaning, maintenance, repair, replacement, landscaping, construction, or reconstruction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association with funds from the Common Expense Account. Similarly, Owners shall have a right of reasonable access through the Common Areas and Facilities and other Units (upon reasonable advance notice to the Owner(s) of such Units) if reasonably necessary to access, repair, replace or maintain any Unit or item appurtenant to such Unit.

21.6. Future Easements. Declarant reserves the right to make future conveyances of easements anywhere in the Project, including on any Lot, as necessary to allow for the reasonable functioning of utilities, services, or infrastructure which is necessary or beneficial to the Project, as determined by the Declarant in its sole discretion.

21.7. Implied in Conveyance. All conveyances of Units within the Project shall be construed to grant and reserve such easements as are provided herein, even though no specific reference to such easements appears in any such conveyance.

22. NOTICES

All notices under this Declaration shall be in writing. Any notice permitted or required to be delivered as provided herein may be delivered either personally, by first class mail, by express mail or overnight courier service providing proof of delivery, or by telecopy or facsimile transmission, or by email with read receipt confirmed including a response to the subject email. Notice to Owners shall be addressed to each Owner at the address given by such Owners to the Board for the purpose of service of such notice or to the Unit of such Owner if no such address has been given to the Board. In any instance herein where Mortgagees are entitled to vote or be provided notice, notice to Mortgagees shall be addressed to each Mortgagee at the address provided by such Mortgagee to the Board for the purpose of service of such notices required by this Declaration and the Bylaws. Notice shall be deemed given when actually received if personally delivered or sent by overnight courier; if faxed, when the fax is received, except that if the fax is received at a time other than the normal business hours of the office/location at which it is received it shall be deemed received on the next regular business day; and if by mail, the earlier of the day actually received or the third business day after the notice is deposited in the United States Mail, properly addressed and postage prepaid.

23. NO WAIVER

The failure of the Board or its agents or designees to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration and the Bylaws, to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition, or restriction; but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt and acceptance by the Board or its agents or designees of the payment of any assessment from an Owner with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board.

24. ENFORCEMENT.

24.1. Right of Enforcement. All Owners, guests, or lessees of an Owner, and persons under Owner's control, shall strictly comply with the provisions of the Declaration, the Bylaws, and the rules and regulations and decisions issued pursuant thereto. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with provisions of the Declaration and Bylaws or the decisions of the Association. Owners shall have a similar right or action against the Association. Failure to so comply shall be grounds for: (i) an action to recover sums due for damages or injunctive relief or both, maintainable by the Board, or its agent or designee on behalf of the Owners, or in an appropriate case, by an aggrieved Owner; and/or (ii) the Board to impose monetary penalties, temporary suspensions of an Owner's right to the use of a Unit or the Common Areas and Facilities, or other appropriate discipline so long as any such Owner has been given notice and has had an opportunity to present a written or oral defense to the charges in a hearing. The Board shall determine whether the Owner's defense shall be oral or written. After the hearing, but before any disciplinary action is taken, the Owner shall be notified of the decision of the Board. The Board may delegate to the Manager the power and authority to carry out disciplinary actions duly imposed.

24.2. Limitation. After the Declarant Control Period, the Association shall only be empowered to cause or require alteration or demolition of any construction to enforce any restrictions contained in this Declaration pursuant to judicial proceedings.

25. DISPUTE RESOLUTION AND MANDATORY BINDING ARBITRATION

25.1. Statement of Intent. Prior to purchasing a Unit, every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, an inspection on any Unit that Owner is purchasing or any other aspect of the Project, including, without limitation, the Common Areas and Facilities. Moreover, if any written warranty has been provided, it identifies the only items that are warranted by the Declarant. Having had the ability to inspect prior to purchasing a Unit, having received a written warranty if any warranty is provided, and having paid market price for a Unit in the condition it and the Common Area are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant and/or any subcontractor performing work in the Project change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners (by purchasing a Unit) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving

disputes and conflicts in that it can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Units for years, unfairly prejudicing those Owners who must or want to sell their Unit during any period when litigation is pending. For this reason, the Owners, by purchasing a Unit, and the Declarant covenant and agree that all claims and disputes relating to the Project or the Units, or relating to the Common Areas and Facilities, shall not be pursued through court action, but shall be asserted and resolved only through the specific alternative dispute resolution mechanisms described below, and only after full disclosure, satisfaction of the notice and right to cure requirements, and knowing approval of the Owners, as set forth in the provisions of this Section 25 (including the subsections below). In addition, the Association and the Owners agree that they take ownership and possession of the Units and Common Areas AS IS, with no warranties of any kind except as otherwise required as a matter of law. The Declarant specifically disclaims any and all warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law.

25.2. Binding Arbitration for All Disputes. To the fullest extent permitted by law, all claims and disputes of any kind that any Owner or the Association may have involving the Declarant, or any agent, contractor, employee, executing officer, manager, affiliate or owner of the Declarant, or any engineer or contractor involved in the design or construction of the Project, which arise from or are in any way related to a Building, Unit, or other Improvement on a Lot, Common Areas, or any other Improvement on or component of the Project ("**Dispute**"), shall be submitted to final and binding arbitration. Binding arbitration shall be the sole remedy for resolving claims and disputes between or involving the Declarant and any Owner or between or involving the Declarant and the Association. Arbitration proceedings, however, shall not be commenced unless the Pre-Arbitration Requirements set forth in Section 25.3, below, have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include the following:

25.2.1. Any allegation that a condition in any of the Buildings or Units or the Common Areas and Facilities, or other improvements in the Project, is or involves a construction defect;

25.2.2. Any disagreement as to whether an alleged construction defect has been corrected;

25.2.3. Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;

25.2.4. Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;

25.2.5. Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;

25.2.6. Any alleged violations of consumer protection, the Act, the implied warranties of habitability or other common law doctrines or claims, unfair trade practice, or other statutes or laws;

25.2.7. Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;

25.2.8. Any allegation that any condition existing in the Project or created by the Declarant (or any of its contractors), including construction-related noise, dust, and traffic, is a nuisance, a defect, or a breach of any implied warranties of habitability or other implied warranties;

25.2.9. Any disagreement concerning the scope of issues or claims that should be submitted to binding arbitration;

25.2.10. Any disagreement concerning the timeliness of performance of any act to be performed by Declarant or any of its contractors;

25.2.11. Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;

25.2.12. Any disagreement or dispute regarding management of the Association, or regarding reserve studies or funding of Association expenses; and

25.2.13. Any other claim or disagreement arising out of or relating to the sale, design, or construction of any of the Units, Common Areas and Facilities, Limited Common Areas and Facilities, Capital Improvements, off-site improvements, management of the Association, or other claims regarding the Project.

25.3. Pre-Arbitration Requirements. An Owner or the Association may only pursue a claim against the Declarant or any contractors hired by Declarant in arbitration after all of the following efforts of dispute resolution have been completed.

25.3.1. Right to Cure. The claimant (e.g. the Owner or the Association) shall provide to the Declarant a written Notice of Claim (defined below) and permit the Declarant one hundred fifty (150) days to cure or resolve the claim or defect or to try to get the builder or the appropriate contractor to cure or resolve the claim or defect, prior to initiating any formal arbitration proceedings. If the dispute is not resolved within the 150-day Right to Cure period, the parties shall participate in formal mediation with a mutually acceptable third-party mediator in an effort to resolve the Dispute prior to taking further action or commencing arbitration. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this Section shall immediately apply again and any pending action or proceedings, including any mediation or arbitration, shall be stayed during the 150-day cure period.

25.3.2. "Notice of Claim" shall mean and include the following information: (a) an explanation of the nature of the claim, (b) a specific breakdown and calculation of any alleged damages, (c) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (d) photographs of any

alleged defective condition, if applicable, (e) samples of any alleged defective conditions or materials, if reasonably available, (f) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (g) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

25.4. Arbitration Procedure. If a Dispute has not been resolved after satisfying and complying with the above-described "Pre-Arbitration Requirements," then the claimant (Owner or Association) shall have the right to proceed with binding arbitration; however, the Association shall not pursue or commence binding arbitration unless (a) such action is first approved by a majority of the Total Votes of the Association after the Association has obtained a written opinion from legal counsel advising the Association of the likelihood of success on the merits of the claims, the anticipated costs and legal fees, arbitration fees, and expert witness fees of the entire arbitration proceeding (the "**Arbitration Budget**"), and the likelihood of recovery if the Association prevails, and (b) the Association has collected funds from the Owners, by special assessment or otherwise, equal to at least fifty percent (50%) of the Arbitration Budget as set forth in the opinion letter described above. The written opinion from legal counsel, addressing these topics, must be provided to all Owners before the formal vote on whether to proceed with binding arbitration. The binding arbitration shall be conducted by a mutually acceptable arbitrator, or, if an arbitrator cannot be mutually selected the parties shall participate in mandatory mediation and if the Dispute is not resolved in mediation, the mediator will select an arbitrator. The binding arbitration shall be conducted according to the rules and procedures adopted by the American Arbitration Association. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.

25.5. Fees and Costs of Arbitration. Each party shall bear its own attorneys' fees and costs (including expert witness costs) for the arbitration. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between the parties. The arbitrator shall not award attorneys' fees, expert witness fees or arbitration costs to the prevailing party.

25.6. No Waiver of Arbitration Right. If any Owner, the Association, or the Declarant files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party, or a bar to the right of any other party, to seek arbitration or to insist on compliance with the requirements set forth in this Section 25. If any such court action is filed, then the court in such action shall, upon motion of any party to the proceeding, stay the proceeding before it and direct that such Dispute be arbitrated in accordance with the terms set forth herein, including, without limitation, compliance with the Pre-Arbitration Requirements set forth above.

25.7. Waiver of Subrogation. The Association and each Owner waives any and all rights to subrogation against the Declarant and any builder, contractor, and engineer in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the Project engineer, and builder, contractors of the Declarant and the builder, and their officers, employees, owners, and representatives. To the full extent permitted by law, the Association and Owners hereby release Declarant, the Project engineer, and builder, and their respective officers, employees, owners, contractors, insurers, and representatives from any and all liability to the Association and all

Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or builder, their officers, employees, owners, and representatives. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify and defend the Declarant, the builder, and any of their officers, employees, owners, contractors, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

26. RIGHTS RESERVED FOR DECLARANT

So long as Declarant owns any Lot or Unit in the Project, the Declarant shall have the right to use any Building, Unit, Common Areas and Facilities, or Limited Common Areas and Facilities in furtherance of any activities designed to accomplish or facilitate construction, improvement and sale of all Lots or Units owned by the Declarant or to be added to the Project, and the construction and improvement of all Common Areas and Facilities and/or Limited Common Areas and Facilities as the Declarant may desire. The Declarant shall have the right to maintain one (1) or more sales offices and model Units. Such offices and model Units may be located in any Unit with the permission of the Owner of that Unit, who may be the Declarant, or in one (1) or more separate structures, trailers, or facilities placed in the Project for the purpose of aiding the Declarant's sales efforts, or any combination of the foregoing. The Declarant shall also have the right to maintain any number and size of promotional, advertising, or directional signs, banners, or similar structures or devices at any place or places in the Project. The Declarant shall also have the right to designate by signs or otherwise any street or other parking as parking for sales only or to otherwise restrict and use any Common Area parking. The Declarant shall have the right from time to time to relocate, move, remove, or add to any of its sales offices, parking restrictions, model Units, signs, banners, or similar structures or devices.

27. EXPANSION OF PROJECT

27.1. Right to Expand. There is hereby granted unto Declarant (and its assigns), and Declarant hereby reserves, the absolute right and option to expand the Project at any time and from time to time by recording a declaration of inclusion or similar instrument.

27.2. Allocation of Assessments and Voting Rights Following Expansion. Each Unit added to the Project shall be responsible to pay Assessments in the same manner and subject to the same provisions as all other Units in the Project. Each Owner of a Unit shall be entitled to memberships and votes in the Association to the extent provided for in Section 20 above. Assessments (except for Exempt Units) and voting rights shall commence as of the date the Declarant records a declaration of inclusion with respect to each subdivided Lot contained within any additional land provided the provisions of this Declaration with respect to Assessments and voting are otherwise met.

27.3. No Obligation to Expand. Except to the extent specifically indicated herein, this Declaration is not intended, and shall not be construed so as, to impose upon Declarant any

obligation respecting, or to restrict Declarant in any way with regard to: (i) the addition to the Project; (ii) the creation or construction of any Unit or other improvements; or (iii) the carrying out in any particular way or within any particular time of any development or addition which may be undertaken.

28. AGENT FOR SERVICE OF PROCESS

The name and address of the person to receive service of process in all cases provided by the Act shall be the registered agent and address of the Association as shown on the official corporate records maintained in the office of the Division of Corporations and Commercial Code of the State of Utah.

29. SEVERABILITY

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision hereof.

30. CONTROLLING LAW

This Declaration shall be governed by the laws of the State of Utah.

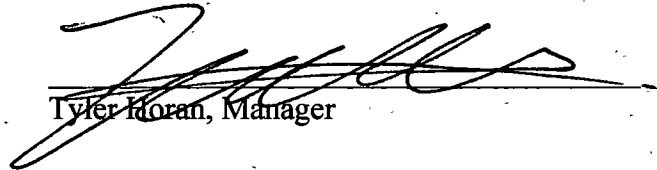
31. EFFECTIVE DATE

This Declaration shall take effect when recorded in the office of the County Recorder.

IN WITNESS WHEREOF, the Declarant has executed this instrument this 17th day of June, 2024.

DECLARANT:

RIVER RUN SF, LLC, a Utah
limited liability company


Tyler Horan, Manager

STATE OF UTAH)

: ss.

COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 17th day of June, 2024, by Tyler Horan, as manager of RIVER RUN SF, LLC, a Utah limited liability company (the above Declarant).


NOTARY PUBLIC

SEAL:



EXHIBIT A**Legal Description of the Property****River Run Plat A*****BOUNDARY DESCRIPTION***

BEGINNING AT POINT IN THE EXTENSION OF AN EXISTING FENCE, WHICH POINT LIES S00°12'21"E 125.79 FEET ALONG THE SECTION LINE AND EAST 958.22 FEET FROM THE WEST ¼ CORNER OF SECTION 30, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE N03°36'34"E 256.32 FEET ALONG SAID EXTENSION AND FENCE; THENCE N03°08'31"E 553.43 FEET; THENCE N86°57'23"W 148.47 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF A 23.04 FOOT RADIUS CURVE TO THE RIGHT THROUGH THE CENTRAL ANGLE OF 89°47'02" THE CHORD BEARS N41°57'23"W 32.53 FEET; THENCE N03°02'37"E 161.02 FEET; THENCE N86°57'23"W 204.85; THENCE S02°34'26"W 35.98 FEET; THENCE S02°22'49"W 406.24 FEET, THENCE S33°40'08"E 89.75 FEET; THENCE S32°51'21"E 92.02 FEET; THENCE S28°53'23"E 69.59 FEET; THENCE S26°02'16"E 152.66 FEET; THENCE S25°44'41"E 89.35 FEET; THENCE SOUTHEASTERLY 123.60 FEET ALONG THE ARC OF A 500.00 RADIUS CURVE TO THE LEFT THROUGH THE CENTRAL ANGLE OF 14°09'51" THE CHORD BEARS S29°24'19"E 123.29 FEET; THENCE SOUTHEASTERLY 50.64 FEET ALONG THE ARC OF A 110.00 FOOT RADIUS CURVE TO THE LEFT THROUGH THE CENTRAL ANGLE OF 26°22'29" THE CHORD BEARS S49°53'11"E 50.19 FEET TO THE POINT OF BEGINNING. CONTAINING 5.48 ACRES.

River Run Plat B***BOUNDARY DESCRIPTION***

BEGINNING AT A POINT IN AN EXISTING FENCE, WHICH POINT LIES N89°16'35"E 1005.23 FEET ALONG THE QUARTER SECTION LINE AND NORTH 669.93 FEET FROM THE WEST 1/4 CORNER OF SECTION 30, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG THE EXISTING BOUNDARY OF RIVER RUN TOWNHOMES PLAT "A" THE FOLLOWING 4 COURSES TO WIT: (1) N86°57'23"W 148.47 FEET, (2) NORTHWESTERLY 36.11 FEET ALONG THE ARC OF A 23.04 FOOT RADIUS CURVE TO THE RIGHT THROUGH THE CENTRAL ANGLE OF 89°47'02", THE CHORD BEARS N41°57'23"W 32.53 FEET, (3) N03°02'37"E 161.02 FEET, (4) N86°57'23"W 204.85 FEET; THENCE N02°34'26"E 280.87 FEET; THENCE S86°59'42"E 380.77 FEET; THENCE S03°19'38"W 415.21; THENCE S03°08'31"W 49.92 FEET TO THE POINT OF BEGINNING. CONTAINING 3.17 ACRES.

River Run Plat C***BOUNDARY DESCRIPTION***

BEGINNING AT A POINT IN AN EXISTING FENCE, WHICH POINT LIES N00°12'30"W 1166.96 FEET ALONG THE SECTION LINE AND EAST 655.99 FEET FROM THE WEST 1/4 CORNER OF SECTION 30, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE N02°34'26"E 108.36 FEET; THENCE N02°42'56"E 285.48 FEET; THENCE N01°40'06"E 49.95 FEET; THENCE SOUTHEASTERLY 47.68 FEET ALONG THE ARC OF A 257.50 FOOT RADIUS CURVE TO THE LEFT THROUGH THE CENTRAL ANGLE 10°36'30", THE CHORD BEARS S81°39'08"E 47.61 FEET; THENCE S86°57'23"E 101.47 FEET; THENCE NORTHEASTERLY 23.56 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT THROUGH THE CENTRAL ANGLE 90°00'00", THE CHORD BEARS N48°02'37"E 21.21 FEET; THENCE S86°57'23"E 60.00 FEET; THENCE SOUTHEASTERLY 23.56 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT THROUGH THE CENTRAL ANGLE 90°00'00", THE CHORD BEARS S41°57'23"E 21.21 FEET; THENCE S86°57'23"E 157.42 FEET; THENCE S08°03'15"W 110.84 FEET; THENCE S02°50'51"W 74.12 FEET; THENCE S03°40'35"W 183.94 FEET; THENCE S03°19'38"W 70.65 FEET; THENCE N86°59'42"W 380.77 FEET TO THE POINT OF BEGINNING. CONTAINING 3.91 ACRES.

EXHIBIT C**BYLAWS OF THE
RIVER RUN TOWNHOME OWNERS ASSOCIATION****ARTICLE ONE: NAME AND LOCATION**

The name of the corporation is *River Run Townhome Owners Association* (“**Association**”). The principal office of the Association is 42 E. 1100 S., Suite 1B, American Fork, Utah 84003, but the meetings of Owners and Directors may be held at such other places as may be designated by the Board of Directors. For purposes of these Bylaws and the other governing documents of the subject project, the “Board of Directors” shall have the same meaning as the “Board”. The Association is subject to both the Utah Community Ownership Act in Title 57, Chapter 8a, Utah Code, as amended, and the Utah Revised Nonprofit Corporation Act in Title 16, Chapter 6a, Utah Code, as amended.

ARTICLE TWO: APPLICATION OF BYLAWS

All present and future Owners, Mortgagees, lessees and occupants of any Unit or townhome and any other persons who may use the facilities of the River Run or River Run Townhomes project in Spanish Fork, Utah County, Utah (“**Project**”) in any manner are subject to these Bylaws, the *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for River Run* filed of record in the real property records of the Utah County Recorder (“**Declaration**”) and all rules made pursuant hereto and any amendments hereof. The acceptance of a deed or conveyance or entering into of a lease or the act of occupancy of a Unit or townhome shall constitute an agreement that the provisions of the Declaration and these Bylaws and any rules and regulations made pursuant hereto, as they may be amended from time to time, are accepted, ratified and will be complied with. Certain capitalized terms used in these Bylaws but not otherwise defined shall have the meaning set forth in the Declaration.

ARTICLE THREE: MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Owners shall be held within one (1) year from the date of incorporation of the Association, and each subsequent annual meeting shall be held in July of each calendar year at a date and time fixed by the Board of Directors, or such other month or date as the Board of Directors may designate.

Section 2. Special Meetings. Special meetings of the Owners may be called at any time by the president or by the Board of Directors, or upon written request of the Owners who are entitled to vote at least twenty-five percent (25%) of all the votes of the membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Owners shall be given by, or at the direction of, the secretary of the Association or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Owner entitled to vote thereat, addressed to the Owner’s address last appearing on the books of the Association or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting and, in the case of special meeting, the purpose of the meeting. Notice of a meeting can also be given by email to each of the Owners. Owners may also call meetings on shorter notice provided all Owners agree to such shorter notice.

Section 4. Quorum. Except for meetings addressing an amendment of these Bylaws, an amendment of the Declaration, or other matters for which the affirmative votes of a certain percentage of Owners is required for approval, the Owners present in person, electronic broadcast, or by proxy at a meeting of the Association shall constitute a quorum. Where a certain percentage of affirmative votes of Owners is required under the Declaration or applicable law to approve an action and such action is to be discussed at the meeting, a quorum shall consist of not less than the number of affirmative votes required to approve such action.

Section 5. Voting. The Declarant and each Owner shall have the right to cast the number of votes allocated to the Declarant and Owners in the Declaration. At all meetings of Owners, each Owner may vote in person, by written ballot, or by proxy. Except as otherwise provided in Section 7 of this Article Three, in the event that ownership of a Unit is jointly held by two or more persons (each a “**Joint Owner**”) the Association may accept the vote of any one Joint Owner as the vote for such Unit, unless it receives written notice to the contrary from any of the other Joint Owners of such Unit. The Association may accept votes, consents, written ballots, waivers, proxy appointments, and proxy revocations of the Owners in accordance with the provisions of Utah Code § 16-6a-713.

Section 6. Action Taken Without a Meeting. Any action that may be taken at any regular or special meeting of the Association may be taken without a meeting if:

6.1 A written ballot is distributed to every Owner entitled to vote setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal, and providing a reasonable time for the Owner to return the ballot to the Association.

6.2 The number of votes cast by ballot within the specified time under Subsection 6.1 equals or exceeds the quorum required to be present at a meeting authorizing the action.

6.3 The number of approvals of the action equals or exceeds the number of votes required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

6.4 The written ballot distributed to Owners affords an opportunity for the Owner to specify a choice between approval and disapproval of each order of business proposed to be acted upon by the Association and further provides that the vote of the Owners shall be cast in accordance with the choice specified.

In addition to foregoing, any action that may be taken at any annual or special meeting of Owners may be taken without a meeting and without prior notice if the requirements of Utah Code § 16-6a-707 have been satisfied.

Section 7. Proxies. At each Owners meeting, each Owner entitled to vote shall be entitled to vote in person or by proxy; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Owner himself or by his attorney thereunto duly authorized in writing or which satisfies the requirements of Utah Code § 16-6a-712. The instrument authorizing the proxy to act shall indicate the name of the secretary of the Association, or such other officer or person or who may be acting as the secretary at the meeting to whom the proxy is to be given for the purpose of casting the vote to reflect the absent Owner’s vote as

specified in the form of proxy. If a Unit is jointly held, the instrument authorizing a proxy to act must have been executed by all Joint Owners of such Unit or their attorneys thereunto duly authorized in writing. Such instrument authorizing a proxy to act shall be delivered at the beginning of the meeting to the secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

ARTICLE FOUR: BOARD OF DIRECTORS

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors of at least three (3) but no more than five (5) members (each a “**Director**”). The Board of Directors shall be the “**Board**” of the Association for purposes of the Utah Act and the subject project. During the Declarant Control Period, Directors need not be Owners. Thereafter, only Owners will be eligible to be Directors. For purposes of qualifying as an Owner for purposes of this Article Four, spouses of Owners and representatives of entities, if the entity is an Owner, will be eligible to serve as Directors.

Section 2. Initial Selection and Term of Office. Declarant shall have the exclusive right to appoint and to remove all Directors during the Declarant Control Period. At the end of the Declarant Control Period, the Owners shall elect the Directors at a meeting of Owners each calendar year. Directors shall serve one-year terms, which may be renewed by the Owners by vote each year.

Section 3. Election. Except as set forth in Section 2 above, election to the Board of Directors shall be by vote of the Owners. At such election, the Owners or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provision of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4. Removal. After the end of the Declarant Control Period, any Director may be removed from the Board, with or without cause, by a majority vote of the Owners of the Association. In the event of death, resignation, or removal of a Director, a successor shall be selected by the remaining Owners of the Board of Directors and shall serve for the unexpired term of said Director’s predecessor.

Section 5. Compensation. No Director shall receive compensation for any service the Director may render to the Association. However, any Director may be reimbursed for actual reasonable expenses incurred in the performance of Director duties.

Section 6. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 7. Vacancies. If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors, the vacancy may be filled by the Owners or by the Board of Directors in accordance with Utah Code § 16-6a-810.

ARTICLE FIVE: MEETING OF DIRECTORS

Section 1. Regular Meetings. The Board of Directors shall hold a regular meeting at least one (1) time per calendar year.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) Directors, after not less than three (3) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be the act of the Board of Directors.

ARTICLE SIX:
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

1.1 Adopt and publish rules and regulation governing the use of the Common Areas and Facilities, and the personal conduct of the Owners and their guests thereon, and to establish penalties for the infraction thereof,

1.2 Upon reasonable notice and the opportunity for a hearing to an Owner, suspend the voting rights of an Owner during any period in which such Owner shall be in default in the payment of Assessment levied by the Association. Such rights may also be suspended after notice and hearing, for the period not to exceed sixty (60) days for the infraction of published rules and regulations;

1.3 Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provision of these Bylaws, the Articles, or the Declaration;

1.4 Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

1.5 Employ a Manager, an independent contractor, and such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

2.1 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Owners at the annual meeting of the Owners, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Owners who are entitled to vote;

2.2 Supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;

2.3 As more fully provided in the Declaration, to:

2.3.1 Fix the amount of the annual assessment against each Unit at least fifteen (15) days in advance of each annual assessment period;

2.3.2 Foreclose at its discretion the lien against any Unit for which Assessments are not timely paid and/or to bring an action at law against the Owner personally obligated to pay the same.

2.4 Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

2.5 Procure and maintain adequate liability, and hazard insurance on property by the association, and adequate officers' and directors' indemnity insurance, and all other insurance required by the Declaration;

2.6 Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

2.7 Cause the Common Areas and Facilities to be maintained;

2.8 Permit First Mortgagees of Units in the Project to pay taxes or other charges which are in default and which may or have become a charge against the Common Areas of the Association, and such First Mortgagees may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property, and such First Mortgagees, upon making such payments, shall be owed immediate reimbursement therefor from the Association; and

2.9 Assess and collect all Assessments authorized in the Declaration.

ARTICLE SEVEN: OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be president, a secretary, and a treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the annual meeting of the Owners each year, or as deemed necessary by the Owners.

Section 3. Term. The officers of this Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his or her successor is elected and has qualified, unless he or she shall sooner resign, or shall be removed, or otherwise be disqualified.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of

receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the office he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant Section 4 of this Article Seven.

Section 8. Duties. The duties of the officers are as follows:

President: The president shall preside at all meetings of the Board; shall see that orders and resolution of the Board of Directors are carried out; and shall sign all leases, mortgages, promissory notes, checks, deeds and other written instrument on behalf of the Association.

Secretary: The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Owners; serve notice of meetings of the Board and of the Owners; keep appropriate current records showing the Owners of the Association together with their addresses; and shall perform such other duties as required by the Board.

Treasurer: The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall, together with the president, sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit or review of the Association book to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures, and deliver a copy of each to the Owners. The treasurer may choose to work with a management company to carry out the financial duties of the Association.

ARTICLE EIGHT: INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall provide any indemnification required or permitted by the laws of Utah, including without limitation indemnification required to be provided pursuant to Utah Code §§ 16-6a-901 to 910, and the Association shall indemnify Directors, officers, agents, and employees as follows:

Section 1. Third Party Litigation. The Association shall indemnify any Director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that he/she is or was such Director or officer or an employee or agent of the Association, or is or was serving at the request of the Association as a Director, office, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he/she acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful. The termination of any

action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith, and in a manner which he/she reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

Section 2. Association Litigation. The Association shall indemnify any Director or officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he/she is or was such a Director or officer of an employee or agent of the Association, or is or was serving at the request of the Association as Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him/her in connection with the defense or settlement of such action or suit if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interest of the Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his/her duty to the Association unless and only to the extent that the court in which such action or suit was brought, or any other court having jurisdiction in the premises, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court deems proper.

Section 3. Expenses. To the extent that a Director or officer of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 1 or 2 of this Article Eight, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, without the necessity for the determination as to the standard of conduct as provided in Section 4 of this Article Eight.

Section 4. Determination of Right to Indemnity. Any indemnification under Section 1 or 2 of this Article Eight (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director or officer is proper in the circumstances because he/she has met the applicable standard of conduct set forth in Section 1 or 2 of this Article Eight. Such determination shall be made (i) by the Board of Directors of the Association by a majority vote of a quorum consisting of Directors who were not parties to such action, suit, or proceeding, or (ii) if such quorum is not obtainable, or even if obtainable, and such a quorum of disinterested Directors so directs, by independent legal counsel (who may be regular counsel for the Association) in written opinion; and such determination shall be conclusive.

Section 5. Advance of Expenses. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding, as authorized in the particular case, upon receipt of an undertaking by or on behalf of the Director or officer to repay such amount, unless it shall ultimately be determined that he/she is entitled to be indemnified by the Association as authorized in this Article Eight.

Section 6. Other Indemnification Rights. Agents and employees of the Association who are not Director or officers of the Association may be indemnified under the same standards and procedures set forth above at the discretion of the Board of Directors of the Association.

Section 7. Benefited Parties. Any indemnification pursuant to this Article Eight shall not be deemed exclusive of any other rights to which those indemnified may be entitled and shall continue as to a person who has ceased to be a Director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

ARTICLE NINE: ACCOUNTING; RECORDS

Section 1. Accounting

1.1 The books and accounts of the Association shall be kept in accordance with reasonable accounting procedures used by similar projects under direction of the treasurer.

1.2 At the close of each fiscal year, the books and records of the Association shall be reviewed by an independent management company or public accountant approved by the Association.

Section 2. Inspection of Records. The membership register, books of account and minutes of meeting of the Association, of the Board of Directors and of committees of the Board of Directors, and all other records of the Project maintained by the association or Manager shall be made available for inspection and copying by any Owner of the Association or his duly appointed representative at any reasonable time and for a non-commercial purpose reasonably related to his interest as an Owner, at the office where the records are maintained. Upon receipt of an authenticated written request from an Owner along with the fee prescribed by the Board of Directors to defray the costs of reproduction, the Manager or other custodian of records of the Association shall prepare and transmit to the Owner a copy of any and all records requested. The Board of Directors shall establish reasonable rules with respect to:

- 2.1 Notice to be given to the custodian of the records by the Owner during to make the inspection;
- 2.2 Hours and days for the week when such an inspection may be made; and
- 2.3 Payment of the cost of making copies of documents requested by an Owner.

Every member of the Board of Directors, subject to the conditions set forth above, shall have the absolute right at any reasonable time to inspect and make copies of all books, records, and documents of the Association and to inspect all real and personal properties owned or controlled by the Association.

ARTICLE TEN: ASSESSMENTS

All Assessments shall be made in accordance with the general provisions of the Declaration. The treasurer shall keep detailed records of all receipts and expenditures, including expenditures affecting the Project and any other expenses incurred. Such records shall be available for examination by the Owners during regular business hours. In accordance with the actions of the Board of Directors in assessing Common Expenses against the Units and Owners, the treasurer shall keep an accurate record of such Assessments and of the payment thereof by each Owner.

ARTICLE ELEVEN: AMENDMENTS

Section 1. Amendment Procedure. These Bylaws may be amended, at a regular or special meeting of the Owners, by a vote of a majority of a quorum of the Owners present in person or by proxy.

Section 2. Conflict. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the provisions of the Declaration and these Bylaws, the provisions of the Declaration shall control.

THESE BYLAWS have been approved and adopted by the Declarant and by the Board as of the date of recording of the Declaration in the office of the Utah County Recorder.

END OF BYLAWS