

When Recorded Return To:

D.R. Horton, Inc.
12351 South Gateway Park Place, Suite D-100
Draper, Utah 84020
Attention: Krisel Travis

**Tax Parcel Numbers: 48-581-1194 to 1202; 48-580-1115 to 1154;
48-579-1078 to 1114**

**SECOND SUPPLEMENTAL DECLARATION AND FIRST AMENDMENT
TO THE DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR OSPREY TOWNHOMES**

THIS SECOND SUPPLEMENTAL DECLARATION AND FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR OSPREY TOWNHOMES (this “**Second Supplemental Declaration**”) is made as of August 25, 2023, by D.R. HORTON, INC., a Delaware corporation (“**Declarant**”), with reference to the following:

RECITALS

A. On June 10, 2022, Declarant caused to be recorded as Entry No. 69645:2022 in the official records of the Office of the Recorder of Utah County, Utah (the “**Official Records**”), that certain Declaration of Covenants, Conditions and Restrictions for Osprey Townhomes (the “**Original Declaration**”) pertaining to a residential unit development known as Osprey Townhomes located in Provo City, Utah County, Utah.

B. On April 18, 2023, Declarant caused to be recorded as Entry No. 24454:2023 in the Official Records that certain First Supplemental Declaration to the Declaration of Covenants, Conditions and Restrictions for Osprey Townhomes (the “**First Supplemental Declaration**”).

C. Section 4.1 of the Original Declaration provides that Declarant shall have the right and option, from time to time at any time, to subject some or all of the Additional Land described in the Original Declaration to the terms, conditions and restrictions created by the Original Declaration by the recordation of a supplemental declaration, which shall be effective upon recording the supplemental declaration in the Official Records.

D. Pursuant to Section 4.3 of the Original Declaration, Declarant desires to subject to the Original Declaration, as supplemented and amended, that portion of the Additional Land described on Exhibit “A,” which is attached hereto and incorporated herein by this reference (the “**Subject Property**”).

E. Section 3.32(b) of the Original Declaration provides that until the expiration of the Class B Control Period, Declarant may unilaterally amend the Declaration for any purpose that Declarant deems to be in the best interest of the Project.

F. Pursuant to Section 3.32(b) of the Original Declaration, Declarant desires to amend certain provisions of the Original Declaration as set forth herein.

G. Declarant is executing and delivering this Second Supplemental Declaration for the purpose of amending certain provisions of the Original Declaration and for the purpose of subjecting the Subject Property to the provisions of the Original Declaration.

SECOND SUPPLEMENTAL DECLARATION

NOW, THEREFORE, for the reasons recited above, Declarant hereby declares as follows:

1. Defined Terms. All defined terms as used in this Second Supplemental Declaration shall have the same meanings as those set forth in the Original Declaration, as previously supplemented, unless otherwise defined in this Second Supplemental Declaration.

2. Subject Property Subjected to the Original Declaration, as Supplemented and Amended. The Subject Property is hereby subjected to the Original Declaration, as previously supplemented and as supplemented and amended by this Second Supplemental Declaration, and the Subject Property shall be held, transferred, sold, conveyed, occupied, improved and developed subject to the covenants, restrictions, easements, charges and liens set forth in the Original Declaration, as previously supplemented and as supplemented and amended by this Second Supplemental Declaration, which provisions are hereby ratified, approved, confirmed and incorporated herein by this reference, with the same force and effect as if fully set forth herein and made again as of the date hereof. The provisions of the Original Declaration, as previously supplemented and as supplemented and amended by this Second Supplemental Declaration, shall run with the Subject Property and shall be binding upon all Persons having any right, title, or interest in the Subject Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The Subject Property shall hereafter be deemed to be a part of the Property, as such term is defined in Section 1.49 of the Original Declaration, as previously amended.

3. Amendment of Section 1.16. Section 1.16 of the Original Declaration is hereby amended and restated in its entirety to read as follows:

1.16 Amendment of Section 1.16 Class B Control Period shall mean and refer to the period of time during which the Class B Member is entitled to appoint all of the members of the Board of Directors.

4. Amendment of Section 1.17. Section 1.17 of the Original Declaration is hereby amended and restated in its entirety to read as follows:

1.17 Common Area and Common Areas shall mean and refer to all real property described and identified on a specific Plat as Common Area or Common Areas in which the Association owns an interest for the common use and benefit of some or all of the Owners of the Lots or Units identified on such Plat, their successors, assigns,

tenants, families, guests and invitees, including, but not limited to, the following items:

(a) The real property and interests in real property subjected to the terms of this Declaration, including the entirety of the Land and all Improvements constructed thereon, except for and specifically excluding therefrom the individual Lots and Units;

(b) All Common Areas designated as such on the Plat;

(c) All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the Units identified on a specific Plat and intended for the common use of all Owners of the Units identified on such Plat, including without limitation utility services such as telephone, electricity, natural gas, water and sewer;

(d) The outdoor grounds, detention basins, landscaping, street lighting, perimeter and preservation fences, sidewalks, trails, walking paths, parking spaces, private streets and alleys identified on such Plat;

(e) All portions of the Project identified on a specific Plat that are not specifically included within the individual Units identified on such Plat; and

(f) All other parts of the Project identified on a specific Plat that are normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Land owned by the Association for the common benefit of the Owner of the Units identified on such Plat.

(g) The exterior boundaries of a Unit owned by an Owner within the Project shall be the exterior footprint or exterior boundary of the Unit on the ground level of such Unit, even if the exterior footprint or exterior boundary of a second or third level of such Unit may be shown on the Plat to extend outward beyond the exterior footprint or exterior boundary of the ground level of such Unit. To the extent that the exterior footprint or exterior boundary of a second or third level of a Unit extends outward beyond the exterior footprint or exterior boundary of the ground level of such Unit, such portions of and beneath such upper levels of such Unit shall be deemed to be Common Areas within the exterior air space appurtenant to such Unit, which Common Areas are perpetually designated as Limited Common Areas for the exclusive use of the Owner of such Unit. The Limited Common Areas appurtenant to a Unit and designated for the exclusive use of the Owner of a Unit

shall also include the exterior walkways, driveways, stairs, porches, patios, balconies, decks and landscaped areas adjacent to the ground level or upper levels of such Unit and which may be designated on the Plat or otherwise designated in writing from time to time by the Association as Limited Common Areas for the exclusive use of the Owner of such Unit.

5. Amendment of Section 1.34. Section 1.34 of the Original Declaration is hereby amended and restated in its entirety to read as follows:

1.34 Limited Common Areas shall mean and refer to those portions of the Common Areas which are specifically designated on a specific Plat as “**Limited Common Area**” and which are thereby allocated for the exclusive use of one or more Units but fewer than all of the Units identified on such Plat. The exterior boundaries of Units owned by an Owner within the Project shall be the exterior footprint or exterior boundary of the Units on the ground level of such Units, even if the exterior footprint or exterior boundary of a second or third level of such Unit may be shown on the Plat to extend outward beyond the exterior footprint or exterior boundary of the ground level of such Units. To the extent that the exterior footprint or exterior boundary of a second or third level of a Unit extends outward beyond the exterior footprint or exterior boundary of the ground level of such Unit, such portions of and beneath such upper levels of such Unit shall be deemed to be Common Areas within the exterior air space appurtenant to such Unit, which Common Areas are perpetually designated as Limited Common Areas for the exclusive use of the Owner of such Unit. The Limited Common Areas appurtenant to a Unit and designated for the exclusive use of the Owner of a Unit shall also include the exterior walkways, driveways, stairs, porches, patios, balconies, decks and landscaped areas adjacent to the ground level or upper levels of such Unit and which may be designated on the Plat or otherwise designated in writing from time to time by the Association as Limited Common Areas for the exclusive use of the Owner of such Unit. Limited Common Areas shall include any window well for a Unit that is located outside the boundary of a Lot and within a Common Area.

6. Amendment of Section 3.5(c). Section 3.5(c) of the Original Declaration is hereby amended and restated in its entirety to read as follows:

3.5(c) Member’s Easements and Rights of Way. Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Areas in a manner consistent with the terms of this Declaration. The use by Owners and their guests of sidewalks, paths and trails within the Common

Areas of the Project may be utilized by pedestrians and by individuals utilizing regular bicycles or e-bikes with two wheels pedal-assist (but not throttle-assist) or electric powered scooters. However, no throttle-assist e-bikes of any nature and no electric-powered scooters that exceed twenty miles per hour (20 mph) and no gasoline-powered bikes, recreational vehicles or vehicles of any nature are allowed upon or within the sidewalks, paths and trails within the Common Areas of the Project, other than gasoline-powered vehicles utilized in connection with the maintenance and repair of such areas. The utilization of the sidewalks, paths and trails within the Common Areas of the Project may be controlled and regulated further pursuant to the rules and regulations adopted by the Board of Directors. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for the purpose of providing utilities to the Project and similar or related purposes. During the Class B Control Period, any such dedication or transfer shall be effective only if approved in writing by Declarant.

7. Amendment of Section 3.5(f)(15). Section 3.5(f)(15) of the Original Declaration is hereby amended and restated in its entirety to read as follows:

3.5(f)(15). Business Activities. The Property within the Project shall not be used for any Business and/or Trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or Permanent Resident may conduct business activities within a Unit so long as: (a) the Owner or Permanent Resident obtains all necessary licenses and permits; (b) the activity conforms to applicable laws, including all zoning requirements for the Project; (c) the Business and/or Trade activity does not involve door-to-door solicitation of residents of the Project; (d) the activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners or Permanent Residents of the Project, as may be determined in the sole discretion of the Board; and (e) the Owner or Permanent Resident obtains the prior written consent of the Board. This Section 3.5(f)(15) shall not apply to any activity conducted by Declarant with respect to its development and sale of the Lots and Units or its use of any Lots or Units which it owns within the Project. Notwithstanding the above, except for the nightly rental of a residence, the leasing of a residence shall not be considered a Business and/or Trade within the meaning of this Section 3.5(f)(15). For purposes of this Declaration, the nightly rental of a residence shall be considered a Business and/or Trade within the meaning of this Section 3.5(f)(15). The nightly rental of

a residence within the Project shall only be permitted if the Owner of such residence lives within the residence on a full-time basis, as determined by the Board in its reasonable discretion.

8. Amendment of Section 3.5(f)(19). Section 3.5(f)(19) of the Original Declaration is hereby amended and restated in its entirety to read as follows:

3.5(f)(19) Animals. No animal, bird, or fish, other than a reasonable number of generally recognized house or yard pets as determined solely by the Board, shall be maintained on any Lot or Unit and then only if they are kept, and raised thereon solely as domestic pets and not for commercial purposes. All pets must be kept within a Lot or within a Unit or on a leash at all times. No animal or bird shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be visible from neighboring property, unless otherwise approved by the Board. Enclosures, kennels, runs and the leash areas must be kept clean and sanitary and must be located not less than five (5) feet from any property line on such Owner's Lot. If a pet defecates on any portion of the Common Areas, the Owner of such pet shall immediately remove all feces left upon the Common Areas by such Owner's pet. If an Owner or Permanent Resident fails to abide by the rules and regulations and/or covenants applicable to pets, the Board may bar such pet from use of or travel upon the Common Areas. The Board may subject ingress, egress, use, or travel upon the Common Areas by a Person with a pet to an Individual Assessment, which may be a general fee for all similarly-situated Persons or a specific fee imposed for failure of an Owner or Permanent Resident to abide by the rules, regulations, and/or covenants applicable to pets. In addition, any pet which endangers the health of any Owner or Permanent Resident of a Lot or Unit or which creates a nuisance or an unreasonable disturbance or is not a common household pet, as may be determined in the sole discretion of the Board, must be permanently removed from the Property upon seven (7) days' written notice by the Board. Upon the written request of any Owner or Permanent Resident, the Board shall conclusively determine, in its sole and absolute subjective discretion, whether for the purposes of this Section, a particular animal, fish or bird is a generally recognized house or yard pet, whether such a pet is a nuisance or whether the number of animals, fish or birds on any such property is reasonable. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions contained herein.

9. Amendment of Section 3.16(b). Section 3.16(b) of the Original Declaration is hereby amended and restated in its entirety to read as follows:

Section 3.16(b). The Class B Member shall be Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall originally be entitled to ten (10) votes for each Class B Membership held by Declarant. The Class B Memberships shall cease and shall be converted to Class A Memberships, on the basis of the number of Lots and Units then owned by Declarant, on the happening of the first of the following events (herein referred to as the “Event” or “Events”):

- (1) Sixty (60) days after the date on which Declarant has sold all of the Lots and/or Units owned and developed by Declarant within the Project and on any of the Additional Land that may be subjected to this Declaration and become part of the Project, pursuant to Article 4 hereof; or
- (2) Twenty-five (25) years from the date the Declaration was recorded in the Office of the Recorder of Utah County, Utah; or
- (3) When, in its discretion, Declarant so determines. If and when Declarant elects to relinquish control of the Association, Declarant shall send written notice of such relinquishment to the Class A Members of the Association, and Declarant, after giving such written notice to the Class A Members, shall record in the Office of the Recorder of Utah County, Utah an instrument voluntarily surrendering all rights to control the activities of the Association, pursuant to Section 57-8a-502 of the Utah Code, as such Section may subsequently be amended or replaced. The effective date of such Event shall be the date Declarant records such instrument.

From and after the happening of the first to occur of the Events, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot and/or Unit owned. At such time, Declarant shall call a meeting, in the manner described in the Bylaws of the Association for special meetings, to advise the membership of the termination of Class B status.

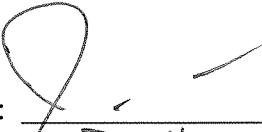
10. Amendment of Section 3.34(a). Section 3.34(a) of the Original Declaration is hereby amended and restated in its entirety to read as follows:

Section 3.34(a). Sales Offices and Model Lots. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Lots or Units and parking

incidental to the showing of model Lots or Units at any time. Such office and/or models may be one or more of the Lots or Units owned by Declarant, or one or more of any separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort within the Project or within any other residential development for so long as Declarant may elect to do so and for so long as Declarant owns the Lots or Units within the Project utilized for model Lots or Units and the associated parking of vehicles.

IN WITNESS WHEREOF, Declarant has caused this Second Supplemental Declaration to be executed by an officer duly authorized to execute the same as of the date first above written.

D.R. HORTON, INC.,
a Delaware corporation

By: 
Name: Jonathan S. Thornley
Title: Division CFO

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

The foregoing instrument was acknowledged to me this 25 day of August, 2023, by Jonathan S. Thornley, in such person's capacity as the DIVISION CFO of D.R. Horton, Inc., a Delaware corporation.





NOTARY PUBLIC

EXHIBIT "A"
TO
SECOND SUPPLEMENTAL DECLARATION AND FIRST AMENDMENT
TO THE DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR OSPREY TOWNHOMES

Legal Description of the Subject Property

The Subject Property consists of that certain real property located in Utah County, Utah more particularly described as follows:

All of Lots 1202 TO 1194 and all Common Area, Limited Common Areas and Private Roadways as designated on the recorded subdivision plat, OSPREY TOWNHOMES PHASE 6, recorded August 18, 2023 as Entry No. 54163:2023 Utah County Recorder, Utah., Inclusive.

TOGETHER WITH:

All of Lots 1154 TO 1115 and all Common Area, Limited Common Areas and Private Roadways as designated on the recorded subdivision plat, OSPREY TOWNHOMES PHASE 4, recorded August 18, 2023 as Entry No54162:2023 Utah County Recorder, Utah., Inclusive.

TOGETHER WITH:

All of Lots 1114 TO 1078 and all Common Area, Limited Common Areas and Private Roadways as designated on the recorded subdivision plat, OSPREY TOWNHOMES PHASE 3, recorded August 18, 2023 as Entry No54162:2023 Utah County Recorder, Utah., Inclusive.

Tax Parcel Numbers: 48-581-1194 to 1202; 48-580-1115 to 1154;
48-579-1078 to 1114