



ENT 36106:2021 PG 1 of 32  
ANDREA ALLEN  
UTAH COUNTY RECORDER  
2021 Feb 25 3:20 pm FEE 116.00 BY LT  
RECORDED FOR GUYMON, PAXTON

WHEN RECORDED MAIL TO:

Paxton R. Guymon, Esq.  
York Howell & Guymon  
10610 South Jordan Gateway, Suite 200  
South Jordan, Utah 84095

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
ROCKWELL RANCH SINGLE FAMILY HOMES**

A 48-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION IN

AMERICAN FORK CITY, UTAH COUNTY, UTAH

(February 2021)

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
ROCKWELL RANCH SINGLE FAMILY HOMES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ROCKWELL RANCH SINGLE FAMILY HOMES (this "Declaration") is made this \_\_\_\_ day of February, 2021, by RWR PROPERTY HOLDINGS, LLC, a Utah limited liability company ("Declarant").

**RECITALS:**

A. Declarant is the owner of the real property located in American Fork City, Utah County, State of Utah, described in Exhibit A hereto, which description is incorporated herein by this reference (the "Property").

B. The Property has been formally subdivided into forty-eight (48) residential lots on which single-family homes may be constructed, as depicted in the final subdivision plat known as "*Rockwell Ranch Block 5 Plat*" recorded in the Utah County Recorder's Office on January 8, 2021, as Entry No. 4656:2021 (the "Subdivision"). The forty-eight (48) residential lots in the Subdivision are collectively referred to herein as the "Lots" and, individually, as a "Lot."

C. The Subdivision is located within, and is part of, the Rockwell Ranch master-planned community. As such, all Lots in the Subdivision are subject to, and governed by, the *Master Declaration of Covenants, Conditions and Restrictions of Rockwell Ranch* recorded in the Utah County Recorder's Office on October 5, 2020, as Entry No. 154279:2020, as the same may be amended (the "Master CC&Rs"). As described more fully in the Master CC&Rs, each Lot in the Subdivision (and the owner(s) thereof) is bound by the requirement to pay Annual Assessments, Special Assessments, and Reinvestment Fees to the Master Association (known as the *Rockwell Ranch Owners Association, Inc.*).

D. In addition to being subject to the Master CC&Rs, the Subdivision and all Lots thereof shall also be governed by and subject to the covenants, conditions and restrictions set forth in this Declaration, which covenants, conditions and restrictions are equitable servitudes that run with the land and mutually burden and benefit each of the Lots in the Subdivision. Owners of the Lots in the Subdivision shall be members of both the Master Association and the Single Family Association (defined below).

**DECLARATION:**

DECLARANT HEREBY DECLARES that all of the Lots in the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitudes set forth in this Declaration, all of which are created for the mutual benefit of the Owners and the Single Family Association (defined below). It is the intention of the Declarant in imposing these covenants, conditions and restrictions to protect and enhance the property values and aesthetic values of the Lots, by

protecting the appearance and quality of the Lots, and protecting the Owners' ability to use and enjoy their Lots without unreasonable interference from or nuisances created by other Owners, all for the mutual protection and benefit of the Owners as a whole. The covenants, conditions and restrictions shall be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots, and shall inure to the benefit of all other Lots in the Subdivision.

Notwithstanding the foregoing, no provision of this Declaration shall prevent the Declarant from exercising any of the rights that are reserved to the Declarant in this Declaration.

### ARTICLE I DEFINITIONS

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

Act shall mean the Utah Community Ownership Act (Title 57, Chapter 8a, Utah Code Annotated).

Assessable Lot shall mean each Lot, except for Exempt Lots.

Board shall mean the Board of Directors of the Single Family Association, appointed or elected in accordance with this Declaration and the Bylaws.

Bylaws shall mean the Bylaws of the Single Family Association, as amended from time to time. A true copy of the initial Bylaws of the Association is attached hereto as Exhibit B.

City shall mean American Fork City and its departments with land use and building authority over the Subdivision.

Common Areas and Facilities shall mean all portions of the Subdivision other than the Lots designated on the recorded Subdivision plat as "Common Areas." All Common Areas in the Subdivision will be managed, maintained, and repaired by the Master Association (not the Single Family Association).

Common Assessments or Assessments shall mean those assessments described in this Declaration to fund the Common Expenses of the Single Family Association, and include Regular Common Assessments and Special Common Assessments.

Common Expense Account shall mean one or more deposit or investment accounts of the Single Family Association into which are deposited the Common Assessments.

Common Expenses shall mean all expenses of the administration and management of the Single Family Association, all expenses to be paid by the Single Family Association pursuant to the provisions of this Declaration, and all costs and expenses to maintain, repair and replace, as



needed, the landscaping and landscaping improvements on each Lot (front yard and back yard). Even though such landscaping and related improvements are located within the boundaries of the Lots, and are owned by the Lot Owners, the landscaping and related improvements will be maintained and repaired by the Single Family Association as a Common Expense. The Single Family Association will have no other Common Expenses (i.e., there are no Common Areas in this Subdivision to be maintained or repaired by the Single Family Association).

Declarant shall mean and refer to RWR Property Holdings, LLC, a Utah limited liability company, which owns the land described in Exhibit A hereto as of the execution date of this Declaration.

Dwelling shall mean a single-family residence constructed on a Lot in the Subdivision.

Exempt Lot(s) shall mean each Lot in the Subdivision while owned by Declarant or a Declarant Affiliate, until the earliest to occur of (i) the acquisition of title to the Lot by a person or entity other than Declarant or a Declarant Affiliate, or (ii) the one hundred eightieth (180<sup>th</sup>) day after the municipal authority having jurisdiction thereover issues a certificate of occupancy for the residence constructed on the Lot. Each Lot that does not contain a fully-constructed residence for which a certificate of occupancy has been issued shall be an "Exempt Lot," and Lots with model homes on them shall be "Exempt Lots" so long as they are used as model homes by the Declarant, a Declarant Affiliate, or their assign(s).

Family Member shall mean the parent, sibling, child, grandparent, or grandchild of an Owner and that Family Member's spouse and/or children.

Lease shall mean any agreement for the leasing or rental of a Dwelling.

Lot shall mean each of the tracts of land designated as a "Lot" in the Subdivision. As shown on the recorded Subdivision plat, there are forty-eight (48) Lots in the Subdivision, and each Lot may have one, and only one, single family residence constructed on it. Ownership of the Lot and the Dwelling (when constructed on the Lot) shall be inseparable, and any conveyance of a Lot shall operate to convey title to the Dwelling constructed on the Lot. Likewise, any conveyance of a Dwelling shall operate to convey title to the Lot on which the Dwelling is located.

Manager shall mean the person, firm or company, if any, designated from time to time by the Single Family Association to manage, in whole or in part, the affairs of the Single Family Association and the Subdivision.

Master Association shall mean the Rockwell Ranch Owner Association, Inc., which is the owners association of the entire master-planned project known as *Rockwell Ranch*. The Subdivision is part of *Rockwell Ranch*, and is subject not only to the provisions of this Declaration but also to the provisions of the Master Declaration. Each Owner of a Lot is automatically a member of the Master Association and the Single Family Association.



Master Declaration (or “Master CC&Rs”) means the Master Declaration of Covenants, Conditions and Restrictions of Rockwell Ranch, which has been recorded against the entire Rockwell Ranch project (as the same may be amended), including, without limitation, the Subdivision. Each Lot and Dwelling in the Subdivision is subject to the provisions of the Master Declaration (as well as to the provisions of this Declaration).

Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Lot or any part thereof or interest therein is encumbered. A First Mortgage is a Mortgage having priority as to all other Mortgages encumbering a Lot or any part thereof or interest therein.

Mortgagee shall mean (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.

Owner shall mean any person or entity at any time owning in fee simple a Lot or Dwelling within the Subdivision as such ownership is shown by the records of the Utah 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.

Property shall mean all of the real property included in the recorded plat of the Subdivision.

Regular Common Assessments shall mean the annual assessments levied by the Single Family Association to pay the budgeted Common Expenses.

Special Common Assessments shall mean assessments, which the Single Family Association may levy from time to time, in addition to the Regular Common Assessments, for unexpected Common Expenses or other purposes as provided herein.

Single Family Association or Association shall mean the homeowners association of the Subdivision, the formal name of which is the *Rockwell Ranch Single Family Owners Association, Inc.*

Subdivision shall mean the residential subdivision shown on the final subdivision plat known as “*Rockwell Ranch Block 5 Plat*” recorded in the Utah County Recorder’s Office on January 8, 2021, as Entry No. 4656:2021, as the same may be amended, creating and comprised of forty-eight (48) residential lots approved for construction of single-family homes.

Total Votes of the Single Family Association shall mean the total number of votes appertaining to all Dwellings (one vote per Dwelling for Class A Members), as described in Article VII hereof.

**ARTICLE II**  
**CONFIRMATION OF SUBMISSION TO THE ACT**

2. Declarant hereby confirms and acknowledges that the Property, the Subdivision, the Lots, the Dwellings on the Lots, and all other improvements now or hereafter existing within the Subdivision are subject to the provisions of the Act. Each Lot in the Subdivision is and shall be held, conveyed, hypothecated, encumbered, leased, subleased, rented, used and improved as a single-family residential project governed by the Act and by this Declaration. Each and all of the provisions hereof 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 in the Subdivision, and their assigns, lessees, sublessees, heirs, executors, administrators, devisees and successors.

**ARTICLE III**  
**RESTRICTIONS ON ALL LOTS**

3. Except as otherwise provided herein, the following restrictions apply to all Lots and Dwellings:

3.1 Zoning Regulations. The lawfully-enacted zoning regulations of the City, and any building, fire, and health codes are in full force and effect in the Subdivision, and no Lot or Dwelling may be occupied in a manner that is in violation of any such statute, law, or ordinance.

3.2 No Mining Uses. The Lots shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted at any time anywhere within the Subdivision.

3.3 No Business or Commercial Uses. No portion of the Subdivision may be used for any commercial business use except as allowed by the City ordinances; provided, however, that nothing in this provision is intended to prevent Declarant from using one or more Lots for purposes of a construction office, model home, or sales office during the actual period of construction of any subdivision improvements or Dwellings, or during Declarant's sales and marketing efforts for such Dwellings. All required permits and licenses must be obtained for any home-based business or occupation.

3.4 Short Term Rentals and Timeshares. Overnight and short-term rentals are prohibited. No Owner shall use a Dwelling or other improvement on a Lot for purposes of overnight or short-term nightly rentals. In addition, no timesharing arrangement or timeshare interest, as defined in Utah Code Ann. § 57-19-2, is permitted within the Subdivision. All Leases for Dwellings shall have a minimum term of at least thirty (30) consecutive days.

3.5 No Temporary Structures. No temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on any Lot.

3.6 Number of Dwellings. Only one Dwelling may be constructed on each Lot.



3.7 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the City.

3.8 Animals. No animals other than ordinary household pets (not to exceed three) may be kept on any Lot. Each Owner shall be responsible for preventing pets from entering the Lots of other Owners. Fierce, dangerous or vicious animals, or animals that cause a nuisance by barking or other offensive activity, shall not be permitted.

3.10 Maintenance of Property. All Lots, and the improvements on them, shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Dwelling on it to fall into disrepair. Notwithstanding the preceding sentence, the Single Family Association shall have primary responsibility to maintain the landscaping on each Lot. This Subdivision is intended to be structured, and to function, as a subdivision in which the Single Family Association provides and performs all landscaping maintenance services on all Lots as an amenity provided to all Owners in the Subdivision and to keep the landscaping of all Lots in the Subdivision in a well-kept, attractive condition.

3.11 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including, without limitation, the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

3.12 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be, unreasonably dangerous or hazardous, or which would cause the cancellation of a conventional homeowner's insurance policy. This prohibition includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess of those which are reasonable and customary for ordinary household uses, the discharge of firearms or fireworks (except for fireworks that are permitted to be used under applicable State or City laws during the July 4 and July 24 holidays), and setting open fires (other than properly supervised and contained barbecues).

3.13 No Unsightliness. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling or addition); open storage or parking of farm or construction equipment, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; clothes lines or storage yards; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that it is visible from any other Lot. Recreational vehicles will be allowed if shielded from view from the street in front of the Lot.

3.14 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting.

3.15 Drainage. Owners shall not alter the direction of natural drainage from their Lots,



nor shall Owners permit accelerated storm run-off to leave their Lots without first using reasonable means to dissipate the flow. This provision prohibits Owners from modifying the landscaping or grading of their Lots in such a way that it does not comply with the drainage requirements on the recorded subdivision plat. Subject to the foregoing provisions, Owners shall take reasonable measures to maintain surface water run-off within their own Lot boundaries.

3.16 Kennels. No kennel or dog run may be placed closer than 30 feet to any Dwelling other than the Dwelling of the Owner of the kennel. No wire fencing shall be allowed which is unscreened from the view of adjoining Lots.

3.17 No Transient Lodging Uses. The Lots shall be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast", or other uses for providing accommodations to travelers. No Dwelling on a Lot shall be subjected to time-interval ownership.

3.18 Leases. No Lease of any Dwelling on a Lot shall be for a period of less than 30 consecutive days. Any lease agreement relating to any Lot or Dwelling shall be subject to all the covenants set forth in this Declaration and in the Master CC&Rs. An Owner shall be responsible and liable for any damage to the Subdivision caused by such Owner's tenant.

#### **ARTICLE IV**

#### **ROLES OF MASTER ASSOCIATION AND SINGLE FAMILY ASSOCIATION**

4.1 The Master Association (not the Single Family Association) is responsible to provide and perform all maintenance, repair, and snow-removal services for all private streets, private lanes, and alleys in the Subdivision (as a "Community Expense" of the Master Association), in accordance with the terms and provisions of the Master CC&Rs. The Master Association is also responsible to manage, maintain and repair all Common Areas in the Subdivision as a Community Expense of the Master Association.

4.2 The Single Family Association (not the Lot Owners in the Subdivision) is responsible to provide and perform all landscaping maintenance and repair for all landscaping features and improvements (front yard and backyard landscaping) on and for all Lots in the Subdivision (as a "Common Expense" of the Single Family Association) even though the landscaping features and improvements are located within the Lots owned by the Owners (and not on or within any Common Areas). The Single Family Association is hereby granted perpetual access rights to enter upon each Lot for the purpose of fulfilling its landscaping maintenance and repair obligations.

4.3 Owners are responsible to perform snow-removal for their own driveways, porch areas, and pathways located within the boundary of their own Lots. Owners are also responsible to maintain and repair, at their own cost and expense, the fences and fencing improvements along the boundaries of, or within, their Lots. Owners shall keep their fences in good condition and repair. The Association is not responsible to maintain or repair such fencing.

**ARTICLE V**  
**SINGLE FAMILY ASSOCIATION AND BOARD**

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

5.2 The Single Family Association shall be governed by the following provisions

5.2.1 The management and maintenance of the Subdivision and the administration of the affairs of the Single Family Association shall be conducted by a Board (also known as the Board of Directors) consisting of three (3) natural persons as provided in the Bylaws. The Board shall be elected as provided in this Declaration and in the Bylaws.

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

- (a) To make and enforce all rules and regulations covering the operation and maintenance of the Subdivision and the Lots.
- (b) 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 Single Family Association or Board, shall be responsible for managing the Subdivision for the benefit of the Single Family 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.
- (c) To engage the services of accountants, attorneys or other employees or agents and to pay to said persons a reasonable compensation therefor.
- (d) To maintain, repair, improve and replace the landscaping and landscaping



improvements of all Lots in the Subdivision.

- (e) To determine and pay the Common Expenses.
- (f) To assess and collect the proportionate share of Common Expenses from the Owners, as provided in this Declaration.
- (g) To enter into contracts, leases and/or other written instruments or documents and to authorize the execution and delivery thereof by the appropriate officers.
- (h) To open bank accounts on behalf of the Single Family Association and to designate the signatories therefor.
- (i) To bring, prosecute and settle litigation for itself, the Single Family Association and the Subdivision, provided that it shall make no settlement which results in a liability against the Board, the Single Family Association or the Subdivision in excess of \$50,000 without the prior approval of a majority of the Total Votes of the Single Family 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 Single Family Association's insurance carrier and which in either case results in no actual liability of funds of the Single Family Association in excess of \$50,000 shall not require Single Family Association approval.
- (j) To own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Single Family Association, items of personal property necessary to or convenient to the management of the business and affairs of the Single Family Association and the Board and to the operation of the Subdivision, including without limitation furniture, furnishings, fixtures, maintenance equipment, appliances and supplies.
- (k) To keep adequate books and records and implement the policies and procedures for the inspection of the books and records of the Subdivision by Owners in accordance with the terms of the Bylaws. The Single Family Association or the Board shall make available to the Owners, Mortgagees and the holders, insurers and guarantors of the First Mortgage on any Lot current copies of the Declaration, Articles, Bylaws and other rules governing the Subdivision and other records and financial statements of the Single Family Association. "Available" shall mean available for inspection, upon request, during normal business hours or under other reasonable circumstances.
- (l) To do all other acts necessary for the operation and maintenance of the Subdivision, including the maintenance and repair of any Lot if the same is



necessary to protect or preserve the Subdivision.

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

5.2.3 Members of the Board, the officers and any assistant officers, agents and employees of the Single Family 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 Single Family 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 Subdivision, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

5.2.4 When a member of the Board is sued for liability for actions undertaken in his/her role as a member of the Board, the Single Family Association shall indemnify him/her for his/her losses or claims, and undertake all costs of defense, until and unless it is proven that he/she acted with willful or wanton misfeasance or with gross negligence. After such proof, the Single Family 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.

## ARTICLE VI ASSESSMENTS

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

6.1.1 Declarant, for each Lot owned by Declarant which is not an Exempt Lot, and each Owner, other than Declarant, by becoming an Owner of a Lot is deemed to covenant and agree to pay Assessments to the Association in accordance with this Declaration. Each Lot in the Subdivision (except for Exempt Lots) shall be liable for an equal share of the Common Expenses of the Association. Such expenses shall constitute the Common Expenses, and the funds received from Common Assessments under 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 Lot annually.

6.1.2 The Association may not impose a Regular Common Assessment per Lot which is more than 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. 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.

6.1.3 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 10% of the budgeted gross expenses of the Association for that fiscal year. All Lots within the Subdivision, except Exempt Lots, 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.

6.1.4 The Association may also levy a Specific Assessment against an Owner or an Owner's Lot: (1) to reimburse the Association for costs incurred in bringing an Owner and/or an Owner's Lot into compliance with the provisions of this Declaration, the Bylaws, rules and regulations of the Association or any other governing instrument of the Subdivision; (2) to cover costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, 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 (3) to pay the costs, including overhead and administrative costs, of providing services to the Owner or the Owner's Lot in accordance with this Declaration.

6.1.5 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 Seventy-Five dollars (\$75.00), 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 Lots in the Subdivision 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 Lot(s).



6.1.6 There shall be a lien upon the applicable Lot 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 Utah 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 Lot and a description of the Lot. 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 Ann., 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 Lot 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 Lot 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 Paxton R. Guymon, Esq., of York Howell & Guymon, 10610 South Jordan Gateway #200, South Jordan, Utah 84095, 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 Ann. and made applicable hereto by Title 57, Chapter 8a Utah Code Ann. Provided, however, the Association reserves the right to substitute and appoint a successor trustee as provided for in Title 57, Chapter 1 Utah Code Ann. The Declarant hereby conveys and warrants pursuant to Utah Code Ann. Sections 57-1-20 and 57-8a-302 to Paxton R. Guymon, with power of sale, the Lots and Lots and all improvements to the Lots and Lots 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 Lot 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 Lot 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 Lot as provided for in Article VIII below 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 Lot. 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 Lot. 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.



6.1.7 The amount of any Assessment against any Lot shall be the personal obligation of the Owner of such Lot 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 Lot 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.

6.1.8 The personal obligation of an Owner to pay unpaid Assessments against his Lot as described in this Article VI 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 Lot 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.

6.1.9 All Exempt Lots 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 no longer owns any Lots in the Subdivision, notwithstanding its temporary exemption status from the required Assessment payments. On the date on which a Lot loses its status of being an Exempt Lot (as defined above), then it shall automatically be subject to its share of Assessments from that date forward.

6.1.10 If an Owner shall at any time lease his Lot (or the Dwelling thereon) 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 tenant 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 tenant and the Owner for such assessments to the extent of the amount so paid.

6.1.11 Each time a Lot in the Subdivision is sold, a Reinvestment Fee shall be paid to the Master Association as set forth in the provisions of the Master Declaration, but no additional reinvestment fee will be paid to the Single Family Association.

## **ARTICLE VII** **VOTING**

7.1 The Association shall have two (2) classes of membership which shall be entitled to the following voting rights:

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

7.1.2 Class B. Declarant shall be the only Class B Member of the Association and shall be entitled to ten (10) votes for each Lot owned (with or without a Dwelling thereon). Declarant shall be entitled to cast ten (10) votes for each Lot owned by Declarant even if the Lots are temporarily classified as Exempt Lots under this Declaration. When Declarant no longer owns any Lots in the Subdivision, its Class B membership interests shall automatically terminate.

7.2 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). 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. The schedule of Class A votes is as follows: except for Lots owned by Declarant as a Class B Member, there shall be one (1) vote for each other Lot in the Subdivision. The voting percentage for each Lot shall be equal to a fraction, the numerator of which shall be the vote held by the Owner of such Lot and the denominator of which shall be the total number of all votes for all Lots in the Subdivision (including the votes pertaining to the Class B Member).

## **ARTICLE VIII** **MORTGAGEE PROTECTION**

8.1 The Single Family Association shall maintain and have current copies of the Declaration, Articles, Bylaws, and other rules concerning the Subdivision 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 Lots in the Subdivision. Generally, these documents shall be available during normal business hours.

8.2 The lien or claim against a Lot for unpaid Assessments or charges levied by the Single Family Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot 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 Lot 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 Single Family Association from or against a First Mortgagee, a successor in title to a First Mortgagee, or the Lot affected or previously affected by the First Mortgage concerned.

8.3 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, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes. Any Mortgagee which expends funds for such purpose shall be entitled to immediate reimbursement therefor from the Single Family Association.



## ARTICLE IX AMENDMENT

9.1 Except as provided elsewhere in this Declaration, any amendment to this Declaration shall require the affirmative vote of at least sixty-six percent (66%) of the Total Votes of the Single Family Association cast in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners. Any amendments of a materially adverse nature to Mortgagees, after timely written notice to Mortgagees, must be agreed to by Mortgagees that represent at least fifty-one (51%) of the votes of Lots that are subject to Mortgages. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the office of the Utah County Recorder of an instrument executed by the Single Family Association. In such instrument an officer or a member of the Board of the Single Family Association shall certify that the vote required by this Section for amendment has occurred.

9.2 With respect to the vote required by Mortgagees pursuant to Section 9.1 above, the Mortgagee's approval of the amendment may be implied when a Mortgagee fails to submit a response to any written proposal for amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with return receipt requested.

## ARTICLE X MANDATORY DISPUTE RESOLUTION – BINDING ARBITRATION

10.1 Statement of Intent. Prior to purchasing a Lot, every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, an inspection on any Lot that Owner is purchasing or any other aspect of the Subdivision, 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 Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot, 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 Subdivision change, upgrade, or add additional work to the Subdivision outside of any express warranty obligation. Moreover, the Owners (by purchasing a Lot) 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 Lots for years, unfairly prejudicing those Owners who must or want to sell their Lot during any period when litigation is pending. For this reason, the Owners, by purchasing a Lot, and the Declarant covenant and agree that all claims and disputes relating to the Subdivision or the Lots, 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 Article X (including the sections below). In addition, the Single Family Association and the Owners



agree that they take ownership and possession of the Lots and Dwellings 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.

10.2 Binding Arbitration for All Disputes. To the fullest extent permitted by law, all claims and disputes of any kind that any Owner or the Single Family 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 Subdivision, which arise from or are in any way related to a Dwelling, Lot, or other improvement on a Lot, Common Areas, or any other improvement on or component of the Subdivision (a “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 Single Family Association. Arbitration proceedings, however, shall not be commenced unless the Pre-Arbitration Requirements set forth below have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include the following:

- (a) Any allegation that a condition in any of the Dwellings or Lots or the Common Areas, or other improvements in the Subdivision, is or involves a construction defect;
- (b) Any disagreement as to whether an alleged construction defect has been corrected;
- (c) Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;
- (d) Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;
- (e) Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;
- (f) 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;
- (g) 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;
- (h) Any allegation that any condition existing in the Subdivision 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;

- (i) Any disagreement concerning the scope of issues or claims that should be submitted to binding arbitration;
- (j) Any disagreement concerning the timeliness of performance of any act to be performed by Declarant or any of its contractors;
- (k) Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;
- (l) Any disagreement or dispute regarding management of the Single Family Association, or regarding funding of Single Family Association expenses; and
- (m) Any other claim or disagreement arising out of or relating to the sale, design, or construction of any Dwellings.

10.3 Pre-Arbitration Requirements. An Owner or the Single Family 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: (1) Right to Cure: the claimant (e.g. the Owner or the Single Family 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; (2) Mediation: 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.

10.4 “Notice of Claim” shall mean and include the following information: (1) an explanation of the nature of the claim, (2) a specific breakdown and calculation of any alleged damages, (3) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (4) photographs of any alleged defective condition, if applicable, (5) samples of any alleged defective conditions or materials, if reasonably available, (6) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (7) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or opinions related to the claim.

10.5 Member Approval; Legal Opinion; Arbitration. If a claim or dispute has not been resolved after satisfying and complying with the above-described “Pre-Arbitration Requirements,” then the claimant (Owner or Single Family Association) shall have the right to proceed with binding arbitration; however, the Single Family Association shall not pursue or commence binding arbitration unless (i) such action is first approved by a majority of the Total



Votes of the Single Family Association after the Single Family Association has obtained a written opinion from legal counsel advising the Single Family 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 Single Family Association prevails, and (ii) the Single Family Association has collected funds from the Owners, by Special Assessment or otherwise, equal to at least 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. If these requirements are satisfied and arbitration is pursued, the binding arbitration shall be conducted by a mutually-acceptable arbitrator (preferably a former judge), or, if an arbitrator cannot be mutually selected, then by a member of the National Panel of Construction ADR Specialists promulgated by Construction Dispute Resolution Services, LLC (“CDRS”) or a similar organization. The binding arbitration shall be conducted according to the rules and procedures set forth in the Arbitration Rules and Procedures promulgated by CDRS. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.

10.6 Fees and Costs of Arbitration. Each party shall bear its own attorney 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 attorney fees, expert witness fees or arbitration costs to the prevailing party.

10.7 No Waiver of Arbitration Right. If any Owner, the Single Family 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 Article X. 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.

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

## ARTICLE XI MISCELLANEOUS

11.1 Notices. 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 Lot 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, 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.

11.2 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, 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.

11.3 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 Single Family Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with provisions of the Declaration or the decisions of the Single Family Association. Owners shall have a similar right or action against the Single Family 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 Lot 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. The mandatory dispute resolution and arbitration provisions in Article X above do not apply to claims by the Single Family Association to collect Assessments or otherwise enforce the provisions of this Declaration or the Bylaws against Owners, nor do they apply to actions by aggrieved Owners to enforce the provisions of this Declaration or the Bylaws.

11.4 Reservation of Rights. Notwithstanding any other provision to the contrary in this Declaration, nothing in this Declaration shall prohibit or prevent the Declarant or its assigns from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) installation and completion of subdivision improvements for the Subdivision; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City ordinances; (4) assignment of Declarant's rights under this Declaration in whole or in part to one or more persons intending to construct homes within the Subdivision; (5) construction of any improvements, including Dwellings and landscaping, by Declarant as approved by the City; (6) access over any Lot for the installation of improvements or utilities; or (7) erection of permanent or temporary signs for use during the selling and marketing of the Subdivision.

11.5 Violation Deemed a Nuisance. Any violation of these Covenants which is not promptly remedied or is otherwise permitted to remain in the Subdivision is deemed a nuisance, and is subject to abatement by any other Owner.

11.6 Remedies. Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot or any other portion of the Property), the Association, or by any other Owner. In any such action, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorney's fees and costs of court. Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. These covenants shall be construed to be in addition to any other remedies available at law or in equity. The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative. Any failure to take enforcement action shall not be construed as a waiver of the covenants contained in this Declaration in the future or against other similar violations.

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

11.8 Limited Liability. Neither the Declarant nor any other Owner shall have personal liability to any other Owner for actions or inactions taken under these Covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority under these covenants and without malice.

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

11.10 Constructive Notice. Following the recordation of this Declaration against the Subdivision, every person who owns, occupies, or acquires any right, title or interest in any Lot in the Property is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions and restrictions against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

Executed on the date stated above.

**DECLARANT:**

RWR Property Holdings, LLC, a Utah  
limited liability company

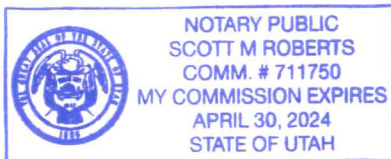
  
\_\_\_\_\_  
Grant Lefgren, Authorized Member/Manager

STATE OF UTAH                    )  
  : ss.  
COUNTY OF UTAH                )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of February, 2021, by Grant Lefgren, as authorized member/manager of RWR Property Holdings, LLC, a Utah limited liability company (the above Declarant).

SEAL:

  
\_\_\_\_\_  
NOTARY PUBLIC





**EXHIBIT "A"**  
***Legal Description***

This Declaration shall be recorded against the following real property in Utah County, Utah:

*Lots 501 through 548 of the Rockwell Ranch Block 5 Plat, according to the official subdivision plat thereof on file and of record in the Utah County Recorder's Office.*

Said subdivision plat was recorded on January 8, 2021, as Entry No. 4656:2021 in the official records of the Utah County Recorder's Office.

**Block 5 – Phase 1 Plat**

Beginning at a point being South 89°53'31" East 1,138.19 feet along section line and South 4,228.72 feet from the Northwest Corner of Section 22, Township 5 South, Range 1 East, Salt Lake Base and Meridian; and running

thence South 89°03'27" East 328.27 feet;  
 thence North 00°56'33" East 56.00 feet;  
 thence Northeasterly 23.56 feet along the arc of a 15.00 foot radius curve to the left (center bears North 00°56'33" East and the chord bears North 45°56'33" East 21.21 feet with a central angle of 90°00'00");  
 thence South 89°03'27" East 56.00 feet;  
 thence Southeasterly 23.56 feet along the arc of a 15.00 foot radius curve to the left (center bears South 89°03'27" East and the chord bears South 44°03'27" East 21.21 feet with a central angle of 90°00'00");  
 thence South 89°03'27" East 140.24 feet;  
 thence Northeasterly 23.50 feet along the arc of a 15.00 foot radius curve to the left (center bears North 00°56'33" East and the chord bears North 46°03'43" East 21.17 feet with a central angle of 89°45'41");  
 thence North 01°10'52" East 504.52 feet;  
 thence North 89°22'03" East 56.03 feet;  
 thence South 01°10'52" West 430.95 feet;  
 thence North 89°16'08" West 27.89 feet;  
 thence South 01°14'03" West 495.65 feet;  
 thence South 43°05'03" West 122.28 feet;  
 thence Northwesterly 8.42 feet along the arc of a 1,000.00 foot radius curve to the left (center bears South 00°28'58" West and the chord bears North 89°45'31" West 8.42 feet with a central angle of 00°28'58");  
 thence West 504.46 feet;  
 thence Northwesterly 23.80 feet along the arc of a 15.00 foot radius curve to the right (center bears North and the chord bears North 44°32'57" West 21.38 feet with a central angle of 90°54'06");  
 thence North 00°54'06" East 418.77 feet;  
 thence Northeasterly 23.57 feet along the arc of a 15.00 foot radius curve to the right (center bears South 89°05'54" East and the chord bears North 45°55'19" East 21.22 feet with a central angle of 90°02'28") to the point of beginning.

Contains 310,177 Square Feet or 7.121 Acres and 54 Lots

## EXHIBIT "B"

## BYLAWS OF THE ROCKWELL RANCH SINGLE FAMILY OWNERS ASSOCIATION, INC.

ARTICLE ONE: NAME AND LOCATION

The name of the corporation is *Rockwell Ranch Single Family Owners Association, Inc.* (the "Single Family Association" or the "Association"). The principal office of the Association is 520 S. 850 E. Suite A-300, Lehi, Utah 84043, but the meetings of Owners and Board Members 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 Dwelling 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 Annotated, as amended, and the Utah Revised Nonprofit Corporation Act in Title 16, Chapter 6a, Utah Code Annotated, as amended.

ARTICLE TWO: APPLICATION OF BYLAWS

All present and future owners, mortgagees, lessees and occupants of any Lot or Dwelling and any other persons who may use the facilities of the Rockwell Ranch Single Family Subdivision, located in American Fork City, Utah County, Utah (the "Subdivision") in any manner are subject to these Bylaws, the *Declaration of Covenants, Conditions and Restrictions for Rockwell Ranch Single Family Homes* filed of record with the Utah County Recorder's Office, (the "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 Lot or Dwelling 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 in these Bylaws shall be defined in accordance with the definition for such terms 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 of the Association.

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. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, fifty percent (50%) or more of the total votes of the membership shall constitute a quorum for any action except as otherwise provided in the articles, the Declaration, or these Bylaws. If, however, such a quorum shall not be present or represented at any meeting, the Owners entitled to vote shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as stated is present or be represented by proxy.

Section 5. Voting. 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 Lot 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 Lot, unless it receives written notice to the contrary from any of the other Joint Owners of such Lot. 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 ANN. § 16-6a-713. Declarant and Owners shall have the votes described in Article VII of the Declaration.

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 ANN. § 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 ANN. § 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 Lot is jointly held, the instrument authorizing a proxy to act must have been executed by all Joint Owners of such Lot 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. ELECTION. TERM OF OFFICE

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), who need not be Owners of the Association (each a "Trustee"). The Board of Directors shall be the "*Board*" of the Association for purposes of the Utah Dwelling Ownership Act and the subject Dwelling project.

Section 2. Initial Selection and Term of Office. Declarant shall have the exclusive right to appoint and to remove all Trustees so long as Declarant holds a majority of the number of votes as set forth in Article VII of the Declaration (the "Declarant Control Period"). At the end of the Declarant Control Period, the Owners shall elect the Trustees at a meeting of Owners each calendar year. Trustees 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 Trustee 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 Trustee, a successor shall be selected by the remaining Owners of the Board of Directors and shall serve for the unexpired term of said Trustee's predecessor.

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

Section 6. Action Taken Without a Meeting. The Trustees 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 Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.

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



## ARTICLE FIVE: MEETING OF TRUSTEES

Section 1. Regular Meetings. The Board of Directors shall hold a regular meeting at least one 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) Trustees, after not less than three (3) days' notice to each Trustee.

Section 3. Quorum. A majority of the number of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees 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 Lot at least fifteen (15) days in advance of each annual assessment period;

2.3.2 Foreclose at its discretion the lien against any Lot 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 trustees' 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 Lots in the Subdivision to pay taxes or other charges which are in default and which may 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 Eight.

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 TRUSTEES

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 ANN. §§ 16-6a-901 to 910, and the Association shall indemnify Trustees, officers, agents and employees as follows:

Section 1. Third Party Litigation. The Association shall indemnify any Trustee 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 is or was such Trustee or officer or an employee or agent of the Association, or is or was serving at the request of the Association as a trustee, officer, 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 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 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 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 conduct was unlawful.

Section 2. Association Litigation. The Association shall indemnify any Trustee 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 is or was such a Trustee or officer of an employee or agent of the Association, or is or was serving at the request of the Association as trustee, 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 in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he 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 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 Trustee 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 Nine, 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 Nine.

Section 4. Determination of Right to Indemnity. Any indemnification under Section 1 or 2 of this Article Nine (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 Trustee or officer is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1 or 2 of this Article Nine. Such determination shall be made (i) by the Board of Directors of the Association by a majority vote of a quorum consisting of Trustees 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 Trustees 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 Trustee or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article Nine.

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

Section 7. Benefited Parties. Any indemnification pursuant to this Article Nine 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 trustee 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 Dwelling 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 Subdivision 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 Subdivision 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 Lots 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 initial members of the Board of Directors/Board as of the date of recording of the Declaration with the Utah County Recorder's Office, State of Utah.

**END OF BYLAWS**