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E# 3131637 PG 1 OF 43
Leann H. Kilts, WEBER COUNTY RECORDER
04-Mar-21 0252 PM FEE \$40.00 DEP DAC
REC FOR: SMITH KNOWLES PC
ELECTRONICALLY RECORDED

**DECLARATION OF COVENANTS,
& RESTRICTIONS**

For

Village at Prominence Point Patio Homes

**(An Adult Community Age 55 and Older, Neighborhood Sub-association
within the Village at Prominence Point Master Community)**

In Weber County, Utah

NOTICE AGE RESTRICTED COMMUNITY:

VILLAGE AT PROMINENCE POINT PATIO HOMES IS INTENDED, AND SHALL BE MANAGED, TO PROVIDE HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER PURSUANT TO THE FAIR HOUSING ACT AND HOUSING FOR OLDER PERSONS ACT OF 1995. EACH AND EVERY DWELLING WITHIN THIS PATIO HOMES SUBDIVISION, IF OCCUPIED, SHALL BE OCCUPIED BY PERSONS 55 YEARS OF AGE OR OLDER. NOTWITHSTANDING, NOTHING CONTAINED HEREIN SHALL LIMIT THE ABILITY OF A PERSON 55 YEARS OF AGE OR OLDER TO:

1. CO-HABITATE WITH A SPOUSE OR LEGAL PARTNER WHO IS LESS THAN 55 YEARS OF AGE. SAID SPOUSE/PARTNER SHALL BE PERMITTED TO REMAIN IN THE DWELLING IN THE EVENT THE OTHER SPOUSE/PARTNER DIES OR IS INSTITUTIONALED.
2. RESIDE WITH A PERSON UNDER THE AGE OF 19 FOR UP TO SIX MONTHS IF THE ADULT RESIDENT HAS BEEN GRANTED LEGAL CUSTODY OR GUARDIANSHIP OF THE MINOR.
3. AN ADULT RESIDENT, IF MEDICALLY NECESSARY, MAY HAVE AN INDIVIDUALS RESIDE IN THE DWELLING IF THEY ARE FULL-TIME CAREGIVERS, AGE 21 AND OLDER. THE BOARD RESERVES THE RIGHT TO ADOPT POLICIES AND PROCEDURES WITH REGARD TO ANY REQUIRED LICENSURE, CERTIFICATION OR OTHER REPRESENTATION OR REQUIRED INFORMATION REGARDING THE RELATIONSHIP AND NEED OF THE ADULT RESIDENT WITH REGARD TO THE CAREGIVER.
4. RENT THE DWELLING TO ANOTHER AGE-QUALIFIED INDIVIDUAL, CONSISTENT WITH OTHER RESTRICTIONS CONTAINED HEREIN.
5. THE PATIO HOMES ASSOCIATION MAY ESTABLISH RULES AND PROCEDURES WITH REGARD TO VISITORS BOTH OVER AND UNDER THE AGE OF 19.

ALL NEW OWNERS AND RESIDENTS SHALL CERTIFY AND PROVIDE APPROPRIATE DOCUMENTATION TO THE BOARD THAT THE OWNER AND ANY QUALIFIED OCCUPANTS MEET THE AGE RESTRICTIONS UPON MOVING INTO THE COMMUNITY OR UPON THE REQUEST OF THE ASSOCIATION. THE BOARD HAS THE AUTHORITY TO ADOPT POLICIES AND PROCEDURES RELATED TO GATHERING INFORMATION AND ENFORCEMENT OF THE AGE RESTRICTIONS.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR Village at Prominence Point Patio Homes, A Neighborhood Sub-association within the Village at Prominence Point Master Community (this "Patio Homes Declaration") is hereby adopted by Meritage Companies, LLC and NOC 1700, Utah limited liability companies, the Declarant, pursuant to that certain First Amended & Restated Master Declaration of Covenants, Conditions & Restrictions of Village at Prominence Point, a Master, Mixed-Use Development recorded on October 15, 2019 in Weber County Recorder's Office, as Entry No. 3009574 ("Master Declaration") and made effective as of the date recorded in the Weber County Recorder's Office.

In the event of conflict between this Patio Homes Declaration and the Master Declaration, the Master Declaration shall control with regard to the Lots and Owners within the Village at Prominence Point Patio Homes Owners Association, Inc. ("Patio Homes Association"), provided that, this Patio Homes Declaration may add further detail, specific and/or additional restrictions applicable to Owners within the Patio Homes Association that do not conflict with the Master Declaration. Notwithstanding, any amendment to the Patio Homes Declaration or required architectural approval, Owners must receive written approval for Improvements from the Master Board or its established Master Architectural Control Committee.

The Master Association has provided its written approval consenting to the recording of this Patio Homes Declaration.

RECITALS:

(A) On or about January 22, 2015, a Plat Map depicting certain real property located in Weber County, Utah ("Property", "Master Community" or "Project") was recorded in the Weber County Recorder's Office as Entry No. 2718843 ("Master Plat").

(B) On or about November 9, 2017, a Declaration of Covenants, Conditions, and Restrictions of Village at Prominence Point, as amended ("Enabling Declaration") was recorded in the Weber County Recorder's Office as Entry No. 2889108.

(C) On or about October 15, 2019, a First Amended & Restated Master Declaration of Covenants, Conditions, and Restrictions of Village at Prominence Point, as amended ("Master Declaration") was recorded in the Weber County Recorder's Office as Entry No. 3009574.

(D) This Patio Homes Declaration affects and concerns certain real property within the Master Community located in Weber County, Utah and more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference ("Patio Homes Property" or "Subdivision").

(E) Declarant desires to subject the Subdivision pursuant to the terms of this Patio Homes Declaration. Declarant intends to develop a residential subdivision on the Subdivision pursuant to the Community Association Act, Utah Code Sections 57-8a-101, *et. seq.* Declarant will develop and convey all of the Dwellings within the Subdivision subject to a general plan of

development, and subject to certain protective covenants, conditions, restrictions, and easements, as set forth in this Patio Homes Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Dwellings within the Subdivision. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Patio Homes Declaration. The Subdivision does not constitute a cooperative.

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

(G) The Patio Homes Association is governed by the terms of this Patio Homes Declaration, the Patio Homes Articles, and the Patio Homes Bylaws, which Patio Homes Bylaws are attached hereto as **Exhibit "B"** and shall be recorded in Weber County Recorder's Office contemporaneously with the recording of this Patio Homes Declaration, as well as the Master Association's governing documents.

(H) Declarant declares that the Subdivision shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Subdivision, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Subdivision or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with each Dwelling located on the Subdivision, including any additions thereto, and shall be binding upon all persons having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Subdivision and any interest therein; and shall inure to the benefit of and be binding upon Declarant, and its successors in interest; and may be enforced by the Association and the Declarant and their successors in interest.

(I) Notwithstanding the foregoing, no provision of this Patio Homes Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant' reserved rights in addition to such rights as may be described elsewhere in this Patio Homes Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Dwelling owned by the Declarant as a model home, or for the placement of a temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; (4) assignment of Declarant' rights under this Patio Homes Declaration in whole or part; and (5) retention of Declarant's rights with respect to subsequent phases. A supplemental declaration, with such modifications or supplemental provisions as may be deemed appropriate by Declarant on a phase-by-phase basis, may be recorded to address differences in the circumstances affecting any Lots to be constructed after the initial phase.

- (J) These Recitals are made a part of this Patio Homes Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I **DEFINITIONS**

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

(A) "Act" means the Community Association Act, Utah Code Ann. Sections 57-8a-101 *et. seq.*

(B) "Apartment Building Recreation Amenities" shall mean those portions of the Apartment Building phases of the Master Community which are not common or limited common area, but which are owned as part of the apartment lots and designated on the Apartment Buildings Plat as Apartment Building Recreation Amenities. These amenities include, but is not limited to, pools, clubhouses, outdoor kitchens, sport courts, and other improvements.

(B) "Architectural Control Committee" or "ACC" shall mean the Master Architectural Control Committee created by the Master Declaration, the Master Bylaws, and/or Master Articles. If no ACC is established, the Master Board shall fulfill the duties of the ACC. The Master Association may adopt policies and procedures governing cooperation between the Master Association and the Patio Homes Association with regard to architectural review and approval.

(C) "Assessment" shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in the Governing Documents, regardless of whether said assessment is identified as an assessment, master assessments, Patio Homes assessment, special assessment, individual assessment, reserve assessment, capital improvement assessment, fine, late fee, or other charge.

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

(E) "City" shall mean North Ogden, Utah and its appropriate departments, officials, and boards.

(F) "County" shall mean Weber County, Utah and its appropriate departments, officials, and boards.

(G) "Common Areas(s)" shall mean all property designated on the recorded Plat(s) for this Subdivision or described in the Patio Homes Declaration as Common Area, being intended ultimately to be owned by the Patio Homes Association for the common use and enjoyment of all Owners, together with all improvements thereon and all of the easements appurtenant thereto. The

Master Association may coordinate with the Patio Homes Association with regard to any maintenance of any Common Areas that may be under the responsibility of the Master Association. Further, certain areas identified on plat(s) may be designated as Common Areas owned by the Master Association, such as roads or other applicable facilities.

(H) "Common Expenses" means any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Areas; (B) providing facilities, services and other benefits to Owners as set forth in this Patio Homes Declaration; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments, charges, fines, penalties and liens imposed pursuant hereto; (E) operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Patio Homes Declaration or the Act.

(I) "Declarant" shall mean and refer to Meritage Companies, LLC and NOC 1700 and their successors and assigns.

(J) "Development Agreement" shall mean that certain agreement approved by North Ogden City on or about November 6, 2017.

(K) "Dwelling" shall mean the single-family residence built or to be built on the Lot, together with all Improvements located on or with respect to the Lot concerned that are used in connection with such residence such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, furnaces, stoves, fixtures, etc. serving that Dwelling shall be considered part of the Dwelling. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Dwelling or serving only the Dwelling shall be part of the Dwelling. All exterior features of the Dwelling such as roofing, gutters, siding, walkways, and driveways. This shall also include any individual metering that exists for a specific Dwelling.

(L) "Governing Documents" shall mean, as the context requires, the Master Declaration, Patio Homes Declaration, Master Bylaws, Patio Homes Bylaws, Master Articles, Patio Homes Articles, Rules, and any other documents or agreements binding upon an Owner.

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

(N) "Limited Common Area" shall mean all property designated on the recorded Plat or described in this Patio Homes Declaration as Limited Common Areas, which may be owned by the Patio Homes Association but for the exclusive use and enjoyment of one or more appurtenant Lots but fewer than all of the Lots.

(O) "Master Declaration" shall mean the First Amended & Restated Declaration of Covenants, Conditions and Restrictions for Village at Prominence Point, a Mixed-Use Development, together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(P) "Master Association" shall mean Village at Prominence Point Master Homeowners Association, Inc. and, as the context requires, the duly elected and authorized Board of Directors through its officers, directors, and managers.

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

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

(S) "Member" shall mean and refer to every person who holds membership in the Association, including an Owner and the Declarant as set forth herein.

(T) "Owner" shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Weber County, Utah) of a fee simple or an undivided interest in any Dwelling within the Subdivision. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee or a beneficiary of trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

(U) "Patio Homes Articles" shall mean the articles of the Patio Homes Association, as amended from time to time.

(V) "Patio Homes Association" shall mean Village at Prominence Point Patio Homes Owners Association, Inc., and as the context requires, the officers or directors of that Patio Homes Association. The Patio Homes Association is one of five, separate sub association within the Master Community.

(W) "Patio Homes Board" shall mean the duly elected and acting Board of Directors of the Patio Homes Association.

(X) "Patio Homes Bylaws" shall mean the Bylaws of the Patio Homes Association, as amended from time to time, a copy of which is attached hereto as **Exhibit "B."**

(Y) "Patio Homes Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Villages at Prominence Point, together with any subsequent amendments or additions through supplemental declarations.

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

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

(BB) "Rules" mean any instrument adopted by the Board for the regulation and management of the Association as provided in the Governing Documents.

(CC) "Subdivision Improvements" shall mean all improvements to be installed outside the boundaries of Lots or within easements as identified on the Plats that are necessary to provide public road access and/or private road access and utility service to the Lots and including other construction work required to comply with any conditions of City or County or other governmental agencies to the approval of the Subdivision or any Plat(s) thereof.

ARTICLE II **EASEMENTS**

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

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

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

- (a) The right of the Master Association & Patio Homes Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Associations to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;
- (b) The right of the Associations to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is

in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.

- (c) The right of the City, County, and any other governmental or quasi-governmental body having jurisdiction over the Subdivision, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.

2.4 Reservation of Access and Utility Easements. Declarant hereby reserve an easement for access and utilities (including but not limited to: electrical, gas, communication, phone, internet, cable, sewer, drainage and water facilities) over, under, along, across and through the Property, together with the right to grant to a City and County, or any other appropriate governmental agency, public utility or other utility corporation or association, easements for such purposes over, under, across, along and through the Subdivision upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Associations and those claiming by, through or under the Owners or the Associations; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof. Each Owner in accepting the deed to a Lot expressly consents to such easements and rights-of-way and authorizes and appoints the Associations as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

2.5 Management of Roadways. The Master Association, subject to the rights and duties of Owners and sub-associations, as set forth in this Master Declaration, shall be primarily responsible for the management, control, operation, care, maintenance, repair, replacement, and upkeep of the Semi-private Roads unless and until such responsibility is transferred to, and accepted by, a public agency, authority, or utility in accordance with the provisions hereof. The maintenance, repairs, replacement, and upkeep of the Semi-private Roads shall include, but is not limited to, plowing of snow, requiring adequate crack sealing, seal coat, patching and overlay.

- (a) Parking. Notwithstanding the existence of Semi-Private Roads within the Project, the Master Association may adopt and enforce parking restrictions upon the roadways and throughout the Project that are more restrictive than City ordinances upon Owners, occupants, and their guests, tenants, invitees.

2.6 Easements for Encroachments. If any part of the Common Areas as improved by Declarant now or hereafter encroaches upon any Lot or if any structure constructed by Declarant on any Lot now or hereafter encroaches upon any other Lot or upon any portion of the Common Area, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Lot shall be partially or totally destroyed and then rebuilt in a

manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Lot or upon any portion of the Common Area due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

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

2.8 Easement in Favor of Master Association & Patio Homes Association. The Lots, Common Area, and Limited Common Area are hereby made subject to the following easements in favor of the Master Association and/or Patio Homes Association and its directors, officers, agents, employees, and independent contractors:

- (a) For inspection during reasonable hours in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair and replacement of portions of the Common Areas;
- (c) For correction of emergency conditions;
- (d) For the purpose of enabling the Associations, ACC or any other committees to exercise and discharge during reasonable hours their respective rights, powers and duties;

2.9 Landscaping Easement. The Patio Homes Association and/or Master Association shall have an easement and related access rights in order to maintain the landscaping and snow removal of any Common Areas and/or Limited Common Areas. The Patio Homes Association and/or Master Association, its agents, employees, or subcontractors, shall have the right of easement over and across each Lot for the purpose of maintaining the Lot in accordance with the provisions of this Patio Homes Declaration and Master Declaration.

2.10 Income Generated from Service Providers. Declarant, as owner of the real property at the time it is annexed into the Master Community through recordation of a plat, which includes the dedication of certain utility easements to the City or County, may negotiate terms with service providers that desire to install infrastructure (e.g. internet, cable, fiber, phone, satellite, solar power, etc.) to provide services to owners in the Master Community or Sub-Association. Any income gained from these negotiations with service providers by Declarant may be retained by the

Declarant or assigns, even after the Control Period. Further, the Master Association, Sub-Association or Owner may enter into additional contracts with third party companies related to the provisions of utilities and related services for the benefit of owners in the Master Community as long as any such contract does not conflict with this Declaration. Regardless, Owners contracting with individual third-party providers will still be required to pay any normal and customary access fee for Bulk Rate Contract services entered into by Declarant. Declarant may assign the rights under any such Bulk Rate Contract to a third party or subsidiary.

2.11 Delegation of Use. Any Owner may delegate, in accordance with the Governing Documents, his or her right of enjoyment to the Common Area and any Common Facilities located thereon to the members of his or her family and his or her tenants and shall be deemed to have delegated said rights to contract purchasers who reside on said Owner's Lot.

2.12 Easement for Completion of Project. Declarant shall have a transferable easement over and on the Common Area for the purpose of completing construction of the Project and improvements therein as shown on the Plat and for the purpose of doing all things reasonably necessary or appropriate in connection therewith. To the extent that damage is inflicted on any part of the Project by any person utilizing such easement. Declarant and the person causing the damage shall be liable to the Master Association for the prompt repair of such damage.

2.12 Easements Deemed Created. All conveyances of a Lot within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided for herein even though no specific reference to such easements appears in any such conveyance.

ARTICLE III **COMMON AREAS, LIMITED** **COMMON AREAS, & DWELLING MAINTENANCE**

3.1 Common Areas. The Common Areas consist of areas designated as Common Areas on the recorded Plat(s) or described in this Patio Homes Declaration, including any structures related to the operation or maintenance of the Common Areas, together with any rights of way and utilities, as shown on the recorded Plat(s) that are not owned by the Master Association.

- (a) Except as otherwise provided in this Patio Homes Declaration, the Patio Homes Association, or its duly designated agent, shall maintain all Common Areas not otherwise maintained by the Master Association, including, without limitation, the Improvements and landscaping located thereon in good order and repair and shall otherwise manage and operate Common Areas as it deems necessary and appropriate. The Patio Homes Association shall have the authority to assess its members for the costs of said maintenance in accordance with the terms of this Patio Homes Declaration.
- (b) Landscaping. The Patio Homes Association may coordinate with the Master Association with respect to any landscaping within the Common Areas. The Patio Homes Association may adopt Rules to add further detail with regard

specific landscape maintenance services provided by the Patio Homes Association. Notwithstanding, it is the intent that the Master Association and/or Patio Homes Association shall generally provide for all landscaping within the Subdivision.

- (c) Snow Removal. The Patio Homes Association may coordinate with the Master Association with respect to snow removal in the Common Areas. The Patio Homes Association may adopt Rules to add further detail with regard specific snow removal services provided by the Patio Homes Association. Notwithstanding, it is the intent that the Master Association and/or Patio Homes Association shall generally provide for all snow removal on the Common Areas. The Patio Homes Association and/or Master Association may make reasonable and prudent efforts to contract with a third party for the removal of snow from Common Areas within the Subdivision. Unless the Board elects to provide snow removal for Limited Common Areas, Owners shall be responsible for such areas and other applicable areas on their Lot. Owners shall be responsible and take reasonable precautions with respect to ice and ice accumulation. The work of removing snow will be delegated to a third party, who will utilize its discretion in the frequency of the snow removal and the amount of accumulation meriting removal. To the extent allowed by law, the Association shall not be responsible or liable for said third party's discretion and removal of snow.

3.2 Limited Common Areas. Owners shall maintain the Limited Common Areas associated with their Lots and Dwellings.

3.3 Association Maintenance of Lots & Dwellings. The Patio Homes Association shall maintain landscaping outside the footprint of the Dwelling. All components of the Dwellings or Improvements that are not specifically assigned to the Patio Homes Association herein shall be maintained by Owners.

ARTICLE IV **OWNERS' MAINTENANCE OBLIGATIONS**

4.1 Duty to Maintain. With the exception of those items reference in Article 3.3 above, it is the obligation of each Owner to maintain his Dwelling and Improvements located thereon, which shall remain in a clean and sanitary condition, free of pests and rodents, and uncluttered at all times in order to preserve and enhance the enjoyment of the Project.

4.2 Repairs by Association. In the event that an Owner permits his Dwelling or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Patio Homes Declaration, the Patio Homes Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 15 days. If the Owner fails to take corrective action, the Patio Homes Association shall have the right, but not the obligation, to enter upon the offending Owner's Dwelling and take corrective action to abate the

condition. All costs of abatement shall be charged to the Owner, who agrees to promptly pay the reasonable costs of any work performed under this provision, plus 15%. In addition, each Owner hereby grants to the Patio Homes Association a lien on the Dwelling and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Patio Homes Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Patio Homes Association may seek collection of sums advanced directly from the Owner of the Dwelling in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

4.3 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as originally constructed. No subsequent exterior alterations, improvement or remodeling, or any changes in landscaping, paint color or materials will be made without the advance consent of the ACC. Declarant shall be exempt from this provision.

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

ARTICLE V MEMBERSHIP

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

ARTICLE VI

VOTING

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

(a) Class "A". Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Only an Owner that is current on all Assessments and/or other fees thirty days in advance of the meeting or vote shall be deemed in good standing and entitled to vote. With regard to any approval that requires a specified percentage of total membership, the total membership shall be calculated from the total number of Owners eligible to vote at the time such approval is sought. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Patio Homes Association that Person shall be entitled to cast all votes appertaining to that Lot. But if more than one of such Person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Patio Homes Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

(b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive one hundred (100) votes for each recorded Lot or acre of property in the Undeveloped Land owned by Declarant. The Class "B" membership shall also be entitled to appoint the members of the Patio Homes Board and Patio Homes Association during the Class "B" Control Period.

ARTICLE VII

CONTROL PERIOD

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

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

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

ARTICLE VIII

HOMEOWNER ASSOCIATION

8.1 **Organization.** The Patio Homes Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. The Patio Homes Association shall be comprised of the Owners of Patio Home Lots and is established for the benefit of the Owners and the enforcement of the Governing Documents. Membership in the Patio Homes Association is deemed an appurtenance to the Dwelling and is transferable only in conjunction with the transfer of the title to the Dwelling. The Association shall serve as the organizational body for all Owners.

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

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

- (a) The approval of all rules and regulations of each Neighborhood Sub-association and providing of assistance, where deemed appropriate by the Master Association, to a Neighborhood Sub-association in the enforcement thereof;
- (b) Approval of responsibilities among the Master and Neighborhood Sub-associations; and
- (c) Collection of Assessments from each Neighborhood Sub-association in amounts required by the Master Declaration.

Nothing herein contained shall restrict or prohibit a Neighborhood Sub-association from owning, in its own name, Common Area or other property related thereto, the use of which shall be restricted to Members of that Neighborhood Sub-association. However, it is the intent of this Master Declaration that any such Common Area owned by a Neighborhood Sub-association, the use and maintenance thereof and the activities of the Neighborhood Association, shall be consistent with and in furtherance of the Project objectives and the terms and provisions of this Master Declaration to assure that the whole of the Project is developed and approved as a quality residential community.

8.4 **Enforcement Powers.** The Patio Homes Association shall have all powers granted to it by the Governing Documents and the Act to enforce these covenants and restrictions by actions in law or equity brought in the name of the Patio Homes Association, and the power to retain professional services needed to the enforcement of the Governing Documents and to incur expenses for that purpose, including but not limited to: (1) record, lien, foreclose and other

enforcement and collection actions against an Owner and their Dwelling; (2) initiate legal or similar proceedings; (3) impose fines; (4) collect any rents directly from tenant for past due assessments; (5) terminate an Owners' right to receive utility service paid as a common expense; (6) terminate an Owner's right to utilize Common Area and/or amenities; and (7) any other action or remedy allowed by the Governing Documents or Utah law. In the event the Patio Homes Association fails to exercise any power granted in this Article VIII, the Master Association shall have the right to exercise enforcement powers.

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

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

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

8.5 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses, and Common Expenses of the Patio Homes Association. The Patio Homes Association has the power to levy assessments against each Dwelling as necessary to carry out its functions. Assessments shall be levied against all Lots in the Subdivision, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Dwelling, be deemed to covenant and agree to pay to the Patio Homes Association the assessments described in these covenants, together with late payment fees, interest, and costs of collection (including reasonable attorney fees), if and when applicable.

(a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Dwelling with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Dwelling at the time the assessment falls due. No Owner may exempt himself or his Dwelling from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Dwelling. In a voluntary conveyance of a Dwelling, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest, and costs of collection (including reasonable attorney fees) which

shall be a charge on the Dwelling at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

(b) **Special Assessment.** The Patio Homes Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas.

(c) **Individual Assessment.** The Patio Homes Association may levy individual assessments on every Dwelling, Owner or occupant that shall cause any damage to the Project or otherwise causes the Patio Homes Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance, or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Dwelling(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.

(d) **Neighborhood Assessments.** Neighborhood Assessments, which term includes those assessments identified in Article 8.5(a)-(c) above, will be made to meet the anticipated and recurring costs, expenses, and Common Expenses of the Neighborhood Sub-associations. The Neighborhood Association has the power to levy assessments against each Lot as necessary to carry out its functions, together with late payment fees, interest, and costs of collection (including reasonable attorney fees), if and when applicable. If the Neighborhood Sub-Association fails to levy and collect neighborhood assessments, the Master Association may elect to carry out those functions. Further, the Master Association may levy a Neighborhood Assessment to Owners in a specific Neighborhood for costs, special services, or amenities available for Owners within that Neighborhood that are provided by the Master Association.

(e) **Master Assessments.** Master Assessments will be made to meet the anticipated and recurring costs, expenses, and Common Expenses of the Master Association. The Neighborhood Association and/or the Master Association has the power to levy assessments against each Lot as necessary to carry out its functions, together with late payment fees, interest, and costs of collection (including reasonable attorney fees), if and when applicable. If the Neighborhood Sub-Association fails to levy and collect neighborhood assessments, the Master Association may elect to carry out those functions. Further, the Master Association may levy a Neighborhood Assessment to Owners in a specific Neighborhood for costs, special services, or amenities available for Owners within that Neighborhood that are provided by the Master Association or for use of the Apartment Buildings Recreation Amenities. The Association must provide its owners access to the Apartment Buildings Recreation Amenities through contractual rights established between the Association and the owners of the Apartment Buildings Recreation Amenities. Such

rights shall be memorialized in writing via contract which is negotiated in good faith based on the costs of the Apartment Buildings Recreation Amenities operations, maintenance, and long-term replacement costs. The Association, nor its owners, may opt out of the assessment for the use and maintenance of the Apartment Buildings Recreation Amenities. The general plan and concept for the Village at Prominence Point Master Association requires all residential sub-associations to contribute financially to the use and maintenance of the Apartment Buildings Recreation Amenities.

(f) **Reserve Fund.** The Association may levy a reserve fund assessment, as set forth in this article.

(g) The Associations may levy other assessments or fees, as authorized by the Governing Documents.

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

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

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

(c) Unless otherwise established by the Board, regular Assessments shall be paid in equal monthly installments.

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

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

8.9 Reinvestment Fee. Reinvestment Fees are governed by the Master Declaration.

8.10 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Dwelling on the first day of the first month following the effective date of the first budget. Assessments shall be due and payable in a manner and on a schedule, as the Board may provide. Notwithstanding, Assessments for those Lots owned by Declarant or their assigns, successors, subsidiaries, related construction entities, or other entities established by Declarant, or Declarant's members, for the purpose of constructing Dwellings on the Dwelling (collectively "Declarant's Related Entities") shall not commence until the completed Dwelling is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Patio Homes Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

8.11 Fines. Following notice as required by the Act, the Associations shall have the power to assess a fine against an Owner (or their Dwelling) for a violation of the terms and conditions of the Governing Documents in an amount set by the Board.

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

8.13 Association Rules. Subject to approval from the Master Association, the Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing: (a) the use of the Common Areas; (b) the use of any facilities owned by the Patio Homes Association; (c) the collection and disposal of refuse; (d) the maintenance of animals in the Project; (e) collection policies and procedures; and (f) other matters concerning the use and enjoyment of the Subdivision and the conduct of residents, as deemed necessary by the Board. The Rules may supplement, clarify, and add detail to issues addressed in Governing Documents. However, the Rules may not contradict the Governing Documents.

- (a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217 and may adopt rules in Declarant's sole discretion.

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

8.15 Availability of Documents. The Patio Homes Association shall make appropriate documents available to Owners (and their lenders, insurers and/or authorized agents) consistent with the Act and the Utah Revised Non-Profit Act. The Board may adopt a record retention policy to govern its record retention procedures.

8.16 Indemnity of Association Board and Officers. The Patio Homes Association will indemnify the officers, agents, and Board of the Patio Homes Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under the Governing Documents.

8.17 Election, Notice of Election, Notice of Meeting and Special Meetings. Election procedures and notice of any meeting shall be conducted as set forth in the Patio Homes Articles or Bylaws.

8.18 Number of Board, Term of Office. The appointment, election and term of the Members of the Board are set forth in the Patio Homes Bylaws and Patio Homes Articles. Members of the Board of Directors may serve consecutive terms and may also serve as officers of the Patio Homes Association.

8.19 Independent Accountant/Bookkeeper. The Patio Homes Association may retain the services of an independent accountant or bookkeeper to assist the Board of Directors and officers to maintain accurate financial records of the Patio Homes Association.

ARTICLE IX

NONPAYMENT OF ASSESSMENTS & THE APPOINTMENT OF TRUSTEE

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

9.2 Due Date, Charges & Interest. Unless otherwise established by the Board, monthly assessments shall be due and payable on the first of each month and late if not received by the 10th of each month. The Board may charge late fees in an amount set by the Board. In addition to late fees, interest shall accrue on all unpaid balances, including prior, unpaid interest and attorney fees (resulting in compounding interest), late fees, and assessments at 18% per annum or 1.5% per month. The Board may also impose other reasonable charges imposed by a Manager related to collections.

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

9.4 Foreclosure. The Patio Homes Association shall have the power to bid for the Dwelling at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Dwelling is owned by the Patio Homes Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Dwelling shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged had such Dwelling not been acquired by the Patio Homes Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments and attorney fees shall be maintainable without foreclosing or waiving the lien securing the same.

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

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

9.7 Attorney Fees. In addition to the recovery of costs and attorney fees as provided herein, the Patio Homes Association shall be entitled to recover all reasonable attorney fees and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner(s) or Dwelling(s).

9.8 Appointment of Trustee. The Declarant hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a-212 to Burt R. Willie, Esq., a licensed member of the Utah State Bar, and assigns, with power of sale, the Dwelling, and all Improvements to the Dwelling for the purpose of securing payment of assessments under the terms of this Patio Homes Declaration.

9.9 Powers Extended to Master Association. In the event the Patio Homes Association fails to exercise any power granted in this Article IX, the Master Association shall have the right to exercise enforcement powers.

ARTICLE X

SUBORDINATION OF LIEN TO INSTITUTIONAL FIRST AND SECOND MORTGAGES

10.1 The lien of assessments, including interest, late charges (subject to the limitations of Utah law), and costs (including attorney fees) provided for herein, shall be subordinate to the

lien of any institutional first or second mortgage of record made in good faith and for value, recorded prior to a recorded notice of lien by the Patio Homes Association. The sale or transfer of any Dwelling shall not affect the assessment lien. However, the sale or transfer of any Dwelling pursuant to foreclosure of a prior, recorded institutional first or second mortgage shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer; provided, that to the extent there are any proceeds of the sale on foreclosure of such mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such mortgage, the lien shall apply to such excess. No sale or transfer shall relieve such Dwelling from lien rights for any assessments thereafter becoming due. Where the mortgagee holding an institutional first or second mortgage of record or other purchaser of a Dwelling obtains title pursuant to remedies under the mortgage, its successors and assigns shall not be liable for the share of the assessments by the Patio Homes Association chargeable to such Dwelling that became due prior to the acquisition of title to such Dwelling by such acquirer. No foreclosure, sale or transfer shall relieve any Owner who was the Owner prior to such foreclosure, sale or transfer from personal liability for any assessments due and owing prior to such foreclosure, sale or transfer.

ARTICLE XI

USE LIMITATIONS & RESTRICTIONS

11.1 Single Family. The Project is an Adult Community, 55 and older pursuant to the Fair Housing Act and Housing for Older Persons Act of 1995. All Lots shall be used only for single-family residential purposes.

11.2 Zoning Regulations. The lawfully enacted zoning regulations of the City and/or County, and any building, fire, and health codes are in full force and effect in the Project. No Dwelling may be occupied in a manner that is in violation of any statute, law, or ordinance.

11.3 Acceptable Business Uses. No commercial trade or business may be conducted in or from any Lot unless: 1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; 2) the business activity conforms to all zoning requirements for the Property, and the necessary and required permits and licenses are obtained; 3) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and 4) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Master Board. The terms "trade or business" shall have their ordinary and generally accepted meanings, which shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required therefore. As used herein, "commercial or business" activity shall not include the rental or leasing by an Owner of a Lot and the Improvements thereon for residential purposes. This Section specifically prohibits the use of a Lot for the commercial repair or sale of

any vehicle, equipment, boat, or other fuel operated equipment.

11.4 No Noxious or Offensive Activity. No noxious, offensive, or illegal activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may be a nuisance or may cause embarrassment, disturbance, or annoyance to Occupant(s) of other Units or Lots, including but not limited to unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise. No activities shall be conducted, nor improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property.

11.5 Vehicles & Parking. As approved by the Master Association, the Patio Homes Association may promulgate further rules and policies with regard to vehicles and parking including, but not limited to: time and location restrictions, fines, towing, enforcement, visitor parking, street parking, type of vehicles, rules and prohibitions with regard to oversized, commercial, recreational, trailers, RVs, boats and other types of vehicles. All garage doors shall be kept closed except when open for a temporary purpose.

11.5 External Improvements. No dog runs, walls, decks, or gazebos shall be allowed without prior approval of the ACC.

11.6 Nuisances. No clothes lines shall be stored on any Lot or Common Area. No unlicensed vehicle is to be parked within the Project, including on Lots or Common Areas. No rubbish or debris of any kind shall be placed or permitted by an Owner upon any Lot, Common Area, or Limited Common Area, so as to render such Lot, Common Area or Limited Common Area, or a portion thereof, unsanitary, unsightly, offensive, or detrimental to other Owners. No Owner shall use a Dwelling, Lot, or any part of the Project in such manner so as to obstruct or interfere with the enjoyment of other Owners.

11.7 Restrictions on Animals. No animals other than common household pets, up to a maximum of two (2), shall be allowed for each Dwelling, provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's control. "Control" for the above purposes shall only mean on a leash or lead, within a vehicle, or within the Dwelling of the Owner. Pet owners shall promptly remove and dispose of all excrement emitted by their pets. Fierce, dangerous, or vicious animals or animals that cause a nuisance by barking or other offensive activity shall not be permitted. Failure to abide by these conditions shall result in fines and further legal action, as authorized by the Board. All restrictions and rules as set forth by the City with respect to animals are hereby incorporated by this reference. The Associations may also defer to the City for enforcement of violations of animals rules where appropriate. Any complaint with regards to a pet or animal in the Subdivision shall first be made to the County Animal Control Department prior to contacting the Master Board or Manager.

The Patio Homes Association may adopt further rules and policies for management of pets in the Project, including procedures for approval of service/assistance animals.

11.8 Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Dwelling, upon any Lot, or upon the Common Area, or upon any part of the Project which would be in violation of any statute, ordinance, regulation, rule, permit, or other validity-imposed requirement of any governmental authority, nor result in the cancellation of any insurance policy. No damage to, or waste of, the Common Area or Common Facilities or any part thereof shall be committed by any Owners or guest or invitee of any Owner, and each such Owner shall indemnify and hold harmless the Patio Homes Association and the other Owners against all loss resulting from any such damage or waste caused by such Owner, his or her family, guests, tenants, licensees, or invitees.

11.9 Rules and Regulations. Each Owner and any person or persons occupying a Lot or using any facility within the Project shall comply with each and every provision of the Rules and Regulations governing use of the Project as such Rules and Regulations may from time to time be adopted, amended, or revised by the Patio Homes Association.

11.10 Construction Exemption. During the construction of any permitted structures or improvements, the provisions, covenants, conditions, and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that, during the course of such construction, nothing shall be done which will result in a violation of said provisions, covenants, conditions, or restrictions upon completion of the construction.

11.11 Garbage, Refuse and Debris. All trash, refuse, waste, dust, debris, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. All containers for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be stored in the garages of each Owner. Such containers may be placed for collection not more than twelve (12) hours prior to the scheduled collection date and shall be removed from the view of the general public and stored in a reasonably prompt manner after collection. No lawn, shrub, or tree clippings or trimmings may be stored or accumulated on the any Lot or Unit except as allowed above.

11.12 Antennas and Satellite Systems. Antennas and satellite dishes shall be prohibited within the Property, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter or diagonal measurement; (b) antennas or satellite dishes designed to receive video programming services via multipoint distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device shall be placed in the dwelling if such placement does not interfere with reception or significantly increase costs to the owner, and under no circumstances may any Permitted Device be placed or affixed on Common Areas or elements of common areas. The Board may adopt rules regarding the use of such devices in accordance with the FCC's Over-the-Air Reception Devices ("OTARD") rules.

11.13 Patios and Balconies. Patios and balconies are to be kept neat and orderly at all times. Residents shall not hang bathing suits, brooms, mops, rugs, lights, etc. on the patio or

balcony. The installation of sunshades, blinds, or hanging fabrics is not allowed. Storage of any personal property or trash containers is not allowed. All plants must be free standing and have saucers underneath them. Hanging plants are not permitted. No bikes and/or motorcycles are allowed to be kept on any patio or balcony at any time. Only furniture designed for outdoor use is permitted.

11.14 Holiday Lighting. Holiday Lighting and any other seasonal exterior décor to be temporarily attached to a Dwelling shall only be allowed on the Patio Homes between October 1st and January 30th.

11.15 Window Coverings. Residents shall not use blankets, sheets, foils, or non-standard window coverings in place of draperies or blinds. Residents shall not place objects on window or window seals which are visible from the outside.

11.16 Barbeques. The use or storage of any charcoal burner, liquid petroleum, and gas fueled or any other cooking devices ("Barbeque Devices") are prohibited in any Dwelling or on any balcony. With respect to Patio Homes, Barbeque Devices must be stored in garages, and used on the back patio of such Patio Homes.

11.17 Signs and Advertising. No commercial billboard or advertising shall be displayed to the public view on or from any Lot. Owners may advertise a dwelling unit and Lot for rent or for sale by displaying a single, neat, vacancy sign or "For Sale" sign, thereon, with the sign and hanging apparatus not exceeding a total of 9 square feet. Signs advertising the name of the builder and the name of the institution providing financing may be displayed on a Lot during construction of the improvements; said sign and hanging apparatus may not exceed 16 square feet. Lighted, moving or flashing signs for any purposes are prohibited. Directional signs may be used to give directions to traffic or pedestrians or give special instructions provided the same is approved by the ACC prior to installation.

11.18 External Energy Devices. No energy producing devices including, but not limited to, solar panels and generators of any kind, shall be constructed, installed, or maintained on the Property.

11.19 Combination of Lots. No Dwelling may be combined with another Dwelling without the consent of the Architectural Control Committee.

11.20 Miscellaneous

(a) Between 10:00 p.m. and 7:00 a.m. all noise shall be held to a minimum.

(b) Smoking materials, such as cigarette butts, cigar ends, etc. must be properly disposed of by the smoker in a proper receptacle. Any smoking must be 25 feet away from other Dwellings. Smokers are required to obey the Utah Clean Air Act regarding smoking.

ARTICLE XII
ARCHITECTURAL CONTROL COMMITTEE

12.1 Submission to Committee. No Improvement, Dwelling, accessory building or structure, addition, landscape changes shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Dwelling shall be performed, unless plans and specifications therefor have first been submitted to and approved by the ACC. All such plans and specifications shall be consistent with Architectural Guidelines which shall be from time to time adopted by the Master Board. The submission and approval procedure are set forth in the Master Declaration, as further defined by adopted Design Guidelines.

12.2 Exception for Declarant and Declarant Related Entities. The foregoing provisions of this Article shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant or Declarant Related Entities on any Dwelling or on any part of the Common Areas and which occurs at any time during Class B Control Period.

ARTICLE XIII
ANNEXATION & DE-ANNEXATION

13.1 Annexation. Additional phases of may be added to the Project pursuant to the procedures set forth in the Master Declaration.

ARTICLE XIV
INSURANCE

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

14.2 Property Insurance.

- (a) Blanket Policy of Property Insurance. The Patio Homes Association shall maintain a blanket policy of property insurance covering all Common Areas, including Limited Common Areas, in an amount not less than one-hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
- (b) Patio Homes Association's Obligation for Property Insurance Deductible. The Patio Homes Association shall keep an amount equal to the Patio Homes Association's property insurance policy deductible or \$10,000, whichever is less.

This requirement shall not apply to any earthquake or flood insurance deductible.

- (c) Patio Homes Association's Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Patio Homes Board determines that a claim is likely not to exceed the Patio Homes Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Patio Homes Association's policy deductible; (b) an owner who does not have a policy to cover the Patio Homes Association's property insurance policy deductible is responsible for the loss to the amount of the Patio Homes Association's policy deductible; and (c) the Patio Homes Association need not tender the claim to the Patio Homes Association's insurer.

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

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

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

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

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

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

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

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

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

ARTICLE XV DAMAGE & DESTRUCTION

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

15.2 Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Patio Homes Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the costs of repair or reconstruction, or both, are not made available to the Patio Homes Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.

15.3 In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Patio Homes Association, in a neat and attractive condition.

ARTICLE XVI **DISBURSEMENT OF PROCEEDS**

16.1 If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas shall be retained by and for the benefit of the Patio Homes Association and placed in a capital improvements and/or reserve account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner(s) shall be retained by and for the benefit of the Patio Homes Association and placed in a capital improvements and/or reserve account.

ARTICLE XVII **REPAIR AND RECONSTRUCTION**

17.1 If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

ARTICLE XVIII **CONDEMNATION**

18.1 Whenever all of any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of members representing at least sixty-seven percent (67%) of the total Patio Homes Association vote by any

authority having the power of condemnation or eminent domain), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Patio Homes Association as trustee for all Owners to be disbursed as follows: if the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Owners representing at least sixty-seven percent (67%) of the total vote of the Patio Homes Association shall otherwise agree, the Patio Homes Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Patio Homes Association. If the taking does not involve any improvements of the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Patio Homes Association and used for such purposes as the Board shall determine.

ARTICLE XIX

MISCELLANEOUS PROVISIONS

19.1 Violation Deemed a Nuisance. Any violation of these covenants that is permitted to remain on the Subdivision is deemed a nuisance and is subject to abatement by the Patio Homes Association.

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

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

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

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

19.2 Association Litigation. Any Patio Homes Association litigation shall be subject to procedures and requirements set forth in the Master Declaration.

19.3 Repurchase Option for Construction Defect Claims. Declarant retains a repurchase option as set forth in the Master Declaration.

19.4 Amendment Requires Consent of Declarant. Notwithstanding any other provision of this Patio Homes Declaration, during the Class B Period, this Article and its subsections may not be amended except with the prior written consent of the Declarant.

19.5 Severability. Each of the covenants contained in this Patio Homes 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.

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

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

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

19.9 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Dwelling in the Project is conclusively deemed to have notice of this Patio Homes Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Patio Homes Declaration against his/her Dwelling, whether or not there is any reference to this Patio Homes Declaration in the instrument by which he/she acquires interest in any Dwelling.

19.10 Notices. All notices under this Patio Homes Declaration are provided as set forth in the Patio Homes Bylaws.

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

19.12 Right to Modify Dwelling Boundaries and Interior Boundary Lines. Declarant reserve the unilateral right to modify Dwelling boundaries and interior boundary lines and/or combine Dwellings so long as it owns the Dwellings; provided, however, such changes may not extensively alter the boundaries of the Common Area and Facilities nor change the percentages of ownership interest.

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IN WITNESS WHEREOF, the undersigned Declarant has executed this Master Declaration the day and year first above written.

DECLARANT:
MERITAGE COMPANIES, LLC

By: *Jack A. Barrett*
Its: *Managing Member*

STATE OF UTAH)

:SS

COUNTY OF WEBER)

On this 3 day of March 2021, personally appeared before me *Tarryn Galloway* known to me to be the *Managing Member* of Meritage Companies, LLC, and known to me to be the person who executed the within instrument on behalf of said entity.

Tarryn Galloway
NOTARY PUBLIC



DECLARANT:
NOC 1700, LLC

By: *Steve Davies*
Its: *MANAGER*

STATE OF UTAH)

:SS

COUNTY OF WEBER)

On this 3 day of March 2021, personally appeared before me *Steve Davies*, known to me to be the *Manager* of Vista Trails, LLC, and known to me to be the person who executed the within instrument on behalf of said entity.

Tarryn Galloway
NOTARY PUBLIC



Exhibit "A"
Legal Description

PATIO HOMES PARCEL

PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 1 WEST, AND PART OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 8 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING S00°20'01"W ALONG THE SECTION LINE, 281.36 FEET AND S89°39'59"E 2866.43 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 5; THENCE NORTH 72.15 FEET; THENCE N85°09'01"E 12.61 FEET; THENCE N08°23'50"E 118.26 FEET; THENCE N55°25'02"E 197.79 FEET; THENCE N20°28'01"E 75.84 FEET; THENCE N89°04'38"E 230.59 FEET; THENCE N88°01'08"E 377.46 FEET; THENCE N88°36'08"E 195.13 FEET; THENCE S02°51'22"W 46.58 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 264.00 FEET, AN ARC LENGTH OF 26.25 FEET, A DELTA ANGLE OF 05°41'49", A CHORD BEARING OF S05°42'17"W, AND A CHORD LENGTH OF 26.24 FEET; THENCE ALONG A COMPOUND CURVE TURNING TO THE RIGHT WITH A RADIUS OF 861.10 FEET, AN ARC LENGTH OF 21.31 FEET, A DELTA ANGLE OF 01°25'04", A CHORD BEARING OF S09°15'43"W, AND A CHORD LENGTH OF 21.31 FEET; THENCE S12°59'47"W 26.68 FEET; THENCE N89°17'42"W 38.42 FEET; THENCE N87°01'08"W 57.49 FEET; THENCE WEST 290.89 FEET; THENCE S87°51'30"W 156.94 FEET; THENCE S83°00'14"W 157.25 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 17.00 FEET, AN ARC LENGTH OF 12.76 FEET, A DELTA ANGLE OF 43°00'00", A CHORD BEARING OF S61°30'00"W, AND A CHORD LENGTH OF 12.46 FEET; THENCE S40°00'00"W 106.80 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 17.00 FEET, AN ARC LENGTH OF 11.87 FEET, A DELTA ANGLE OF 40°00'00", A CHORD BEARING OF S20°00'00"W, AND A CHORD LENGTH OF 11.63 FEET; THENCE SOUTH 19.96 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 17.00 FEET, AN ARC LENGTH OF 15.76 FEET, A DELTA ANGLE OF 53°07'46", A CHORD BEARING OF S26°33'53"E, AND A CHORD LENGTH OF 15.21 FEET; THENCE S53°07'46"E 6.98 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 17.00 FEET, AN ARC LENGTH OF 6.09 FEET, A DELTA ANGLE OF 20°30'51", A CHORD BEARING OF S63°23'12"E, AND A CHORD LENGTH OF 6.05 FEET; THENCE S73°38'37"E 38.01 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 17.00 FEET, AN ARC LENGTH OF 4.85 FEET, A DELTA ANGLE OF 16°21'23", A CHORD BEARING OF S81°49'19"E, AND A CHORD LENGTH OF 4.84 FEET; THENCE EAST 73.75 FEET; THENCE ALONG A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 17.00 FEET, AN ARC LENGTH OF 1.59 FEET, A DELTA ANGLE OF 05°21'57", A CHORD BEARING OF N87°19'01"E, AND A CHORD LENGTH OF 1.59 FEET; THENCE N84°38'03"E 17.84 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE RIGHT WITH A RADIUS OF 43.00 FEET, AN ARC LENGTH OF 4.03 FEET, A DELTA ANGLE OF 05°21'57", A CHORD BEARING OF N87°19'01"E, AND A CHORD LENGTH OF 4.03 FEET; THENCE EAST 33.54 FEET; THENCE SOUTH 117.39 FEET; THENCE WEST 543.66 FEET TO THE POINT OF BEGINNING.

CONTAINING 181,081 SQUARE FEET OR 4.157 ACRES MORE OR LESS.

INCLUDING THE FOLLOWING:

PHASE 1:

ALL OF UNITS 23 THRU 35, PROMINENCE POINT SUBDIVISION PHASE 1, NORTH OGDEN CITY, WEBER COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.

TAX ID: 11-426-0023 – 11-426-0035

PHASE 2:

ALL OF UNITS 82 THRU 93, PROMINENCE POINT SUBDIVISION PHASE 2, NORTH OGDEN CITY, WEBER COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF.

TAX ID: 11-427-0082 – 11-427-0093

**Exhibit “B”
Patio Homes Bylaws**

**BYLAWS OF VILLAGE AT PROMINENCE
POINT PATIO HOMES OWNERS
ASSOCIATION, INC.**

**(An Adult Community Age 55 and Older, Neighborhood Sub-association
within the Village at Prominence Point Master Community)**

The following are the Bylaws of Village at Prominence Point Patio Homes Owners Association, Inc. ("Patio Homes Bylaws"), a Utah nonprofit corporation and sub-association in the Master Community (the "Patio Homes Association"). Upon recordation of these Patio Homes Bylaws, they are binding upon the Patio Homes Association and all present and future Owners and/or occupants. These Patio Homes Bylaws are intended to comply with the requirements of the Housing for Older Persons Act of 1995 ("HOPA").

These Patio Homes Bylaws have been duly approved by the Master Board for the Master Association.

ARTICLE I DEFINITIONS

Section 1.1 Definitions. All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions & Restrictions for Village at Prominence Point Patio Homes, a Sub-association of the Village at Prominence Point Master Community, of even date and recorded in the Official Records of the Weber County Recorder's Office (hereinafter "Patio Homes Declaration"), and as the same may be amended from time to time as therein provided. In addition, definitions within the Master Declaration may also be applicable in the event such definitions are not within the Patio Homes Declaration.

ARTICLE II MEETINGS OF MEMBERS

Section 2.1 Annual Meetings. An annual meeting of the Owners shall be held no less than once each calendar year at a location and time designated by the Board of Directors for the Patio Homes Association ("Patio Homes Board"). The Patio Homes Board may set the date, time and location of the annual meeting in accordance with Section 2.3 below.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Patio Homes Board, or, following the Class B Control Period, upon written request of the Owners holding at least fifty-one percent (51%) of the total eligible votes of the membership. Notwithstanding, the Patio Homes Board remains the only authorized body to act for and on behalf of the Patio Homes Association.

Section 2.3 Notice of Meetings. Unless an Owner requests in writing that all notices be provided to said Owner by U.S. mail, all notices shall be given by, or at the direction of, the Patio Homes Board via email or other electronic communication. Notice shall be provided at least ten (10) days before a meeting, but no more than sixty (60) days, to each

Owner at the email or electronic address provided by the Owner. Said notice is effective upon sending the email or electronic communication. Notices provided by U.S. mail shall be sent via U.S. First Class Mail and effective upon deposit in the mail. Such notice shall specify the location, day, and time of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Upon becoming an Owner of the Patio Homes Association, or upon the written request by the Patio Homes Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Patio Homes Association unless the Owner has opted out by providing a written request for notice by U.S. Mail.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Patio Homes Declaration, at any meeting of Owners, a quorum shall be established by those Owners present, in person or by proxy, at a properly noticed meeting. Notwithstanding, the Patio Homes Board remains the only authorized body to act for and on behalf of the Patio Homes Association. Further, a majority of those Owners present in person or proxy at such meeting may vote to reschedule the meeting based upon low attendance. Otherwise, the meeting shall proceed as scheduled.

Section 2.5 Proxies. At all meetings of Owners, each Owner may vote in person or by proxy. All proxies shall be in writing, signed by the Owner, and filed with the Patio Homes Board at or before said meeting. Notwithstanding, any proxy delivered to the Patio Homes Board at the meeting must be provided no later than any point in the meeting announced as the final time to deliver proxies. The proxy form provided with any notice of meeting may also provide an additional requirements and a deadline to return proxies. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of his Lot. If conflicting proxy votes for an Owner or Lot exist, said proxy votes will not be counted.

Section 2.6 Conduct of Meetings. The Patio Homes Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Patio Homes Board may adopt further policies and procedures with regard to conduct at a Patio Homes Association meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription, or combination) any Patio Homes Association or Patio Homes Board meeting, work session, event, get-together, or similar event regardless of the location of such event.

Section 2.7 Action Taken Without a Meeting. Under the direction of the Patio Homes Board, 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 one or more consents in writing, setting forth the action taken, are signed by the Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all

Owners eligible to vote on the action were present and voted, unless a different approval percentage for the action is specifically set forth in the Patio Homes Declaration. The Patio Homes Board may obtain such approvals and conduct business through mail or email/electronic ballots.

Ballots shall set forth each proposed action and provide the option of voting for or against each proposed action. The ballot must specify the period of time, up to 90 days, during which the Patio Homes Association shall accept written ballots. Following this period, the Patio Homes Association shall provide notice if such action was approved.

Section 2.8 Voting. Only an Owner that is current on all assessments and charges due and owing at least thirty (30) days prior a duly noticed meeting shall be deemed in good standing and eligible vote. The Patio Homes Association shall have two (2) classes of voting membership, Class "A" and Class "B," as set forth in the Patio Homes Declaration.

The votes appurtenant to any one Lot may not be divided between Owners of such Lot and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the Owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot. The Patio Homes Association shall honor the vote of: a duly authorized trustee or successor trustee of a trust that is an Owner; the duly authorized representative of a legal entity that is an Owner; and shall honor the vote of an individual that is a holder of a Limited or General Durable Power of Attorney with respect to an Owner as though such vote were the vote of the Owner.

ARTICLE III - BOARD, SELECTION AND TERM OF OFFICE

Section 3.1 Number & Tenure. Except for the Initial Patio Homes Board selected by Declarant, which consists of three members and their successors, that may hold office during the Class B Control Period, the affairs of the Patio Homes Association shall be managed by a Patio Homes Board of Directors composed of three (3) individuals. At the first meeting of the Owners at which the election of Directors will take place following the Class B Control Period, the candidate who receives the most votes shall serve as a Director for three (3) years. The candidate that receives the second highest number of votes shall serve as a Director for two (2) years, and the third candidate who receives the third highest number of votes shall serve as Director for one (1) year. At each annual election, the successor to the Director whose term shall expire in that year shall be elected to hold office for the term of (3) years. Any change in the number of Directors may be made only by amendment of these Patio Homes Bylaws. The members of the Patio Homes Board of Directors shall serve until their respective successors are elected, or until their death, resignation, or removal.

Section 3.2 Advisory Board Member. During the Class B Control Period and prior to turnover of the Patio Homes Association to Owner control, the Declarant and/or Patio Homes Board may identify an owner(s) to be an advisory member of the Patio Homes

Board and participate in Patio Homes Board meetings and activities. This advisory member(s) shall not vote.

Section 3.3 Eligibility. Following the Class B Control Period, all members of the Patio Homes Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Dwelling. Notwithstanding, only one member of a single household can be a member of the Patio Homes Board at any one time.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the Patio Homes Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director, except during Class B Control Period, may be removed from the Patio Homes Board, with or without cause, by a vote of at least (51%) of the Owners of the Patio Homes Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 3.5 Compensation. No Director shall receive compensation for any service he may render to the Patio Homes Association. However, any Director may be reimbursed for actual and approved expenses incurred in the performance of his duties.

Section 3.6 No Estoppel or Reliance. No one may rely upon any authorization (from the Patio Homes Board or otherwise) contrary to the terms and conditions of the Governing Documents regardless of circumstances. No claim of estoppel, waiver or similar equitable claims or defense may be raised by anyone related to any alleged reliance.

Section 3.7 Records Retention. The Patio Homes Board shall take appropriate action to develop, implement and update procedures for record retention. The Patio Homes Board should maintain documents in a manner to be easily accessible and copied. The Patio Homes Board may budget specifically for this expense and may seek the advice of consultants in developing retention procedures.

ARTICLE IV - NOMINATION AND ELECTION OF DIRECTORS

Section 4.1 Nomination. Following the Class B Control Period, nomination for election to the Patio Homes Board may be made by the Patio Homes Board or by Owners from the floor at the annual meeting.

Section 4.2 Election. Following the Class B Control Period, the election of Directors shall be by vote or written ballot, as determined at the discretion of the Patio Homes Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized.

ARTICLE V - MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Patio Homes Board shall be held at least annually, or more frequently as determined by the Patio Homes Board. All notices shall be provided by email or other electronic means. Directors are required to provide an email or electronic address for purposes of notice of Patio Homes Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days.

Owners, and Owner representatives (if designated in writing in advance) may attend Patio Homes Board meetings and may be present for all discussions, deliberations, and decisions except when the Patio Homes Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Patio Homes Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Patio Homes Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of Patio Homes Board Meetings and have provided a valid email address.

Section 5.2 Special Meetings. When, in the discretion of the President or two members of the Patio Homes Board, circumstances require that a meeting be held sooner than the required five (5) days' notice for a regular meeting, a special meeting may be called by the President or by any two (2) Directors, after not less than twenty-four (24) hours' notice to each Director.

Section 5.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Patio Homes Board.

Section 5.4 Conduct of Meetings. The Patio Homes Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain minutes of all meetings. The Patio Homes Board may adopt further policies and procedures with regard to conduct at a Patio Homes Board meeting.

- (a) **Recording.** No person, whether an Owner, occupant, owner representative, or other third party is permitted to record (whether audio, video, transcription or combination) any Patio Homes Association or Patio Homes Board meeting, work session, event, get-together, or similar event regardless of the location of such event.

Section 5.5 Action Taken Without a Meeting. The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Patio Homes Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Patio Homes Board shall have all of the powers and duties necessary for the administration of the affairs of the Patio Homes Association in accordance with the provisions of the Governing Documents, Utah law and HOPA. The Patio Homes Board may delegate its authority to manager(s), subject to any limitations or provisions contained in the Governing Documents.

ARTICLE VII - OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Officers. The officers of this Patio Homes Association shall be a president, secretary, and treasurer, as designated by the Patio Homes Board.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first Patio Homes Board meeting following the annual meeting of the Owners. Officers shall serve in their office for a period of one (1) year. Notwithstanding, nothing in these Patio Homes Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Patio Homes Board may elect such other officers as the affairs of the Patio Homes Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Patio Homes Board may, from time to time, determine. Appointed Officers may be removed by the Patio Homes Board with or without cause.

Section 7.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any Director or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced by a majority of the Patio Homes Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, his successor shall be selected by the Patio Homes Board and shall serve for the unexpired term of his predecessor.

Section 7.5 Duties. The Patio Homes Board may adopt policies and resolutions to define the respective duties of Directors and Officers.

ARTICLE VIII - CONTRACTS, LOANS & INVESTMENT

Section 8.1. Contracts. The Patio Homes Board may authorize any officer(s), agent(s), to enter into any contract or execute and deliver any instrument in the name of or on behalf of the Patio Homes Association, and such authority may be general or confined to specific instances.

Section 8.2 Loans. Any loan entered into by the Patio Homes Association must be in accordance with the Patio Homes Declaration.

Section 8.3 Deposits & Investments. Patio Homes Association funds may only be deposited into institutions that are federally insured. The Patio Homes Board may deposit Patio Homes Association funds into savings accounts, money market accounts, or purchase certificates of deposits. Other investment options that may pose additional risks must be approved by at least 51% of the total eligible votes of the membership prior to the investment.

ARTICLE IX - COMMITTEES

Section 9.1 Committees. The Patio Homes Board may appoint such committees as deemed appropriate in carrying out its purposes. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Patio Homes Board. The Patio Homes Board may terminate any committee at any time.

ARTICLE X - MISCELLANEOUS

Section 10.1 Waiver of Procedural Irregularities. All inaccuracies and irregularities in calls or notices of meetings, in the manner of voting, in the form of proxies, in the method of asserting persons present, in the method of making decisions, or in the method of accepting or counting votes shall be deemed waived under the following circumstances:

- (a) If the objecting person was in attendance at the meeting and the issue upon which the objection was based was perceptible and no objection to the particular procedural issue was made at the meeting.
- (b) If the objecting person was not in attendance at the meeting but had proper notice of the meeting.
- (c) If the objecting person was not in attendance at a meeting and had actual notice of the meeting before it occurred.
- (d) If the objecting person who was not in attendance at the meeting and did not have proper or actual notice fails to assert the objection within 30 days of receiving notice of the circumstances giving rise to their objection.

Section 10.2 Requirements for Objections. All objections except those made at a meeting shall be in writing. Whenever made, objections must specifically describe the circumstances giving rise to the objection and reference the specific provision of the Governing Documents or law that is alleged to have been violated, with a brief statement of the facts supporting the claimed violation.

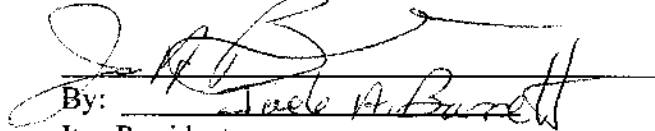
Section 10.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation the Governing Documents or Utah law.

Section 10.4 Fiscal Year. The fiscal year of the Patio Homes Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 10.5 Amendment. During the Class B Control Period, these Patio Homes Bylaws may be amended at any time by the Declarant and may not be amended without Declarant's consent. Following the Class B Control Period, these Patio Homes Bylaws may be amended by Owners holding at least fifty-one percent (51%) of the total eligible votes of the membership, with written approval of the Master Association. An amendment to these Patio Homes Bylaws shall be effective immediately upon recordation in the Office of the Weber County Recorder, State of Utah.

Dated this 3rd day of March 2021.

Patio Homes Association


By: Jacob A. Burnett
Its: President