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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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CAPITAL GROUP LLC

When recorded, return to:

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
FOR THE BROOKS ON MAIN MIXED-USE MASTER COMMUNITY
(Davis County, Utah)**

D
THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE BROOKS ON MAIN MIXED-USE MASTER COMMUNITY ("Master Declaration") is hereby adopted by The Brooks, LLC, a Utah limited liability company, its successors, and assigns, (hereinafter "Declarant") and is made effective as of the date recorded in the Davis County Recorder's Office.

03-278-0001 → 0011 & 0012

RECITALS:

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

(B) On or about February 14th, 2024 the Brooks P.U.D. Plat Map depicting the Master Community was recorded in the Davis County Recorder's Office, as Entry No. _____ ("Plat").

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

1. Townhomes (Residential); and
2. Live/work Condominiums & Commercial

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

(D) Declarant desires to subject the Property to the terms of this Master Declaration. Declarant intends to develop a planned unit development on the Property pursuant to the local ordinance, the Community Association Act, including certain Neighborhoods and sub-association that may be governed by the Utah Condominium Ownership Act. Declarant will develop and convey all of the Lots within the Master Community subject to a general plan of development, and subject to certain protective covenants, conditions, restrictions, and easements, as set forth in this Master Declaration, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots/Dwellings within the Master Community. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, or as described in this Master Declaration. The Master Community does not constitute a cooperative;

(E) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Master Community, to create an entity which possesses the powers to maintain and administer the Common Areas and Limited Common Areas (where applicable) and otherwise administer and enforce the provisions of this Master Declaration. For such purposes, Declarant will cause to be registered with the Utah Department of Commerce The Brooks on Main Master Homeowners Association, Inc. (the "Master Association"). The Master Association is governed by the terms of this Master Declaration, the Master Articles, and the Master Bylaws, which are attached hereto as Exhibit "B."

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

(G) Supplemental or Neighborhood Declarations, as may be deemed appropriate by Declarant, on a phase-by-phase basis to address differences in circumstances may be recorded related to expansion of the Master Community. Declarant may also record plats alone to annex additional phases. Declarant or the Master Association must approve all Supplemental or Neighborhood Declarations.

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

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

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I - DEFINITIONS

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

(A) "Act" shall mean the Community Association Act, Utah Code § 57-8a-101 *et. seq.*, and/or the Utah Condominium Ownership Act, Utah Code § 57-8-101 *et. seq.* as the context so requires.

(B) "Architectural Control Committee" or "ACC" shall mean the Architectural Control Committee created by Master Association in accordance with the Governing Documents, which shall govern the entire Master Community. The ACC may, in its sole discretion, delegate certain

responsibilities to Neighborhood Sub-associations. Declarant shall retain the authority to appoint the Master Board and correspondingly the ACC until Declarant no longer owns any property within the Master Community.

(C) "Articles" see "Master Articles."

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

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

(F) "Bylaws" see "Master Bylaws"

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

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

(I) "Common Area(s)" shall mean all property designated on the recorded Plat(s) or described in this Master Declaration as Common Area, being intended ultimately to be owned by the Master Association for the common use and enjoyment of all Members, together with all Improvements thereon and all of the easements appurtenant thereto including, but not limited to: open space, Private Alleys, detention basins, Master Community amenities, private utility lines (not owned and maintained by Bountiful City and serving a single Dwelling), community signage, community mailbox (if any), perimeter or amenity fencing, and visitor parking. Certain community amenities may be owned by sub-associations (as set forth in subsequent plats, recorded documents, or governing documents). Owners in the Master community enjoy corresponding rights of access along with maintenance responsibilities for community amenities. Subsequent Neighborhood Declarations, as approved by the Master Association, may make further designations within said Neighborhoods with regard to Common Areas or amenities within sub-associations.

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

expenses and liability as required by this Master Declaration or the Act.

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

I. "Declarant Related Entity or Entities" shall mean Declarant, parent companies, subsidiaries, assigns, successors, related or designated construction entities, or other entities established by Declarant or Declarant's members for the purpose of owning, developing, constructing and/or selling Lots or Dwellings in the Master Community.

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

(M) "Design Guidelines" may be adopted by the Declarant, ACC, or Master Board governing Improvements in the Master Community.

(N) "Dwelling" may refer to any residence, unit or building, as the context requires, together with all Improvements used in conjunction with such residence, including but not limited to: commercial buildings, townhomes, apartments, and condominiums. All pipes, wires, conduits, or other utility installations serving only that Dwelling shall be considered part of the Dwelling.

(O) "Governing Documents" shall mean this Master Declaration, Plat(s), Master Bylaws, Master Articles, Master Rules, Design Guidelines, and any other documents or agreements binding upon an Owner.

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

(Q) "Limited Common Area" shall mean all property designated on the recorded Plat Map(s), or as described in sub-association documents as Limited Common Areas, which may be owned by individual sub-association but for the exclusive use and enjoyment of one or more appurtenant Lots/Dwellings but fewer than all of the Lots/Dwellings.

(R) "Lot" shall mean any numbered lot shown on any official and recorded Plats, including all Improvement located thereon. Lot may also refer to the individual Dwelling. Lot may also be interchangeable with Dwelling in the context of a Condominium in a sub-association.

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

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

(U) "Master Association" shall mean The Brooks on Main Master Homeowners

Association, Inc. and, as the context requires, the duly elected and authorized Board of Directors through its officers, directors and managers.

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

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

(X) "Master Declaration" shall mean the Declaration of Covenants, Conditions and Restrictions for The Brooks on Main Mixed Use Master Community, together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(Y) "Member" or "Owner" shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Davis County, Utah) of a fee simple or an undivided interest in any Lot/Dwelling. 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. Owner may include a non-natural, but legally recognized entity, such as a limited liability company, corporation, partnership, limited partnership, trust, and/or other legally entity recognized by Utah State law. Accordingly, such an Owner may designate a natural person of its selection as Owner's agent to serve and act in the Owner's place. Notwithstanding the foregoing, an Owner may designate only one natural person to serve as its agent at any one time.

(Z) "Neighborhood," "Neighborhood Sub-association," or "Sub-association" shall mean a separate and distinct area within the Master Community, which may include a separate sub-association, with the consent of the Master Association, by the recording of a Neighborhood Declaration. The Master Declaration will be recorded in conjunction with the Plat and prior to any sub-association. It is anticipated that that the following Neighborhoods will exist.

- Townhomes. Townhomes may be detached or attached structures and it is anticipated that they will be governed by the Master Association and/or a Neighborhood Association.
- Commercial. Apartments, live/work units and commercial space will be governed by the Master Association and/or a Neighborhood Association.

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

(AA) "Party Wall" shall mean each wall which is built as a part of the original construction of a Dwellings/Units within the Master Community and placed on the dividing line between two Dwellings/Units shall constitute a Party Wall, and, to the extent consistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Neighborhood Declarations may provide additional maintenance and insurance details for improvements with Party Walls.

(BB) "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.

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

(DD) "Private Alley or Drive" shall mean and refer to the private roads in the community.

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

(FF) "Subdivision Improvements" shall mean all improvements to be installed outside the boundaries of Lots or within easements that are necessary to provide access and utility service to the Lots and including other construction work required to comply with any conditions of Bountiful City to the approval of the Master Community or any Plat(s) thereof.

ARTICLE II - EASEMENTS & OTHER RIGHTS

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

- (a) The Associations may also adopt Rules with regard to storage and materials that may be in the Limited Common Areas. The Master Association may, by rule, impose limitations on the use, upkeep, and prohibition of certain activities within the Limited Common Area. Limited Common Area may not be separated from the Ownership or occupation of the adjoining unit.

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

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

- (a) The right of the Master Association to govern by Rules the use of the Common Area for the Owners so as to provide for the enjoyment of said Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Lots by every Owner, including the right of the Master Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Area;
- (b) The right of the Master Association to suspend an Owner's right to the use of the Common Areas, or any amenities included therein, for any period during which an Owner is in violation of the terms and conditions of the Governing Documents or delinquent in the payment of a levied assessment or fee.
- (c) The right of Bountiful City, Davis County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.
- (d) The right of the Master Association, as attorney in fact for the Owners, to dedicate, convey or grant easement rights to the Common Areas for such purposes and subject to such conditions as may be agreed to by the Master Association. No such dedication or transfer, however, may take place without the Association first receiving written approval from the relevant government agency pursuant to all applicable state and city ordinances in effect at the time of such proposed dedication or transfer.

2.5 Easements in Favor of Master Association. The Lots and Common Areas are hereby made subject to the following easements in favor of the Master Association and its directors, officers, agents, employees, and independent contractors:

- (a) For inspection during reasonable hours of the Lots, Limited Common Areas, and Common Area in order to verify the performance by Owners or other persons of all items of maintenance and repair for which they are responsible;
- (b) For inspection, maintenance, repair, and replacement of portions of the Dwellings, Limited Common Areas, and/or Common Areas as required by the Master Declaration;
- (c) For correction of emergency conditions in the Master Community;
- (d) Landscaping. The Master Association shall have an easement and related access rights in order to maintain the Common Area landscaping or any other landscaping that is the Master Association's responsibility; and
- (e) Private Alleys. The Master Association, subject to the rights and duties of Owners and sub-associations, shall be primarily responsible for the management, control, operation, care, maintenance, repair, replacement and upkeep of the any Private Alleys unless and until such responsibility is transferred to, and accepted by, a public agency, authority or utility in accordance with the provisions hereof.

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

2.7 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.

2.8 Private Alleys. Private Alleys shall be owned and maintained by the Master Association unless delegated to a sub-association.

- (a) All street lights in private alleys shall be owned and maintained by the Master Association unless delegated to a sub-association.
- (b) All utilities in Private Alleys that serve more than one Dwelling shall be maintained by the Master Association unless delegated to a sub-association. Utilities serving only an individual Dwelling shall be the responsibility of the Owner.
- (c) Street lights on public roads will be installed by developer but, thereafter, maintained by Bountiful City.

2.9 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Dwellings, (b) to maintain sales or leasing offices, management offices and models throughout the Master Community and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Master Community, (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.

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

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

ARTICLE III

MEMBERSHIP, VOTING CLASSES & CONTROL PERIOD

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

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

(a) Class "A" Class "A" Members shall be all Owners with the exception of Class "B" membership, if any. Unless otherwise stated herein, Class "A" membership shall be entitled to one (1) equal vote for each Lot in which they are an Owner. Only an Owner that is current on all Assessments and/or other fees thirty days in advance of the meeting or vote shall be deemed in good standing and entitled to vote. With regard to any approval that requires a specified percentage of total membership, the total membership shall be calculated from the total number of Owners eligible to vote at the time such approval is sought. Since an Owner may be more than one Person, if only one of such Person(s) is present at the meeting of the Master Association that Person shall be entitled to cast all votes appertaining to that Lot. But if more than one of such Person(s) is present, the votes appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to

cast the votes appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The votes appurtenant to any one Lot may not be divided between Owners of such Lot or with respect to matters before the Master Association, and all such votes appurtenant to any one Lot shall be voted in one block. If the vote of a majority of the owners of a Lot cannot be determined, no vote shall be cast in relation to such Lot.

(b) Class "B". The Class "B" Member shall be Declarant. In all matters requiring a vote, the Class "B" membership shall receive five hundred (500) votes for each recorded Lot, or Dwelling owned by Declarant. The Class "B" membership shall also be entitled to appoint the members of the Master Board and Master Association during the Class "B" Control Period

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

- (a) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (b) When, at its discretion, the Class B Member so determines.

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

ARTICLE IV - ANNEXATION

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

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

amended.

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

4.4 No Obligation to Annex or Develop. Declarant has no obligation hereunder to annex any additional land to the Master Community. No land other than the Property as defined on the date hereof and land annexed thereto in accordance with the terms of this Master Declaration shall be deemed to be subject to this Master Declaration, whether or not shown on any plat or map filed by Declarant or described or referred to in any documents executed or recorded by Declarant.

ARTICLE V - MASTER ASSOCIATION & ASSESSMENTS

5.1 Organization. The Master Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation.

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

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

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

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

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

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

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

- (a) The Master Association shall have the exclusive right to initiate enforcement actions in the name of the Master Association. The Master Association may appear and represent the interest of the Master Community at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.
- (b) The Master Association shall have the authority to initiate and compromise claims and litigation on behalf of the Master Association resulting from the enforcement of the Governing Documents. In the event that the Master Association initiates legal action against a specific Owner or Owners to enforce these Governing Document, whether or not such action results in the commencement of a formal legal proceeding, the Master Association

shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

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

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

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

5.6 Violation Deemed a Nuisance. Any violation of the Governing Documents that is permitted to remain on the Property is deemed a nuisance and is subject to abatement by the Master Association.

- (a) Any single or continuing violation of the covenants contained in this Governing Documents may be enjoined in an action brought by the Master 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 Master 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 Master Declaration is to be construed as being in addition to those remedies available at law.
- (c) The remedies available under this Master 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 Master Declaration in the future or against other similar violations.

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

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

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

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

Neighborhood Assessment to Owners in a specific Neighborhood for costs, special services, or amenities available for Owners within that Neighborhood that are provided by the Master Association.

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

5.10 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Lot 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 Master 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 Lot (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 Master Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

5.11 Reinvestment Fee. The Master Association, which is intended as a large master planned development, shall have power to levy a one-time reinvestment fee. With the exception of those Lots conveyed by Declarant or Declarant's Related Entities, which shall be exempt from the Reinvestment Fee, the Master Association may levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the amount of one-half of one percent (.005) of the sale price of the Lot. The Master Association may determine the portion of the Reinvestment Fee that may be paid to Neighborhood Associations. The Declarant and Declarant's Related Entities are exempt from the Reinvestment Fee.

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

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

5.14 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Master 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.

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

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

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

5.18 Foreclosure Sale. The Master Association shall have all rights and power of foreclosure granted by the Act, both judicially and non-judicially. The Master Association may also bid for the Lot at foreclosure sale, acquire, hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Master Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of any Special Assessment that would have been charged had such Lot not been acquired by the Master 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.

5.19 Other Remedies. All rights and remedies of the Master 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 Master Association. The Master Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

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

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

- (a) The Master Board may revise the approved budget from time to time as necessary to accurately reflect actual and/or anticipated expenses that are materially greater than previously budget.
- (h) The budget shall estimate and include the total amount for the Common Expenses, shall contain an appropriate amount for reserves, and may include an amount for other contingencies. The budget shall also be broken down into reasonably detailed expense and income categories.

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

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

ARTICLE VI - ARCHITECTURAL CONTROL COMMITTEE

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

6.2 Approval by Master Board or ACC Required. No exterior Improvement of any kind will be constructed or commenced on any Lot(s) within the Master Community without the prior, written approval of the ACC, which plans must be harmonious with existing Improvements and the existing character within the Master Community. The overall architectural style and detailing of each Improvement (including each Dwelling) and the associated landscaping and site use is subject to ACC review and approval. Approval of the ACC will be sought in the following manner:

- (a) **Plans Submitted.** A written rendering, prepared by a licensed architect or engineer when requested by the ACC, of the proposed remodeling or

construction must be submitted. The Plans shall also include: (1) a description of how debris will be removed; (2) name, address and phone number of contractor(s) performing the work; (3) when construction or remodeling will begin and conclude; and (4) proposal to mitigate any nuisance to other Owner(s).

- (b) Review. Within 45 days from receipt of the submitted plans, the ACC will review the plans and respond in writing to the Owner determining whether or not the plans comply with the conditions imposed by the Master Declaration and are consistent with and in architectural harmony with other Improvements within the Master Community. The ACC may: (1) approve the plans; (2) reject the plans; (3) request additional information; or (4) require that certain conditions be met.
- (c) Failure to Act. If the ACC fails to respond, Owner may complete the construction in accordance with the submitted plans. Notwithstanding the Improvement(s) shall not violate the terms and condition of the Master Declaration and shall be in architectural harmony and consistent with the other Improvements in the Master Community.

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

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

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

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

6.7 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 Lot or on any part of the Common Areas and which occurs

at any time during Class B Control Period.

6.8 Approved Builder. During the Class B Control Period, only contractors approved in advance by Declarant, in their sole discretion, may construct Improvement(s) upon the Lots.

ARTICLE VII - ARCHITECTURAL RESTRICTIONS

7.1 Design Guidelines. The Declarant and/or ACC may adopt Design Guidelines that are consistent with City ordinance but may include additional detail and restrictions.

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

7.3 Landscaping. Declarant shall install the initial landscaping in the Master Community consistent with City ordinance. Such landscaping shall be consistent with City ordinance and be consistent with current water-wise landscaping principals.

7.4 Fencing. No fence, wall, hedge, or other dividing structure may be installed without the prior, written consent of the Master Board or ACC.

ARTICLE VIII - COMMON AREAS, LIMITED COMMON AREAS, DWELLINGS & MAINTENANCE

8.1 The Common Areas shall be and are hereby conveyed to the Master Association, a Utah non-profit corporation, subject to this Master Declaration and subject to all easements as set forth in this Master Declaration.

8.2 Common Areas Maintained by the Master Association. All Common Areas shall be maintained by the Master Association, which shall generally include (where applicable):

- (a) Open space parcels, landscape buffers, detention basins;
- (b) Common Areas;
- (c) Asphalt repair, maintenance and replacement of any Private Alley;
- (d) Landscaping. The Master Association shall contract with a third party to perform general landscaping maintenance of the Common Areas. The Master Association may adopt Rules to add further detail with regard specific landscape maintenance services provided by the Master Association (including any landscaping responsibilities located on a Lot) and those responsibilities of Owners concerning items including, but not limited to: gardens, flowerbeds, bushes, trees, and other landscaping elements.
- (e) Snow Removal. The Master Association may adopt Rules governing snow removal in the Master Community.
- (f) Repair, maintenance and replacement of perimeter fencing surrounding the Master

Community.

- (g) Light poles on Private Alleys;
- (h) Community mailboxes;
- (i) Walkways and sidewalks that serve more than one Lot (not maintained by Bountiful City); and
- (j) Private utility lines/infrastructure that serves more than one Lot/Dwelling (not maintained by the City).

8.2 Limited Common Areas. The Master Association may adopt further policies governing the use, maintenance, repair and replacement responsibilities associated with the Limited Common Area.

8.3 Dwelling Maintenance. With exception of Common Area, the Master Association will not perform any maintenance for Dwelling governed only by Master Declaration. Such maintenance will be the responsibility of the Owners and/or Sub-association, as further detailed in sub-association documents.

8.4 Duty to Maintain. It is the obligation of each Owner to maintain their Lot, Dwelling and Improvements located thereon in a clean and sanitary condition and uncluttered at all times in order to preserve and enhance the enjoyment of the Master Community.

8.5 Repairs by Master Association. In the event that an Owner permits their Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary or unsightly condition or fails to comply with any other covenant or restriction in violation of this Master Declaration, the Master 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 Master Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement 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 Master Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Master Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Master Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

8.6 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, improvements or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the Master Board or ACC. Declarant shall be exempt from this provision.

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

ARTICLE IX -USE LIMITATIONS & RESTRICTIONS

9.1 Neighborhood Sub-Association. Sub-association governing documents may establish further use restrictions, as approved by the Master ACC, applicable to Sub-associations.

9.2 Single Family. All Lots shall be used only for single-family residential purposes, as defined in Bountiful City ordinances. No individual room rentals are allowed. An otherwise allowable rental may not be less than the entire Dwelling.

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

9.4 Acceptable Business Uses. The Declarant, or other approved builder may utilize Lots for purposes of a construction office or sales office during the actual period of construction of the Master Community or until 100% of the Lots are sold in the Master Community. An Owner may utilize their Lot for a home occupation business pursuant to Bountiful City ordinance. However, businesses, professions or trades may not: require heavy equipment, emit significant sound or odor, unreasonably increase traffic, or create a nuisance within the Master Community,

- (a) Commercial allowed uses and restrictions will be governed further within commercial Neighborhood sub-association.

9.5 Passenger Vehicles and Recreational Vehicles & Equipment. The Master Association may adopt rules further governing the parking and storage of all vehicles in the Master Community.

- (a) Recreational Vehicles & Equipment shall include, but is not limited to: watercraft, boats, trailers, motorhomes, buses, RVs,

campers, camper vans, fifth wheel trailers, side-by-sides, atvs, snowmobiles, dirt bikes, maintenance equipment, commercial vehicles and equipment, and large trucks and other vehicles (over 23 feet in length, seven feet in width, or seven feet in height).

- (b) Passenger Vehicles are broadly defined to include all motorized vehicles of any type that are not defined as Recreational Vehicles & Equipment, generally including all commonly sized passenger vehicles.
- (c) Recreation Vehicles & Equipment must be parked on the side or rear of the single-family home in locations approved by the Master Board or ACC.

9.6 Animals. No animals, livestock, or poultry of any kind shall be raised, kept, or bred for any commercial purpose. All animals in the Master Community shall be maintained as required by the laws and ordinances of Bountiful City. The Master Association may adopt rules further governing the animals in the Master Community.

9.7 Maintenance of Property. All Lots and Improvements shall be maintained in a clean, sanitary, and attractive condition at all times. No unsightliness is permitted on any Lot, which include, without limitation, the open storage of any building materials (except during construction of Improvements) open storage or parking of construction equipment, or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as garbage bins; lawn or garden furniture, except during the season of use; and the storage or accumulation of any other material, vehicle, or equipment on the Dwelling in any visually unappealing manner. No clothes lines, service yards, or storage yards shall be permitted.

9.8 Trash and Rubbish. Trash, rubbish, garbage, or other waste shall not be kept except in covered containers. The Board may adopt further rules and policies governing trash containers and collection.

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

9.10 Satellite Dishes. For Townhomes, no more than one satellite dish may be installed. Notwithstanding, the use of fiber, cable and other less visible options are preferred. The location of any satellite dishes in the Master Community, including any related cables or infrastructure must receive the prior, written approval from the ACC.

9.11 Antenna. No antenna may be placed on the exterior of any Dwelling. Any antenna must be contained within the attic space of the Dwelling to which is attached.

9.12 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.

9.13 Holiday Lighting. Holiday Lighting and any other seasonal exterior décor may be further defined, limited and governed by Rules.

9.14 Barbeques. The use or storage of any charcoal burner, liquid petroleum, gas fueled, or any other cooking devices ("Barbeque Devices") are prohibited in any Dwelling or on any balcony. With respect to single-family homes, Barbeque Devices may be stored in garage or rear patios and must be used outdoors within Lot boundaries. With respect to Townhomes, Barbeque Devices must be stored in garages, and used on the back patio of such Townhome.

9.15 External Energy Devices. No energy producing devices including, but not limited to, solar panels and generators of any kind, shall be constructed, installed or maintained on the Property without approval of the ACC.

9.16 Signs and Advertising. The Master Association may adopt Rules governing signage and flags in the community.

9.17 Other. Without limiting the generality of any of the foregoing provisions: (a) Unless otherwise approved by the ACC, no horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot or home. The ACC, in its sole discretion, shall have the right to determine the existence of any such nuisance. (b) No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Master Community. (c) The discharge of firearms, including without limitation, "B-B" guns (or of similar nature), and pellet guns, is prohibited. (d) On-site storage of gasoline or other fuels is prohibited on any Lot, with the exception of up to five (5) gallons of fuel stored for emergency purposes and operation of lawn mowers or similar tools or equipment. (e) All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers, and similar items shall be stored so as not to be visible from the streets or adjacent property. No such items shall be allowed to remain on the front of the Lots so as to be visible from adjacent property when not in use. (f) Reflective window coverings are prohibited. (g) Above ground swimming pools greater than five feet in diameter are expressly prohibited, unless otherwise approved by the ACC.

9.18 Garages. The garage for the Townhomes cannot be used for personal or rented storage. The primary use of the garage is for parking vehicles first and foremost.

ARTICLE X - INSURANCE

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

10.2 Property Insurance.

- (a) **Blanket Policy of Property Insurance.** Unless the insurance obligation is the express responsibility of a Sub-association, as further set forth in a Sub-association Declaration in the Mater Community, the Master Association shall maintain a blanket policy of property insurance covering all Common Areas in an amount not less than one-hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.
- (b) **Master Association's Obligation for Property Insurance Deductible.** The Master Association shall keep an amount equal to the Master Association's property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
- (c) **Master Association's Right to Not Tender Claims that are Under the Deductible.** If, in the exercise of its business judgment, the Master Board determines that a claim is likely not to exceed the Master Association's property insurance policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Master Association's policy deductible; (b) an owner who does not have a policy to cover the Master Association's property insurance policy deductible is responsible for the loss to the amount of the Master Association's policy deductible; and (c) the Master Association need not tender the claim to the Master Association's insurer.

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

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

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

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

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

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

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

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

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

10.11 Townhomes. In the event that a separate sub-association is not created for the Townhomes, the Declarant may update insurance, maintenance and other provisions applicable to Townhomes.

ARTICLE XI - MISCELLANEOUS PROVISIONS

11.1 Amendment. At any time while this Master 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 contained herein 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 Master Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

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

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

notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

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

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

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

- (a) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Master 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 Master Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.
- (b) In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Master Association, in a neat and attractive condition.
- (c) If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are

not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

11.5 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Master Community is conclusively deemed to have notice of this Master Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Master Declaration against their Lot, whether or not there is any reference to this Master Declaration in the instrument by which they acquire interest in any Lot.

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

11.7 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 Master Association in this Master Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Master Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Master 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 Master Association's reserved rights as set forth in this Master Declaration and shall not be affected by the disability of any such Owner or Occupant.

11.8 No Representations and Warranties. Each Owner and occupant understand, agrees, and acknowledges through taking title or residing in the Master Community that the Declarant, Master Association, and the Board have not made any representations or warranties of any kind related to the Master Community 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 Master Community.

11.9 Severability. Each of the covenants contained in this Master 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.

The Brooks, LLC, THE DECLARANT

K. Beau Ogzewalla
By: K Beau Ogzewalla
Its: Authorized Representative

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On this 14 day of February 2024, personally appeared before me K Beau Ogzewalla, who being by me duly sworn, did say that his is an authorized representative of The Brooks, LLC, and that the within and foregoing instrument was signed on behalf of said corporation and duly acknowledged to me that they executed the same.

Schyler Calquin
Notary Public
Residing at: Davis County
My Commission Expires: 04/11/25



Exhibit "A"
Legal Description

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2, BLOCK 45, PLAT "A", BOUNTIFUL TOWNSITE SURVEY, SAID POINT BEING NORTH 89°44'06" EAST 49.50 FEET AND NORTH 00°03'00" WEST 24.75 FEET FROM THE INTERSECTION MONUMENT AT MAIN STREET AND 200 NORTH STREET, SAID POINT BEING ALSO SOUTH 00°13'23" EAST ALONG THE SECTION LINE 505.42 FEET AND SOUTH 89°44'06" WEST 2181.06 FEET FROM THE EAST QUARTER CORNER OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 00°03'00" WEST 163.50 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF MAIN STREET; THENCE NORTH 89°43'58" EAST 115.50 FEET; THENCE SOUTH 00°03'08" EAST 81.00 FEET TO THE CENTERLINE OF AN EXISTING DRAINAGE CANAL; THENCE NORTH 89°44'31" EAST ALONG SAID CENTERLINE 75.26 FEET TO A POINT ON A 106.65 FOOT RADIUS NON-TANGENT CURVE (WHICH RADIUS POINT BEARS SOUTH 11°13'43" WEST); THENCE SOUTHEASTERLY 96.68 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGLE OF 51°56'15" (WHICH LONG CHORD BEARS SOUTH 52°48'05" EAST 93.40 FEET); THENCE SOUTH 00°09'18" EAST 25.68 FEET TO THE NORTH RIGHT-OF-WAY LINE OF 200 NORTH STREET; THENCE SOUTH 89°44'06" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE 265.16 FEET TO THE POINT OF BEGINNING. (THE NAD83 BEARING FOR THE SECTION LINE IS SOUTH 00°06'11" WEST AND HAS A CLOCKWISE ROTATION OF 00°19'34")

CONTAINS 29,792.60 SQ/FT OR 0.68 ACRES

Exhibit "B"
Bylaws

When recorded, return to:

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
For The Brooks on Main Commercial Village**

(A Sub-Association within The Brooks on Main Mixed Use Master Community)

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR The Brooks on Main Commercial Village, a Sub-association within The Brooks on Main Mixed Use Master Community (this “Commercial Village Declaration”) is hereby adopted by the Declarant The Brooks, LLC, a Utah limited liability company, in accordance with that certain Declaration of Covenants, Conditions & Restrictions of The Brooks on Main Mixed-Use Master Community, recorded in Davis County Recorder’s Office, as Entry No. 3561001 (“Master Declaration”) and made effective as of the date recorded in the Davis County Recorder’s Office.

In the event of conflict between this Commercial Village Declaration and the Master Declaration, the Master Declaration shall control, *provided that*, this Commercial Village Declaration may add further detail, specifics, and/or additional restrictions applicable to Owners within the Commercial Village Association that are not present in the Master Declaration. Notwithstanding, for any amendment to the Commercial Village Declaration or required architectural approval, an Owner must receive written approval for Improvements from the Master Board, Master Architectural Control Committee, or Declarant.

The Declarant or Master Association has approved the recording of this Commercial Village Declaration.

RECITALS:

(A) The Commercial Village Declaration affects and concerns certain real property located in Davis County, Utah, as more particularly described in **Exhibit “A”** (“Property” or “Commercial Village”).

Tax IDs: 03-298-0007, 03-298-0008

(B) On or about February 16, 2024, a Plat Map of The Brooks P.U.D. was recorded in the Davis County Recorder’s Office as Entry No. 3560999 (“Plat”).

(C) On or about February 16, 2024, the Declaration of Covenants, Conditions & Restrictions of The Brooks on Main Mixed-Use Master Community, recorded in Davis County Recorder’s Office, as Entry No. 3561001 (“Master Declaration”)

(D) The Plat depicts certain Lots that comprise the Commercial Village, as more particularly described in **Exhibit “A”**.

(E) The Commercial Village Neighborhood is a specific neighborhood within the Master Community and governed by the Commercial Village Association and Commercial Village Governing Documents, as well as the Master Association and Master Association Governing Documents.

(F) Declarant desires to subject the Commercial Villages to the terms of this Commercial Village Declaration. Declarant intends to develop mixed-use commercial properties and units in the Commercial Village Neighborhood. Declarant will develop and convey all of the Lots 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 Commercial Village Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Commercial Village Neighborhood. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Commercial Village Declaration. The Commercial Village Neighborhood does not constitute a cooperative.

(G) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Commercial Villages, 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 Commercial Village Declaration. For such purposes, Declarant will cause to be registered with the Utah Department of Commerce the Brooks on Main Commercial Village Owners Association, Inc. ("Commercial Village Association"). The Commercial Village Association is governed by the terms of this Commercial Village Declaration, the Commercial Village Articles, and the Bylaws of Commercial Village Association, which "Commercial Village Bylaws" are attached hereto as **Exhibit "B"** and shall be recorded in Davis County Recorder's Office contemporaneously with the recording of this Commercial Village Declaration.

(H) No provision of this Commercial Village Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Commercial Village Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a temporary sales office or model; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; and (4) assignment of Declarant's rights under this Commercial Village Declaration in whole or part.

(I) These Recitals are made a part of this Commercial Village 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 Commercial Village Declaration, shall have the following meanings:

(A) “Act” means the Utah Condominium Ownership Act, Utah Code Ann. Sections 57-8-101 *et. seq.*

(B) “Allocated Interest” shall mean the undivided interest of an Owner, expressed as a percentage, in the Common Areas and facilities. The Allocated Interest is also utilized for purposes of calculating Assessments and voting rights in the Association. Each Unit assigned a percentage of undivided interest in the Common Areas and facilities. Unless otherwise assigned, the Units shall have an equal Allocated Interest.

(C) “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 Commercial Village Association with regard to architectural review and approval.

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

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

(F) “City” shall mean Bountiful, Utah and its appropriate departments, officials, and boards.

(G) “Commercial Village Articles” shall mean the articles of the Commercial Village Association, as amended from time to time.

(H) “Commercial Village Association” shall mean The Brooks on Main Commercial Village Owners Association, Inc., and as the context requires, the officers or directors of that Commercial Village Association. The Commercial Village Association is one of three, separate sub-associations within the Master Community.

(I) “Commercial Village Board” or “Board” shall mean the duly elected and acting Board of Directors of the Commercial Village Association.

(J) “Commercial Village Bylaws” shall mean the Bylaws of the Commercial Village Association, as amended from time to time, a copy of which is attached hereto as **Exhibit “B.”**

(K) “Commercial Village Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions for The Brooks on Main Commercial Village, a Sub-association within The Brooks on Main Mixed Use Master Community, together with any subsequent amendments or additions through supplemental declarations.

(L) “Common Areas” shall mean all property designated on the recorded Plat(s) as Common Area, being intended ultimately to be owned by the Master Association for the common use and enjoyment of all Owners, together with all Improvements thereon and all of the easements appurtenant thereto. Notwithstanding, the Master Association may coordinate with the Commercial Village Association with regard to any maintenance of any Master Association Common Areas that may be under the responsibility of the Master Association or other areas where coordination of Common Area maintenance is in the best interest of the Owners.

1. Commercial Village Association, in coordination with the Master Association, could include maintenance of the open space and landscaping outside of the footprint of the Lot.

(M) “Commercial Village Common Areas” shall mean and refer to all property within the Commercial Village owned in common by the Owners in the Commercial Village pursuant to their Allocated Interest including, but not limited to, the following items:

1. Structural element of the Commercial Village buildings and Units including foundations, columns, girders, beams, supports, supporting walls, main walls (including any bearing walls, even if the bearing wall is located within the interior of a Unit), common walls, floors, sub-floors, sub-roofs, and ceilings between Units or between a Unit and a Commercial Village Common Area (other than the interior surfaces of such wall, floor, or ceiling, which interior surfaces form part of the Unit);
2. Exterior surface of the buildings in the Commercial Village (excluding balcony doors, windows, glass, and/or skylights);
3. Storage and parking areas not specifically assigned to individual Units or included as Limited Common Area;
4. Elevator (if applicable) and related equipment;
5. Stairs, stairwells, vestibules, halls, corridors, lobbies, and fire escapes;
6. Building entrance;
7. Mailroom;
8. All utility installations and all equipment connected with or in any way related to the furnishing of utilities to the buildings in the Commercial Village;
9. All utility installations and all equipment connected with or in any way related to the furnishing of utilities to two or more Units (and not maintained by the City). Further, if any of the foregoing lie partially within and partially outside the designated boundaries of a Unit, then: (a) any portion of the item that serves only that Unit is part of that Unit, and (b) any portion of the item is part of the Commercial Village Common Areas if the item serves more than one Unit or serves any portion of the Commercial Village Common

Areas and Facilities.

- a. AC units, compressors, water heaters, and/or similar utility equipment that provides service only to individual Units are the responsibility of the appurtenant Unit. However, if such equipment may be located on Commercial Village Common Areas, permission and oversight from the Association is required for maintenance, repairs and replacement of equipment located in Commercial Village Common Areas.
10. All other parts of the Commercial Village normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management for the common benefit of the Owners.

(N) “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 Commercial Village 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 Commercial Village Declaration or the Act.

(O) “County” shall mean Davis County, Utah and its appropriate departments, officials, and boards.

(P) “Declarant” shall mean and refer to The Brooks, LLC and its successors and assigns.

1. “Declarant Related Entity or Entities” shall mean Declarant, parent companies, subsidiaries, assigns, successors, related or designated construction entities, or other entities established by Declarant or Declarant’s members for the purpose of owning, developing, constructing and/or selling Lots or Units in the Master Community.

(Q) “Governing Documents” shall mean the Master Declaration, Commercial Village Declaration, Master Bylaws, Commercial Village Bylaws, Master Articles, Commercial Village Articles, Rules, and any other documents or agreements binding upon an Owner adopted by the Master Association or Commercial Village Association.

(R) “Improvement” shall mean all structures and appurtenances of every type and kind, including but not limited to Units, commercial buildings, parking facilities, 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.

(S) “Limited Common Area” shall mean all property designated on the recorded Plat Map(s), or as described in sub-association documents as Limited Common Areas, which is owned

by the Owners in accordance with their Allocated Interest but for the exclusive use and enjoyment of one or more appurtenant Lots/Units but fewer than all of the Lots/Units including, but not limited to:

- (i) Assigned parking stalls;
- (ii) Assigned storage areas;
- (iii) Balconies, porches; and
- (iv) Shutters, awnings, window boxes.

(T) “Lot” shall mean any numbered lot shown on any official and recorded Plats, including all Improvement located thereon. Lot may also refer to the individual Unit. Lot may also be interchangeable with Unit, as the context requires.

(U) “Master Declaration” shall mean the Declaration of Covenants, Conditions and Restrictions the Brooks on Main, a Mixed Use Master Community together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(V) “Master Association” shall mean The Brooks on Main Master Homeowners Association, Inc. and, as the context requires, the duly elected and authorized Board of Directors through its officers, directors and managers.

(W) “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.

(X) “Manager” shall mean any entity or person engaged by the Board of Directors to manage the Commercial Village.

(Y) “Member” or “Owner” shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Davis County, Utah) of a fee simple or an undivided interest in any Lot/Unit. 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. Owner may include a non-natural, but legally recognized entity, such as a limited liability company, corporation, partnership, limited partnership, trust, and/or other legally entity recognized by Utah State law. Accordingly, such an Owner may designate a natural person of its selection as Owner’s agent to serve and act in the Owner’s place. Notwithstanding the foregoing, an Owner may designate only one natural person to serve as its agent at any one time.

(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, including the authorized representative of such legal entity.

(AA) “Plat(s)” shall mean an official and recorded plat of the Master Community, including all subsequent phases, if any, when recorded, as approved by the City and recorded in

the office of the Davis Recorder, as it may be amended from time to time, including the Plat specific to the Commercial Villages.

(BB) "Rules" mean any instrument adopted by the Commercial Village Board, as approved by the Master Association, for the regulation and management of the Commercial Village 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.

(DD) "Unit" shall refer to the individual Units within the buildings in the Commercial Village, together with Improvements used in conjunction with such Unit, such as: all mechanical equipment and other appurtenances such as: HVAC equipment; water heaters; air conditioning apparatus; electrical panels, receptacles, and outlets; appliances; and fixtures located within any one Unit or located without said Unit but designated and designed to serve only that Unit shall be considered part of the Unit including: non-structural interior walls, drywall, insulation, floors, ceilings (excluding structural components of the floors and ceilings constituting Commercial Village Common Area), windows, window frames, skylights (if any), exterior glass, doors, doorframes, door locks, door bells, door knobs, patio/balcony doors, shutters, awnings, window boxes, doorsteps, stoops, exhaust vents, and similar components. All pipes, wires, conduits, or other public utility lines or installations serving only the Unit shall be considered part of the Unit. The Unit shall extend to the center of the walls shared with any abutting Unit, which center shall form the boundary of the Units sharing that wall. All decorated interiors and all surfaces of interiors and any other material constituting any part of the finished surfaces shall be part of the Unit. Furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring shall be deemed to be a part of the Unit concerned.

1. Furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other material constituting part of the finished surface of an interior wall, floor or ceiling on interior surfaces and the surface membrane above the roof surface of the roof terraces shall be deemed to be a part of the Unit concerned.
2. Units may include commercial Units or live/work Units, as the context may require.

ARTICLE II - EASEMENTS

2.1 Easements & Rights 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 invitee on such Owner's Lot. Notwithstanding the foregoing, no Owner shall have any right or

interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

- (a) The Master Association shall be the trustee for all Owners with respect to easements, licenses, agreements, and conveyances of Common Areas, consistent with the Declaration and Utah law.
- (b) The Commercial Village Association shall be the trustee for all Owners with respect to easements, licenses, agreements, and conveyances of Commercial Village Common Areas, consistent with the Declaration and Utah law.
- (c) Commercial Village Common Areas may be accessed through keycards or other access mechanisms, which are managed by the Association. Access may be impacted by failure to timely pay Assessment obligations or comply with the Governing Documents.
- (d) Office, custodial rooms, mechanical rooms, electrical rooms, and storage areas may be restricted to authorized personnel.

2.2 Easements & Rights Concerning Limited Common Area. The Commercial Village Association (collectively “Associations”) shall have a non-exclusive easement for any utility or any required maintenance in and through the Limited Common Area.

- (a) The Commercial Village Association shall be the trustee for all Owners with respect to easements, licenses, agreements, and conveyances of Limited Common Areas, consistent with the Declaration and Utah law.
- (b) The Association may also adopt Rules with regard to storage and materials that may be in the Limited Common Areas. The Association may, by rule, impose limitations on the use, upkeep, and prohibition of certain activities or prohibited items within the Limited Common Area. Limited Common Area may not be separated from the Ownership or occupation of the Unit.

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

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

- (a) The right of the Master Association & Commercial Village Association to govern by Rules the use of the Common Area and Commercial Village Common Areas 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 the commercial purposes 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 Commercial Village, 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 and Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.

2.5 Easement in Favor of Master Association & Commercial Village Association. The Lots, Common Areas and Limited Common Area are hereby made subject to the following easements in favor of the Master 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 and 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.

2.6 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 Commercial Village 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.

2.7 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 or Commercial Village 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 or Commercial Village 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.

2.8 Easements for Construction and Development Activities. Declarant reserve easements and rights of ingress and egress over, under, along, across and through the Commercial Village and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Units on Lots, (b) to maintain sales or leasing offices, management offices and models throughout the Commercial Village and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Commercial Village, (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.

2.9 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Units, (b) to maintain sales or leasing offices, management offices and models throughout the Master Community and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Master Community, (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 or Undeveloped Land.

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

2.11 Income generated from negotiation, installation or provision of certain utilities and amenities. Declarant and/or Declarant Related Entities invest time, experience, infrastructure and/or capital in the negotiation, provision or installation of certain utilities and amenities (e.g., internet, cable, fiber, phone, solar power, etc.) that provide services and benefits to owner in the Master Community that would not otherwise be available or at a reduced cost. Any income gained by these parties from these efforts may be retained by the Declarant, Declarant Related Entities, or their assigns, even after the Declarant Control Period. The Master Association may enter into

contracts with third parties related to the provisions of such utilities and amenities for the benefit of Owners in the Master Community, which utilities and amenities may be paid for through Assessments. Owners contracting separately with individual third-party providers will still be required to pay any normal and customary access fee for applicable bulk rate contract services entered into by the Master Association.

2.12 Utility Metering. Any utility that is not individually billed to a Unit may be proportionately allocated to a Unit by the Commercial Village Association.

2.13 Parking Areas & Rules. The Commercial Village Association may adopt rules and policies governing parking in the Commercial Village.

ARTICLE III - MEMBERSHIP, VOTING & CONTROL PERIOD

3.1 Membership in the Commercial Village Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Commercial Village 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 Commercial Village 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.

3.2 The Commercial Village 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 vote for each Unit in accordance with their Allocated Interest. 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 Commercial Village Association that Person shall be entitled to cast the vote appertaining to that Lot. But if more than one of such Person(s) is present, the vote 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 vote appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The vote appurtenant to any one Lot may not be divided between Owners. 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 five hundred (500) votes for each Unit owned by Declarant. The Class "B" membership shall also be entitled to appoint the members of the Commercial Village Board and Commercial Village Association during the Class "B" Control Period.

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

- (a) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (b) When, at its discretion, the Class B Member so determines.

3.4 Notwithstanding anything to the contrary in this Commercial Village 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 IV – COMMERCIAL VILLAGE ASSOCIATION & ASSESSMENTS

4.1 Organization. The Commercial Village Association has been created to effectively enforce the Governing Documents and shall operate as a non-profit corporation. The Commercial Village Association shall be comprised of the Owners within the Commercial Village and is established for the benefit of the Owners and the enforcement of the Governing Documents. Membership in the Commercial Village Association is deemed an appurtenance to the Lot and is transferable only in conjunction with the transfer of the title to a Lot. The Association shall serve as the organizational body for all Owners.

4.2 Master Declaration Controls. The Master Declaration and portions of this Commercial Village Declaration use the term "Neighborhood Sub-associations" when referring to sub-association within the Commercial Village that are subject to the Master Declaration and certain oversight and control by the Master Association. Neighborhood 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.

4.3 Relationship between Master Association and Neighborhood Sub-associations. It is the purpose and intent of the provisions of the Master Declaration and this Commercial Village Declaration that the Master Association shall be charged with and responsible for the management of all activities in the Commercial Village 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 the 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 Commercial Village objectives and the terms and provisions of this Master Declaration to assure that the whole of the Commercial Village is developed and approved as a quality community.

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

- (a) The Commercial Village Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Commercial Village at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.
- (b) The Commercial Village Association shall have the authority to initiate and compromise claims and litigation on behalf of the Commercial Village Association resulting from the enforcement of the Governing Documents. In the event that the Commercial Village 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 Commercial Village Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.

- (c) The 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.

4.5 Commercial Village Association Rules. The Commercial Village Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing the Commercial Village Neighborhood.

- (a) During the Class B Period, Declarant shall be exempt from the rule making procedure required by Utah Code § 57-8a- 217.
- (b) Rules are subject to approval by the Master Association.

4.6 Violation Deemed a Nuisance. Any violation of the Governing Documents that is permitted to remain in the Commercial Villages is deemed a nuisance and is subject to abatement by the Master Association.

- (a) Any single or continuing violation of the covenants contained in this Governing Documents may be enjoined in an action brought by the Commercial Village 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 Commercial Village 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 Commercial Village Declaration is to be construed as being in addition to those remedies available at law.
- (c) The remedies available under this Commercial Village 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 Commercial Village Declaration in the future or against other similar violations.

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

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

4.9 Assessments. Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Commercial Village Association. The Commercial

Village Association has the power to levy assessments against each Lot as necessary to carry out its functions. Assessments shall be levied against all Lots in the Commercial Villages, whether vacant or improved. Each Owner shall by acquiring or in any way becoming vested with their interest in a Lot, be deemed to covenant and agree to pay to the Commercial Village Association the assessments described in these covenants, together with late payment fees, interest and costs of collection (including reasonable attorney fees).

- (a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt themselves or their Lot from liability for payment of assessments by waiver of their rights in the Common Areas or by abandonment of their Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee.
- (b) Special Assessment. The Commercial Village 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 Commercial Village Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Master Community or otherwise causes the Commercial Village Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.
- (d) Neighborhood Assessments. Neighborhood Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Neighborhood Sub-associations. The Neighborhood Association has the power to levy assessments against each Lot as necessary to carry out its functions, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable. If the Neighborhood Sub-Association fails to levy and collect neighborhood assessments, the Master Association may elect to carry out those functions. Further, the Master Association may levy a Neighborhood Assessment to Owners in a specific Neighborhood for costs, special services or amenities available for Owners within that Neighborhood that are provided by the Master Association.
- (e) Reserve Fund. The Commercial Village Association may levy a reserve fund

assessment, as set forth in this article.

- (f) The Commercial Village Association may levy other assessments or fees, as authorized by the Governing Documents.

4.10 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Lot 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 Commercial Village 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 Units on the Lot (collectively "Declarant's Related Entities") shall not commence until the completed Unit is conveyed to an Owner that is not the Declarant or a Declarant's Related Entity. No amendment of this Commercial Village Declaration changing the allocation assessments with regard to Declarant or Declarant's Related Entities shall be valid without the consent of the Declarant.

4.11 Reinvestment Fee. The Master Association, which is intended as a large master planned development, shall have power to levy a one-time reinvestment fee, as set forth in the Master Association Governing Documents. The Master Association may determine the portion of the Reinvestment Fee that may be paid to the Commercial Villages Association.

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

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

4.14 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Commercial Village 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.

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

4.16 Lien. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments prior to all other liens, except: (1) all taxes, bonds, assessments, and

other levies which by law would be superior thereto; and (2) the lien or charge of any first or second mortgage of record made in good faith and for value recorded prior to a recorded notice of lien by the Commercial Village Association.

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

4.18 Foreclosure Sale. The Commercial Village Association shall have all rights and power of foreclosure granted by the Act, both judicially and non-judicially. The Commercial Village Association may also bid for the Lot at foreclosure sale, acquire, hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Commercial Village Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of any Special Assessment that would have been charged had such Lot not been acquired by the Commercial Village 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.

4.19 Other Remedies. All rights and remedies of the Commercial Village 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 Commercial Village Association. The Commercial Village Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

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

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

- (a) The Commercial Village 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.

4.22 Reserve Fund Analysis. Following the Class B Period, the Commercial Village 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 Commercial Village Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Commercial Village Board, to conduct the reserve analysis.

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

ARTICLE V - ARCHITECTURAL CONTROL COMMITTEE

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

ARTICLE VI - ARCHITECTURAL RESTRICTIONS

6.1 Design Guidelines. The Declarant and/or ACC may adopt Design Guidelines that are consistent with City ordinance but may include additional detail and restrictions.

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

6.3 Landscaping. Declarant shall install the initial landscaping in the Master Community consistent with City ordinance. Such landscaping shall be consistent with City ordinance and be consistent with current water-wise landscaping principals.

6.4 Fencing. No fence, wall, hedge, or other dividing structure may be installed without the prior, written consent of the Master Board or ACC.

6.5 Modification to Units. Without prior, written approval from the ACC, an Owner may not make any repairs, modifications, or alterations to any part of the exterior of a Unit or building, including exterior doors and windows. Similarly, without prior, written approval from

the ACC, an Owner may not conduct any interior remodels of the Unit that impact existing walls, structures or other items that may impact the integrity of the Unit or Building, such as: shared walls, shared roofing/flooring and similar components. This provision is not intended to prevent an Owner from decorating, painting, or conducting similar activities without the prior written permission of the ACC. The ACC may require that such modification or repairs be made in a particular manner and with qualified persons to maintain conformity within the Project.

- (a) Without prior approval of the ACC, none of the following shall occur at any time: (1) any use of the Common Area or Limited Common Area for staging, storage, assembly, or construction, (2) any nuisance as established by law or by the Governing Documents, (3) any blocking of the Common Area by vehicles, materials, or persons, or (4) any use of the Association's garbage and disposal facilities for the disposal of debris, materials, or other items related to remodeling.
- (b) The ACC shall have no authority to approve of any remodeling: (1) inconsistent with the Governing Documents; (2) that modifies the exterior dimensions of any Unit from the original construction (unless any such modification is approved of as otherwise required herein), or (3) that would cause unsafe conditions.
- (c) All remodeling and other repairs and modifications to Units must be completed in compliance with all applicable building code, laws, and the manufacturer's specifications for any materials, equipment, and fixtures, as well as the Governing Documents.
- (d) The Association may require indemnification agreements from an Owner with respect to any approved modification that impacts the Common Areas or other shared components.
- (e) The Association may adopt design guidelines and policies and procedures with respect to the application process for modification to the Unit or building, including plan submission, retention of necessary professionals, appeals and other reasonable detail and requirements.

6.6 Combination of Units. As approved by the Association, consistent with the Declaration, as well as other rules and policies adopted by the Association with regard to combination of Units, an Owner of two or more adjoining Units may combine the Units. Such combination, depending on the precise layout could contain the inclusion of certain adjacent Common Area/Limited Common Area such as hallways and similar spaces to avoid unnecessary and/or dead-end hallways or other related concerns. In such event, the Association may negotiate the sale and conveyance of such spaces. All costs and expenses required in such supplement or amendment shall be borne by the Owner of the combined Units, including professionally designed plans and detail required by the ACC. An approved combination shall be accompanied by an amendment or supplement to the Declaration upon completion of the combined Unit.

- (a) Upon completion of the combined Unit, the Board shall have the authority to record a supplement or amendment to the Declaration to reflect the modification of the percentage of undivided interest in the Common Areas and square footage as a result of the combination reflected in **Exhibit C**.
- (b) Any common walls separating the Units (and any included hallway space)

to be combined shall, after the combination, be deemed to be part of the resulting combined Unit and shall not, with the exception of utilities or other facilities serving more than the resulting combined Unit, be thereafter considered part of the Common Areas.

- (c) The Association may determine the Unit number in conjunction with recording the amendment or supplement.
- (d) The same procedures apply for separation of previously combined Units.

ARTICLE VII - COMMERCIAL VILLAGE COMMON AREAS, LIMITED COMMON AREAS, UNITS & MAINTENANCE

7.1 Description of the Building & Units. The Project is comprised of two buildings, and associated parking spaces. All Units shall be capable of being independently owned, encumbered and conveyed. The Owner or Owners of each Unit shall be entitled to the exclusive possession and control of such Unit, subject to the rights of the Association set forth in the Governing Documents. Each Unit constitutes a separate parcel of real estate and will be separately assessed and taxed.

7.2 Mixed Use. The Property is intended to be a condominium Project with mixed residential, live/work, commercial, and office uses.

7.3 Ownership of Commercial Village Common Areas. The Common Areas shall be owned by the Owners of all of the Units as tenants in common in accordance with the Allocated Interest.

7.4 Shares of Common Expenses. Except as otherwise set forth in this Declaration, all Commercial Village Common Expenses shall be allocated in accordance with the Allocated Interest.

- (a) Certain expenses and/or utilities paid at the Association level may be allocated to Units, as determined by the Board. In some instances such costs, where appropriate, may be allocated evenly between all Units regardless of the Allocated Interest when considering the cost, use and practicality of paying for such expenses.

7.5 Limited Common Areas. Limited Common Area shall be used exclusively by the Unit to which such Limited Common Area is appurtenant and may not be severed from the ownership of the Unit. Notwithstanding, such Limited Common Area remains subject to the Governing Documents and the Association's ability to manage certain elements of such Limited Common Area such as balconies, railings and other elements that may create safety concerns or impacts to Commercial Village Common Areas.

7.6 Common Areas. Unless otherwise agreed between the Master Association and the Commercial Village Association, the Master Association shall maintain the Common Area in accordance with the Master Declaration.

7.7 Maintenance of Commercial Village Common Areas. The Commercial Village Association shall maintain all Commercial Village Common Areas, including, without limitation, the Improvements located thereon in good order and repair and shall otherwise manage and operate all Commercial Village Common Areas as it deems necessary and appropriate.

7.8 Maintenance Limited Common Areas. Owners shall be solely responsible to maintain the Limited Common Area attached to their Unit. Notwithstanding, such Owners shall comply with all ACC and design requirements. The Commercial Village Association may adopt rules with respect to parking, use, and items within the Limited Common Areas.

7.9 Owner's Responsibility for Maintenance of Units. Each Owner, at such Owner's sole cost and expense, shall maintain and/or replace such Owner's Unit and the Improvements constituting a part thereof, in good order and repair. The Owner shall be responsible for keeping the Unit and Improvements thereon in a clean and sanitary condition, free from leaks, mold and conditions impacting other Units or the building, including but not limited to pests and rodents. Each Owner shall also keep the interior of their Unit in a clean and sanitary condition and in a good state of repair.

7.10 Repairs by Association. In the event that an Owner permits their Unit or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and demand that the Owner correct the condition within 15 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Unit 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 Association a lien on the Unit and any Improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Unit in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

7.11 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 Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this 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 Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances permit. Unless delayed by City/County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Unit 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 Association.

ARTICLE VIII -USE LIMITATIONS & RESTRICTIONS

8.1 **Master Declaration.** The Commercial Villages are subject to the Use Limitation & Restrictions set forth in the Master Declaration. The Commercial Villages Association may amend, with consent of the Master Association, to adopt additional or modify use restrictions applicable to the Commercial Villages Lots.

8.2 **Commercial, Retail, Office, and Similar Uses.** As approved by the Declarant, all Lots may be used for commercial purposes consistent with City code. The ACC or Board may implement rules restricting the type and scope of commercial activity that can be conducted on Lots. **The following uses are prohibited:** adult themed stores, liquor, smoke, vape sales or services, bail bond companies, bars or taverns except as associated with an approved restaurant, boarding houses, pawn shop, payday loans, temporary businesses, and thrift stores.

8.3 **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 Commercial Village. No commercial building may be occupied in a manner that is in violation of any statute, law or ordinance.

8.4 **No Noxious or Offensive Activity.** No noxious, offensive or illegal activity shall be carried on in or upon any part of the Commercial Village, nor shall anything be done or placed in or upon any part of the Commercial Village 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 Commercial Village which are or may become unsafe or hazardous to any person or property. No outdoor storage or other uses are allowed except for outdoor seating associated with an approved, café, restaurant, or other similar eating establishment.

8.5 **Vehicles, Parking, Loading Areas.** As approved by the Master Association, the Commercial Village 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, street parking, type of vehicles, rules and prohibitions with regard to oversized, commercial, recreational, and other types of vehicles. Loading and unloading of merchandise, supplies and equipment should be at times and locations causing the least impact to commercial activities of neighboring businesses. All loading areas should be screened from public view.

8.6 **Sign Easement.** The Commercial Village Association reserves a non-exclusive easement on the exterior surfaces of the building and on the surfaces and other portions of the Commercial Village Common Areas and Facilities. The foregoing sign easement is subject to further applications, restrictions, requirements, and criteria that may be adopted by rule or policy of the Board and/or ACC.

ARTICLE IX INSURANCE

9.1 Insurance Requirement. The Association shall obtain insurance as required in this Commercial Village Declaration and as required by the Act. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Commercial Village 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.

As used in this Article:

- (1) “Covered Loss” means a loss, resulting from a single event or occurrence that is covered by the Association’s property insurance policy.
- (2) “Unit Damage” means damage to a Unit.
- (3) “Unit Damage Percentage” means the percentage of total damage resulting in covered loss that is attributable to Unit Damage.

9.2 Property Insurance.

(a) Hazard Insurance.

- (i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Limited Common Areas, and attached Units. Any blanket policy shall be 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) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.
- (c) Earthquake Insurance. The Association may, if approved by a majority of Owners purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.
- (d) Association’s Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association’s property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
- (e) Association’s Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association’s property insurance policy deductible the Association need not tender the claim to the Association’s insurer.

9.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, against liability incident to the use, ownership or maintenance of the Common Area or membership in the 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.

9.4 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the 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 and employees;
- (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 Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

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

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

9.7 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association, as insurance trustee; 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 Commercial Village 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 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 Units. Each Owner hereby appoints the Association, as insurance trustee and attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

9.8 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

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

9.10 Special Assessment. 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 X - MISCELLANEOUS PROVISIONS

10.1 Amendment. At any time while this Commercial Village 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 contained herein can only be modified by the affirmative vote of the Owners representing not less than sixty-seven (67%) percent of the Allocated Interest and the approval of the Master Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

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

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

satisfaction.

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

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

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

- (a) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Commercial Village 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 Commercial Village Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.
- (b) In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Commercial Village Association, in a neat and attractive condition.
- (c) If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all

Owners as provided in the Governing Documents.

10.5 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Commercial Village Neighborhood is conclusively deemed to have notice of this Commercial Village Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Commercial Village Declaration against their Lot, whether or not there is any reference to this Commercial Village Declaration in the instrument by which they acquire interest in any Lot.

10.6 Liberal Interpretation. The provisions of this Commercial Village Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Commercial Village Neighborhood. 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.

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

10.8 No Representations and Warranties. Each Owner and occupant understand, agrees, and acknowledges through taking title or residing in the Commercial Village Neighborhood that the Declarant, Commercial Village Association, and the Board have not made any representations or warranties of any kind related to the Commercial Village Neighborhood 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 Commercial Village Neighborhood.

10.9 Severability. Each of the covenants contained in this Commercial Village 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.

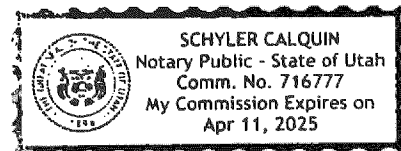
The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager

K. Beau Ogzewalla
By: K. Beau Ogzewalla, Manager

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On this 23 day of MAY, 2024, personally appeared before me K. Beau Ogzewalla, who being by me duly sworn, did say that he is a manager for 317 Manager, LLC, which is the manager for The Brooks, LLC, and that the within and foregoing instrument was signed on behalf of said corporations and duly acknowledged to me that they executed the same.

Schyler Calquin
Notary Public
Residing at: DAVIS county
My Commission Expires: 04/11/2025



**Exhibit “A”
Legal Description**

Lots 7-8 of the Brooks P.U.D. Plat, recorded on February 16, 2024 in the Davis County Recorder’s Office, as Entry No. 3560999.

Tax IDs: 03-298-0007
 03-298-0008

Exhibit “B”

BYLAWS OF THE BROOKS ON MAIN COMMERCIAL VILLAGE OWNERS ASSOCIATION, INC. (A Sub-Association within the Brooks on Main Mixed Use Master Community)

The following are the Bylaws of The Brooks on Main Commercial Village Owners Association, Inc. (“Commercial Village Bylaws”), a Utah nonprofit corporation and sub-association in the Master Community (the “Commercial Village Association”). Upon recordation of these Commercial Village Bylaws, they are binding upon the Commercial Village Association and all present and future Owners and/or occupants.

These Commercial Village Bylaws have also been duly approved by the Declarant or 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 The Brooks on Main Commercial Village, a Sub-association of the Brooks on Main Mixed Use Master Community, of even date and recorded in the official records of the Davis County Recorder’s Office, as amended (hereinafter “Commercial Village Declaration”). In addition, definitions within the Master Declaration may also be applicable in the event such definitions are not within the Commercial Village 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 Commercial Village Association (“Commercial Village Board”). The Commercial Village Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below. During the Class B Control Period, annual meetings shall not be required but may be held at the sole discretion of Declarant.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Commercial Village 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 Commercial Village Board remains the only authorized body to act for and on behalf of the Commercial Village Association. During the Class B Control Period, only the Declarant may call Special Meetings.

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 Commercial Village Board via electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than ninety (90) 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.

- (a) Upon becoming an Owner of the Commercial Village Association, or upon the written request by the Commercial Village Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Commercial Village Association unless the Owner has opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Commercial Village Association, an Owner's Lot/Unit address shall be deemed to be their registered address for purposes of notice.
- (b) The location of meetings may also occur virtually, telephonically, or through other available technology.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Commercial Village 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 Commercial Village Board remains the only authorized body to act for and on behalf of the Commercial Village 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 Commercial Village Board at or before said meeting. Notwithstanding, any proxy delivered to the Commercial Village 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 a meeting may also provide additional requirements and a deadline to return proxies. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of their Lot/Unit. If conflicting proxy votes for an Owner or Lot/Unit exist, said proxy votes will not be counted.

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

Section 2.7 Action Taken Without a Meeting. Under the direction of the Commercial Village 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 Commercial Village Declaration. The Commercial Village Board may obtain such approvals and conduct business through mail or email/electronic ballots.

- (a) 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 120

days, during which the Commercial Village Association shall accept written ballots. Following this period, the Commercial Village Association shall provide notice if such action is 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 Commercial Village Association shall have two (2) classes of voting membership, Class "A" and Class "B," as set forth in the Commercial Village and Master Declarations.

- (a) The votes appurtenant to any one Lot/Unit may not be divided between Owners of such Lot/Unit and all such votes appurtenant to any one Lot/Unit shall be voted in one block. If the vote of a majority of the Owners of a Lot/Unit cannot be determined, no vote shall be cast in relation to such Lot/Unit. The Commercial Village 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 Board members appointed by Declarant during the Class B Control Period, which may delegate duties as set forth in the Articles and these Commercial Village Bylaws, the affairs of the Commercial Village Association shall be managed by a 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 Commercial Village Bylaws. The members of the 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 Commercial Village Association to Owner control, the Declarant and/or Commercial Village Board may identify an owner(s) to be an advisory member of the Commercial Village Board and participate in Commercial Village 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 Commercial Village Board shall be Owners or an Owners' spouse or legal partner. Notwithstanding, only one member of a single household can be a member of the Commercial Village Board at any one time. Nothing herein shall prevent a Director from serving on both the Master Association and a sub-association. Notwithstanding, situations could arise between the Master Association and sub-association, where individual Directors may need to recuse themselves from certain votes and/or decisions. Such individuals must also agree and cooperate in providing all information required by

the Corporate Transparency Act or other national or local statutes and ordinances.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the Commercial Village 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 Commercial Village Board, with or without cause, by a vote of at least (51%) of the Owners of the Commercial Village Association. In the event of death, resignation or removal of a Director, their successor shall be selected by the remaining Directors and shall serve for the unexpired term of their predecessor.

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

Section 3.6 No Estoppel or Reliance. No one may rely upon any authorization (from the Commercial Village 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 Commercial Village Board shall take appropriate action to develop, implement and update procedures for record retention. The Commercial Village Board should maintain documents in a manner to be easily accessible and copied. The Commercial Village 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 Commercial Village Board may be made by the Commercial Village Board, Owners from the floor at the annual meeting, or pursuant to other written notice and procedures established by the Commercial Village Board.

Section 4.2 Election. Following the Class B Control Period, the election of Directors may be by vote or written ballot, as determined at the discretion of the Commercial Village Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized. The Commercial Village Association may utilize available technology for casting and counting votes.

ARTICLE V - MEETINGS OF THE COMMERCIAL VILLAGE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Commercial Village Board shall be held at least annually, or more frequently as determined by the Commercial Village 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 Commercial Village Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days. During the Class B Control Period, board meetings shall not be required but may be held at the sole discretion of Declarant.

- (a) Owners, and Owner representatives (if designated in writing in advance) may attend Commercial Village Board meetings and may be present for all discussions, deliberations, and decisions except when the Commercial Village Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Commercial Village Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Commercial Village Board shall provide email notice to Owners that have requested, in writing, to be notified of Commercial Village 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 Commercial Village 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. During the Class B Control Period, only the Declarant may call Special Meetings.

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 Commercial Village Board.

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

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 Commercial Village Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Commercial Village Board shall have all of the powers and duties necessary for the administration of the affairs of the Commercial Village Association in accordance with the provisions of the Governing Documents and Utah law. The Commercial Village 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 Commercial Village Association shall be a president, secretary, and treasurer, or as otherwise designated by the Commercial Village Board. Notwithstanding, during the Class B Control Period, Declarant may manage the Commercial Village Association as set forth in the Commercial Village Articles.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first

Commercial Village 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 Commercial Village Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Commercial Village Board may elect such other officers as the affairs of the Commercial Village Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Commercial Village Board may, from time to time, determine. Appointed Officers may be removed by the Commercial Village 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 Commercial Village Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, their successor shall be selected by the Commercial Village Board and shall serve for the unexpired term of their predecessor.

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

Section 7.6 Committees. The Commercial Village 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 Commercial Village Board. The Commercial Village Board may terminate any committee at any time.

ARTICLE VIII - MISCELLANEOUS

Section 8.1 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 attended the meeting 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; or
- (c) 180 days following the meeting.

Section 8.2 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 8.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation of the Governing Documents or Utah law.

Section 8.4 Fiscal Year. The fiscal year of the Commercial Village 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 8.5 Amendment. During the Class B Control Period, these Commercial Village Bylaws may be amended at any time by the Declarant. Following the Class B Control Period, these Commercial Village Bylaws may be amended by Owners holding at least fifty-one percent (51%) of the total eligible votes of the membership and with written approval of the Master Association. An amendment to these Commercial Village Bylaws shall be effective immediately upon recordation in the Office of the Davis County Recorder, State of Utah.

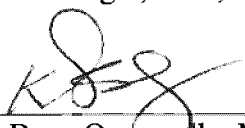
The foregoing Commercial Village Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Davis County Recorder, State of Utah. Pursuant to Utah Code § 16-6-801(2)(b) and the Commercial Village Articles, the Declarant is authorized to execute these Commercial Village Bylaws and may act for the Board during the Class B Control Period.

ACKNOWLEDGMENT

In witness hereof and under penalty of perjury, I hereby acknowledge that I am authorized by the Commercial Village Articles to execute these Commercial Village Bylaws on behalf of the Commercial Village Association.

DATED this 23 day of May, 2024.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager



By: K. Beau Ogzewalla, Manager

When recorded, return to:

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
For The Brooks on Main Townhomes**

(A Sub-Association within The Brooks on Main Mixed Use Master Community)

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR The Brooks on Main Townhomes, a Sub-association within The Brooks on Main Mixed Use Master Community (this "Townhome Declaration") is hereby adopted by the Declarant The Brooks, LLC, a Utah limited liability company, in accordance with that certain Declaration of Covenants, Conditions & Restrictions of The Brooks on Main Mixed-Use Master Community, recorded in Davis County Recorder's Office, as Entry No. 3561001 ("Master Declaration") and made effective as of the date recorded in the Davis County Recorder's Office.

In the event of conflict between this Townhome Declaration and the Master Declaration, the Master Declaration shall control, *provided that*, this Townhome Declaration may add further detail, specifics, and/or additional restrictions applicable to Owners within the Townhome Association that are not present in the Master Declaration. Notwithstanding, for any amendment to the Townhome Declaration or required architectural approval, an Owner must receive written approval for Improvements from the Master Board, Master Architectural Control Committee, or Declarant.

The Declarant or Master Association has approved the recording of this Townhome Declaration.

RECITALS:

(A) The Townhome Declaration affects and concerns certain real property located in Davis County, Utah, as more particularly described in **Exhibit "A"** ("Property", "Townhome Neighborhood", or "Townhomes").

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0009, 03-298-0010, 03-298-0011

(B) On or about February 16, 2024, a Plat Map of The Brooks P.U.D. was recorded in the Davis County Recorder's Office as Entry No. 3560999 ("Plat").

(C) On or about February 16, 2024, the Declaration of Covenants, Conditions & Restrictions of The Brooks on Main Mixed-Use Master Community, recorded in Davis County Recorder's Office, as Entry No. 3561001 ("Master Declaration")

(D) The Plat depicts certain Lots that comprise the Townhome Neighborhood, as more particularly described in **Exhibit "A"**.

(E) The Townhome Neighborhood is a specific neighborhood within the Master Community and governed by the Townhome Association and Townhome Governing Documents, as well as the Master Association and Master Association Governing Documents.

(F) Declarant desires to subject the Townhomes to the terms of this Townhome Declaration. Declarant intends to develop residential properties in the Townhome. Declarant will develop and convey all of the Lots 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 Townhome Declaration, as amended from time to time, which are deemed to be covenants running with the land mutually burdening and benefitting each of the Lots within the Townhome Neighborhood. Common Areas and Limited Common Areas are those areas that are depicted in the recorded Plat(s), as amended, and as described in this Townhome Declaration. The Townhome Neighborhood does not constitute a cooperative.

(G) Declarant have deemed it desirable, for the efficient preservation of the values and amenities of the Townhomes, 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 Townhome Declaration. For such purposes, Declarant will cause to be registered with the Utah Department of Commerce the Brooks on Main Townhome Owners Association, Inc. ("Townhome Association"). The Townhome Association is governed by the terms of this Townhome Declaration, the Townhome Articles, and the Bylaws of Townhome Association, which "Townhome Bylaws" are attached hereto as **Exhibit "B"** and shall be recorded in Davis County Recorder's Office contemporaneously with the recording of this Townhome Declaration.

(H) No provision of this Townhome 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 Townhome Declaration: (1) installation and completion of the Subdivision Improvements; (2) use of any Lot owned by the Declarant as a temporary sales office or model; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City or County ordinances; and (4) assignment of Declarant' rights under this Townhome Declaration in whole or part.

(I) These Recitals are made a part of this Townhome Declaration.

COVENANTS, CONDITIONS AND RESTRICTIONS

ARTICLE I – DEFINITIONS

(A) Unless the context clearly requires the application of a more general meaning, the following terms, when used in the Townhome Declaration, shall have the following meanings:

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

(C) “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 Townhome Association with regard to architectural review and approval.

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

(D) “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 Centerville, Utah and its appropriate departments, officials, and boards.

(F) “Common Areas” shall mean all property designated on the recorded Plat(s) as Common Area, being intended ultimately to be owned by the Master Association for the common use and enjoyment of all Owners, together with all Improvements thereon and all of the easements appurtenant thereto. Notwithstanding, the Master Association may coordinate with the Townhome Association with regard to any maintenance of any Master Association Common Areas that may be under the responsibility of the Master Association or other areas where coordination of Common Area maintenance is in the best interest of the Owners.

1. Townhome Association, in coordination with the Master Association, could include maintenance of the open space and landscaping outside of the footprint of the Lot.

(G) “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 Townhome 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; © operating the Association; and (F) creating reserves for any such costs, expenses and liability as required by this Townhome Declaration or the Act.

(H) “County” shall mean Davis County, Utah and its appropriate departments, officials, and boards.

(I) “Declarant” shall mean and refer to The Brooks, LLC and its successors and assigns.

1. “Declarant Related Entity or Entities” shall mean Declarant, parent companies, subsidiaries, assigns, successors, related or designated construction entities, or other entities established by Declarant or Declarant’s members for the purpose of owning, developing, constructing and/or selling Lots or Dwellings in the Master Community.

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

(K) “Governing Documents” shall mean the Master Declaration, Townhome Declaration, Master Bylaws, Townhome Bylaws, Master Articles, Townhome Articles, Rules, and any other documents or agreements binding upon an Owner adopted by the Master Association or Townhome Association.

(L) “Improvement” shall mean all structures and appurtenances of every type and kind, including but not limited to Dwellings, Townhomes, parking facilities, 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.

(M) “Limited Common Area” shall mean all property designated on the recorded Plat Map(s), or as described in sub-association documents as Limited Common Areas, which may be owned by individual sub-association but for the exclusive use and enjoyment of one or more appurtenant Lots but fewer than all of the Lots including, but not limited to: private driveways on Lots 9-11.

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

(O) “Master Declaration” shall mean the Declaration of Covenants, Conditions & Restrictions of The Brooks on Main Mixed Use Master Community together with any subsequent amendments or additions through subsequent recording amendments or supplements.

(P) “Master Association” shall mean The Brooks on Main 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 Townhomes.

(S) “Member” or “Owner” shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Davis County, Utah) of a fee simple or an undivided interest in any Lot/Dwelling. 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. Owner may include a non-natural, but legally recognized entity, such as a limited liability company, corporation, partnership, limited partnership, trust, and/or other legally entity recognized by Utah State law. Accordingly, such an Owner may designate a natural person of its selection as Owner’s agent to serve and act in the Owner’s place. Notwithstanding the foregoing, an Owner may designate only one natural person to serve as its agent at any one time.

(T) “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, including the authorized representative of such legal entity.

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

(V) “Rules” mean any instrument adopted by the Townhome Board, as approved by the Master Association, for the regulation and management of the Townhome Association, as provided in the Governing Documents.

(W) “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.

(X) “Townhome Articles” shall mean the articles of the Townhome Association, as amended from time to time.

(Y) “Townhome Association” shall mean The Brooks Townhome Owners Association, Inc., and as the context requires, the officers or directors of that Townhome Association. The Townhome Association is one of three, separate sub-associations within the Master Community.

(Z) “Townhome Board” or “Board” shall mean the duly elected and acting Board of

Directors of the Townhome Association.

(AA) “Townhome Bylaws” shall mean the Bylaws of the Townhome Association, as amended from time to time, a copy of which is attached hereto as **Exhibit “B.”**

(BB) “Townhome Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions for The Brooks on Main Townhomes.

ARTICLE II – EASEMENTS

2.1 Easements & Rights 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 invitee on such Owner’s Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Area except for the necessary parking, access, and utility easements for use in common with others.

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

2.2 Easements & Rights Concerning Limited Common Area. The Master Association and Townhomes Association (collectively “Associations”) shall have a non-exclusive easement for any utility or any required maintenance in and through the Limited Common Area.

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

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

2.4 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 & Townhome 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 the residential purposes 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 Townhome, 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 and Common Areas for the purpose of providing police and fire protection, utility access/installation, and providing any other governmental or municipal service.

2.5 Easement in Favor of Master Association & Townhome Association. The Lots, Common Areas and Limited Common Area are hereby made subject to the following easements in favor of the Master 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.

2.6 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 Townhome 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.

2.7 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 or Common Areas, 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 or Common Areas due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

2.8 Easements for Construction and Development Activities. Declarant reserve easements and rights of ingress and egress over, under, along, across and through the Townhome 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 Townhomes and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Townhomes, (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.

2.9 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Dwellings, (b) to maintain sales or leasing offices, management offices and models throughout the Master Community and to maintain one or more advertising signs on the Common Area with respect to the sales of Lots, or other property in the Master Community, (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 or Undeveloped Land.

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

2.11 Income generated from negotiation, installation or provision of certain utilities and amenities. Declarant and/or Declarant Related Entities invest time, experience, infrastructure and/or capital in the negotiation, provision or installation of certain utilities and amenities (e.g., internet, cable, fiber, phone, solar power, etc.) that provide services and benefits to owner in the Master Community that would not otherwise be available or at a reduced cost. Any income gained by these parties from these efforts may be retained by the Declarant, Declarant Related Entities, or their assigns, even after the Declarant Control Period. The Master Association may enter into

contracts with third parties related to the provisions of such utilities and amenities for the benefit of Owners in the Master Community, which utilities and amenities may be paid for through Assessments. Owners contracting separately with individual third-party providers will still be required to pay any normal and customary access fee for applicable bulk rate contract services entered into by the Master Association.

ARTICLE III – MEMBERSHIP, VOTING & CONTROL PERIOD

3.1 Membership in the Townhome Association shall at all times consist exclusively of the Owners. Each Owner shall be a member of the Townhome 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 Townhome 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.

3.2 The Townhome Association shall have two (2) classes of voting membership, Class “A” and Class “B”, as follows:

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 Townhome Association that Person shall be entitled to cast the vote appertaining to that Lot. But if more than one of such Person(s) is present, the vote 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 vote appertaining to that Lot without protest being made forthwith by any of the others to the person presiding over the meeting. The vote appurtenant to any one Lot may not be divided between Owners. 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.

Class “B”. The Class “B” Member shall be Declarant. In all matters requiring a vote, the Class “B” membership shall receive five hundred (500) 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 Townhome Board and Townhome Association during the Class “B” Control Period.

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

- (a) When the total number of votes for the Class B Member is less than the total number of votes for the Class A Members; or
- (b) When, at its discretion, the Class B Member so determines.

3.4 Notwithstanding anything to the contrary in this Townhome 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 IV – TOWNHOME ASSOCIATION & ASSESSMENTS

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

4.2 Master Declaration Controls. The Master Declaration and portions of this Townhome Declaration use the term “Neighborhood Sub-associations” when referring to sub-association within the Townhomes that are subject to the Master Declaration and certain oversight and control by the Master Association. Neighborhood 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.

4.3 Relationship between Master Association and Neighborhood Sub-associations. It is the purpose and intent of the provisions of the Master Declaration and this Townhome Declaration that the Master Association shall be charged with and responsible for the management of all activities in the Townhomes 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 the 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 Townhomes objectives and the terms and provisions of this Master Declaration to assure that the whole of the Townhomes is developed and approved as a quality community.

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

- (a) The Townhome Association shall have the exclusive right to initiate enforcement actions in the name of the Association. The Association may appear and represent the interest of the Townhomes at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners.
- (b) The Townhome Association shall have the authority to initiate and compromise claims and litigation on behalf of the Townhome Association resulting from the enforcement of the Governing Documents. In the event that the Townhome 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 Townhome Association shall have the right to assess the costs of such litigation, dispute, or enforcement action, including reasonable attorney fees, against the Owner(s) or Lot(s) in question and collect those assessment in any manner authorized in the Governing Documents or Utah law.
- (c) The 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.

4.5 Townhome Association Rules. The Townhome Board from time to time and subject to the provisions of the Governing Documents, may adopt, amend, repeal and enforce Rules governing the Townhome Neighborhood.

- (a) During the Class B Period, Declarant shall be exempt from the rule making

procedure required by Utah Code § 57-8a- 217.

- (b) Rules are subject to approval by the Master Association.

4.6 Violation Deemed a Nuisance. Any violation of the Governing Documents that is permitted to remain in the Townhomes is deemed a nuisance and is subject to abatement by the Master Association.

- (a) Any single or continuing violation of the covenants contained in this Governing Documents may be enjoined in an action brought by the Townhome 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 Townhome 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 Townhome Declaration is to be construed as being in addition to those remedies available at law.
- (c) The remedies available under this Townhome 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 Townhome Declaration in the future or against other similar violations.

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

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

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

- (a) All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligations of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt themselves or their Lot from liability for payment of assessments by waiver of their rights in the

Common Areas or by abandonment of their Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments, late payment fees, interest and costs of collection (including reasonable attorney fees) which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee.

- (b) Special Assessment. The Townhome 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 Townhome Association may levy individual assessments on every Lot, Owner or occupant that shall cause any damage to the Master Community or otherwise causes the Townhome Association to incur any individual expense for maintenance, repairs, or enforcement action taken under the provisions of the Governing Documents. The amount of any such individual assessments shall be determined by the cost of such repairs, maintenance or enforcement action, including all overhead and administrative costs (including reasonable attorney fees), and shall be allocated among the affected Owner(s) or Lot(s) according to the cause of damage, maintenance, repair work or enforcement action, as the case may be, which individual assessment may be levied in advance of the performance of work.
- (d) Neighborhood Assessments. Neighborhood Assessments will be made to meet the anticipated and recurring costs, expenses and Common Expenses of the Neighborhood Sub-associations. The Neighborhood Association has the power to levy assessments against each Lot as necessary to carry out its functions, together with late payment fees, interest and costs of collection (including reasonable attorney fees), if and when applicable. If the Neighborhood Sub-Association fails to levy and collect neighborhood assessments, the Master Association may elect to carry out those functions. Further, the Master Association may levy a Neighborhood Assessment to Owners in a specific Neighborhood for costs, special services or amenities available for Owners within that Neighborhood that are provided by the Master Association.
- (e) Reserve Fund. The Townhome Association may levy a reserve fund assessment, as set forth in this article.
- (f) The Townhome Association may levy other assessments or fees, as authorized by the Governing Documents.

4.10 Date of Commencement of Assessments. Assessments provided for herein shall commence as to each Lot 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 Townhome 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' members, for the purpose of constructing Dwellings on the Lot (collectively "Declarant' Related Entities") shall not commence until the completed Dwelling is

conveyed to an Owner that is not the Declarant or a Declarant' Related Entity. No amendment of this Townhome Declaration changing the allocation assessments with regard to Declarant or Declarant Related Entities shall be valid without the consent of the Declarant.

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

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

4.13 Delinquent Assessment. Any assessment not timely paid shall be delinquent, and the Townhome 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.

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

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

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

4.17 Foreclosure Sale. The Townhome Association shall have all rights and power of foreclosure granted by the Act, both judicially and non-judicially. The Townhome Association may also bid for the Lot at foreclosure sale, acquire, hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Townhome Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be charged or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of any Special Assessment that would have been charged had such Lot not been acquired by the Townhome 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.

4.18 Other Remedies. All rights and remedies of the Townhome 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 Townhome Association. The Townhome Association may elect to bring an action to recover for a delinquent Assessment against the Owner or other obligee personally. Any attorney fees or costs incurred in these efforts shall also be assessed against the Owner(s), their Lot(s), and/or other obligees jointly and severally.

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

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

- (a) The Townhome 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.

4.21 Reserve Fund Analysis. Following the Class B Period, the Townhome 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 Townhome Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Townhome Board, to conduct the reserve analysis.

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

ARTICLE V – ARCHITECTURAL CONTROL COMMITTEE

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

ARTICLE VI – ARCHITECTURAL RESTRICTIONS

6.1 Design Guidelines. The Declarant and/or ACC may adopt Design Guidelines that are consistent with City ordinance but may include additional detail and restrictions.

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

6.3 Landscaping. Declarant shall install the initial landscaping in the Master Community consistent with City ordinance. Such landscaping shall be consistent with City ordinance and be consistent with current water-wise landscaping principals.

6.4 Fencing. No fence, wall, hedge, or other dividing structure may be installed without the prior, written consent of the Master Board or ACC.

ARTICLE VII – TOWNHOME ASSOCIATION COMMON AREAS, LIMITED COMMON AREAS, DWELLING & PARTY WALL MAINTENANCE

7.1 Common Areas. Unless otherwise agreed between the Master Association and the Townhome Association, the Master Association shall maintain the Common Area in accordance with the Master Declaration.

7.2 Limited Common Areas. Owners shall be solely responsible to maintain the Limited Common Area attached to their Dwelling. Notwithstanding, such Owners shall comply with all ACC and design requirements. The Townhome Association may adopt rules with respect to parking, use, and items within the Limited Common Areas.

7.3 General Rules of Law to Apply to Party Walls. Each wall which is built as a part of the original construction of a Dwelling within the Townhomes and placed on the dividing line between two Dwellings shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

7.4 Party Wall Maintenance. Each Dwelling that share one or more Party Wall(s), will also share elements of a common roof, a common exterior wall, or other common exterior elements with adjacent Dwelling(s). The Owners acknowledge that certain repairs or maintenance to Dwellings with a Party Wall(s) may become necessary, which repairs, or maintenance may not be able to be performed on one Dwelling only.

7.5 Destruction of Party Wall; Common Roof or Exterior. If a party wall or common improvement is damaged or destroyed by the fault of negligence of one of the Owners, such damage shall be repaired by the Association to the condition equal to or better than immediately prior to the damage and the negligent Owner or Owner at fault shall reimburse the Association for any and all costs incurred by the Association to cure the damage. Should a party wall be damaged or destroyed by any cause other than by default or by an act of negligence of an Owner of the adjacent Dwelling, the damage shall be rebuilt or repaired to a condition equal to or better than immediately prior to the damage, at the joint expense of the owners of the two affected Dwellings, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Dwellings. Should a common roof or any part of the exterior wall(s) be damaged or destroyed by any cause other than by fault or by an act of negligence of an Owner of the adjacent Dwelling, the damage shall be rebuilt or repaired by the Association to a condition equal to or better than immediately prior to the damage, at the expense of the Association, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Dwellings.

7.6 Party Wall Insurance. The existence of Party Walls within the Townhomes will require blanket property insurance coverage as required by the Governing Documents and/or Act on all attached Dwellings.

7.7 Association Maintenance of Dwellings. The Association shall maintain, repair, and replace the roofs, shingles, rain gutters and downspouts for all Townhomes, as well as the normal wear and tear on exterior wall finishes of the Townhomes. All necessary repairs to the physical structure of the Dwellings beyond these components mentioned here will remain the financial responsibility of the affected Owners but may be organized and/or carried out by the Association, as determined by the Association.

- (a) Exterior wall maintenance by the Association does not include: doors, doorframes, garage doors, windows, window frames, window wells, skylights, patio doors, or glass of any kind. All other components or Improvements within the Lot, including the Dwelling, that are not specifically assigned to the Association herein shall be maintained by Owners. It is the obligation of each Owner to maintain their Lot and Improvements located thereon in a clean and sanitary condition and uncluttered in order to preserve and enhance the enjoyment of the Townhomes.

7.8 Repairs by Association. In the event that an Owner permits his Lot or Improvements to fall into a state of disrepair that is dangerous, unsafe, unsanitary, or unsightly condition or fails to comply with any other covenant or restriction in violation of this Declaration, the Association may give written notice to the Owner describing the condition complained of and

demand that the Owner correct the condition within 15 days. If the Owner fails to take corrective action, the Association shall have the right, but not the obligation, to enter upon the offending Owner's Lot and take corrective action to abate the condition. All costs of abatement 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 Association a lien on the Lot and any improvements to secure repayment of any sums advanced pursuant to this section, which lien may be foreclosed at any time by the Association in the manner prescribed in Utah for the foreclosure of mortgages. Alternatively, without requiring foreclosure, the Association may seek collection of sums advanced directly from the Owner of the Lot in question. Unpaid amounts will bear interest from the date advanced at the lawful judgment rate under applicable state law.

7.9 Alterations of Exterior Appearance. The Owners will maintain their Lots and Improvements in substantially the same condition and appearance as that approved by the Board. No subsequent exterior alterations, improvements, or remodeling, whether structural or changes in landscaping, paint color or materials will be made without the advance consent of the Board. Declarant shall be exempt from this provision.

7.10 Repair Following Damage. In the event of casualty loss or damage to the improvements, the Improvements may be constructed as they existed prior to the damage or loss without review by the Board, provided however that alterations or deviations from the original approved plans will require review. Nothing in this 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 Board, provided that any such measure must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances permit. Unless delayed by City/County approval or insurance carrier approval, no damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing and any damaged structure which does remain unrepaired after 90 days following the occurrence of damage is deemed a nuisance which may be abated by the Association.

ARTICLE VIII -USE LIMITATIONS & RESTRICTIONS

8.1 Master Declaration. The Townhomes are subject to the Use Limitation & Restrictions set forth in the Master Declaration. The Townhomes Association may amend, with consent of the Master Association, to adopt additional or modify use restrictions applicable to the Townhomes Lots.

ARTICLE IX – INSURANCE

9.1 Insurance Requirement. The Association shall obtain insurance as required in this Townhome Declaration and as required by the Act. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Townhome 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.

As used in this Article:

- (1) “Covered Loss” means a loss, resulting from a single event or occurrence that is covered by the Association’s property insurance policy.
- (2) “Dwelling Damage” means damage to a Dwelling.
- (3) “Dwelling Damage Percentage” means the percentage of total damage resulting in covered loss that is attributable to Dwelling Damage.

9.2 Property Insurance.

(a) Hazard Insurance.

- (i) Blanket Policy of Property Insurance. The Association shall maintain a blanket policy of property insurance covering all Common Areas, Limited Common Areas, and attached Dwellings. Any blanket policy shall be 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) Flood Insurance. If the property insured by the Association is not situated in a Special Flood Hazard Area, the Association may nonetheless, if approved by a majority of Owners, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.
- (c) Earthquake Insurance. The Association may, if approved by a majority of Owners purchase earthquake insurance to cover earthquakes not otherwise covered by blanket property insurance.
- (d) Association’s Obligation to Segregate Property Insurance Deductible. The Association shall keep an amount equal to the Association’s property insurance policy deductible or \$10,000, whichever is less. This requirement shall not apply to any earthquake or flood insurance deductible.
- (e) Association’s Right to Not Tender Claims that are Under the Deductible. If, in the exercise of its business judgment, the Board of Directors determines that a claim is likely not to exceed the Association’s property insurance policy deductible the Association need not tender the claim to the Association’s insurer.

9.3 Comprehensive General Liability (CGL) Insurance. The Association shall obtain CGL Insurance insuring the Association, the agents and employees of the Association, and the Owner, against liability incident to the use, ownership or maintenance of the Common Area or membership in the 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.

9.4 Director's and Officer's Insurance. The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the 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 and employees;
- (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 Board of Directors, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the manager or any employees of the manager.

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

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

9.7 Association's Right to Negotiate All Claims and Losses and Receive Proceeds. Insurance proceeds for a loss under the Association's property insurance policy shall be payable to the Association, as insurance trustee; 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 Townhome 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 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 Association, as insurance trustee and attorney-in-fact for the purpose of negotiating all losses related thereto, including: the collection, receipt of, and the execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

9.8 Owner Act Cannot Void Coverage under Any Policy. An Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

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

9.10 Special Assessment. 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 X – MISCELLANEOUS PROVISIONS

10.1 Amendment. At any time while this Townhome Declaration is in effect, the covenants herein contained can be modified by the Declarant or Declarant' successors and assigns during the Class B Control Period at the sole discretion of the Declarant. Thereafter, the covenants contained herein 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 Townhome Association and the approval of the Master Association. No meeting or voting shall be required for an amendment, if the required, written consent is obtained from the requisite number of Owners.

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

- (a) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Owner under any homeowner's warranty, in connection with the alleged defect:
 - (i) The purchase price paid by the original Owner of the Dwelling & Lot when originally purchased from Declarant;
 - (ii) The agreed upon value of any improvements made to the Dwelling by anyone other than Declarant; and
 - (iii) The Owner's reasonable moving costs.
- (b) Close of escrow shall occur not later than forty-five (45) days after written notice from Declarant to the Owner of Declarant' intent to exercise the option herein.
- © Title shall be conveyed to Declarant free and clear of all monetary liens and other encumbrances other than non-delinquent real estate taxes.
- (d) Exercise of the repurchase option as provided for herein above shall constitute full and final satisfaction of all claims relating to the subject Dwelling and Lot. The Owner shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.
- © Declarant's option to repurchase granted herein with respect to any particular Dwelling and Lot shall automatically terminate upon the expiration of the last applicable statute of limitations applicable to any construction or warranty claim governing such Dwelling and Lot including all applicable tolling periods.

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

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

- (a) Any damage or destruction to the Common Areas shall be repaired or reconstructed unless Owners representing at least seventy-five (75%) percent of the total vote of the Townhome 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 Townhome Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed; provided, however, this provision shall not apply to construction mortgagees providing construction financing for such damaged property.
- (b) In the event, that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Common Areas shall be restored to their natural state and maintained by the Townhome Association, in a neat and attractive condition.
- (c) If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the members, levy a special assessment against all Owners as provided in the Governing Documents.

10.5 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Townhome Neighborhood is conclusively deemed to have notice of this Townhome Declaration and its contents, and to have consented to the application and enforcement of each of the provision of this Townhome Declaration against their Lot, whether or not there is any reference to this Townhome Declaration in the instrument by which they acquire interest in any Lot.


10.6 Liberal Interpretation. The provisions of this Townhome Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Townhome Neighborhood. 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.

10.7 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 Townhome Association in this Townhome Declaration, including but not limited to, the right to prepare, execute, file, process, and record necessary and appropriated documents and other items to establish and grant easements and to make necessary and appropriate amendments of this Townhome Declaration, the Plat and Bylaws. By such acceptance, each Owner or Occupant agrees to execute all documents and to do all other things as may be necessary or convenient to effect the same; and such acceptance shall be deemed an appointment of the Townhome 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 Townhome Association's reserved rights as set forth in this Townhome Declaration and shall not be affected by the disability of any such Owner or Occupant.

10.8 No Representations and Warranties. Each Owner and occupant understand, agrees, and acknowledges through taking title or residing in the Townhome Neighborhood that the Declarant, Townhome Association, and the Board have not made any representations or warranties of any kind related to the Townhome Neighborhood 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 Townhome Neighborhood.


10.9 Severability. Each of the covenants contained in this Townhome 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.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager


By: K. Beau Ogzewalla, Manager

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On this 23 day of May, 2024, personally appeared before me K. Beau Ogzewalla, who being by me duly sworn, did say that he is a manager for 317 Manager, LLC, which is the manager for The Brooks, LLC, and that the within and foregoing instrument was signed on behalf of said corporations and duly acknowledged to me that they executed the same.


Notary Public
Residing at: DAVIS County
My Commission Expires: 04/11/25

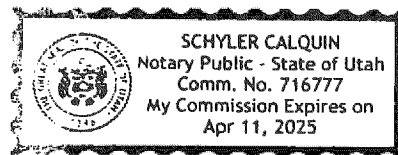


Exhibit “A”
Legal Description

Lots 1-6 and Lots 9-11 of the Brooks P.U.D. Plat, recorded on February 16, 2024 in the Davis County Recorder’s Office, as Entry No. 3560999.

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0009, 03-298-0010, 03-298-0011

Exhibit “B”

BYLAWS OF THE BROOKS ON MAIN TOWNHOME OWNERS ASSOCIATION, INC. (A Sub-Association within the Brooks on Main Mixed Use Master Community)

The following are the Bylaws of The Brooks on Main Townhome Homeowner Association, Inc. (“Townhome Bylaws”), a Utah nonprofit corporation and sub-association in the Master Community (the “Townhome Association”). Upon recordation of these Townhome Bylaws, they are binding upon the Townhome Association and all present and future Owners and/or occupants.

These Townhome Bylaws have also been duly approved by the Declarant or 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 The Brooks on Main Townhome, a Sub-association of the Brooks on Main Master, a Master Community, of even date and recorded in the official records of the Davis County Recorder’s Office, as amended (hereinafter “Townhome Declaration”). In addition, definitions within the Master Declaration may also be applicable in the event such definitions are not within the Townhome 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 Townhome Association (“Townhome Board”). The Townhome Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below. During the Class B Control Period, annual meetings shall not be required but may be held at the sole discretion of Declarant.

Section 2.2 Special Meetings. Special meetings of the Owners may be called at the request of the Townhome 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 Townhome Board remains the only authorized body to act for and on behalf of the Townhome Association. During the Class B Control Period, only the Declarant may call Special Meetings.

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 Townhome Board via electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than ninety (90) 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.

- (a) Upon becoming an Owner of the Townhome Association, or upon the written request by the Townhome Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Townhome Association unless the Owner has opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Townhome Association, an Owner's Lot address shall be deemed to be their registered address for purposes of notice.
- (b) The location of meetings may also occur virtually, telephonically, or through other available technology.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Townhome 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 Townhome Board remains the only authorized body to act for and on behalf of the Townhome 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 Townhome Board at or before said meeting. Notwithstanding, any proxy delivered to the Townhome 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 a meeting may also provide additional requirements and a deadline to return proxies. Every proxy shall be revocable and shall automatically terminate upon conveyance by the Owner of their 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 Townhome Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain the minutes of all meetings. The Townhome Board may adopt further policies and procedures with regard to conduct at a Townhome Association meeting.

Section 2.7 Action Taken Without a Meeting. Under the direction of the Townhome 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 Townhome Declaration. The Townhome Board may obtain such approvals and conduct business through mail or email/electronic ballots.

- (a) 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 120 days, during which the Townhome Association shall accept written ballots. Following this period, the Townhome Association shall provide notice if such action is 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 Townhome Association shall have two (2) classes of voting membership, Class "A" and Class "B," as set forth in the Townhome and Master Declarations.

- (a) 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 Townhome 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 Board members appointed by Declarant during the Class B Control Period, which may delegate duties as set forth in the Articles and these Townhome Bylaws, the affairs of the Townhome Association shall be managed by a 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 Townhome Bylaws. The members of the 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 Townhome Association to Owner control, the Declarant and/or Townhome Board may identify an owner(s) to be an advisory member of the Townhome Board and participate in Townhome 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 Townhome Board shall be Owners or an Owners' spouse or legal partner. Notwithstanding, only one member of a single household can be a member of the Townhome Board at any one time. Nothing herein shall prevent a Director from serving on both the Master Association and a sub-association. Notwithstanding, situations could arise between the Master Association and sub-association, where individual Directors may need to recuse themselves from certain votes and/or decisions. Such individuals must also agree and cooperate in providing all information required by the Corporate Transparency Act or other national or local statutes and ordinances.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written

resignation to either the President or the Townhome 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 Townhome Board, with or without cause, by a vote of at least (51%) of the Owners of the Townhome Association. In the event of death, resignation or removal of a Director, their successor shall be selected by the remaining Directors and shall serve for the unexpired term of their predecessor.

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

Section 3.6 No Estoppel or Reliance. No one may rely upon any authorization (from the Townhome 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 Townhome Board shall take appropriate action to develop, implement and update procedures for record retention. The Townhome Board should maintain documents in a manner to be easily accessible and copied. The Townhome 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 Townhome Board may be made by the Townhome Board, Owners from the floor at the annual meeting, or pursuant to other written notice and procedures established by the Townhome Board.

Section 4.2 Election. Following the Class B Control Period, the election of Directors may be by vote or written ballot, as determined at the discretion of the Townhome Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized. The Townhome Association may utilize available technology for casting and counting votes.

ARTICLE V - MEETINGS OF THE TOWNHOME BOARD

Section 5.1 Regular Meetings. Regular meetings of the Townhome Board shall be held at least annually, or more frequently as determined by the Townhome 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 Townhome Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days. During the Class B Control Period, board meetings shall not be required but may be held at the sole discretion of Declarant.

- (a) Owners, and Owner representatives (if designated in writing in advance) may attend Townhome Board meetings and may be present for all discussions, deliberations, and decisions except when the Townhome Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their

attendance. The Townhome Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Townhome Board shall provide email notice to Owners that have requested, in writing, to be notified of Townhome 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 Townhome 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. During the Class B Control Period, only the Declarant may call Special Meetings.

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 Townhome Board.

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

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 Townhome Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Townhome Board shall have all of the powers and duties necessary for the administration of the affairs of the Townhome Association in accordance with the provisions of the Governing Documents and Utah law. The Townhome 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 Townhome Association shall be a president, secretary, and treasurer, or as otherwise designated by the Townhome Board. Notwithstanding, during the Class B Control Period, Declarant may manage the Townhome Association as set forth in the Townhome Articles.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first Townhome 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 Townhome Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Townhome Board may elect such other officers as the affairs of the Townhome Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Townhome Board may, from time to time, determine. Appointed Officers may be removed by the Townhome 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 Townhome Board of Directors at any time, with or without cause. In the event of death, resignation or removal of an officer, their successor shall be selected by the Townhome Board and shall serve for the unexpired term of their predecessor.

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

Section 7.6 Committees. The Townhome 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 Townhome Board. The Townhome Board may terminate any committee at any time.

ARTICLE VIII - MISCELLANEOUS

Section 8.1 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 attended the meeting 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; or
- (c) 180 days following the meeting.

Section 8.2 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 8.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation of the Governing Documents or Utah law.

Section 8.4 Fiscal Year. The fiscal year of the Townhome 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 8.5 Amendment. During the Class B Control Period, these Townhome Bylaws may be

amended at any time by the Declarant. Following the Class B Control Period, these Townhome Bylaws may be amended by Owners holding at least fifty-one percent (51%) of the total eligible votes of the membership and with written approval of the Master Association. An amendment to these Townhome Bylaws shall be effective immediately upon recordation in the Office of the Davis County Recorder, State of Utah.


The foregoing Townhome Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Davis County Recorder, State of Utah. Pursuant to Utah Code § 16-6-801(2)(b) and the Townhome Articles, the Declarant is authorized to execute these Townhome Bylaws and may act for the Board during the Class B Control Period.

ACKNOWLEDGMENT

In witness hereof and under penalty of perjury, I hereby acknowledge that I am authorized by the Townhome Articles to execute these Townhome Bylaws on behalf of the Townhome Association.

DATED this 23 day of may, 2024.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager



By: K. Beau Ogzevalla, Manager

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR THE
BROOKS ON MAIN MIXED-USE MASTER COMMUNITY
(Davis County, Utah)**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Brooks on Main (hereinafter "First Amendment") hereby amends that certain Declaration of Covenants, Conditions and Restrictions the Brooks on Main recorded February 16, 2024, as Entry No. 3561001 in the office of the Davis County Recorder, as amended ("Declaration"), and is hereby adopted by The Brooks, LLC ("Declarant") and made effective as of the date recorded in the Davis County Recorder's Office.

RECITALS:

A. This First Amendment affects and concerns the real property located in Davis County, Utah, and more particularly described in the attached **Exhibit "A"** ("Property"):

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0007, 03-298-0008, 03-298-0009, 03-298-0010, 03-298-0011, 03-298-0012

B. On or about February 16, 2024, a Plat Map of The Brooks P.U.D. was recorded in the Davis County Recorder's Office as Entry No. 3560999 ("Plat").

C. On or about February 16, 2024, a Declaration of Covenants, Conditions and Restrictions of the Brooks on Main was recorded in the Davis County Recorder's Office as Entry No. 3561001 ("Declarant").

D. The Project remains within the Class B Control Period. Declarant desires to amend the Declaration, as further set forth herein.

E. As authorized by Article 11.1 of the Declaration, during the Class B Control Period, Declarant may amend the Declaration in Declarant's sole discretion.

F. The Master Bylaws for The Brooks on Main Master Homeowners Association, Inc. were not included with the initial recording of the Declaration and are hereby included as **Exhibit B**.

G. The Recitals are hereby included as a part of the First Amendment.

NOW, THEREFORE, pursuant to the foregoing, Declarant hereby makes and executes this First Amendment, which shall be effective as of its recording date.

COVENANTS, CONDITIONS AND RESTRICTIONS

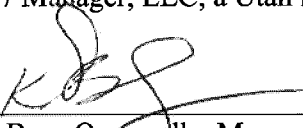
1. Recitals. The above Recitals are incorporated herein by reference and made a part hereof.
2. No Other Changes. Except as otherwise expressly provided in this First Amendment, the Declaration, as amended, remain in full force and effect without modification.
3. Authorization. The individuals signing for the respective entities make the following representations: (i) he/she has read the First Amendment, (ii) he/she has authority to act for the entity designated below, and (iii) he/she shall execute the First Amendment acting in said capacity.
4. Conflicts. In the case of any conflict between the provisions of this First Amendment and the provisions of the Declaration or any prior amendments, the provisions of this First Amendment shall in all respects govern and control. In the case of any existing provision with the Declaration, or prior amendments that could be interpreted as prohibiting the modifications set forth in this First Amendment, such provision is hereby modified in order to accomplish the purpose and intent of this First Amendment.

AMENDMENT

5. Article 5.11 of the Declaration is hereby deleted in its entirety and replaced with the following:

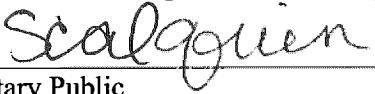
5.11 Reinvestment Fee. The Master Association shall have power to levy a one-time reinvestment fee. With the exception of those Lots conveyed by Declarant or Declarant Related Entities, which shall be exempt from the Reinvestment Fee, the Master Association may levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the maximum amount of one-half of one percent (.005) of the sale price of the Lot unless a lesser amount is adopted by the Board from time to time. The Master Association may determine the portion of the Reinvestment Fee that may be paid to Neighborhood Associations.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager


By: K. Beau Ogzewalla, Manager

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On this 23 day of May, 2024, personally appeared before me K. Beau Ogzewalla, who being by me duly sworn, did say that he is a manager for 317 Manager, LLC, which is the manager for The Brooks, LLC, and that the within and foregoing instrument was signed on behalf of said corporations and duly acknowledged to me that they executed the same.


Notary Public
Residing at: DAVIS COUNTY
My Commission Expires: 04/11/2025

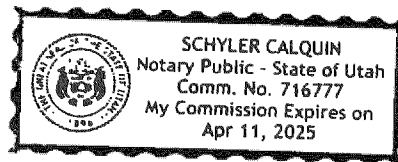


EXHIBIT “A”
Legal Description

Lots 1-12 of the Brooks P.U.D. Plat, recorded on February 16, 2024 in the Davis County Recorder's Office, as Entry No. 3560999.

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0007, 03-298-0008, 03-298-0009, 03-298-0010, 03-298-0011, 03-298-0012

Exhibit B
Master Bylaws

BYLAWS OF
THE BROOKS ON MAIN MASTER HOMEOWNERS ASSOCIATION, INC.

The following are the Bylaws of The Brooks on Main Master Homeowners Association, Inc. ("Master Bylaws"), a Utah nonprofit corporation ("Master Association"). Upon recordation of these Master Bylaws, they are binding upon the Master Association and all present and future Owners and/or occupants.

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 The Brooks on Main Mixed Use Master Community, recorded in the Official Records of the Davis County Recorder's Office, as amended ("Master Declaration").

ARTICLE II - MEETINGS OF OWNERS

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 ("Board"). The Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below, which locations may include virtual or electronically held meetings through available technology. During the Class B Control Period, annual meetings shall not be required but may be held at the sole discretion of Declarant.

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

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 Board via electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than ninety (90) 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.

- (a) Upon becoming an Owner of the Master Association, or upon the written request by the Master Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Master Association

unless the Owner has opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Master Association, an Owner's Lot address shall be deemed to be his registered address for purposes of notice.

- (b) The location of meetings may also occur virtually, telephonically, or through other available technology.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Master 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 Board remains the only authorized body to act for and on behalf of the Master 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 Board at or before said meeting. Notwithstanding, any proxy delivered to the 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 a meeting may also provide 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 Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain the minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at a Master Association meeting.

Section 2.7 Action Taken Without a Meeting. Under the direction of the 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 Master Declaration. The Board may obtain such approvals and conduct business through mail or email/electronic ballots.

- (a) 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 120 days, during which the Master Association shall accept written ballots. Following this period, the Master Association shall provide notice if such an 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 Master Association shall have two (2) classes of voting membership, Class

"A" and Class "B," as set forth in the Master Declaration. The number of votes for each Lot shall be in accordance with the Master Declaration.

- (a) 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 Master 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 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 Master Association shall be managed by a 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 Master Bylaws. The members of the 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 Master Association to Owner control, the Declarant and/or Board may identify an owner(s) to be an advisory member of the Board and participate in 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 Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Unit. Notwithstanding, only one member of a single household can be a member of the Board at any one time. During the Class B Control Period, eligibility requirements shall not apply. Such individuals must also agree and cooperate in providing all information required by the Corporate Transparency Act or other national or local statutes and ordinances.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the 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 Board with or without cause by a majority vote, a quorum being present, at a special meeting called for such purpose. 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 Master 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 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 Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The 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 Board may be made by the Board, Owners from the floor at the annual meeting, or pursuant to other written notice and procedures established by the Board.

Section 4.2 Election. Following the Class B Control Period, the election of Directors may be by vote or written ballot, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized. The Master Association may utilize available technology for casting and counting votes.

ARTICLE V - MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Board shall be held at least annually, or more frequently as determined by the 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 Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days. During the Class B Control Period, board meetings shall not be required but may be held at the sole discretion of Declarant.

- (a) Owners, and Owner representatives (if designated in writing in advance) may attend Board meetings and may be present for all discussions, deliberations, and decisions except when the Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of 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 Board, circumstances require that a meeting be held sooner than the required five (5) day 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. During the Class B Control Period, only the Declarant may call Special Meetings.

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 Board.

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

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

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

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first 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 Master Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Board may elect such other officers as the affairs of the Master Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Appointed Officers may be removed by the 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 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 Board and shall serve for the unexpired term of his predecessor.

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- (a) If the objecting person attended the meeting and no objection to the particular procedural issue was made at the meeting;
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Section 8.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation of the Governing Documents or Utah law.

Section 8.4 Fiscal Year. The fiscal year of the Master 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 8.5 Amendment. During the Class B Control Period, these Master Bylaws may be amended at any time by the Declarant. Following the Class B Control Period, these Master Bylaws may be amended by Owners holding at least sixty-seven percent (67%) of all eligible votes. An amendment to these Master Bylaws shall be effective immediately upon recordation in the Office of the Davis County Recorder, State of Utah.

The foregoing Master Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Davis County Recorder, State of Utah. Pursuant to Utah Code §

16-6-801(2)(b) and the Master Articles, The Brooks, LLC is authorized to execute these Master Bylaws and may act for the Board during the Class B Control Period.

ACKNOWLEDGMENT

In witness hereof and under penalty of perjury, I hereby acknowledge that I am authorized by the Master Articles to execute these Master Bylaws on behalf of the Master Association.

DATED this 23 day of May, 2024.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager



By: K. Beau Ogzewalla, Manager

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DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR THE
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This First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Brooks on Main (hereinafter "First Amendment") hereby amends that certain Declaration of Covenants, Conditions and Restrictions the Brooks on Main recorded February 16, 2024, as Entry No. 3561001 in the office of the Davis County Recorder, as amended ("Declaration"), and is hereby adopted by The Brooks, LLC ("Declarant") and made effective as of the date recorded in the Davis County Recorder's Office.

RECITALS:

A. This First Amendment affects and concerns the real property located in Davis County, Utah, and more particularly described in the attached **Exhibit "A"** ("Property"):

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0007, 03-298-0008, 03-298-0009, 03-298-0010, 03-298-0011, 03-298-0012

B. On or about February 16, 2024, a Plat Map of The Brooks P.U.D. was recorded in the Davis County Recorder's Office as Entry No. 3560999 ("Plat").

C. On or about February 16, 2024, a Declaration of Covenants, Conditions and Restrictions of the Brooks on Main was recorded in the Davis County Recorder's Office as Entry No. 3561001 ("Declarant").

D. The Project remains within the Class B Control Period. Declarant desires to amend the Declaration, as further set forth herein.

E. As authorized by Article 11.1 of the Declaration, during the Class B Control Period, Declarant may amend the Declaration in Declarant's sole discretion.

F. The Master Bylaws for The Brooks on Main Master Homeowners Association, Inc. were not included with the initial recording of the Declaration and are hereby included as **Exhibit B**.

G. The Recitals are hereby included as a part of the First Amendment.

NOW, THEREFORE, pursuant to the foregoing, Declarant hereby makes and executes this First Amendment, which shall be effective as of its recording date.

COVENANTS, CONDITIONS AND RESTRICTIONS

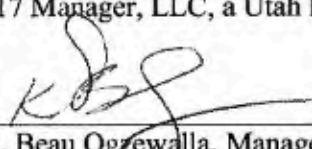
1. Recitals. The above Recitals are incorporated herein by reference and made a part hereof.
2. No Other Changes. Except as otherwise expressly provided in this First Amendment, the Declaration, as amended, remain in full force and effect without modification.
3. Authorization. The individuals signing for the respective entities make the following representations: (i) he/she has read the First Amendment, (ii) he/she has authority to act for the entity designated below, and (iii) he/she shall execute the First Amendment acting in said capacity.
4. Conflicts. In the case of any conflict between the provisions of this First Amendment and the provisions of the Declaration or any prior amendments, the provisions of this First Amendment shall in all respects govern and control. In the case of any existing provision with the Declaration, or prior amendments that could be interpreted as prohibiting the modifications set forth in this First Amendment, such provision is hereby modified in order to accomplish the purpose and intent of this First Amendment.

AMENDMENT

5. Article 5.11 of the Declaration is hereby deleted in its entirety and replaced with the following:

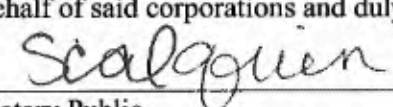
5.11 Reinvestment Fee. The Master Association shall have power to levy a one-time reinvestment fee. With the exception of those Lots conveyed by Declarant or Declarant Related Entities, which shall be exempt from the Reinvestment Fee, the Master Association may levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the maximum amount of one-half of one percent (.005) of the sale price of the Lot unless a lesser amount is adopted by the Board from time to time. The Master Association may determine the portion of the Reinvestment Fee that may be paid to Neighborhood Associations.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager


By: K. Beau Ogzewalla, Manager

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On this 23 day of MAY, 2024, personally appeared before me K. Beau Ogzewalla, who being by me duly sworn, did say that he is a manager for 317 Manager, LLC, which is the manager for The Brooks, LLC, and that the within and foregoing instrument was signed on behalf of said corporations and duly acknowledged to me that they executed the same.


Notary Public
Residing at: Davis County
My Commission Expires: 04/11/2025

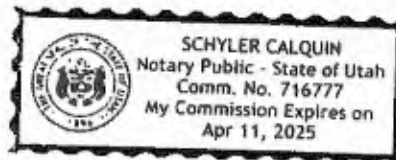


EXHIBIT "A"
Legal Description

Lots 1-12 of the Brooks P.U.D. Plat, recorded on February 16, 2024 in the Davis County Recorder's Office, as Entry No. 3560999.

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0007, 03-298-0008, 03-298-0009, 03-298-0010, 03-298-0011, 03-298-0012

**Exhibit B
Master Bylaws**

**BYLAWS OF
THE BROOKS ON MAIN MASTER HOMEOWNERS ASSOCIATION, INC.**

The following are the Bylaws of The Brooks on Main Master Homeowners Association, Inc. ("Master Bylaws"), a Utah nonprofit corporation ("Master Association"). Upon recordation of these Master Bylaws, they are binding upon the Master Association and all present and future Owners and/or occupants.

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 The Brooks on Main Mixed Use Master Community, recorded in the Official Records of the Davis County Recorder's Office, as amended ("Master Declaration").

ARTICLE II - MEETINGS OF OWNERS

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 ("Board"). The Board may set the date, time, and location of the annual meeting in accordance with Section 2.3 below, which locations may include virtual or electronically held meetings through available technology. During the Class B Control Period, annual meetings shall not be required but may be held at the sole discretion of Declarant.

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

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 Board via electronic communication, which may include but is not limited to: email, text, voicemail, or posted on the community website (if applicable). Notice shall be provided at least ten (10) days before a meeting, but no more than ninety (90) 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.

- (a) Upon becoming an Owner of the Master Association, or upon the written request by the Master Association, Owners shall provide a valid email address or other requested electronic information for purpose of notification related to the Master Association

unless the Owner has opted out by providing a written request for notice by U.S. Mail. If no address is registered with the Master Association, an Owner's Lot address shall be deemed to be his registered address for purposes of notice.

- (b) The location of meetings may also occur virtually, telephonically, or through other available technology.

Section 2.4 Quorum. Unless otherwise specifically set forth in the Master 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 Board remains the only authorized body to act for and on behalf of the Master 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 Board at or before said meeting. Notwithstanding, any proxy delivered to the 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 a meeting may also provide 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 Board, or its authorized representatives, shall preside over all meetings. The Secretary or other authorized person shall keep and maintain the minutes of all meetings. The Board may adopt further policies and procedures with regard to conduct at a Master Association meeting.

Section 2.7 Action Taken Without a Meeting. Under the direction of the 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 Master Declaration. The Board may obtain such approvals and conduct business through mail or email/electronic ballots.

- (a) 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 120 days, during which the Master Association shall accept written ballots. Following this period, the Master Association shall provide notice if such an 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 Master Association shall have two (2) classes of voting membership, Class

"A" and Class "B," as set forth in the Master Declaration. The number of votes for each Lot shall be in accordance with the Master Declaration.

- (a) 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 Master 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 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 Master Association shall be managed by a 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 Master Bylaws. The members of the 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 Master Association to Owner control, the Declarant and/or Board may identify an owner(s) to be an advisory member of the Board and participate in 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 Board shall be Owners or an Owners' spouse or legal partner that resides with Owner in the Unit. Notwithstanding, only one member of a single household can be a member of the Board at any one time. During the Class B Control Period, eligibility requirements shall not apply. Such individuals must also agree and cooperate in providing all information required by the Corporate Transparency Act or other national or local statutes and ordinances.

Section 3.4 Resignation & Removal. A Director may resign at any time by delivering a written resignation to either the President or the 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 Board with or without cause by a majority vote, a quorum being present, at a special meeting called for such purpose. 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 Master 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 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 Board shall take appropriate action to develop, implement and update procedures for record retention. The Board should maintain documents in a manner to be easily accessible and copied. The 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 Board may be made by the Board, Owners from the floor at the annual meeting, or pursuant to other written notice and procedures established by the Board.

Section 4.2 Election. Following the Class B Control Period, the election of Directors may be by vote or written ballot, as determined at the discretion of the Board. The persons receiving the largest number of votes shall be elected. Cumulative voting is not authorized. The Master Association may utilize available technology for casting and counting votes.

ARTICLE V - MEETINGS OF THE BOARD

Section 5.1 Regular Meetings. Regular meetings of the Board shall be held at least annually, or more frequently as determined by the 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 Board meetings. Notice shall be provided at least five (5) days before a meeting, but no more than thirty (30) days. During the Class B Control Period, board meetings shall not be required but may be held at the sole discretion of Declarant.

- (a) Owners, and Owner representatives (if designated in writing in advance) may attend Board meetings and may be present for all discussions, deliberations, and decisions except when the Board is in executive session. Owners shall comply with all reasonable rules established by the presiding officer for their attendance. The Board may limit Owners' comments and/or questions to a specific period of time within the meeting. The Board shall provide email notice in accordance with the Act to Owners that have requested, in writing, to be notified of 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 Board, circumstances require that a meeting be held sooner than the required five (5) day 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. During the Class B Control Period, only the Declarant may call Special Meetings.

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 Board.

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

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 Board.

ARTICLE VI - POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Master Association in accordance with the provisions of the Governing Documents and Utah law. The 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 Master Association shall be a president, secretary, and treasurer, or as otherwise designated by the Board.

Section 7.2 Election of Officers. The election/appointment of officers shall take place at the first 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 Master Bylaws prevent an officer or directors from being re-elected to their respective positions.

Section 7.3 Special Appointments. The Board may elect such other officers as the affairs of the Master Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. Appointed Officers may be removed by the 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 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 Board and shall serve for the unexpired term of his predecessor.

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

Section 7.6 Committees. The 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 Board. The Board may terminate any committee at any time.

ARTICLE VIII - MISCELLANEOUS

Section 8.1 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 attended the meeting 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; or
- (c) 180 days following the meeting.

Section 8.2 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 8.3 Irregularities that Cannot Be Waived. Any irregularity that is the result of fraud or that was done knowingly and intentionally in violation of the Governing Documents or Utah law.

Section 8.4 Fiscal Year. The fiscal year of the Master 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 8.5 Amendment. During the Class B Control Period, these Master Bylaws may be amended at any time by the Declarant. Following the Class B Control Period, these Master Bylaws may be amended by Owners holding at least sixty-seven percent (67%) of all eligible votes. An amendment to these Master Bylaws shall be effective immediately upon recordation in the Office of the Davis County Recorder, State of Utah.

The foregoing Master Bylaws are adopted by the undersigned and made effective upon recordation in the Office of the Davis County Recorder, State of Utah. Pursuant to Utah Code §

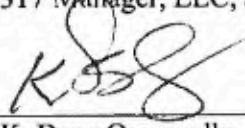
16-6-801(2)(b) and the Master Articles, The Brooks, LLC is authorized to execute these Master Bylaws and may act for the Board during the Class B Control Period.

ACKNOWLEDGMENT

In witness hereof and under penalty of perjury, I hereby acknowledge that I am authorized by the Master Articles to execute these Master Bylaws on behalf of the Master Association.

DATED this 23 day of May, 2024.

The Brooks, LLC, a Utah limited liability company
By: 317 Manager, LLC, a Utah limited liability company, its Manager


By: K. Beau Ogzewalla, Manager

NOTICE OF REINVESTMENT FEE COVENANT

(Pursuant to Utah Code Ann. § 57-1-46)

Pursuant to the requirements of Utah Code Ann. § 57-1-46, this instrument is a Notice of Reinvestment Fee Covenant ("Notice") that satisfies the requirements of Utah Code Ann. § 57-1-46(6) and serves as a record notice for that certain reinvestment fee covenant (the "Reinvestment Fee Covenant") that was duly approved and recorded on May 28, 2024, as Entry No. 3573029 against the Property within the First Amendment to the Declaration of Covenants, Conditions & Restrictions of The Brooks on Main Mixed-Use Master Community ("First Amendment").

BE IT KNOWN TO ALL SELLERS, BUYERS, AND TITLE COMPANIES that:

1. The name and address of the beneficiary under the above referenced Reinvestment Fee Covenant is The Brooks on Main Master Homeowners Association, Inc. ("Master Association") c/o Welch Randall Property Management, 5300 South Adams Avenue Parkway Suite #8, Ogden, Utah 84405. If and when the contact information in this paragraph becomes outdated, contact with the Master Association may be made through its registered agent. The current registered agent of the Master Association can be found through the Utah Department of Commerce, Division of Corporations.

2. The burden of the above referenced Reinvestment Fee Covenant is intended to run with the Property, described in **Exhibit "A"**, and to bind successors in interest and assigns. The duration of the above referenced Reinvestment Fee Covenant shall continue and remain in full force and effect until there is recorded an instrument directing the termination or amendment of such Reinvestment Fee Covenant, as provided in the Master Association's governing documents.

3. As of the date of this Reinvestment Fee Covenant, the Master Association shall have power to levy a one-time reinvestment fee. With the exception of those Lots conveyed by Declarant or Declarant Related Entities, which shall be exempt from the Reinvestment Fee, the Master Association may levy a one-time reinvestment fee when a change in ownership of a Lot occurs in the maximum amount of one-half of one percent (.005) of the sale price of the Lot, unless a lesser amount is adopted by the Board from time to time. The Master Association may determine the portion of the Reinvestment Fee that may be paid to Neighborhood Associations. Such amount shall be in addition to any pro rata share of assessments due and adjusted at settlement. The existence of the Reinvestment Fee Covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property. The purpose of this reinvestment fee is to benefit the burdened property by facilitating the administration, maintenance, and operations of Common Areas and facilities and Master Association expenses.

DATED: July 10, 2024.

THE BROOKS ON MAIN MASTER HOMEOWNERS ASSOCIATION, INC.



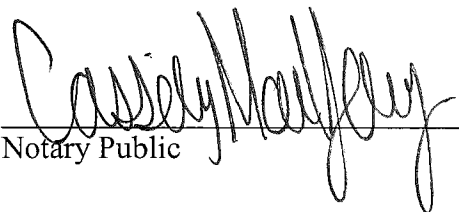
Blake D. Johnson
Attorney and Authorized Agent for
The Brooks on Main Master Homeowners Association, Inc.

STATE OF UTAH)

: ss

COUNTY OF WEBER)

Blake D. Johnson, being first duly sworn, says that he is the attorney and authorized agent for The Brooks on Main Master Homeowners Association, Inc. is authorized by the Master Association to execute the foregoing, and that the same is true and correct of his own knowledge and belief.



Notary Public

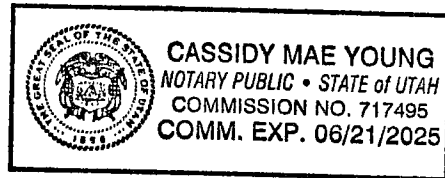


Exhibit "A"

Legal Description

Lots 1-12 of the Brooks P.U.D. Plat, recorded on February 16, 2024 in the Davis County Recorder's Office, as Entry No. 3560999.

Tax IDs: 03-298-0001, 03-298-0002, 03-298-0003, 03-298-0004, 03-298-0005, 03-298-0006, 03-298-0007, 03-298-0008, 03-298-0009, 03-298-0010, 03-298-0011, 03-298-0012

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2, BLOCK 45, PLAT "A", BOUNTIFUL TOWNSITE SURVEY, SAID POINT BEING NORTH 89°44'06" EAST 49.50 FEET AND NORTH 00°03'00" WEST 24.75 FEET FROM THE INTERSECTION MONUMENT AT MAIN STREET AND 200 NORTH STREET, SAID POINT BEING ALSO SOUTH 00°13'23" EAST ALONG THE SECTION LINE 505.42 FEET AND SOUTH 89°44'06" WEST 2181.06 FEET FROM THE EAST QUARTER CORNER OF SECTION 19, TOWNSHIP 2 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 00°03'00" WEST 163.50 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF MAIN STREET; THENCE NORTH 89°43'58" EAST 115.50 FEET; THENCE SOUTH 00°03'08" EAST 81.00 FEET TO THE CENTERLINE OF AN EXISTING DRAINAGE CANAL; THENCE NORTH 89°44'31" EAST ALONG SAID CENTERLINE 75.26 FEET TO A POINT ON A 106.65 FOOT RADIUS NON-TANGENT CURVE (WHICH RADIUS POINT BEARS SOUTH 11°13'43" WEST); THENCE SOUTHEASTERLY 96.68 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE THROUGH A CENTRAL ANGLE OF 51°56'15" (WHICH LONG CHORD BEARS SOUTH 52°48'05" EAST 93.40 FEET); THENCE SOUTH 00°09'18" EAST 25.68 FEET TO THE NORTH RIGHT-OF-WAY LINE OF 200 NORTH STREET; THENCE SOUTH 89°44'06" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE 265.16 FEET TO THE POINT OF BEGINNING. (THE NAD83 BEARING FOR THE SECTION LINE IS SOUTH 00°06'11" WEST AND HAS A CLOCKWISE ROTATION OF 00°19'34")

CONTAINS 29,792.60 SQ/FT OR 0.68 ACRES