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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
WHITAKER FARM**

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
WHITAKER FARM

THIS DECLARATION made and executed this ___ day of June, 2019, by WHITAKER FARM DEVELOPMENT, LLC, a Utah limited liability company with its principal place of business located in Midway, State of Utah, (hereinafter referred to as “Declarant”).

RECITALS:

A. Declarant is the owner of certain real property located in Wasatch County, State of Utah (the “Property”) more particularly described in Article II, together with the Plat which is incorporated by reference to this Declaration.

B. Declarant desires to provide for the preservation of the values and amenities of the Property and for maintenance of the Common Areas. To this end, and for the benefit of the Property and of the Owners thereof, Declarant desires to subject the Property described in Article II of this Declaration and the various Lots now or hereafter contained within the entire tract hereinafter described to these covenants, restrictions, easements, charges, and liens hereinafter set forth.

C. Declarant deems it desirable for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the power to maintain and administer the Common Areas, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purposes Declarant has, in conjunction with recordation of this Declaration, caused or will cause to be incorporated under the laws of the State of Utah, as a nonprofit corporation, THE WHITAKER FARM OWNERS ASSOCIATION.

D. Capitalized terms in this Declaration are defined in Article I.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of the Property described in Article II hereof shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, restrictions, conditions, easements, charges, Assessments, obligations, and liens hereinafter set forth.

ARTICLE I. DEFINITIONS

1.1 Act shall mean the Utah Community Association Act, Utah Code Annotated sections 57-8a-101, et. seq. (2019).

1.2 Assessments shall mean a charge or expense related to ownership of a Lot that may include, but not be limited to, the maintenance and operation of the Common Areas and the Association. An unpaid fine or penalty may become an Assessment that the Association may enforce through a Lien.

1.3 Association shall mean and refer to THE WHITAKER FARM OWNERS ASSOCIATION, Inc., a Utah nonprofit corporation.

1.4 Board shall mean and refer to the Board of Trustees of the Association as duly elected in accordance with the terms and conditions of the Articles of Incorporation and Bylaws of the Association.

1.5 Building Pad shall consist of the area located within the Lot boundaries shown on the Plat where a Dwelling or other building may be located, reduced however, by all setbacks which are required by the terms of this Declaration, the Design Guidelines and found in all applicable ordinances or codes promulgated by appropriate governmental agencies.

1.6 Common Areas shall mean and refer to that part of the Property which is not included in a Lot, which is owned by the Association and those easements either granted to or reserved for the benefit of the Declarant, the Association or the Owners and intended for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto including but not limited to private utility lines and fixtures and other personal property owned by the Association when the context so requires. Common areas include, but are not limited to, the islands located at the Whitaker Farm Loop entrances of the Subdivision, The Roundabout on Whitaker Farm Loop, Trail Easements on Lots 31 and between lots 46 and 47, the open spaces identified as Lots A, and B, and any other areas not specifically designated as a Lot or dedicated to the City of Midway. Lot C, adjacent to the River Access is not part of the Common Areas as of the date of this Declaration, but Declarant reserves the right to transfer Parcel C to the Association as a Common Area Lot in the future as described in Section 4.3.1.

1.7 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.

1.8 Design Guidelines shall mean and refer to those guidelines and regulations created by the Declarant for the design and construction of Dwellings and other improvements, including landscaping of Lots, within the Subdivision. Pursuant to Section 6.3, the Board may also adopt additional design criteria that expand those adopted by the Declarant herein in Article VIII.

1.9 Dwelling shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located therein or with respect to the Lot concerned which are used in connection with such residence.

1.10 Environmental Laws. The term “Environmental Laws” shall mean any federal, state, local or foreign statutes, codes, plans, regulations or common laws related to pollution or protection of the environment specifically including wetlands, including, without limitation, any common laws of nuisance or trespass and any laws or regulations relating to emissions, discharges, releases or threatened releases of Toxic Materials into the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Toxic Materials. “Environmental Laws” shall also include all orders, decrees, judgments, injunctions, notices or demand letters issued, entered, promulgated or approved under those Environmental laws.

1.11 Lot shall mean and refer to anyone of the separately numbered and individually described plots of land described on a Plat: (a) which is intended to be owned individually, rather than by an association of Owners or in common by Owners of different lots; and (b) which is intended to be used as the site of a single Dwelling. Reference to a “Common Area lot” shall not mean a Lot as described herein.

1.12 Member shall mean and refer to every person who holds a membership in the Association.

1.13 Mortgage shall mean any mortgage, deed of trust or trust deed or the act of encumbering any lot or any property by a mortgage, trust deed or deed of trust.

1.14 Mortgagee shall mean any person named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.15 Owner shall mean and refer to the person who is the Owner of record (in the office of the County Recorder of Wasatch County, Utah) of a fee or an undivided interest in any Lot. 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 or 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.

1.16 Parcel shall mean and refer to the Property which is subject to this Declaration, which is filed for record in the office of the County Recorder of Wasatch County, Utah, is separately subjected to the terms of this Declaration with the intention that it shall thereby comprise the Subdivision. The real property described in Article II of this Declaration constitutes the Parcel.

1.17 Plat shall mean and refer to any subdivision plat, any plat of a planned Lot development, or any plat or map similar to any of the foregoing: (a) which covers the Property; (b) which describes or creates one or more Lots; (c) on which or in an instrument recorded in conjunction therewith there is expressed the intent that the Subdivision created by the Plat shall comprise the Subdivision; and (d) which is filed for record in the office of the County Recorder of Wasatch County, Utah. Recorded concurrently with this Declaration is a Plat of Whitaker Farm Subdivision, and executed and acknowledged by Declarant on June 2, 2019, and creating separately numbered Lots. Said subdivision plat constitutes a Plat.

1.18 Property shall mean and refer to all of the real property which is covered by a Plat.

1.19 Recreational Vehicle shall mean and collectively refer to boats, trailers, snowmobiles, all-terrain vehicles, wheeled or tracked vehicles, or any other vehicle or equipment that is primarily used for recreation. *See* Section 7.4.1.

1.20 Subdivision shall mean and refer to the entire residential development which is created and covered by the Plat.

1.21 Toxic Materials shall mean any flammable explosives, asbestos, industrial substances, pollutants, contaminants, chemicals, wastes, discharges, emissions, radioactive materials and other hazardous substances, whether injurious by themselves or in combination with other materials, including, but not limited to, substances defined as “hazardous substances,” “hazardous materials,” “hazardous wastes” or “toxic substances” described in the “Environmental Laws.”

1.22 Turnover Date shall mean the date when the Declarant shall transfer all rights and responsibilities hereunder to the Association as described in section 3.2.2.

ARTICLE II. PROPERTY DESCRIPTION

2.1 Submission. The Property which is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of the following described real property situated in Wasatch County, State of Utah:

SEE THE LEGAL DESCRIPTION ATTACHED HERETO AS APPENDIX A,
TOGETHER WITH THE PLAT WHICH IS INCORPORATED BY REFERENCE.

EXCLUDING all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, and related facilities to the extent that they are located outside the Lots included with the above-described tract; provided, however, that lines and systems specifically conveyed to the Association by Declarant shall not be included within this exclusion.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across and through and under the above-described tract and any improvements now or hereafter constructed thereon as may be reasonably necessary for Declarant or any assignee of Declarant (in a manner which is reasonable and not inconsistent with the provisions of this Declaration): (i) to construct a Dwelling on a Lot; and (ii) to improve the Common Areas with such facilities as Declarant may reasonably determine to be appropriate, including, but not limited to, recreational facilities, entry island, walkways and various landscaped areas, monuments, signage and lighting fixtures designed for the use and enjoyment of all the Members. If, pursuant to the foregoing reservation, the above-described tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall expire, unless sooner terminated in accordance with its terms, upon the Turnover Date.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments and charges imposed or levied by governmental or quasigovernmental authorities; all patent reservations and exclusions; all mineral reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

2.3 Storm Drain Easements. Storm drain easements as designated upon the Plat are dedicated and reserved for the temporary holding of storm waters . No buildings, trees or shrubs are allowed to impede the function of Storm Drains or block vehicular access to the Storm Drain Easement. The Association shall be solely responsible to maintain the function of such easement areas including, but not limited to, all storm drain pipelines, ponds, sumps and other equipment and/or improvements constituting such storm drain systems that are not dedicated to the public. Midway City retains the right to maintain, operate and inspect the Storm Retention Pond and Easement.

2.4 Irrigation Ditch Easements. The irrigation ditch easement designated on the Plat and located in the Open Space Parcel's A and C, adjacent to Whitaker Farm Loop and between Lots 11 and 12 is reserved for the Midway Irrigation Company. The Association shall be solely responsible for the maintenance of the ditch and will post a bond to ensure performance to the Midway Irrigation Company in accordance with that certain Irrigation Easement Agreement which is incorporated by reference.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains.

3.2 Voting Rights. The Association shall have the following described two classes of voting membership:

3.2.1 Class A. Class A Members shall be all Owners other than the Declarant until the Class B membership ceases. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

3.2.2 Class B. The Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall be entitled to two (2) votes for each Lot that it holds an ownership interest that is required for Membership in the Association. The Class B Membership shall automatically cease and be converted to a Class A membership upon the Turnover Date, which shall occur sixty (60) days after:

3.2.2.1 At least two (2) year passes following the date on which this Declaration is filed for record in the office of the County Recorder of Wasatch County, Utah; and

3.2.2.2 The total number of votes held by all Class A Members equals the total number of votes held by the Class B Member.

3.2.3 Prior to the Turnover Date described in section 3.2.2, the Declarant may voluntarily surrender the right to appoint and remove members of the Board, but may require that the following actions of the Board be approved by the Declarant before they become effective:

3.2.3.1 Increasing the Annual Assessment amount in any fiscal year;

3.2.3.2 Dedicating any Property within the Subdivision to another Person, entity or governmental agency;

3.2.3.3 Proposing an amendment or modification of a provision of this Declaration, the Bylaws or the Articles;

3.2.3.4 Amending or modifying the Design Guidelines in any substantive way that would change or impact the philosophy of the Subdivision as noted in the Design Guidelines as referenced in Article VIII;

3.2.3.5 Adopting or amending a Rule;

3.2.3.6 Expanding the Subdivision;

3.2.3.7 Merging with another community association; and

3.2.3.8 Any other action that the Declarant would have had the unilateral right to do prior to the Turnover Date.

3.3 Retained Declarant Rights. As long as Declarant continues to hold title to a Lot in the Subdivision, even if the Turnover Date has occurred, the Declarant retains the right to:

3.3.1 Unilaterally manage the development of amenities in Lots A, B, and C, the open space; and

3.3.2 Unilaterally manage the flow, direction, and distribution of water within Lots A, B, and C;

3.3.3 Unilaterally manage the agricultural status of Lots A, B, and C, the open space; and

3.3.4 Appoint one of its principals as a Member of the Design Review Committee.

3.4 Multiple Ownership Interests. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.5 Record of Ownership. Every Owner shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract) to him of his Lot. Each Owner shall file a copy of such conveyance, transfer, sale contract or deed with the secretary of the Association with a reinstatement fee of \$250.00, who shall maintain a record of ownership of the Lots. Any Owner who mortgages his Lot or any interest therein by a mortgage which has priority over the lien of any assessment provided herein shall notify the secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the secretary of the Association shall maintain all such information in the records of ownership. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as a "Reimbursement Assessment" in accordance with the provisions of Section 5.5.

ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS

4.1 Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to a family member, tenant, lessee or contract purchaser who resides on such Member's Lot.

4.2 Form for Conveyance. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

Lot No. __ , contained within Farm ____ Subdivision, as the same is identified in the Plat recorded as Entry No. ____, in Book __, at Page __ , and in the "Declaration of Covenants, Conditions and Restrictions of Whitaker Farm" recorded as Entry No. ____, in Book __ at Page __ , of the official records of the Wasatch County Recorder.

TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described and provided for in said Declaration of Covenants, Conditions and Restrictions and in the Record of Survey Map in the official record of the Wasatch County Recorder.

4.2.1 Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

4.3 Transfer of Title. Declarant agrees to convey to the Association title to the various Common Areas noted on the Plat free and clear of all liens (other than the

lien of current general taxes and the lien of any assessments, charges, or taxes imposed by governmental or quasigovernmental authorities) as each such Common Area is substantially completed. In the event the Declarant fails to convey the Common Areas by deed or other instrument, the filing of the Plat shall nevertheless be deemed a conveyance of the Common Areas to the Association.

4.3.1 Declarant reserves the right before or after the Turnover Date to transfer title of Lot C, which is owned by The Whitaker Family as designated on the Plat, to the Association as a Common Area Lot. If the Declarant exercises this right, the Association will accept Parcel C as a Common Area Lot and will bear any costs or attorney's fees related to the preparation and recordation of the necessary supplemental plat to denote the change in Lot C's characteristics.

4.4 Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

4.4.1 The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas.

4.4.2 The right of the Association to suspend the voting rights and right to the use of the Common Areas by an Member (i) for any period during which any Assessment against his Lot remains delinquent; (ii) for a period not to exceed sixty (60) days for any infraction of this Declaration, a supplemental declaration, the Rules or Design Guidelines; and (iii) for successive sixty-day (60)-day periods if any such infraction is not corrected during any prior sixty (60)-day suspension period.

4.4.3 The right of the Association to dedicate or transfer all or any part of the Common Areas and any sewer, water and storm drain trunk lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must however be assented to by (i) all holders of first Mortgages secured by Lots and (ii) by two-thirds (2/3) of the vote of each class of membership which Members present in person or by proxy are entitled to cast at a meeting duly called for that purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

4.4.4 The right of the Association to regulate the use of the Common Areas through a Rule and to prohibit access to any Common Area, such as landscaping right-of-ways or protected wetlands, not intended for use by the Members. Any Rule adopted by the Declarant or the Board, in their absolute discretion for this purpose, shall be intended, to enhance the preservation of the Common Areas or the safety and convenience of the users thereof, or

otherwise shall serve to promote the best interests of the Owners, their guests and other residents.

4.4.5 The right of Wasatch County and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service.

4.5 Use of Common Area Open Space; Parcels A and B. Parcels A and B on the Plat, which are Common Area open space of the Project, shall be restricted to recreational purposes, including but not limited to walking, horseback riding, nature study, bird watching, cross country skiing, bathing in ponds, gardening in areas provided by the board, biking (excluding motorized vehicles), viewing of scenic areas and any other activities that receive prior written authorization by the Board.

4.5.1 Notwithstanding the limitations described in Section 4.5, Owners may submit a written request to allow specific activities to be conducted within Parcels A and B, e.g. grazing, or ice skating. The approval of such requests shall be at the discretion of the Board.

4.5.2 The amenities located within the Common Area Open Space are reserved for the enjoyment of Owners and their guests. The Declarant and later the Association will be responsible to maintain the area and undertake necessary safety measures while preserving this benefit of Members.

ARTICLE V. ASSESSMENTS

5.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the Regular and Special Assessments described in this Article, together with the hereinafter provided for interest and costs of collection, specifically including attorney's fees. 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; and (b) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney's 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 therefor.

5.1.1 Assessment Limit. Except for Reimbursement Assessments, Regular Assessments making up the Common Expense Fund shall not exceed \$300.00 monthly.

5.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of residents of the Property, including but not limited to the appearance and aesthetics of the Subdivision. The use made by the Association of funds obtained from Assessments may include, but is not limited to, payment of the cost of taxes and insurance on the Common Areas and Amenities; maintenance, repair and improvement of the Common Areas and Amenities; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas and Amenities; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

5.3 Regular Assessments. Regular Assessments shall be computed and assessed against all Lots and shall be based upon advance estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of or connected with the maintenance and operation of the Common Areas and operating the Association. Such estimated expenses may include, without limitation, the following: expenses of management; real property taxes and Special Assessments (unless and until the Lots and Parcels are separately assessed); premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages of Association employees, including fees for a Manager; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of an adequate contingency reserve, major maintenance reserve and/or sinking fund; creation of an adequate reserve fund for maintenance, repairs, and replacement of those Common Areas that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Members under or by reason of this Declaration. Such shall constitute the Common Expense, and all funds received from assessments under this Section shall be part of the Common Expense Fund. Two separate and distinct funds shall be created and maintained hereunder, one for operating expenses and one for capital expenses that together shall constitute the Common Expense Fund.

5.4 Special Assessments. From and after the Turnover Date, the 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 Regular Assessments; or (b) the cost of any construction, reconstruction or unexpectedly required repair or replacement in connection with the Common Areas and Amenities. Any such Special Assessment must be assented to by not less than a majority of the Members other than the Declarant (or if the two class voting structure is still in effect as provided herein, a majority of the votes of the Members), present in person or represented by proxy are entitled to cast at a

meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date.

5.5 Reimbursement Assessment on Specific Lot. In addition to the Regular Assessment and any Special Assessment authorized pursuant to Sections 5.4 above, the Board may levy at any time Special Assessments (a) on each Lot specifically benefitted by any improvement to adjacent roads, sidewalks, planting areas or other portions of the Common Areas made on the written request of the Owner of the Lot to be charged; (b) on each Lot the Owner, its occupant, guest or invitee who causes any damage to the Common Areas necessitating repairs; and (c) on each Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 8.31, Section 3.4, Section 6.1.4, Section 6.2.1 or other provisions of this Declaration (all or part of the foregoing being sometimes referred to as "Reimbursement Assessment"). The aggregate amount of any such Special Assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such Assessment may be made in advance of the performance of work. If a special benefit arises from any improvement that is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefitted.

5.6 Uniform Rate of Assessment; Declarant Exception. Except as provided in this section above, Regular and Special Assessments shall be fixed at a uniform rate for all Lots, except for each unsold Lot owned by the Declarant in the Subdivision, the Declarant shall be excused from paying Assessments until such date as Declarant closes and conveys a Lot to an Owner (other than Declarant).

5.7 Regular Assessment Due Dates. The Regular Assessments provided for herein shall commence as to all Lots on (i) the date a deed is delivered to the purchaser of a Lot, or if the sale is by way of a contract of sale, on the date the contract is executed by the parties thereto, (ii) the date of occupancy agreement, or the date the Owner actually takes possession of a Lot, or (iii) if either of the foregoing has occurred as of the date of recording of this Declaration, the first day of the month following recording, whichever first occurs. The first Regular Assessment shall be adjusted according to the number of days remaining in the month of conveyance, contract or occupancy as the case may be. Thereafter all Regular Assessments shall be due and payable on the first day of each month. A Regular Assessment not paid within ten (10) days of the due date thereof shall be deemed late and subject to a late fee of \$25.00 or 5% of the Assessment amount, whichever is greater. At least fifteen (15) days prior to the effective date of any change in the amount of the Regular Assessment, the Association shall give each Owner written notice of the amount and the first due date of the Assessment concerned.

5.7.1 Notwithstanding the foregoing, in the event that a majority of the Owners elect, the Association may provide for the payment of Regular Assessments on a quarterly or annual basis, provided such Assessments are payable in advance.

5.8 Inadequate Funds. In the event that the Common Expense Fund proves inadequate at any time for whatever reason, including nonpayment of any Member's Assessment, the Board may levy additional Special Assessments in accordance with the procedure set forth in Section 5.4 above, except that the vote therein specified shall be unnecessary.

5.9 Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt Rules setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Regular and Special Assessments and the Reimbursement Assessments imposed, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of his or her liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than fifteen (15) days written notice prior to the commencement of such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the Ownership of a Membership changes during an Assessment Period; successor Owners of Lots be given credit for prepayments, on a prorated basis, made by prior Owners. In case the Owner of a Membership becomes liable for payment of an increased sum during the Assessment Period, he or she shall notify the Association but his or her failure to notify the Association shall not relieve him or her of the liability for such amounts.

5.10 Reserve Funds. The Board of Trustees shall conduct a reserve analysis study consistent with the content and frequency requirements of the Act to determine the need for a reserve fund to cover the cost of repairing, replacing, or restoring Common Areas or Amenities that have a useful life of no fewer than three (3) years but less than thirty (30) years, when the cost cannot reasonably be funded from the general budget or other funds of the Association. The Board of Trustees shall include a reserve fund line item in its annual budget. The amount of the reserve fund line item shall be set by the Board of Trustees based upon the reserve analysis and the amount the Board determines is prudent under the circumstances.

5.10.1 The Association shall establish and maintain two (2) separate and distinct funds, one for the periodic regular maintenance and repair of the Project and for other routine operating expenses and one for replacement of Improvements to the Common Areas and Amenities that the Association may be obligated to maintain, repair or replace. These two (2) funds shall be

maintained out of Regular Assessments for Common Expenses. See Article XIII of the Bylaws.

5.10.2 The Board may not use money in a reserve fund for daily maintenance expenses unless at least sixty-seven percent (67%) of the Members vote to approve the use of reserve funds for that purpose; or for any purpose other than the purpose for which the reserve fund was established.

5.11 Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Regular Assessments authorized above, the Association may levy, in any Assessment Period, a Special Assessment applicable to that period only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto; for the purpose of defraying, other extraordinary expenses, provided that any such Assessment shall have the assent of at least sixty-seven percent (67%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose or by written approval of such Members. The provisions of this Section are not to preclude or limit the assessment, collection or use of Regular Assessments for the aforesaid purposes.

5.11.1 Notice and Quorum for Any Action Authorized Under Article V. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called for the consideration of a Special Assessment, the presence of Members or of proxies entitled to cast thirty percent (30%) of all the votes (exclusive of suspended voting rights) of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.12 Certificate Regarding Payment. Upon the written request of any Owner or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. The Association may charge a reasonable fee for this service not to exceed \$25.00, unless the Association has turned such account over to its attorney for collection and the related attorney's fees and costs incurred to compile the Certificate may apply. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.

5.13 Effect of Non-Payment; Remedies. Any Assessment not paid when due shall, together with the hereinafter provided for interest and costs of collection, constitute and remain a continuing lien on the affected Lot; provided, however, that any such

lien will be subordinate to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date any such Assessments became due. If the Assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may bring an action against the Owner who is personally liable or to foreclose the lien against the Lot, either judicially or non-judicially as provided for in the Act. Any judgment obtained by the Association shall include reasonable attorneys' fees, court costs, and each and every expense incurred by the Association in enforcing its rights.

5.13.1 Except as provided otherwise herein, the Association may record a lien against a Lot for an Assessment, a fine imposed by the Association against the Owner of a Lot, fees, charges and costs associated with collecting an unpaid Assessment, including, but not limited to, court costs and reasonable attorney's fees, late charges, interest and any other amount that the Association is entitled to recover under the Act, this Declaration, the Bylaws or any other governing document. The recording of this Declaration constitutes record notice and perfection of a lien.

5.13.2 A lien is for the full amount of the Assessment from the time the first installment is due, unless otherwise provided in a notice by the Association.

5.13.3 A lien under this section has priority over each other lien and encumbrance on a Lot except a Lien or encumbrance recorded before the Declaration is recorded, a first or second security interest of a Lot secured by a mortgage or trust deed that is recorded before a recorded notice of lien by or on behalf of the Association, or a lien for real estate taxes or other governmental assessments or charges against a Lot.

5.13.4 A lien hereunder is not subject to the Utah Exemptions Act, U.C.A. 78B-5-et seq. (2013).

5.14 Unpaid Assessments; Future Lease Payments. If an Owner who is leasing his Lot fails to pay an Assessment for more than sixty (60) days after the Assessment is due, the Board of Trustees, upon compliance with this paragraph and section 57-8a-310 of the Act (2014), may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid.

5.14.1 The Board of Trustees shall give the Owner written notice of its intent to demand full payment from the tenant under this section unless full payment is received from the Owner within fifteen (15) days. The notice shall explain that full payment includes the amount of assessment due, including an interest or late payment fee, collection cost and attorney's fees and that any costs of collection, and other assessments that become due may be added to the total amount due.

5.14.2 If the Owner fails to pay the full assessment due by the date specified in the notice described in section D1 above, the Board of Trustees may deliver written notice to the tenant that demands future payments due to the Owner to be paid to the Association. The Board of Directors shall provide a copy of the notice sent to the tenant to the Owner. The notice to the tenant shall state:

5.14.2.1 That due to the Owner's failure to pay an Assessment within the required time, the Board of Trustees has notified the Owner of its intent to collect all lease payments until the amount owing is paid;

5.14.2.2 The law requires the tenant to make the future lease payments, beginning with the next monthly or other periodic payment, to the Association until the amount owing is paid; and

5.14.2.3 The tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Owner.

5.14.3 If the tenant makes payments in compliance with this section, the Owner shall credit each payment the tenant makes to the Association under this section against any obligations the tenant owes to the Owner as though the tenant made the payment to the Owner. The Owner may not initiate a suit or any other action against the tenant for the tenant's compliance with this section.

5.14.4 All funds paid to the Association pursuant to this section shall be deposited in a separate account and disbursed to the Association until the assessment due, together with any cost of administration which may not exceed \$25.00, is paid in full.

5.14.5 Within five (5) business days after payment in full of the assessment, including any interest, late fees, costs of administration and collection and any other available amounts, the Board of Trustees shall (1) notify the tenant in writing that future lease payments are no longer due to the Association, (2) mail a copy of the notification to the Owner and (3) pay any remaining balance to the Owner.

5.15 Tax Collection by County Authorized. It is recognized that under the Declaration the Association will own the Common Areas and Amenities and that it will be obligated to pay property taxes to Wasatch County. It is further recognized that each Owner of a Lot as a Member of the Association will be required to reimburse the Association for his pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Wasatch County shall be

authorized to collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot.

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1 Duties of the Association. Without limiting any other duties that may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

6.1.1 The Association shall accept all Owners as Members of the Association.

6.1.2 The Association shall accept title to all Common Areas conveyed to it by Declarant.

6.1.3 The Association shall maintain, repair, and replace all landscaping and improvements in the Common Areas and Amenities, including but not limited to the maintenance of all exterior trees, shrubs, grass, and other Common Area improvements. The Association shall be solely responsible to maintain Common Areas and Amenities and Easements within the Subdivision, as well as other areas of the Property that the Board designates that shall include, but are not limited to:

6.1.3.1 Common Area Parcel A & B which is open space that within the Project;

6.1.3.2 The landscaping located within Common Area Parcels A, B, and C, and at the entries of the Subdivision which may include an island feature, monument, and water or irrigation features;

6.1.3.3 The irrigation ditch running along through Parcel A and Parcel C (see Irrigation Ditch Easement); and

6.1.3.4 The function of drainage pipes and basins throughout the Subdivision.

6.1.4 In the event that the need for maintenance or repair of Common Areas or Amenities as specified herein is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair (and administrative expenses equal to ten (10%) percent of such costs) shall be added to and become part of the Reimbursement Assessment (as set forth in Section 5.5) to which such Lot is subject.

6.1.5 To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

6.1.6 The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

6.1.7 The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing agent to manage and control the Common Areas and Amenities, subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be such as shall be specified by the Board. Any agreement appointing a Managing Agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days written notice thereof; and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods. Any Managing Agent may be an independent contractor and not an agent or employee of the Association.

6.2 Powers and Authority of the Association. The Association shall have all the powers set forth in the Act, its Articles of Incorporation and its Bylaws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

6.2.1 Right to Enter. After written notice of at least five (5) days, the Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Lot as necessary for the maintenance, repair or replacement of any Common Area and for making emergency repairs provided, however, in the case of an emergency, the Association need only provide reasonable notice under the circumstances. See section 7.14 concerning the Association's right to enter a Lot for the purpose of maintaining and repairing a Lot when an Owner fails to maintain and repair such Lot or improvement.

6.2.2 The Association shall have the right to close all or any portion of a Common Area to such extent as may be legally sufficient to prevent a dedication thereof or the accrual of any right therein to any person or the public. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any

Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

6.2.3 In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas (and exterior repairs of Dwellings to the extent necessitated by the failure of the Owners of such Lots) or in exercising any of its rights to construct, maintain and repair improvements or other work upon any of the Common Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon no less than ninety (90) days written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Common Areas on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (ii) to obtain, contract and pay for, or to otherwise provide for:

6.2.3.1 Construction, maintenance, repair and landscaping of the Common Areas (and exterior repairs of Dwellings upon Lots to the extent necessitated by the failure of Owners of such lots) on such terms and conditions as the Board shall deem appropriate;

6.2.3.2 Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of Declarant, the Association, the members of the Board and the Owners;

6.2.3.3 Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Board may from time to time deem desirable;

6.2.3.4 The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

6.2.3.5 Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property; and

6.2.3.6 Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary.

6.2.4 The Board may delegate by resolution or contract to a Managing Agent any of its powers under this Declaration; provided, however, that the Board cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of Two Thousand Dollars (\$2,000.00), nor the power to sell, convey, mortgage, or encumber any Common Areas.

6.3 Association Rules and Additional Design Criteria. The Board from time to time and subject to the provisions of this Declaration and the Act, may adopt, amend, repeal and enforce rules and regulations governing, among other things: (a) the use of the Common Areas; (b) the use of any facilities owned by the Association; (c) the collection and disposal of refuse; (d) the types of animals permitted and the maintenance of permitted animals on the Property; (e) the use of Dwellings for business or rental purposes; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents. The Board may also adopt additional Design Guidelines beyond those adopted by the Declarant, for the construction of Dwellings and landscaping of Lots; provided, however, that until the Turnover Date, Declarant shall have the unilateral right to amend or modify the Rules or Design Guidelines or to reject any additional Rules or Design Guidelines proposed by the Board so long as any amendment or rejection does not substantially alter the overall concept, aesthetic or character of the Subdivision. Rules and Regulations and/or Design Guidelines adopted by the Board may be enforced in accordance with the specific provisions found in Sections 7.14 through 7.18 or the general enforcement provisions contained herein or available by law.

6.4 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any Committee appointed by the Board or the Managing Agent.

6.5 Insurance. The Association shall secure and at all times maintain the following insurance coverage:

6.5.1 Policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all improvements comprising a part of the Common Areas. The name of the insured under each such policy shall be in form and substance similar to: "Whitaker Farm Owners Association for the use and benefit of the individual lot Owners and Mortgagees, as their interests may appear."

6.5.2 A policy or policies insuring the Owners, the Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall be not less than \$500,000 for anyone person injured; \$2,000,000 for all persons injured in

anyone accident; and \$100,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced.

6.5.3 The following additional provisions shall apply with respect to insurance:

6.5.3.1 In addition to the insurance described above, the Association shall secure and all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature and use.

6.5.3.2 All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

6.5.3.3 The Association shall have the authority to adjust losses.

6.5.3.4 Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.

6.5.3.5 Each policy of Insurance obtained by the Association shall, if reasonably possible, provide: a waiver of the insurer's subrogation rights with respect to the Association, the Owner, and their respective directors, officers, agents, employees, invitees, and tenants; that it cannot be cancelled, suspended or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended or invalidated due to the conduct of the Association or of any director, officer, agent or employee of the Association without a prior written demand that the defect be cured; without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to Insurance held individually by Owners.

6.6 Quorum Requirements. The quorum required for any action by the Members hereunder, unless otherwise specifically set forth in this Declaration, shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting, another meeting may be called at which time all Members present or by proxy shall establish a quorum. No such subsequent meeting shall be held more than ten (10) days' time following the preceding meeting and it falls within the same fiscal year. See Bylaws at section 4.11.

ARTICLE VII. USE RESTRICTIONS AND ENFORCEMENT

7.1 Use of Common Area and Amenities. The Common Areas and Amenities shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Dwellings.

7.2 No Business or Commercial Use of Lots and Dwellings. All Lots are intended to be improved with Dwellings or remain open space and shall be restricted to such use. No gainful occupation, profession, trade or other non-residential use shall be conducted on any Lot or Dwelling; provided, however, nothing herein shall preclude the use of a home office. Each Dwelling shall be used only as a single-family residence. Owners may maintain horses on their Lot and allow horses to graze on Lots consistent with section 7.5.1 and 7.5.2, but may not erect structures thereon to house or maintain horses as a business or for compensation. No Lot or Dwelling shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Dwelling, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

7.3 Maintenance of a Lot. An Owner shall have the obligation to provide exterior maintenance of his Dwelling including but not limited to painting, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, and landscaping installed by an Owner or his predecessor in title. Each Owner shall paint, repair, and otherwise maintain the exterior and interior of his Dwelling and shall maintain all mechanical devices, including but not limited to, appurtenant electrical, plumbing and heating, ventilating and air conditioning systems. The maintenance of all Dwellings and accessory buildings shall be in accordance with the Design Guidelines described in Article XIII herein and any additional design criteria adopted by the Board.

7.3.1 Maintenance and Repair. No Dwelling, building, structure (including interiors thereof), or landscaping upon any Lot shall be permitted to fall into disrepair and, subject to the requirements herein as to approval by the Design Review Committee, each such building, structure, or landscaping at all times shall be kept in good condition and as appropriate, adequately painted or otherwise finished by its Owner.

7.3.2 Any landscaping improvements installed at, near or along easement areas, trails, ditches or swales shall be the maintained by the relevant Lot Owner. Failure to maintain such landscaping in such areas will be addressed by the provisions in Article VII.

7.4 Vehicles. Owners are expected to utilize their garages or other buildings constructed for the parking, housing and storage of their vehicles. When an Owner's household owns more vehicles than his garage will accommodate, Owner may park excess vehicles in his driveway. No motor vehicle of any kind may be repaired, constructed or reconstructed outside of a garage or other building constructed to house and store vehicles upon any Lot within the Subdivision, except for emergency

repairs. Temporary street parking for guests will be allowed for up to seven (7) days.

7.4.1 Recreational Vehicles must be kept in a garage or building constructed upon a Lot to house and store such vehicles. No Recreational Vehicles, large trucks or commercial vehicles may be parked outside of a garage or building constructed upon a Lot within the Subdivision for more than seven (7) days.

7.5 Animals. Animals may be kept or allowed on any Lot so long as the animal does not make an unreasonable amount of noise, create offensive odors or otherwise become a nuisance. Whenever an animal is allowed to leave a Lot, it shall be kept on a leash, in a cage or otherwise contained. With the exception of small animals such as chickens, goats, or sheep, large commercial farm animals, specifically including but not limited to pigs and cows shall not be permitted to be kept on the property. No animals may be bred for commercial purposes. The exterior structure for the care, housing or confinement of any such pets shall be maintained by Owner and approved by the Design Review Committee. Any Owner or other resident within the Subdivision who violates this Section shall be subject to such penalties or fines as the Board may provide.

7.5.1 Owners of undeveloped Lots may allow horses thereon so long as the horses do not create a nuisance, become unsightly or cause damage or destroy landscaping of a Lot. Plans to maintain a horse must receive prior written approval by the Design Review Committee.

7.5.2 Owners of developed Lots, or Lots smaller than one acre may keep horses temporarily, for a maximum of seven (7) days, so long as the horses do not create a nuisance or cause damage to landscaping.

7.6 Common Areas. The Common Areas of the Subdivision shall be improved and used only for the following purposes:

7.6.1 Pedestrian, horse and bicycle access to and from and movement within the Subdivision.

7.6.2 Recreational use by Owners and occupants of Dwellings and their guests including but not limited to walking, horseback riding, nature study, bird watching, cross country skiing, bathing in ponds or springs, gardening in areas provided by the board, biking (excluding motorized vehicles), viewing of scenic areas, grazing animals where permitted, and any other activities that receive prior written authorization by the Board.

7.6.3 Beautification of the Subdivision.

7.6.4 Privacy for the Owners and occupants of Dwellings.

7.6.5 Such other uses as shall be determined from time to time by the Board for the benefit of members of the Association, following consultation with the Design Review Committee.

7.7 Insurance. No use shall be made of any Dwelling which shall cause the improvements within the Subdivision or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be cancelled or suspended, or cause any company issuing such insurance to refuse renewal thereof. Each Owner shall be responsible for securing insurance presently known as homeowners special form coverage (Form 3, or better). An Owner may be required to obtain flood insurance as a condition to obtaining any financing covering any improvements upon a Lot.

7.8 Machinery and Equipment. No machinery or equipment of any kind shall be placed, used, operated or maintained in or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a Dwelling or appurtenant structures.

7.9 Signs. No signs whatsoever (including, without limitation, political signs) shall be erected or maintained on any Lot, except:

7.9.1 Such signs as may be required be legal proceedings.

7.9.2 Construction identification signs, placed and maintained only during construction of a Dwelling, not exceeding four feet wide and four feet high, for each Dwelling.

7.9.3 "For Sale" or "For Rent" sign, to the extent permitted by the Board.

7.9.4 Political Signs not exceeding 24 by 36 inches in size, further provided that such signs may be displayed only for a period of 45 days before a primary or general election through a date one day after each such election, as applicable.

7.10 Trash Containers and Collection. All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the Design Review Committee. Such containers shall be maintained as not to be visible from neighboring Lots except to make them available for collection and then only for the shortest time necessary to effect such collection.

7.11 Toxic Materials. No Owner shall store, use, manufacture, process, distribute, treat, transport, handle, emit, dispose of, discharge or release any Toxic Materials at or from the Subdivision or any portion thereof in violation of any Environmental Laws.

7.12 Nuisances. No rubbish or debris of any kind shall be placed or permitted by an Owner upon or adjacent to any Lots, so as to render such Lot or portion thereof unsanitary, unsightly, offensive, or detrimental to other Owners. No Dwelling or Lot shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other Dwellings or Lots. Implementation and use of exterior speakers, may be located or placed on Lots or in Dwellings so long as they do not create a nuisance or interfere with the use and enjoyment of other Owners and guests within the Project.

7.13 Exception for Declarant. Notwithstanding the restrictions contained in this Article VII, Declarant shall have the right to use any Lot or Dwelling owned by it, and any part of the Common Areas reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement of the Common Areas or improvement and/or sale of all Lots owned by the Declarant through the Turnover Date.

7.14 Right of Entry. After reasonable notice of at least three (3) days, any member of the Board of Trustees, the Design Review Committee, or any officer or authorized representative of any of the Association, during reasonable hours, shall have the right to enter upon and inspect any Lot, and the improvements thereof, to ascertain whether or not the provisions of this Declaration and the rules and regulations of the Board or of the Association have been or are being complied with. Prior to entry, the agent of the Association shall attempt to alert the Owner of his presence at the Lot.

7.14.1 Right of Entry When Owner Fails to Maintain. The Association may enter upon any Lot at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of Article VII of this Declaration. The Association shall utilize the due process procedures outlined in section 7.14.

7.15 Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

7.15.1 Declarant before the Turnover Date;

7.15.2 The Association; or

7.15.3 Any Owner.

7.16 Attorney's Fees and Costs. The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

7.17 Violations; Non-Conforming Use Sanctions. The Association, by and through its Board of Trustees, may issue a fine or citation to any Owner whose behavior or use of his Lot or the Association's Common Areas does not conform to the Association's Governing Documents ("Non-Conforming Owner"). Owners are responsible for the action and/or failure to act on the part of their family members, guests, visitors, tenants, and invitees.

7.17.1 First Notice of Non-Conforming Use. The Association's Board of Trustees shall send a first notice of citation in writing to the Non-Conforming Owner at the address given to the Association for such purposes, and to the Owner's Lot if the Non-Conforming Owner's registered address is different from the address of the Lot. The first notice of citation shall generally advise the Non-Conforming Owner of the nature of the offense, cite the specific provision with the Governing Documents which has allegedly been violated, specify the remedy required, and state the number of days within which the Non-Conforming Owner must complete corrective action, which shall be at least 48 hours. Notwithstanding the provisions in this section, the Board is not required to provide this first notice as set forth in this section if it determines that the interests of health and safety of the other Owners and Occupants of the Project requires a more expedited handling of the allegations.

7.17.2 Second Notice of Non-Conforming Use / Hearing. If the Non-Conforming Owner does not remedy the offense within the number of days noted in the first notice, the Board will issue a second notice of citation, which shall follow the basic form of the first notice of citation and include additional information deemed important by the Board concerning the offense, including a final deadline for the corrective action to be completed. The Association's Board of Trustees will send the second notice by Certified Mail, Return Receipt Requested, and first-class mail, postage pre-paid, to the Non-Conforming Owner at the address given to the Association for such purposes, and to Non-Conforming Owner's Lot, if the Member's registered address is different from his Lot. Notification will be deemed effective if any Member fails or refuses to sign for any certified mailing from the Association.

7.17.3 The second notice shall also advise the Non-Conforming Owner of the Board's power to impose reasonable fines or other monetary penalties in the amounts listed in the Association's Governing Documents, suspend privileges for violations of the Governing Documents and the ability to conduct self-help.

7.17.4 If the Non-Conforming Owner does not remedy the offense within the number of days noted in the second notice, the Board may assess the Non-Conforming Owner with a penalty and/or fine in the amount specified in the Association's Governing Documents which shall accrue interest and late fees as provided in the Association's Governing Documents.

7.17.5 Unpaid fines and/or monetary penalties may be collected as an unpaid Assessment.

7.17.6 Hearing. A Non-Conforming Owner who is assessed a fine or monetary penalties may submit a written request for an informal hearing within thirty (30) days of the date the fine or penalty is assessed. If a hearing is requested, no interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

7.17.6.1 The Non-Conforming Owner shall be afforded a reasonable opportunity to be heard so long as the request for a hearing is timely. At the hearing, the Board shall provide the Non-Conforming Owner with a reasonable amount of time to present any and all defenses to the citation. The Non-Conforming Owner may have counsel present at the hearing at the Member's own expense. Under no circumstances shall the Association be responsible for any attorney fees or costs incurred by a Non-Conforming Owner relating to a citation or hearing conducted pursuant to this policy.

7.17.6.2 Extenuating Circumstances. The Non-Conforming Owner must demonstrate extenuating circumstances which require deviation from the Governing Documents and shall include all pertinent information to support the existence of the extenuating circumstance.

7.17.7 Following the hearing, the Board shall meet in executive session to discuss whether satisfactory proof of the alleged violation was presented and take a vote. If the judgment is unfavorable to the Non-Conforming Owner, the Board will affirm the fines and other penalties. The Board shall deliver notice of its decision to the Non-Conforming Owner by Certified Mail, Return Receipt Requested, and first-class mail, postage pre-paid at the Non-Conforming Owner's address of record with the Association, within seven (7) days of the date of the hearing. The notice shall also be sent by email if an email address for the Non-Conforming Owner is on file with the Association.

7.17.8 An Owner may appeal a fine or penalty by initiating a civil action (a) if the Owner timely requests an informal hearing as described in Section 7.17.6 within 180 days after the day on which the final decision from the informal hearing is issued, or (b) if the Owner does not timely request an informal hearing as described in Section 7.17.6 within 180 days after the day on which the time to request an informal hearing expires.

7.17.9 Other Remedies. The procedures outlined in this section may be applied to all violations of the Association's Governing Documents and does not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's Governing Documents, including, but not limited to, the initiation of suit or self-help remedies.

7.18 Suspension of Services / Voting Rights. In the event a Member fails to correct or cure a violation of this Declaration, the Board of Trustees shall suspend (a) the Delinquent Member's access and use of the any recreational or community areas and all other facilities, and common amenities, (b) services provided by the Association or paid for as a Common Expense, if any, e.g. internet, cable and satellite television, and (c) the Delinquent Member's voting rights. All Delinquent Members shall be notified in writing at least ten (10) days prior to suspension. All suspensions will be lifted upon (a) the cure or correction of the violation, or (b) receipt of payment in full of outstanding account balance which shall include but not limited to all past due Assessments, Association fees, fines, interest, attorney's fees and costs and all other collection charges.

7.19 No Resubdivision. No other subdivision of Lots will be permitted without the approval of a majority of Class A votes, except for the Declarant's reservation of the right to subdivide Lot 4.

ARTICLE VIII. DESIGN PROCESS AND CONTROL

8.1 Design Review Committee. The Board of Trustees of the Association shall appoint a three (3) member Committee, the function of which shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structures. The Committee need not be composed of Owners. If such a Committee is not appointed, the Board itself shall perform the duties required of the Committee.

8.2 Submission to Committee. No Dwelling, accessory building, fencing or structure or addition to a Dwelling and no landscape additions and changes shall be constructed, and no alteration, change in paint color, or refurbishing of the exterior of any Dwelling, nor of any court enclosure, except as herein otherwise mentioned, shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee and/or the Declarant if the Committee has not yet been appointed. All such plans and specifications shall be consistent with the Design Guidelines as well as any additional design criteria which shall be from time to time adopted by the Board.

8.3 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on Lots within the Property conform to and harmonize with the Design Guidelines and any additional

design criteria adopted by the Board, existing surroundings and structures and that such proposed improvements enhance the value and aesthetics of the Subdivision.

8.4 Approval Procedure. Any plans and specifications submitted to the Committee shall be submitted on a form provided by the Committee and in duplicate. A preliminary review of design drawings will be required with a final review to be made of working drawings. Upon completion of each review, one set of plans will be retained by the Association and the remaining set of plans will be returned to the property owner.

8.4.1 The following design review fees (made payable to the Association) are required with the submittal of plans and specifications: \$100.00 for each separate submittal of architectural, landscaping, fencing and/or lighting drawings; provided that if any of the foregoing plans are submitted together, all plans submitted at the same time shall be considered one submittal.

8.4.2 All plans and specifications shall be approved or disapproved by the Design Review Committee in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted.

8.5 Fees and Deposits.

8.5.1 Review Fee/Deposit. The Design Review Committee shall require that an Owner pay a deposit of \$1,000.00 to review and approve a plan submission described herein. The Committee may utilize the services of design professionals in the review process. Once the plans are approved and all contingencies, if any, are met, any remaining amounts of the review fee shall be refunded to Owner. The Committee reserves the right to require additional fees if the cost of review exceeds the initial \$1,000.00 deposit.

8.5.2 Improvement/Construction and Landscaping Deposit. The Design Review Committee shall require that an Owner make a refundable deposit in the amount of \$20,000, in favor of the Association, as a condition to approving plans to construct a Dwelling or any proposed work or improvement or Landscaping. No person shall commence any work or improvement until any and all such bonds, security deposits and letters of credit have been properly posted with the Design Review Committee. The deposit made under this section is intended to assure (a) the proper clean-up of dirt and debris and the repair of any damage to the landscaping, streets or other property within the Subdivision, caused by Owner or his agents in the construction of improvements; (b) compliance with the requirements of this Declaration; and (c) the Association's monitoring of the construction of improvements and work and compliance with approved design. Once a certificate of occupancy or a certificate of completion is issued and submitted to the Committee and the approved landscaping improvements have been

completed if there are no certificates to be issued, the Committee shall refund any amounts remaining of this deposit.

8.5.3 Address for Submittal. Plans and specifications for the construction and installation of any and all improvements within the Subdivision shall be submitted to and approved by the Design Review Committee prior to submittal to any required governmental agency at the following address:

WHITAKER FARM DEVELOPMENT
c/o WHITAKER FARM DEVELOPMENT, LLC,
143 West Farm Springs Ln,
Midway, Utah, 84049

The Board of Trustees of The Whitaker Farm Owners Association has the authority to change the address for the submittal of plans and specifications.

8.6 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion:

8.6.1 The exterior construction of all structures on any Lot shall be completed within a period of one (1) year following commencement of construction.

8.6.2 All construction activities occurring on any day shall be limited to periods between 7:00 a.m. and sundown but not earlier than 7:00 p.m.

8.6.3 The front, side and back yards of each Lot shall be landscaped within a period of six (6) months following completion or occupancy of the Dwelling; provided, however, that if completion of or occupancy of a Dwelling occurs during winter and such weather conditions preclude the installation of landscaping, such landscaping shall be completed no later than July 1 following such winter.

8.6.4 Owners and builders shall clean up all trash and debris on the construction site at the end day. Trash and debris shall be placed in containers that shall in all instances be covered. Trash and debris shall be removed from each construction site to a dumping location off-site of the Subdivision. Lightweight material, packaging and other items shall be covered or weighted down to prevent wind from blowing such materials of the construction site. Owners and builders are prohibited from dumping, burying or burning trash anywhere on the Lot. During the construction period, each construction site shall be kept neat and shall be promptly removed from public or private roads, open spaces and driveways.

8.6.5 Each property owner and builder shall be responsible for providing adequate sanitary facilities for his construction personnel. Portable toilets or similar temporary toilet facilities shall be located only on the site itself or in areas approved by the Design Review Committee.

8.6.6 Construction crews shall not park on, or otherwise use, other lots or any open space. All construction vehicles and machinery shall be parked only in areas designated by the Design Review Committee.

8.7 Liability for Damages. Neither the Association nor the Committee shall be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VIII.

8.8 Building Features and Materials. The location of all buildings, and each building's design, features and materials must be consistent and in accordance with the requirements of Article VIII and the Design Guidelines, any additional design criteria adopted by the Board and any variance thereto shall have been previously approved by the Board upon the submission of a written request. Reference must be made to the additional design criteria adopted by the Board, if any, for additional requirements and conditions for the design and construction of Dwellings.

8.9 Building Location. Each building (including Dwelling) shall be located such that:

8.9.1 Subject to the provisions of this subparagraph: (i) providing for a "Minimum Approved Setback Requirements" (as defined below) and (ii) below providing a procedure for a variance, all buildings shall be located upon a Lot solely within the Minimum Approved Setback Requirements, regardless of the designation of a Building Pad or setbacks as shown on the Plat, and oriented as may be required by or consented to by the Design Review Committee in accordance with the provisions of Article VIII and the Design Guidelines.

8.9.2 Notwithstanding the designation of a Building Pad and/or setbacks for a Lot upon the Plat, the following "Minimum Approved Setback Requirements" are required for all lots: 50 feet from the front, 50 feet from the back, and a minimum of 15 feet from each side. The following lots will have special setback accommodations and requirements: need to designate, if any

8.9.3 For the purposes of this covenant, steps and open porches shall be considered as a part of a Building, and same may not extend beyond the Building Pad or the area of any setback.

8.9.4 Variances. Notwithstanding the provisions of the section above, upon the written request of the Owner of any Lot, the Design Review Committee

shall have the authority to grant a variance to the “Minimum Approved Setback Requirements” as specified above, after consideration of those Owners that may be affected by the requested variance and based upon a showing of good cause, to modify one or more of the Minimum Approved Setback Requirements for such Lot (regardless of what is shown on the Plat), provided the Design Review Committee determines in its discretion that: (i) the existing requirements would create an unreasonable hardship or burden on an Owner or a change of circumstances since the recordation of the Plat and this Declaration has rendered such restriction obsolete; and (ii) the activity permitted under the variance will not have any substantial adverse effect on other Owners and is not inconsistent with the intent to create open spaces and views between Dwellings. Any variance granted by the Design Review Committee shall be evidenced in writing signed by a representative of such Design Review Committee. The grant of any variance as to any Lot as provided in this subparagraph shall not constitute a waiver any requirements herein and does not affect the ability of the Design Review Committee to withhold its approval of any similar request subsequently made.

8.9.5 Nothing in this subparagraph shall be construed as permission for any Owner to violate the setback requirements of any governmental entity having jurisdiction over the Property.

8.10 Consistency with Design Guidelines. The location, size, and design of any Dwelling and improvement installed within a Lot in the Subdivision shall be built consistent with the provisions in this section and in accordance with the Design Guidelines.

8.11 Size limitation and Height of Dwelling. The Dwelling to be constructed upon each Lot shall be limited in the size of its total footprint (measured by the outer boundaries of the Dwelling excluding garages) to 6,000 square feet. The minimum total living space will be 3,000 square feet, excluding garages. These building sizes are based on a 1-acre lot. Lots larger than 1-Acre may accommodate building sizes that are proportionally larger. The maximum height of any feature upon any Dwelling shall not exceed applicable building codes.

8.12 Fences and Walls. Rail fencing is required to be installed on the back of all Lots and Lot boundaries that are facing the Open Spaces defined by Parcels A, B, and C. Acceptable materials and sources will be outlined by the Design Review Committee. Any pillars for driveway entries should reflect the materials and architecture of the primary residence. Solid privacy fencing is not allowed in the Subdivision. Fencing must be completed within six (6) months of acquisition of a Lot if Dwelling construction has not begun. All fencing permitted pursuant to the Design Guidelines shall be maintained by Owners and may not be permitted to go into disrepair.

8.13 Antennas; Satellite Dishes. All antennas are restricted to the attic or interior of the residence. Satellite dish antennas shall be allowed provided they are screened from view and their location is approved in advance by the Design Review Committee. Satellite dish antennas shall not be permitted on roofs. Notwithstanding the foregoing, should an Owner determine that his antenna or satellite dish cannot be located in compliance with this Declaration without precluding reception of an acceptable quality signal, then the Design Review Committee shall work with the Owner to find the least conspicuous alternative location on the Lot. The Design Review Committee may adopt Design Guidelines establishing a preferred hierarchy of alternative locations and screening methods so as not to unreasonably increase the cost of installation, maintenance or use of the antennae or satellite dish.

8.14 Pools, Spas, Fountains, Game courts, Etc. Pools, spas, fountains, game courts, children's play sets and all other outdoor equipment or facilities shall be pre-approved by the Design Review Committee and shall be located to avoid impacting adjacent properties with light or sound. Nothing herein shall be construed to permit the construction of skateboard areas and/or ramps, which structures shall be prohibited.

8.15 Exterior Mechanical Equipment. All air conditioning, heating equipment, soft water tanks, gas and electric metering devices, transformers, etc., must be screened from view and insulated for sound attenuation. Air conditioning units are not permitted on roofs, through windows or installed on walls unless screened from view and approved by the Design Review Committee. Swamp coolers are permitted so long as they are screened from view.

8.16 Landscape Site Preparation Guidelines. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of a Lot and conform to the Design Guidelines.

8.17 Site Grading and Drainage. Wasatch County and other applicable governmental agencies require that each Owner retain on his Lot water runoff in accordance with the approved grading and drainage plan submitted by the Declarant in connection with its application for subdivision approval. Owners shall be solely responsible for any and all drainage requirements necessitated by construction of such Owner's Dwelling or any damage or loss occasioned by water runoff.

8.18 City and Other Approval. Approval of any improvements by the Design Review Committee does not waive the requirement for any other required public agency review or permit approval process. The Design Review Committee assumes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration and the Design Guidelines, as well as any additional design criteria adopted by the Board.

8.31 Landscaping & Maintenance of Lots, Easements and Common Area Improvements. Subject to Design Review Committee approval of a landscaping plan,

within six (6) months of receiving a certificate of occupancy for a Dwelling upon a Lot, each Owner shall be responsible to install and thereafter maintain landscaping improvements on their Lot and within any Common Area adjacent to their Lot which faces the street including, but not limited to, ditch banks, trail areas and road swales. Should an Owner fail to maintain landscaping on any Lot and the street facing Common Areas, the Association may exercise any of the remedies found in Article VII, the general enforcement provisions of this Declaration or the Act.

8.31.1 Undeveloped Lots. Lots held by Owners must be maintained including the installation of rail fencing as outlined in 8.12. Owners will be responsible to water and cut field grass and control weeds on Lots and street facing Common Areas adjacent to their Lots. Where owners are unwilling or unable to maintain their undeveloped lots, the Association will assign a resource to do so at the Owner's expense. Such expenses will be reasonable and customary and will ensure that all undeveloped lots are properly maintained.

8.31.2 Tree Removal. Except for the construction of a Dwelling which is approved in accordance with the procedures set forth in this Article, each Owner shall be restricted from removing or modifying trees (10 inches in caliper or larger) which are located upon and naturally grow upon such Owner's Lot, unless the same shall be dead or dying. The only exception to this section relates to the removal of Russian olive trees, which may be removed without restriction. Each such Owner shall be responsible at his own cost and expense to maintain and water all such trees, including any which Declarant may have planted upon such Lot during development of the Subdivision or which are installed by Owner (or predecessor) after approval by the Design Review Committee.

8.31.2.1 All trees, shrubs and other vegetation (excluding annuals) to be installed to the front of any Dwelling or the side yard of any Lot abutting a street shall be approved by the Design Review Committee prior to installation. Any addition to, modification of, or removal of trees and other approved vegetation (including removal of the same because of death which is not thereafter replaced by substitute approved vegetation) that is significantly different from what has previously been approved, shall require prior approval of the Design Review Committee or such improvement shall be deemed a violation of the requirements of Owner to maintain the same and the Design Review Committee shall have the right to require Owner to restore such area to its prior approved condition at the sole cost of Owner. In the event Owner fails to restore such area as required herein, the Association shall have the right to restore the same and the cost of such restoration together with administrative expenses equal to ten percent (10%) of such costs, shall be added to and become part of the Reimbursement Assessment (as set forth in Section 5.5) to which such Lot is subject. The provisions of this Section relating to the removal of

trees and shrubs shall not be applicable or binding upon Declarant with respect to the initial clearing, grading and landscaping of the Property including the development of Common Areas and the installations of utilities serving the Subdivision.

8.32 Exception for Declarant. The foregoing provisions of this Article VIII shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarant on any Lot or on any part of the Common Areas and which occurs at any time prior to the Turnover Date.

8.33 Declarant's Obligation. Declarant hereby covenants in favor of each Owner that all improvements of the Common Areas accomplished by it in the Subdivision shall be architecturally compatible with respect to one another.

ARTICLE IX. RIGHTS OF FIRST MORTGAGEE

9.1 Notwithstanding anything to the contrary contained herein, the following provisions shall apply:

9.1.1 Notice of Default. In the event an Owner neglects for a period of sixty (60) days or more to cure any failure on his part to perform his obligations under this Declaration, the Association shall give written notice of such fact to the holder of any first mortgage covering such Owner's lot.

9.1.2 Abandonment, Termination, Etc. Unless all of the holders of first mortgages on the individual Lots have given their prior written approval, neither the Association nor the Owners acting as a group shall be entitled by act, omission or otherwise:

9.1.2.1 To abandon or terminate the Subdivision or to abandon or terminate the arrangement which was established by the Declarant and the Plat of the Subdivision;

9.1.2.2 To partition or subdivide any Lot or the Common Areas, with the exception of exception of Lot 4 within the Project as described in Section 3.3;

9.1.2.3 To abandon, partition, subdivide, encumber, sell, hypothecate, transfer or otherwise encumber all or any part of the Common Areas except for the creating of easements and similar purposes consistent with the intended use of the Common Areas; or

9.1.2.4 To use hazard insurance proceeds resulting from damage to any part of the development for any purposes other than the repair, replacement, or reconstruction of such improvements.

9.2 Notice of Substantial Damage or Destruction. The Association shall notify all holders of any first mortgage lien or equivalent security interest on a Lot in writing in the event that there occurs any substantial damage to or destruction of any Dwelling or any part of the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of \$15,000.00. Said notice shall be given within thirty (30) days after the Association learns of such damage or destruction.

9.3 Condemnation or Eminent Domain Proceedings. The Association shall give written notice to all holders of any first mortgage lien or equivalent security interest of any condemnation proceedings or proposed acquisition of a Dwelling or of any portion of the Common Areas within thirty (30) days after the Association learns of the same.

9.4 Hazard Policy to Include Standard Mortgagee Clause. Each hazard policy of the insurance shall include the standard mortgagee clause which either shall be endorsed to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interests may appear, or shall be otherwise endorsed to fully protect the interest of mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify each mortgagee at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

9.5 Rights Upon Foreclosure of Mortgage. The lien of the assessments provided in Section 1, Article V shall be subordinate to the lien of any First Mortgage upon such Lot; and the holder of a first mortgage (or deed of trust) on a Lot who comes into possession of the Lot by virtue of foreclosure of such first Mortgage, or in lieu of foreclosure obtains possession by deed or assignment, or any purchaser at a foreclosure sale, will take the Lot free of any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot, except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots including the mortgage Lot.

9.6 Mortgagees' Rights Concerning Amendments. No material amendment to this Declaration, the By-Laws or the Articles of Incorporation of the Association shall be accomplished or effective unless at least two-thirds (2/3) of the mortgagees (based on one vote for each mortgagee) of the individual Lots have given their prior written approval to such amendment. The mortgagees' approval or consent is presumed if the person the Association designates to receive a response does not receive a response within sixty (60) days after the Association sends notice to the mortgagee by certified mail.

9.7 Mortgagees' Rights to Inspect Association Records. The holders of first Mortgages shall have the right upon reasonable notice and during business hours to inspect and copy at their own expense all books and financial records of the Association.

ARTICLE X. MISCELLANEOUS

10.1 Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the person who appears as a Member or Owner, at the latest address for such person appearing in the records of the Association at the time of mailing.

10.2 Amendment. Subject to the provisions of Section 2 of Article VIII of this Declaration any amendment hereto shall require (i) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes, which Members present in person or by proxy are entitled to cast at a meeting duly called for such purpose; and so long as the Class B membership exists, (ii) the written consent of the Declarant. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast fifty percent (50%) of all votes of the Class A Membership shall constitute a quorum. If the quorum is not present at the first meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 3), at which the number of Members present in person or by proxy shall establish a quorum. No such subsequent meeting shall be held more than ten (10) days' time of the preceding meeting so long as it falls within the same fiscal year. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the President or Vice President of the Association, and by the Declarant if the Class B Membership then exists. In such instrument the President or Vice President of the Association shall certify that the vote required by this Section for amendment has occurred.

10.3 Consent in Lieu of Voting. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership considered. The following additional provisions shall govern any application of this Section 10.3:

10.3.1 All necessary consents must be received prior to the expiration of ninety (90) days after the first consent is given by any Member.

10.3.2 The total number of votes required for authorization or approval under this Section shall be determined as of the date on which the last consent is received.

10.3.3 Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

10.3.4 The consent of at least one Member whose membership is appurtenant to a Lot owned by more than one Member will be effective, unless a conflicting consent is received from another Member whose membership is appurtenant to the same Lot, then making both consents voice and ineffective.

10.4 Lease Provision. Any Owner may lease his Lot and such buildings as are situated thereon; provided, however, that any lease agreement between a Lot Owner and a Lessee must be in writing, and must provide, inter alia, that:

10.4.1 The terms of the lease shall in all respects be subject to the provisions of the Declaration, Articles of the Association, the By-Laws and Rules;

10.4.2 Any failure by the Lessee to comply with the terms of such documents shall constitute a default under the lease; and.

10.4.3 Any infraction of the Governing Documents by a Lessee or guest of a Lessee or Owner shall be the responsibility of the Owner to cure and any related fine shall be an Assessment against the Lot.

10.5 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

10.6 Dissolution. Subject to the restrictions set forth in Article VIII of this Declaration pertaining to mortgagee protection, the Association may be dissolved by the affirmative assent in writing of eighty (80) percent of the votes of each class membership. Upon dissolution of the Association all of its assets (including the Common Areas) may be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in the By-laws, the Articles of Incorporation or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters and sidewalks on a pro rata basis which conforms substantially with the assessment procedure, terms and conditions set forth in Article V of this Declaration.

10.7 Declarant's Covenant to Construct Common Areas. Declarant hereby covenants to construct and complete all Common Area improvements at the entrance and along the roadways of the Project, as defined in its landscaping plan and that are indicated on the Plat, within twelve (12) months of the filing of this Declaration in the office of the County Recorder of Wasatch County, Utah. Nothing in this section shall require the Declarant to make any improvements to Common Areas shown as open space on the Plat.

10.8 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

10.9 Covenants to Run With Land. This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Declarant, and all parties who hereafter acquire any interest in a Lot or in the Common areas shall be subject to the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

10.10 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Wasatch County, Utah.

10.11 Lenders' Agreement of Subordination. By its execution of this Declaration, the undersigned lender, secured by one or more Lots located in the Subdivision (hereinafter the "Lender"), and each of them agrees, covenants and declares that this Declaration shall be senior in priority to such lender's interest as lien holder, regardless of when Lender may have obtained a lien, mortgage, deed of trust, and/or security agreement, as such instrument is described below by such Lender's signature (herein collectively "lien") and such lien shall be subordinate to and subject to this Declaration notwithstanding the fact that this Declaration is recorded later in time than the date such lender acquired a lien.

10.12 Trustee. Pursuant to section 57-8a-212(j) of the Act, the Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20 and 57-8a-402 to Debra Griffiths Handley, attorney at law, as trustee, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under

the terms of the Declaration. The Declarant may replace the trustee at any time so long as the trustee qualifies under Subsection 57-1-21(1)(a)(i) or (iv).

EXECUTED the day and year first above written.

WHITAKER FARM DEVELOPMENT, LLC

By: _____

Daniel Luster

Its: _____

Managing Member

STATE OF UTAH)

: ss.

COUNTY OF WASATCH)

On the ___ day of _____, 2019, personally appeared before me Daniel Luster, who being duly sworn did say that he is the Managing Member of WHITAKER FARM DEVELOPMENT, LLC, and that the within and foregoing instrument was signed in behalf of said company by authority of a resolution of its members in accordance with its operating agreement and duly acknowledged to me that he executed the same.

[SEAL]

Notary Public

**APPENDIX A: LEGAL DESCRIPTION OF WHITAKER FARM SUBDIVISION
AND ADDRESS TABLE**

APPENDIX B: BYLAWS

