

**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND
RESTRICTIONS OF OWNERSHIP
FOR
FOOTHILL LOFTS RESIDENTIAL SUBDIVISION**

THIS DECLARATION is made and executed this ___ day of _____, 2022, by Champlin Development, Inc., hereinafter designated and referred to as “Declarant”, regarding FOOTHILL LOFTS RESIDENTIAL SUBDIVISION.

WITNESSETH

WHEREAS, Declarant is the owner of the real property (sometimes herein referred to as the “Property”) described on Exhibit “A” of this Declaration and located in Logan, Cache County, State of Utah; and,

WHEREAS, the Property consists of, or will consist of, the land described above, together with common area and related improvements which have been or are being constructed thereon as a residential subdivision; and,

WHEREAS, Declarant will construct the common areas, designated lots, and other improvements upon the Property, in accordance with the Final Plat filed and recorded as Filing No. _____ in Book _____ at Page _____ on _____, 2022, together with Surveyor's certification, dated _____, consisting of one (1) sheet, prepared and certified by Dennis P. Carlisle, a duly registered Utah Engineer and Land Surveyor; and,

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said development and the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the Property together with such additions as may hereafter be made thereto to the easements, covenants, restrictions, easement, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the Property and each subsequent owner thereof; and,

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the value and amenities in said development, to create an association or group to which should be delegated and assigned the power of maintaining and administering the said development properties and facilities and administering and enforcing the easements, covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Declarant desires and intends by filing this Declaration and the aforesaid Final Plat to submit the Property and the said common areas and improvements being constructed thereon, together with all appurtenances thereto, to the provisions of the Laws of the State of Utah and the Ordinances of the City of Logan as a residential subdivision to be known as Foothill Lofts Residential Subdivision (collectively the “Development”);

WHEREAS, Declarant desires and intends in the future to sell and convey its interest in the individual Lots which are to be contained in the said Development, together with the undivided ownership interests in the common areas and other facilities appurtenant thereto, to various purchasers, subject to the easements, covenants, restrictions, limitations, conditions and uses to which the property submitted to said Development shall hereafter be subject; and

WHEREAS, the Development is not a cooperative;

WHEREFORE, the following is hereby declared, agreed, covenanted and established:

PART I

DEFINITIONS

When used in this Declaration, the following terms shall have the meaning indicated. To the extent applicable to the tenor thereof and not expressly inconsistent herewith, definitions contained in the applicable Laws of the State of Utah and Ordinances of Logan City are incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part hereof.

1.1. “Association” shall mean and refer to Foothill Lofts Homeowners’ Association, Inc. a Utah non-profit corporation, of which all of the Owners shall be Members. The Association shall be governed in accordance with this Declaration, Articles of Incorporation and the Association’s Bylaws (the “Bylaws”), which are adopted herein. When approval of the Association is required, unless otherwise specified or required by law, that approval is by the Board of Directors in behalf of the Association.

1.2. “Board of Directors or Board” shall mean the governing body of the Association as provided in this Declaration and the Articles and Bylaws of Foothill Lofts Homeowner’s Association, Inc. Whenever Board approval is required, it must be in writing.

1.3. “Bylaws” shall mean the Bylaws for the Association as recorded and hereby adopted by the Association and amended hereafter.

1.4. “Common Area” or “Common Areas and Facilities” shall mean and refer to:

(a) The portions of the above-described Property, subject to this Declaration and which is not designated as a “Lot” as herein defined;

(b) Those Common Areas and Facilities specifically set forth and designated as such in the Final Plat, including but not limited to Parcel A, drainage easements and Open Spaces.

(c) All installations for and equipment connected with the furnishing of Development utility services such as electricity, gas, water, and sewer, except such

equipment servicing strictly a single Home and not specifically designated as Common Facilities by the Board of Directors;

(d) All other parts of the Development normally in common use or necessary or convenient for its use, existence, maintenance, safety, or management.

(e) All “Common Areas and Facilities” or “Common Areas” so defined by law, whether or not expressly listed herein.

1.5. “Common Expenses” shall mean and refer to all expenses of administration, maintenance, repair or replacement of the Common Areas, taxes and insurance, and all items, things and sums described herein that are lawfully assessed against the Owners in accordance with the provisions of the law, this Declaration, the Articles and Bylaws, such rules and regulations pertaining to the Owners as the Association may from time to time adopt, and such other determinations and agreements lawfully made and/or entered into by the Board of Directors. The Association can agree upon and adopt other Common Expenses.

1.6. “Declarant” shall mean Champlin Development, Inc., a Utah corporation, and any successors and assigns. Whenever Declarant approval is required, it must be in writing.

1.7. “Declaration” shall mean this Declaration of Easements, Covenants, Conditions and Restrictions for Foothill Lofts Residential Subdivision.

1.8. “Easement – Utility” shall mean all roads and streets in the Property are deemed to be public utility easements, in addition to the utility easements designated on the Plat on each Lot.

1.9. “Fences” are not permitted in the front yard. Fences are permitted in side yards and rear yards if permitted by Logan City Code. The color, height, and style of each fence must be approved in advance by the Declarant or the Board of Directors of the Association.

1.10. “Final Plat” or “Survey Map” shall mean and refer to that certain Final Plat recorded with the Cache County Recorder’s Office on the ___ day of ____, 2022, Filing No. ____ in book ____ at Page ____, consisting of one (1) sheet, prepared and certified by Dennis P. Carlisle, a duly registered Utah Engineer and Land Surveyor.

1.11. “Home” shall mean and refer to a structure which is designed and intended for use and occupancy as a single family residence on a Lot, together with all improvements located on the respective Lot which are used in conjunction with such residence.

1.12. “Law” or “Laws” shall mean and refer to the applicable laws of the State of Utah and applicable Ordinances of the City of Logan, as the same may be amended from time to time.

1.13. “Lot” or “Lots” shall mean and refer to the subdivision lots to be contained in the Development, which are designated for residential use or residential lots on the Final Plat and by this reference made a part hereof.

1.14. “Lot Number” shall refer to the number which is respectively designated a Lot on the Final Plat or subsequent survey map or plat.

1.15. “Member” shall mean every Owner who automatically is a Member of the Association. Every Member must be an Owner, and every Owner must be a Member.

1.16. “Foothill Lofts Homeowners Association” (“Association”) shall mean and refer to the Association of Owners in the Development. Each Owner has one (1) vote in the Association. The Association may make such other agreements as it determines to accomplish the purposes and objectives contained herein.

1.17. “Mortgage” shall mean and refer to any mortgage, deed of trust, or other security instrument by which a Lot is encumbered.

1.18. “Mortgagee” shall mean and refer to any person or entity named as the mortgagee or beneficiary of any mortgage under which the interest of any Owner is encumbered.

1.19. “Owner” shall mean the entity, person or group of persons owning fee simple title to any Lot which is within the Property and an undivided interest in the fee simple estate of the Common Areas and Facilities as provided in this Declaration, as shown in the records of the County Recorder of Cache County, Utah. Notwithstanding any applicable theory relating to a mortgage, deed of trust or like instrument, the term Owner shall not mean or include a Mortgagee unless and until such a party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. Regardless of the number of parties participating in ownership of each Lot, each Lot shall be deemed to have one “Owner.” Owners are responsible for the conduct of tenants and guests.

1.20. “Ownership Interest” shall mean an equal undivided interest of each Lot in the Common Areas.

1.21. “Residential Subdivision” or “Development” or “Development” shall mean and refer to Foothill Lofts Residential Subdivision, as approved by Logan City.

PART II

SUBMISSION, COVENANTS, CONDITIONS, USE RESTRICTIONS AND UNDERSTANDINGS

2.1

(a) Submission. Declarant hereby submits the Development and the ownership interest in the Property, and the Homes, and other improvements constructed or to be constructed thereon, together with all appurtenances thereto, as described above and on the Final Plat, all to be known as Foothill Lofts Residential Subdivision, to the provisions of the Law and the provisions of this Declaration.

All of the Property shall be held, sold, conveyed, and occupied subject to the following easements, covenants, conditions, restrictions, assessments, charges and liens, and to the following easements, covenants, conditions, restrictions, assessments, charges and liens, and to the Plat recorded previously for the Development. This is for the purpose of protecting the value and desirability of the Property. This Declaration and the Plat shall be construed as covenants of equitable servitude, shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

(b) Requirement to Build. Lots are sold to be improved with single family homes and the following requirements apply to every unimproved Lot:

(1) Lots must be kept in good condition and all vegetation mowed regularly.

(2) No home or other improvement may be built unless the Plans have been approved by the Architectural Review Committee and the Developer may require a Construction Contract to be signed as a condition of sale of a Lot.

2.2. Description of Improvements. The improvements included in the Development are as described on the Plat.

2.3. Covenants to Run with Land. This Declaration and the easements, covenants, restrictions, limitations, conditions and uses herein provided shall constitute covenants to run with the land and are hereby submitted to the Laws and shall inure to the benefit of and shall be binding upon all subsequent Owners of all or any part of the Development, and upon their grantees, successors, heirs, executors, administrators, devisees and/or assigns.

2.4. Reservation of Easements. Every Lot shall be subject to and together with the easements which are shown on the Plat. There is a ten (10) foot Public Utility Easement (PUE) on the street side of every lot and a five (5) foot PUE on every side yard and rear yard of each lot.

2.5. Common Areas and Facilities. Except as otherwise provided for herein for the Common Areas and Facilities of the Development, as shown on the Plat, are hereby set aside for the use and benefit of the respective Owners in accordance with and for all purposes provided by the Law and this Declaration. Subject to the limits contained in this Declaration, any Owner shall have the non-exclusive right to use the Common Areas and Facilities. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature.

The percentages of undivided ownership interest shall be appurtenant to the respective Lots and shall not, from and after recording of this Declaration, be separated from such Lots or be separately conveyed therefrom.

2.6. Property Rights in Common Areas.

(a) Easement of Enjoyment. Each Owner shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from his or her respective Lot and 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 it be separated therefrom. Any Owner shall grant the use and enjoyment described herein to any tenant, lessee, or contract purchaser who resides on such Owner's Lot.

(b) Form For Conveyancing. 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:

All of Lot _____ of Foothill Lofts Residential Subdivision, according to the official plat thereof, and subject to the Declaration of Easements, Covenants, Conditions and Restrictions of Ownership for Foothill Lofts Residential Subdivision, all on file in the Office of the Cache County Recorder.

Whether or not the description employed in any 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.

(c) Transfer of Title. Declarant hereby conveys to the Association title to all Common Areas and Facilities of the Development, as shown on the Plat thereof, including but not limited to the Parcel A, drainage easements and Open Spaces described in Section 1.4 herein. Declarant also declares all roads and streets to also be public utilities easements. Declarant further agrees that it will discharge all liens and encumbrances on said Common Areas on or before the sale and closing of the last Lot in the Development.

(d) Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(i) The right of Logan City 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 spaces contained with the Property for purposes of providing police and fire protection and providing any other governmental or municipal service; and

(ii) The right of the Association to dedicate or transfer all of any part of the Common Areas 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 a two-thirds (2/3) vote of a quorum of the Owners present in person or by proxy and entitled to vote at a meeting duly called for the purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Owners at least ten (10) days but not more than thirty (30) days prior to the meeting date.

(e) Encroachments. If any portion of a Lot encroaches upon the Common Areas or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the development, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

2.7. Board of Directors. The Development, including the Common Areas and Facilities, shall be managed, operated and maintained by the Board of Directors as agent for the Association, in accordance with the terms, conditions and provisions of the Laws, this Declaration, and all other agreements and determinations, lawfully made and/or entered into by the Association. To the extent permitted by law, the Directors shall not be liable to the Association or to its Members for monetary damages for any action taken or any failure to take any action.

2.8. Status and Authority of Board of Directors. The Board of Directors, acting in behalf of the Association, shall, in connection with its exercise of any of the powers delineated herein, constitute a legal entity capable of dealing in and under the Board of Directors name. In addition to the authority granted by the laws of the State of Utah, the Board of Directors shall have, and is hereby granted, the following authority and powers:

(a) The authority, without the vote or consent of the Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas and Facilities and in areas of the Lots and other areas as herein reserved so long as such easements do not unreasonably interfere with the use of a Lot.

(b) The authority to execute and record, on behalf of the Association, any amendment to the Declaration or Survey Map which has been approved by the vote or consent necessary to authorize such amendment.

(c) The power and capacity to sue and be sued.

(d) The authority to enter into contracts which in any way concern the Development, so long as any vote or consent of the Owners necessitated by the subject matter of the agreement has been obtained.

(e) The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(f) The power and authority to add any interest in real property to the Development, so long as such action has been authorized by the necessary vote or consent.

(g) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Board of Directors in carrying out any of its functions or to insure that the Development is maintained and used in a manner consistent with the interest of the Owners.

(h) The power and authority to fine Owners in accordance with the Laws for violations of the covenants, conditions, and restrictions contained in this Declaration, the Bylaws, or any rules or regulations promulgated by the Board of Directors, and the power and authority to enforce and foreclose upon liens in accordance with the Laws.

(i) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Association.

Any instrument executed by the Board of Directors that recites facts which, if true, would establish the Board of Directors' power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who is good faith and for value relies upon said instrument.

2.9. Composition of Board of Directors. The Board of Directors shall be composed of three (3) members. The Declarant reserves the exclusive right to determine the time and place of all Owner and Board of Directors meetings until expressly waived in writing by the Declarant or until the expiration of the time to amend as provided under Section 2.28(d) of this Declaration. At the first regular Owners meeting two (2) Board of Directors members shall be elected for two-year terms and one member for a one-year term. At each annual Owners meeting thereafter any vacant seat on the Board of Directors shall be filled with a member elected for a two-year term. Only Owners and officers and agents of Owners other than individuals shall be eligible for Board of Directors membership. At the annual meeting each Lot has one (1) vote for each seat on the Board of Directors to be filled. Notwithstanding the foregoing limitations, until the first annual meeting of the Owners the Declarant shall hold all offices and all seats on the Board of Directors and may act as the President of the Association.

In the event a Board of Directors seat becomes vacant for any cause the remaining Board of Directors members shall elect a replacement to sit on the Board of Directors until the expiration of the term for which the member being replaced was elected. A member shall serve on the Board of Directors until his/her successor is elected and qualifies. Board of Directors members shall be reimbursed for all expenses reasonably incurred in connection with Board of Directors business. Members of the Board of Directors shall not receive a salary for serving on the Board of Directors but shall not be precluded from serving the Association in another capacity and receiving compensation therefore.

2.10. Association Officers and Agents. The Board of Directors shall perform its functions through those members who are elected as officers by the Board of Directors and through such agents or employees as the Board of Directors may appoint. Any Board of Directors officer, agent, or employee may at any time be removed with or without cause by the vote of a majority of the Board of Directors members. The officers of the Association, and their respective powers shall be as provided in the Bylaws of the Association.

2.11. Board of Directors Meetings. A regular meeting of the Board of Directors shall be held immediately after the adjournment of each annual Association meeting. Other regular meetings shall be held at regular intervals at such time and place as the Board of Directors may provide. No notice need be given of regular Board of Directors meetings except when requested by a member in

accordance with the laws of Utah. Special Board of Directors meetings shall be held whenever called by the President or by any two (2) members of the Board of Directors. Either oral or written notice of special meetings shall, unless a waiver of such notice is signed by all members, be given to each Board of Directors member at least twenty-four (24) hours before the time fixed for the meeting. Any meeting attended by all Board of Directors members shall be valid for all purposes. A quorum for the transaction of business at any Board of Directors meeting shall consist of a majority of the members of the Board of Directors then in office.

2.12. Owners Meetings. The annual meeting of the Owners shall be held at 6:30 p.m., and on the 1st Thursday in January of each succeeding year following the recording of this Declaration, subject to approval of the Declarant, so long as Declarant has the power to determine the time and place of meetings. The place of meeting shall be at a location in Cache County, State of Utah, specified in the notice of meeting. At least ten (10) but not more than thirty (30) days before the date of the regular meeting a written notice thereof shall be personally delivered, mailed postage prepaid or emailed to each person who appears as an Owner, at the latest address for such persons appearing, in the records of the Association at the time of delivery, mailing or emailing. Such notice shall state the time, place, and general purpose of the meeting.

Special meetings of the Owners may be called by the President, by any two (2) members of the Board of Directors, or by one-fourth (1/4) of the Owners. At least seven (7) but not more than thirty (30) days before the date set for a special meeting written notice thereof shall be given in the manner described in the immediately preceding paragraph.

No notice to an Owner of any Association meeting shall be required if a waiver of such notice is signed by the respective Owner. Whenever all the Owners meet in person or by proxy such meeting shall be valid for all purposes. The presence of one-third (1/3) of the Owners shall constitute a quorum for the transaction of business at any Association meeting. In the event a quorum is not present at a meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than forty-eight (48) hours, and no later than thirty (30) days, after the time set for the original meeting. No notice of such rescheduled meeting shall be required. The presence of twenty percent (20%) of the Owners shall constitute a quorum at a rescheduled meeting.

2.13. Voting--Multiple Ownership. 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 meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the respective Lot 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.

2.14. Capital Improvements. Individual expenditures or capital improvements by the Association which cost no more than \$5,000.00 may be authorized by the Board of Directors alone. Individual expenditures or capital improvements the cost of which will exceed \$5,000.00 must be authorized by a majority vote of a quorum of Owners at an Association meeting duly called to approve the same. Any expenditure or capital improvement which would materially alter the nature of the Development must, regardless of its cost, be authorized by at least eighty percent (80%) of the Owners.

2.15. Operation and Maintenance. Except as otherwise provided herein, the Board of Directors shall, as a portion of the Common Expenses, pay for all utility services furnished to the common areas. The Board of Directors shall provide for such maintenance and operation of the Common Areas and Facilities, as may be reasonably necessary to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive, and generally in good condition and repair. Each Owner shall pay for all utility services which are separately billed and metered to individual Lots by the utility or other party furnishing such service. Culinary water, sewer and garbage utility services shall be paid by Owners for their respective Lots.

2.16. Payment of Expenses. Before October 1st of each year the Board of Directors shall prepare a budget which sets forth an itemization of the Common Expenses which are anticipated for the 12-month period commencing with the next following January 1st. Such budget shall take into account any deficit or surplus realized during the current fiscal year and such sums as may be necessary to fund an appropriate reserve to cover major repair or replacement of portions of the Common Areas and Facilities. The total of such expenses shall be apportioned equally among all Lots. Prior to the first day of each month during the fiscal year covered by the budget each Owner shall pay to the Board of Directors as his and her share of the Common Expenses 1/12th of the amount so apportioned to his Lot. The Board of Directors may effect an equitable change in the frequency and dates of said payments. Special assessments may be made for unexpected expenses, emergencies and shortfalls. The foregoing method of assessing the Common Expenses to the Owners may be altered by the Board of Directors so long as the method it adopts is consistent with good accounting practice and requires that the portion of Common Expenses borne by each Lot during a 12-month period is equal.

2.17. Personal Obligation, Lien and Remedies for Nonpayment. Declarant, for each Lot owned by it, and each Owner shall, upon acquiring or in any way becoming vested with an interest in a Lot, be deemed to covenant and agree to pay to the Board of Directors the common expense assessments described in this Declaration, together with late fees plus interest as provided in the Bylaws. Should any Owner fail to pay when due the share of the Common Expenses, the Board of Directors may enforce any remedy provided in the Laws or in this Declaration. In addition to other remedies, the delinquent common expenses and any other sums due the Association shall become a lien on the Lot attributable to the delinquent expenses as permitted by the Laws, which lien may be enforced as therein provided. Liability for the payment of Common Expense assessments shall be joint and several, and any remedy for the collection of such assessments may be enforced against a Lot Owner or against the Lot itself. No Owner is exempt from liability for payment of the assessments. Any relief obtained, whether or not through foreclosure proceedings, shall include the Board of Directors' costs and expenses, interest as provided herein and a reasonable attorney's fee. In the event of foreclosure, after institution of the action the Board of Directors shall, without regard to the value of the Lot or the extent of the Owner's equity therein, be entitled to the appointment of a receiver to collect any income or rentals which may be produced by the Lot.

2.18. Insurance. The Board of Directors may secure and at all times maintain as a common expense the following insurance coverages:

(a) A policy or policies insuring the Association, the Board of Directors, and the Owners against any liability incident to the ownership, use, or operation of the Common Areas which may arise among themselves, to the public, to any invitees or tenants of the Development or the Owners. Limits of liability under such insurance shall be not less than \$500,000.00 for any one person injured, \$1,000,000.00 for all persons injured in any one accident, and \$20,000.00 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 insureds as between themselves are not prejudiced.

The following additional provisions shall apply with respect to insurance:

(b) In addition to the insurance described above, the Board of Directors may secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with RESIDENTIAL SUBDIVISION developments similar to the construction, nature, and use of this Development.

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

(d) The Board of Directors shall have the authority to adjust losses.

(e) Insurance secured and maintained by the Board of Directors shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.

(f) 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 Board of Directors, the Owners, and their respective servants, agents, guests, tenants, and invitees; that it cannot be canceled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Board of Directors 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 the Owners.

2.19. Homes Not Insured by Association. The Board of Directors shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Home and acts and events thereon. Accordingly, each Owner shall secure and keep in force at all times fire and extended coverage insurance which shall be at least equal to that commonly required by private institutional mortgage investors in the area in which the Mortgaged premises are located. The policy shall provide, as a minimum, fire and extended coverage insurance on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage stipulated in the policy. The amount of coverage shall be sufficient so that in the event of any damage or loss to the mortgaged premises of a type covered by the insurance, the insurance proceeds shall provide at least the lessor of: (a) compensation equal to the full amount of damage or loss, or (b) compensation to the first Mortgagee under the Mortgage equal to the full amount of the unpaid principal balance of the Mortgage Loan.

2.20. Damage to Development. In the event the Development improvements are destroyed or damaged to the extent of seventy-five percent (75%) or less of the value thereof, the Association may repair, rebuild and/or restore the same to the condition they were in immediately prior to such destruction or damage, and the Association shall, in this connection, be entitled to use the proceeds of any and all insurance policies which it may have had in force on said premises as of the date of such destruction or damage. All of the Lots shall be equally assessed and equally contribute any deficiency. In the event the improvements of the Development are destroyed or damaged to the extent of more than seventy-five percent (75%) of the value thereof, the Owners shall, at a meeting duly and regularly called by the Association for that purpose, determine whether or not said premises shall be rebuilt, repaired or disposed of. Unless seventy-five percent (75%) of the owners direct otherwise, the Development (Common Areas and Facilities) shall be repaired, rebuilt, or restored to the same condition as immediately prior to said destruction or damage. In the event the cost of such repair, rebuilding or restoration shall exceed the amount of the proceeds of any insurance policy or policies, the Owners shall equally contribute to such cost.

2.21. Mortgage Protection. In the event an Owner neglects for a period of thirty (30) or more days to cure any failure to perform any of such Owner's obligations under this Declaration, the Board of Directors may give written notice of such to the Owner and the holder of any first mortgage covering such Lot.

The lien for unpaid Common Expense assessments provided for under the Law and by this Declaration shall have priority over each other lien and encumbrance on a lot except: (a) a lien or encumbrance recorded before the Declaration is recorded, (b) a first or second security interest on the lot secured by a mortgage that is recorded before a recorded notice of lien by or on behalf of the Association; or (c) a lien for real estate taxes or other governmental assessments or charges against a Lot.

Unless all holders of first mortgages on the individual Lots have given their prior written approval, neither the Association nor the Owners shall be entitled to:

- (a) Change the equal undivided ownership interest which is appurtenant to any Lot;
- (b) Partition and subdivide any Lot or the Common Areas and Facilities; or
- (c) By act or omission seek to abandon the Development (except as provided in the Laws and herein in the event of substantial damage to the Lots and the Common Areas and Facilities).

2.22. Use Restrictions.

(a) Use of Common Areas. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Homes. No admission fees, charges for use, leases, or other income-generating arrangement of any type shall be employed or entered into with respect to any portion of the Common Areas.

(b) Use of Lots and Homes as Family Dwellings. All Lots are to be improved with residential Homes and are restricted to such use. No Lot or Home shall be used, occupied, or altered in violation of the law, so as to create a nuisance or interfere with the rights of any Owner or in a way which would result in an increase of the costs of any insurance covering the Common Areas.

(c) Fences. No fences are permitted in the front yard. Fences are permitted in side and rear yards, in compliance with the Logan City Code. The color, height, and style of each fence must be approved in advance by the Declarant or the Board of Directors of the Association.

(d) Landscaping. Landscaping of the respective yards of each Lot upon which a Home has been constructed shall be maintained by the Owner. All landscaping must be completed within one (1) year after completion of the construction of the residence. Failure to install landscaping within the designated timeframe will result in fines of \$250 per month. If the appearance of a Lot falls below reasonable levels, the Architectural Review Committee shall notify the Owner in writing and the Owner shall have thirty (30) days thereafter to restore the property to acceptable levels. Should the owner fail to do so, the Committee may order the necessary work performed at the Owner's expense. The Owners of all Lots shall immediately upon the purchase of any lot, maintain and control all weeds, or other growth on their Lot.

(e) Non-residential Use. No part of the Development shall be used for any commercial, manufacturing, mercantile, storing, vending, (except as may be installed as a convenience by the Declarant or Association) or other such non-residential purposes. Declarant, its successors or assigns, may use the Development for a model home site display, and sales and construction office during the construction and sales period.

(f) Signs. No more than one (1) sign of any kind shall be displayed in the public view on any portion of the Development or any Lot advertising the property for sale or rent except signs used by Declarant, its successor or assigns or such express right, to advertise the property during construction and sales periods.

(g) Quiet Enjoyment. No noxious or offensive trade or activity shall be carried on upon any Lot or upon any part of the Development, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of their respective Home, Lot or Common Areas or which shall in any way increase the rate of insurance.

(h) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time except as may be needed for construction or maintenance purposes by the Declarant or Association, or except as otherwise provided herein.

(i) Repair and Storage of Personal Property. Personal property of the lot owner in the process of being repaired shall not be left in the visible sight of neighbors for more than seven (7) days unless such repairs occur within the confines of the Lot owner's garage. Recreational

vehicles, which include but are not limited to boats, snowmobiles, RV's, personal watercraft, ATV's, and campers, can be stored on any Lot as long as these vehicles are stored on the side or rear yard of the Lot and not on the street side of any Lot.

(j) Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the Development, and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, storage sheds or areas, machinery and equipment shall be prohibited upon any Lot unless obscured from view of adjoining Lots or in the Home or garage.

(k) Electronic Antennas. No television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on the exterior of any Homes or structures on the Lots unless specifically approved by the Association.

(l) Exception for Declarant. Notwithstanding the restrictions contained in this Declaration, for the seven-year-period following the date on which this Declaration is filed of record in the office of the County Recorder of Cache County, Utah, Declarant shall have the right to use any Lot or Home owned or leased 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 Declarant. Declarant may also conduct collateral business activity on the Development.

2.23. Architectural Control.

(a) Architectural Control. The Association may appoint a three (3) member Architectural Board of Directors, the function of which shall be to insure that all Homes, structures, outbuildings, walls, fences or other improvements within the Development harmonize with existing surroundings and structures. The Architectural Board of Directors need not be composed of Owners. If such a Board of Directors is not appointed, the Board of Directors itself shall perform the duties required of the Architectural Board of Directors. Board of Directors in this Section 2.23 refers to the Architectural Board of Directors or Board of Directors, whichever the case may be.

(b) Submission to Board of Directors. No Home, accessory or addition to a Home, structures, outbuildings, walls, fences or other improvements of a Lot shall be constructed, maintained, or accomplished, and no alteration, repainting, or refurbishing of the exterior of any Home shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Board of Directors.

(c) Standard.

i. In deciding whether to approve or disapprove plans and specifications submitted to it, the Board of Directors shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Development conform to and harmonize with existing surroundings and structures. The Board of Directors may formulate general guidelines and procedures and the Board of Directors shall act in accordance with such guidelines and procedures.

ii. Exterior. The exterior shall be constructed of a durable material aesthetically compatible with the building style. No more than twenty percent (20%) of the structure can be aluminum or vinyl siding. No more than forty percent (40%) of the structure can be stucco. Brick, stone, hardy board or board and batten must be a majority [fifty plus percent (50%+)] of the exterior of the structure. Bright exterior paint colors are discouraged and could be a reason for denial.

iii. Residence Size. The main structure, excluding porches, garages and decks shall be a minimum size of one thousand eight hundred (1800) square feet on the main level of the home. The minimum size square feet calculation shall be made by determining the number of square feet of living space above grade.

(d) Approval Procedure. Any plans and specifications submitted to the Board of Directors shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Board of Directors fails to take any action within such period it shall be deemed to have approved the material submitted.

(e) Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Board of Directors shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporary use and occupancy of unimproved portions of the Common Areas adjoining the improvement.

(f) Disclaimer of Liability. Neither the Board of Directors, nor any member thereof acting in good faith shall be liable to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings or specifications, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development or manner of development of any of the property, or (d) any engineering or other defect in approved plans and specifications.

(g) Nonwaiver. The approval by the Board of Directors of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Board of Directors to disapprove any similar plans and specifications.

(h) Exception for Declarant. The foregoing provisions of this section 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 during the seven-year period following the date on which this Declaration is filed for record in the office of the County Recorder of Cache County, Utah.

(i) Declarant's Obligation. Declarant hereby covenants in favor of each Owner: (a) that all Homes erected by it, or caused to be erected by it, and all improvements of the Common Areas accomplished by it shall be architecturally compatible with respect to one another, and, (b) that on or before seven (7) years from the date on which this Declaration is filed for record in the office of the County Recorder of Cache County, Utah, there shall be substantially completed and

usable all of the Common Areas and open spaces shown on the Survey Map, Final Plat, or as duly amended and approved by Declarant.

2.24. Amendment.

(a) The Owners shall have the right to amend this Declaration and/or Record of Survey Map upon the approval and consent of a majority vote of a quorum of the Owners. Any amendment if authorized shall be accomplished through the recordation of an instrument executed by the Board of Directors.

(b) Declarant's Right to Amend. Until the expiration of seven years after recording this Declaration, Declarant has, and is hereby vested with, the right, to unilaterally amend the Declaration and/or the Survey Map as may be reasonable, necessary or desirable: (i) to adjust the boundaries of the Lots, including adding or deleting common areas (by filing an appropriate amended Survey Map) to accommodate design changes or changes in type of Lots or adjustments to Lot configuration; (ii) to more accurately express the intent of any provisions of the Declaration in the light of then existing circumstances or information; or (iii) to better insure, in light of the existing circumstances or information, workability of the arrangement which is contemplated by the Declaration.

2.25. Compliance. Each Owner, tenant and occupant of a Lot shall comply with applicable Laws, this Declaration, and all agreements and determinations lawfully made or entered into by the Association, where acting within their authority; and any failure to comply with any such provisions, shall be grounds for an action by the Association to recover any loss or damage resulting therefrom, or for injunctive relief.

2.26. Record of Ownership. Whenever there is a change for any reason, in the ownership of a Lot, or a part thereof, the Association may require as a condition to recognizing the new Owner, or Owners, as such, that the new Owner, or Owners furnish evidence substantiating the new ownership, including copies of legal papers, documents or court proceedings.

2.27. Condemnation. If at any time or times the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, the Association shall be solely responsible in such proceedings, negotiations, settlements or agreements. All compensation and damages arising from the taking of a Common Area shall be payable to the Association, and the Association shall be used promptly to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. Upon completion of such work and payment in full therefor, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Areas shall be disposed of or retained in such manner as the Association shall reasonably determine. All compensation and damages arising from the taking of a Limited Common Area shall be payable to the Association, and the Association shall divide that portion of the award attributable to the taking of the Limited Common Area among the Owners of the Lots to which the Limited Common Area was allocated at the time of the taking.

2.28. Conveyance to Trustee. The Declarant hereby appoints Northern Title Company, a Utah Corporation located in Logan, Utah, as trustee pursuant to the Utah Community Association Act, Utah Code Ann. § 57-8a-212(1)(j), and hereby conveys and warrants pursuant to Utah Code Ann. §§ 57-1-20 and 57-8a-302 to Northern Title Company, with power of sale, the Property and all Lots and all improvements to the Property or Lots for the purpose of securing payment of assessments under the terms of this Declaration.

2.29. Miscellaneous. The provisions of this Declaration shall be in addition and supplemental to all applicable Laws.

If any provision of this Declaration is determined to be invalid, the remaining provisions hereby shall remain in full force and effect and shall not be affected thereby.

Craig Champlin, whose address is P.O. Box 6221, North Logan, Utah 84341 or _____, is hereby designated as the person to receive service of process in connection with the Development for all purposes provided by the Law; provided, however, that the Association shall have the right to appoint a successor or substitute process agent. Such a successor or substitute process agent shall be designated and appointed by duly executed instruments filed in the Office of the County Recorder of Cache County, State of Utah, for attachment to this Declaration.

This Declaration shall take effect upon recording as provided by Law.

DATED this ____ day of _____, 2022.

DECLARANT:

FOOTHILL LOFTS RESIDENTIAL LLC

By: _____
Craig Champlin, President

STATE OF UTAH)
 : ss.
County of Cache)

On the ____ day of _____, 2022, personally appeared before me CRAIG CHAMPLIN, being by me duly sworn, did say that he is the President of CHAMPLIN DEVELOPMENT, INC., and that the said instrument was signed in behalf of said Corporation by authority of a resolution of the Board of Directors or its By-Laws, and the aforesaid officer acknowledged to me that said Corporation executed the same.

NOTARY PUBLIC

<https://ohpc.sharepoint.com/sites/ClientFiles/Shared Documents/MPJ/HOA/Foothill Lofts/CC&Rs.3.doc>
N-15065.02

EXHIBIT "A"

<https://ohpc.sharepoint.com/sites/ClientFiles/Shared Documents/MPJ/HOA/Foothill Lofts/CC&Rs.3.doc>
N-15065.02