

WHEN RECORDED, MAIL TO:

Steven P. Mehr  
Ballard Spahr LLP  
201 South Main, Suite 800  
Salt Lake City, UT 84111

Tax Parcel Number:

## COMMUNITY BENEFIT COVENANT

THIS COMMUNITY BENEFIT COVENANT ("**Covenant**"), is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_ ("**Owner**").

### RECITALS

A. Owner is the developer of a condominium project known as Founders Place Condominiums (the "**Project**") being developed on a parcel of real property located in Park City, Wasatch County, Utah ("**Property**"), as more particularly described on Exhibit A. The Project will include residential condominium units ("**Units**") each as more particularly described on the Founders Place Plat, recorded \_\_\_\_\_, as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_, in the Office of the Wasatch County Recorder, as amended and/or supplemented from time to time ("**Plat**").

B. Founders Place Community Benefit Foundation, a Utah non-profit corporation ("**Foundation**"), was organized for the purpose of benefiting the Wasatch County and Summit County communities, including without limitation, for charitable purposes and support of affordable housing initiatives.

C. In connection with the development of the Project and certain obligations imposed by the Park City Municipal Corporation, Owner desires to establish a Community Benefit Covenant for the benefit of the Foundation, as defined and further set forth below.

### COVENANT

NOW, THEREFORE, the following Community Benefit Covenant is imposed on the Units as follows:

1. Community Benefit Covenant. Upon each Transfer (defined below) of any Unit, a fee based on the "Purchase Price" (defined below) of such Unit shall be paid to the Foundation (a "**Benefit Fee**"), which funds shall be used by the Foundation in accordance with its governing directives, including without limitation, for the benefit of communities, common planning, facilities and infrastructure, affordable housing, community programming, resort facilities, open space, recreation amenities, and other charitable purposes. The Benefit Fee shall be equal to one-half of a percent (0.5%) of the Purchase Price of the subject Unit. This Covenant, including the Benefit Fee, shall run with the land and improvements consisting of the Units for the benefit of the Foundation.

(a) For purposes of this Covenant, "**Transfer**" means, whether in one transaction or in a series of related transactions, any conveyance, assignment, lease, or other transfer of beneficial ownership of a Unit, including but not limited to (1) the conveyance of fee simple title to any such Unit; (2) the transfer of more than fifty percent (50%) of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns any portion of such Unit, and (3) the transfer of more than fifty percent (50%) of the interest in net profits or net losses of any partnership, joint venture, limited liability company, or other business entity which, directly or indirectly, owns any portion of the such Unit.

(b) Exclusions. Notwithstanding the foregoing, a "Transfer" shall not include any of the following excluded events, except to the extent that any such exclusion is used for the purpose of avoiding the Benefit Fee:

(i) Any Transfer to the United States, or any agency or instrumentality thereof, the State of Utah, any county, city, municipality, district, or other political subdivision of the State of Utah.

(ii) Any Transfer to Owner, or Owner's successors and assigns, including any successor or assign as may be used for development purposes at Owner's discretion.

(iii) Any intra-family Transfer, whether outright or in trust, that is for the benefit of the transferor or the transferor's relatives (including the transferor's spouse), but only if there is no more than nominal consideration for the Transfer. For the purposes of this exclusion, the relatives of a transferor shall include all lineal descendants of any grandparent of the transferor, and the spouses of the descendants. Any person's stepchildren and adopted children shall be recognized as descendants of that person for all purposes of this exclusion.

(iv) Any Transfer arising solely from the termination of a joint tenancy or the partition of a Unit held under common ownership or in connection with a divorce, except to the extent that additional consideration is paid in connection therewith.

(v) Any Transfer or change of interest for estate planning purposes or by reason of death, whether provided for in a will, trust, or decree of distribution, or by reason of the dissolution or winding up of any business entity.

(vi) The transfer of any commercial or other non-residential Lot or Unit, including any hotel; provided that the exclusion does not apply to any of the Units within such properties.

(vii) Any Transfer to secure a debt or other obligation or to release a Unit that is security for a debt or other obligation, including Transfers in connection with foreclosure of a deed of trust or mortgage or Transfers in connection with a deed given in lieu of foreclosure.

(viii) The Transfer of a Unit to an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, provided that the Association specifically approves such exemption in each particular case.

(ix) Any Transfer to an affiliated party, where "affiliated party" means any entity that controls, is controlled by, or is under common control with the transferor, including control through voting interests, management agreements, or other arrangements resulting in effective control over the management of the affairs of such entity.

(x) The conveyance, lease, assignment or transfer of any portion of the Common Areas of the Project as shown on the Plat.

(xi) Any Transfer of a Unit burdened by that certain Restrictive Covenant Protecting the Affordability and Sustainability of Units WH -1, WH-2, WH-3, and WH-4 at Founders Place Condominiums, recorded \_\_\_\_\_, as Entry No. \_\_\_\_\_, in Book \_\_\_\_\_, at Page \_\_\_\_\_, in the Office of the Wasatch County Recorder, as amended and/or supplemented from time to time.

(c) For purposes of this Covenant, "**Purchase Price**" means the gross purchase price of the property that is the subject of the Transfer prior to any commissions or closing costs. The gross purchase price shall not include any amounts paid by the transferee for furnishings or other personal property. Owner, and its successors and assigns, may require either the transferor or transferee to submit verification of the Purchase Price.

(d) Payment of Benefit Fee. The Benefit Fee shall be payable at closing of the Transfer, and each Benefit Fee not paid at that time shall accrue interest until fully paid at 5% (five percent) per annum over the rate of interest announced from time to time by Wells Fargo Bank, as its "prime rate" for commercial loans. Such interest shall be payable on demand, and if unpaid, shall be compounded monthly at the rate so calculated as of thirty (30) days after the date of the Transfer, and all accruing interest shall become a part of the Community Benefit Fee due and owing.

2. Runs with Land; Successors and Assigns. This Covenant, including the Benefit Fee, covenants, agreements, rights and obligations created hereby, (a) runs with the land and improvements constituting the Units, and (b) is binding on and inures to the benefit of the Foundation, and others having or acquiring the rights reserved to the Foundation, all upon the terms, provisions and conditions set forth herein.

3. Recordation. This Covenant shall be recorded against the Units, as may be supplemented and added to from time-to-time, in the Office of the Wasatch County Recorder.

4. Waiver. No term or condition of this Covenant will be deemed to have been waived or amended unless expressed in writing, and the waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.

5. Authority to Execute. Owner represents and warrants that as of the date of this Covenant, it is the fee owner of all of the Units.

*[Signature Page Follows]*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**OWNER:**

\_\_\_\_\_  
\_\_\_\_\_  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2022 by  
\_\_\_\_\_ the \_\_\_\_\_ of the \_\_\_\_\_, a  
\_\_\_\_\_.

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

Residing at:  
My Commission Expires:

**EXHIBIT A**

**Legal Description of Property**