

When Recorded Return To:

Richmond American Homes of Colorado, Inc.
4350 S. Monaco St.
Denver, CO 80237
Attn: Matt Hengel

**PARTY WALL DECLARATION AND AGREEMENT
FOR
LOTS 1 AND 2, EAST BEND SUBDIVISION FILING NO. 1**

THIS PARTY WALL DECLARATION AND AGREEMENT (“Declaration”) is made this 23rd day of September, 2021, by RICHMOND AMERICAN HOMES OF COLORADO, INC., a Delaware corporation (“Declarant”). All capitalized terms shall have the meanings set forth below.

RECITALS

A. Declarant is the owner of the real property (“Property”), situated in the City of Aurora, County of Arapahoe (“County”), State of Colorado (“State”), described as follows:

Lots 1 and 2, East Bend Subdivision Filing No. 1, according to the plat thereof recorded on February 8, 2021, under Reception No. E1021308, records of Arapahoe County, Colorado.

B. There has been or will be constructed on the Property a Duplex Building.

C. Once constructed, the Duplex Building will contain two (2) attached Dwelling Units separated by a Party Wall and covered by a common Roof. Each Dwelling Unit will be located on a separate legal lot, will have its own Roof, will have its own structurally supporting exterior walls such that the Dwelling Unit may be structurally independent from the Dwelling Unit to which it is attached other than with respect to the common Foundation and Roof, but will be separated by a common wall (that is, a Party Wall).

D. The Property is subject to the terms of that certain Declaration of Covenants, Conditions and Restrictions for East Bend, recorded in the real property records of the County on September 23, 2021, under Reception No. E1148282 (collectively with all amendments thereto, the “Master Declaration”), which Master Declaration provides for the creation of the East Bend Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (“District”).

E. Except as otherwise expressly required by applicable law, neither the District nor any sub-association formed under the Master Declaration is responsible to maintain any portion of the Duplex Building, either Dwelling Unit or any part of the Property. Rather, each Owner of a Dwelling Unit is required to maintain the Dwelling Unit and the Lot upon which it is contained

just as if the Dwelling Unit were a single-family detached home. Specifically, each Owner of a Dwelling Unit is responsible to maintain the Dwelling Unit and the Lot upon which the Dwelling Unit is contained, including, without limitation, the Roof, the Exterior Areas, the landscape area on the Lot upon which the Dwelling Unit is contained and the exterior building lights for the Dwelling Unit.

F. The Owner of each Dwelling Unit is required to obtain and maintain property and liability insurance for such Dwelling Unit as described in Section 2.1. Except as otherwise expressly required by applicable law, neither the District nor any sub-association is responsible to maintain property insurance for any portion of the Duplex Building or either Dwelling Unit.

G. Separate from and in addition to the Master Declaration, Declarant desires to establish certain covenants pertaining to the Property, including, without limitation, provisions addressing the parties' rights and responsibilities with respect to the Party Wall, and a dispute resolution provision for disputes between one or more Owners and/or Related Users on the one hand and the Declarant and/or Related Parties on the other hand.

DECLARATION AND AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals which are deemed a substantive part of this Declaration and are incorporated herein, and for and in consideration of the covenants and promises herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Declarant declares, covenants and agrees that each Lot within the Property shall be held, sold, transferred and conveyed subject to the following easements, reservations, restrictions, liens, charges, covenants and conditions which are for the purpose of protecting the value and desirability of the Property and which shall run with the Property and be binding on all parties having any rights, title or interest in the Property or any part thereof, and their heirs, personal representatives, successors and assigns.

CERTAIN DEFINITIONS

A. "Declarant" means Richmond American Homes of Colorado, Inc., a Delaware corporation, and its successors and assigns.

B. "Declaration" means this Declaration which shall be recorded in the real property records of the County.

C. "Duplex Building" means the residential building constructed on the Property containing two (2) independent but attached Dwelling Units separated by a Party Wall and covered by a common Roof.

D. "Dwelling Unit" means either of the independent single-family attached residences within the Duplex Building on the Property.

E. "Foundation" means the common foundation supporting the Duplex Building.

F. "Lien" has the meaning set forth in Section 7.10.

G. "Lot" means a lot within the Property as set forth on the Plat.

H. "Owner" means the owner of the fee simple interest to any Lot within the Property other than Declarant, as reflected in the real property records of the County, whether a person,

persons, firm, corporation, limited liability company, partnership, trust, association or other legal entity. Declarant is not an Owner for purposes of this Declaration.

I. "Party Wall" means the wall or construction that separates the independent walls of each Dwelling Unit within the Duplex Building on the Property which is built as part of the original construction of the Duplex Building. The Party Wall shall not include the walls adjacent to either side of the Party Wall which are part of the separate walls of each Dwelling Unit. The Party Wall and the walls adjacent to either side of the Party Wall bear on a common Foundation under the Duplex Building. A Party Wall is a common wall.

J. "Plat" means the Final Plat of East Bend Subdivision Filing No. 1 recorded on February 8, 2021, under Reception No. E1021308, in the records of the County.

K. "Project" means the East Bend planned community in the County.

L. "Property" means the real property legally described above.

M. "Related Users" means an Owner's family members, guests, invitees, licensees, design professionals, contractors, subcontractors, agents, tenants, subtenants and employees.

N. "Roof" means the common roof over the Duplex Building. A roof commonly includes the roof deck, underlayment and roof covering and flashings. The roof deck, or a portion thereof, if required to be of fire-resistant construction or of fire-retardant treated wood, may be part of the Party Wall for a specified distance from the Party Wall on either or both sides of the Party Wall. As used in this Declaration, Roof may refer to the entire Roof assembly or any component thereof as the context permits or requires.

OWNER ACKNOWLEDGEMENT/AGREEMENT

By acceptance of a deed to any Lot, each Owner is deemed to have acknowledged and agreed to be bound by the terms of this Declaration, as well as the Master Declaration and any applicable sub-association formed with respect to the Property under the Master Declaration.

ARTICLE ONE Party Wall Declaration

1.1. Creation of Party Wall. The Party Wall in the Duplex Building is located substantially along the property line which separates the Lots and each Dwelling Unit comprising the Duplex Building. The rights and obligations of the Owners and Declarant (so long as it owns one or more Dwelling Units) with regard to the Party Wall shall be governed by the provisions of this Declaration.

1.2. Easement for Encroachment. Mutual reciprocal easements are hereby established, declared and granted for any encroachment of the Party Wall onto any adjoining Lot(s), which reciprocal easements shall be governed by this Declaration. Every deed to a Lot, whether or not expressly so stating, shall be deemed to convey and be subject to such reciprocal easements.

1.3. Use of Interior Walls and Limitations Regarding Party Wall. Subject to the provisions of this Section and elsewhere in this Declaration, each Owner shall have the right to paint the interior surface of their independent wall which is immediately adjacent to the Party Wall and shall have the right to hang pictures and frames on the interior surfaces of each such respective

wall. Notwithstanding the foregoing, under no circumstances shall the Party Wall or any portion thereof, as originally constructed by Declarant, be changed, altered or removed by any Owner or any Related Users. Furthermore, the following additional limitations shall apply to the Party Wall: (a) in no event shall a "cut-out" or other opening be permitted to be installed in any portion of the Party Wall; (b) in no event shall an Owner or any Related Users penetrate, with nails or otherwise, any portion of the Party Wall; and (c) in no event shall any electrical wiring, television antenna, machinery or any other electrical installation be permitted to be made to or through the Party Wall at any time other than by Declarant.

1.4. Maintenance and Repair. As further provided in Section 1.3 above, no Owner shall do or permit any act that would cause damage to or impair the integrity of the Party Wall or the common Foundation or Roof, including without limitation other construction between the Party Wall and the walls adjacent to either side of the Party Wall, including without limitation insulation, draft-stopping and fire-blocking. Subject to the provisions of Sections 1.5 and 3.3 below, the cost of repairs to the Party Wall and the common Foundation and Roof shall be shared equally by the Owners. To the extent that repairs or maintenance necessitate work on both sides of the Party Wall or the common Foundation or Roof, the Owners shall cooperate in good faith to effect such work. If an Owner fails to repair or maintain the Party Wall or the common Foundation or Roof, or otherwise cooperate with repairs and maintenance, the other Owner shall notify such defaulting Owner of the failure and provide such Owner a reasonable period of time not exceeding five (5) days in which to cure such default. If the defaulting Owner fails to cure the default within such time period, the non-defaulting Owner may undertake such repair and for such purpose may enter upon the defaulting Owner's Lot, including, without limitation, the defaulting Owner's Dwelling Unit, without liability therefor except for damage resulting from willful misconduct of such Owner or such Owner's Related Users. The non-defaulting Owner shall have a Lien (hereinafter defined) against the defaulting Owner's Lot and Dwelling Unit in accordance with the provisions of Section 7.10 of this Declaration for the defaulting Owner's share of the cost and expense incurred in making or causing such repairs to be made, except that no Owner shall have or be permitted to assert a Lien against a Lot owned by Declarant or any Related Party (as defined in Section 7.12). Disputes pursuant to this Article One shall not be subject to the dispute resolution provisions of Section 7.12 unless Declarant or any Related Party is a party to such dispute (in which event Section 7.12 shall govern the resolution of such dispute).

1.5. Damage by Fire or Casualty. If the Party Wall or the common Foundation or Roof or any portion thereof is destroyed or damaged by fire or other casualty (unless the loss or damage is covered by one or more insurance policies maintained by either the District or any applicable sub-association formed with respect to the Property, and such District or sub-association is expressly required by applicable law to restore the Party Wall or the common Foundation or Roof, or unless the loss or damage is covered by a warranty provider), the Owners shall restore the Party Wall and the common Foundation and Roof and they shall contribute equally to the cost of restoration thereof without prejudice, subject however to the right of each Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner hereunder shall run with and be appurtenant to the land and shall pass to such Owner's successors in title. Notwithstanding anything to the contrary, an Owner who by his or her negligent or willful act causes the Party Wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.

1.6. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Party Wall and to the interpretation of this Declaration.

ARTICLE TWO

Insurance

2.1. Insurance Required. Except to the extent the following insurance is maintained by the District or any sub-association in accordance with the provisions of applicable law or otherwise, each Owner shall obtain and continuously maintain in effect:

2.1.1. Insurance against loss or damage by fire and such other hazards as are normally covered under “standard” coverage in an amount not less than the full insurable replacement cost (with appropriate coverage for the costs of inflation and building code upgrade and zoning compliance, with such building code upgrade potentially being under either building code or other applicable ordinance or law), for the Dwelling Unit and other improvements located on the Owner’s Lot and/or Dwelling Unit, such insurance to provide coverage for at least each of the following: loss or damage by fire and other hazards covered by the standard, extended coverage endorsement, and for debris removal, cost of demolition, cost of undamaged portions, contingent liability, vandalism, malicious mischief, windstorm and water damage. Prohibited exclusions shall include, without limitation, ordinances or laws, fungus, wet or dry rot, or bacteria. If either Owner operates a business from their Dwelling Unit at any time during their ownership period, each Owner is strongly advised to purchase business income or extra expense and ordinance or law coverage, increased period of restoration coverages, or such other coverages as both Owners may agree.

2.1.2. General liability insurance insuring against liability due to bodily injury and property damage, written on an occurrence basis, with policy limits of not less than Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per occurrence, covering all claims for bodily injury and/or property damage, including, to the extent reasonably available, contractual coverage for the Owner’s agreement to indemnify the other Owner and the other Owner’s Related Users as set forth in this Article Two. Each Owner shall cause each Owner of the other Dwelling Unit in the Duplex Building to be named as an additional insured on the Owner’s liability insurance policy.

2.1.3. Each Owner, within thirty (30) days after request by another Owner, shall provide evidence of the insurance required to be carried by the Owner under this Section. Each Owner shall obtain a provision in their respective insurance policies to provide for thirty (30) days’ prior notice to the other Owners before cancellation or modification of such policy. In no event shall this Section 2.1 be constructed to be advised by Declarant and shall not create any duties or obligations on behalf of Declarant.

2.2. Indemnification; Waiver of Subrogation.

2.2.1. Except as provided for herein, each Owner shall defend and indemnify Declarant, each other Owner and the other Owner’s Related Users and each other Owner’s predecessors or successors in title, from and against any and all claims, liabilities, losses, damages, judgments, fines, penalties, losses, costs and expenses, including, without limitation, attorneys’

fees and costs (collectively, “**Claims**”), due to personal and/or bodily injury to any person or persons, and damage to real and/or personal property, arising out of or in any way connected with any act or omission by the indemnifying Owner or any of such indemnifying Owner’s Related Users or predecessors or successors in title, excepting and excluding the negligence or willful misconduct of the other Owner or the other Owner’s Related Users or predecessors or successors in title.

2.2.2. To the fullest extent permitted without voiding any insurance required to be carried by any Owner, each Owner waives any and all rights to recover against the other Owner and the other Owner’s Related Users and predecessors and successors in title, and against Declarant and the Related Parties, for any loss or damage to such waiving Owner arising from any cause covered by any insurance required to be carried by such waiving Owner pursuant to this Declaration or any other insurance actually carried by such waiving Owner. Each Owner, from time to time, will cause the Owner’s insurers to issue appropriate endorsements to all policies of insurance carried in connection with the Owner’s Lot in which the Owner’s insurers waive their subrogation rights for any such loss or damage.

ARTICLE THREE

Covenants and Conditions Regarding the Exterior Areas, Roof and Foundation

3.1. Obligation to Maintain Exterior of Dwelling Unit; Limitations. Each Owner agrees to maintain the exterior of the Dwelling Unit on the Owner’s Lot, including, without limitation, the exterior building surfaces, patios, garage, walls, fences, electric gates, downspouts, walks, driveways and stairways, along with the drainage and grading of the Owner’s Lot (collectively, the “**Exterior Areas**”) in a first class manner and in good working order, structural soundness and repair so as to maintain their attractive appearance. Without limitation of the foregoing obligation, each Owner is prohibited from altering the drainage or grading of such Owner’s Lot or otherwise as it relates to the Duplex Building (“**Prohibited Alteration**”).

3.2. Roof. Without making a Prohibited Alteration, each Owner shall, at his, her or its own expense, maintain the portion of the Roof over the Dwelling Unit on the Owner’s Lot in good condition and repair and in the original materials and colors. If the Owners of both Dwelling Units jointly repair or replace the entire Roof over both Dwelling Units, the Owners of the Dwelling Units shall share the cost equally. If the Owners of both Dwelling Units jointly repair or replace a portion of the entire Roof covering portions of the Roof on both Dwelling Units, then the cost of such repair shall be apportioned according to the square footage of the Roof over each Dwelling Unit being repaired or replaced, unless agreed to otherwise by the Owners. In the event of any repair to the Roof, any sum received from insurance or any warranty provider wither respect to such injury or damage shall be first applied to such repair or replacement. Each Owner must ensure that any penetrations of the Roof are performed such that the roof system manufacturer’s warranty is not voided. To the extent required by the applicable Roof manufacturer’s warranty, all penetrations of the Roof must be performed by contractors and in a manner approved by the roof system manufacturer.

3.3. Foundation. Without making a Prohibited Alteration, each Owner shall, at his, her or its own expense, maintain the portion of the Foundation under the Dwelling Unit on the Owner’s Lot in good condition and repair and in the original materials. If the Owners of both Dwelling Units jointly repair or replace the entire Foundation under both Dwelling Units, the Owners of the

Dwelling Units shall share the cost equally. If the Owners of both Dwelling Units jointly repair or replace a portion of the Foundation under both Dwelling Units, then the cost of such repair shall be apportioned according to the square footage of the Foundation under each Dwelling Unit being repaired or replaced, unless agreed to otherwise by the Owners. In the event of any repair to the Foundation, any sum received from insurance or any warranty provider with respect to such injury or damage shall be first applied to such repair or replacement.

3.4. Maintenance Responsibility for Exterior Areas. Maintenance, repair and replacement of the Exterior Areas on the Owner's Lot shall be the individual Owner's obligation and responsibility. Additionally, repairs of damage to the Property (including, without limitation, all or any portion of a Lot, Duplex Building or Party Wall) caused by an Owner or his, her or its Related Users, whether negligently or intentionally, shall be repaired by such Owner at his, her or its expense.

3.5. Owner Responsibility for Certain Acts. If (a) the exterior of a Duplex Building is damaged through the willful or negligent act of an Owner or his, her or its Related Users (including without limitation as a result of a Prohibited Alteration), which damage is not promptly repaired by that Owner; (b) an Owner fails to replace damaged glass surfaces; (c) an Owner fails to pay his, her or its share of any maintenance, repair or replacement work which is the joint obligation of the Owners as provided in this Article Three; or (d) any applicable governmental authority gives an Owner notice of a zoning violation which the Owner does not timely correct, then in each such event the other Owner may give the nonperforming Owner a written notice and demand to cure the matter. In the event that the matter has not been corrected or the sums due paid within ten (10) days thereafter, the non-defaulting Owner may undertake such repair and for such purpose may enter upon the defaulting Owner's Lot, including, without limitation, the defaulting Owner's Dwelling Unit, without liability therefor except for damage resulting from the willful misconduct of such Owner or his, her or its Related Users. The non-defaulting Owner shall have a Lien against the defaulting Owner's Lot and Dwelling Unit in accordance with the provisions of Section 7.10 of this Declaration for the cost and expense incurred in making or causing such repairs to be made, except that no Owner shall have or be permitted to assert a Lien against a Lot owned by Declarant or any Related Party.

3.6. Repair Rights of Declarant, Related Parties and Associations. Notwithstanding anything to the contrary in this Declaration, Declarant and any Related Parties, as well as the District and any applicable sub-association formed with respect to the Property, shall have the right, but not the obligation, at any and all times to enter upon the Owner's Lot to (a) maintain, repair and/or replace any improvements located on or about the Owner's Lot, including without limitation the Exterior Areas (including without limitation the drainage and grading of the Owner's Lot), the Roof and/or the Foundation; and (b) remove any improvements or alterations on or about the Owner's Lot that fail to comply with the provisions of this Declaration. If any maintenance, repair and/or replacement work that is the subject of the foregoing clause (a) is the responsibility of an Owner, or if any removal work is required in connection with the foregoing clause (b), then the entity that causes such work to be performed shall have a Lien against the subject Owner's Lot and Dwelling Unit in accordance with the provisions of Section 7.10 of this Declaration for the cost and expense incurred in making or causing such work to be performed. The rights and obligations in this Section 3.6 shall be in addition to, and not in limitation of, any similar or other rights (including without limitation assessment and lien rights) and obligations under this

Declaration, the Master Declaration, any sub-association declaration, and any other declaration or document that is binding upon an Owner or such Owner's Lot.

ARTICLE FOUR
Utilities

Each Lot shall have separate water, electric and natural gas taps, service lines and meters. Each Owner shall be separately responsible for and shall pay before delinquency any water and utility charges separately metered to the Owner's Lot.

ARTICLE FIVE
Easements

5.1 Reciprocal Easements. There is hereby created a perpetual, non-exclusive easement for the installation and continued operation, maintenance, repair, alteration, inspection and replacement of utility lines, including, without limitation, water lines, sewer lines, gas lines, telephone lines, television cable lines and such other utility lines and incidental equipment as such lines are located over, under and across the Property and the street adjacent thereto. Perpetual reciprocal easements for the continuance, maintenance and relocation of utility lines shall exist for the benefit and burden of both of the Owners of the Lots which constitute the Property.

5.2 Utility Easements. If any utility lines referred to in this Article are destroyed or damaged, the Owner whose Lot or Dwelling Unit is serviced by those lines shall cause the same to be restored forthwith. Notwithstanding any other provision in this Declaration, an Owner who by negligent or willful act causes damage to the utility line or lines of any other Owner shall bear the cost of restoration thereof and any other damages allowed by law. In the event that such damage has not been corrected within twenty-four (24) hours, subject to the applicable utility company being able to make the repairs within such period of time, the Owner whose Lot or Dwelling Unit has been damaged may undertake such repair or cause the repairs to be made and for such purpose may enter upon the defaulting Owner's Lot, including, without limitation, the defaulting Owner's Dwelling Unit, without liability therefor except for damages resulting from the willful misconduct of such Owner or his/her Related Users. The Owner whose Lot or Dwelling Unit has been so damaged shall have a Lien against the defaulting Owner's Lot and Dwelling Unit in accordance with the provisions of Section 7.10 of this Declaration for the cost and expense incurred in making or causing such repairs to be made.

5.3 Easements for Encroachments. If any portion of a Dwelling Unit or other improvements constructed as part of the initial construction on a Lot encroaches upon another Lot, a valid easement therefor shall exist for the encroachment and for the maintenance, repair and replacement thereof.

5.4 Easements for Maintenance. Each Lot shall be subject to an easement in favor of the Owners and their Related Users for providing the maintenance, repairs, operation and replacement described in this Declaration.

ARTICLE SIX
Damage or Destruction

In the event of damage or destruction to a Dwelling Unit due to fire or other disaster, the Owner of the damaged Dwelling Unit shall promptly commence the repair and reconstruction work necessary to restore the improvements to substantially the same condition as they existed prior to the damage (unless the damage is covered by insurance policies maintained by either the District or any sub-association formed with respect to the Property, and such District or sub-association is expressly required by applicable law to restore the improvements). The cost of all such repairs and restoration work shall be paid by the Owner of the damaged Dwelling Unit from the proceeds of insurance or otherwise.

ARTICLE SEVEN

General Conditions

7.1 Covenants Run With the Land. The covenants and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owner of each Lot and his, her or its legal representatives, heirs, successors and assigns, in perpetuity from the date this Declaration is recorded.

7.2 Amendments.

7.2.1 This Declaration may only be amended by an instrument executed by all of the then-current Owners of the Property as well as Declarant if it then owns one or more Lots within the Property. An amendment shall be effective upon recording in the real estate records of the County.

7.2.2 Notwithstanding anything to the contrary in this Declaration, no amendment to this Declaration that modifies or removes Section 7.12 (Dispute Resolution) or imposes any new or alters any existing obligation on Declarant or any Related Party will be effective or enforceable without the written consent of Declarant.

7.3 Enforcement. Each Owner and each Owner's predecessors and successors in title shall have the right to enforce the covenants, restrictions and other provisions of this Declaration by any proceeding at law or in equity against the other Owner or such Owner's predecessors or successors in title, a Related User or any other person or persons violating or attempting to violate any covenant, restriction or other provision set forth in this Declaration, which proceeding may include, without limitation, claims for injunctive relief or damages or both, and may include, without limitation, claims against the Property to enforce any Lien created by this Declaration. The omission or failure of any Owner or Owner's predecessors or successors in title to enforce any covenant, restriction or other provision set forth in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Except as provided in Section 7.12 with respect to Disputes involving Declarant or a Related Party, in the event of any litigation or arbitration between Owners or any Owner's predecessors or successors in title arising out of this Declaration, in addition to any other relief awarded, the prevailing party shall be entitled to recover his, her or its reasonable costs and attorneys' fees, including, without limitation, those incurred in any proceeding in U.S. Bankruptcy Court.

7.4 Partial Invalidity. If any provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance, be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of the remaining provisions, paragraphs, sentences, clauses, phrases and words shall remain in full force and effect.

7.5 Certain Terms Interchangeable. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural and the singular, and the use of any gender shall include all genders.

7.6 Waiver of Homestead. By accepting a deed or other instrument of conveyance thereto, any person having an interest in a Lot or Dwelling Unit waives the homestead exemption and any other exemption of the laws of the State or any federal law relating to any Lien filed by any person or entity pursuant to this Declaration; otherwise, such exemptions are not hereby waived.

7.7 Address for Notices. Each Owner shall register his, her or its mailing address with the other Owner (if different from the street address of his, her or its Dwelling Unit) and all notices or demands intended to be served upon an Owner shall be in writing addressed to such Owner at such address and either (i) sent by certified mail, postage prepaid, return receipt requested (in which case such notice or demand will be deemed delivered three (3) business days following the deposit of same with the U.S. Postal Service), (ii) sent by a nationally-recognized overnight carrier such as FedEx (in which case such notice or demand will be deemed delivered one (1) business day following the deposit of same with such carrier), or (iii) personally delivered with written confirmation of delivery or refusal of delivery (in which case such notice or demand shall be deemed delivered on the date personally delivered, the date such delivery is refused, or the date set forth on the written confirmation, whichever is earlier).

7.8 Evidence of Compliance with this Declaration. Each Owner shall provide, within fifteen (15) days after delivery of a written request by the other Owner, a mortgagee, prospective purchaser or prospective mortgagee, a statement indicating the amount of any unpaid charges or amounts due from the requesting Owner under the terms of this Declaration, any existing defaults under this Declaration and any other information deemed proper by the responding Owner. In the event the Owner requested to provide the statement fails to do so within such fifteen (15) days, such failure shall be deemed conclusive evidence that no amounts due under this Declaration are unpaid by the requesting Owner and no defaults by the requesting Owner exist under this Declaration.

7.9 Payments by Third Parties. Any mortgagee holding a first mortgage or deed of trust on any Lot may jointly or separately pay any taxes, Liens or other charges which are in default and which may or may not have become a charge against the Property and may pay overdue premiums for hazard insurance policies or secure new hazard insurance coverage in the lapse of such policy, and any first mortgagee upon the making of such a payment shall be immediately owed reimbursement therefor from the Owner of such Lot.

7.10 Lien. All sums and amounts due and payable under this Declaration by one Owner to the other Owner, or due and payable by an Owner to Declarant, any Related Party, the District and/or any sub-association formed with respect to the Property, which sums and amounts are not paid when due shall be a personal obligation of the Owner and, in addition, shall constitute a lien on such Owner's Lot in favor of the person or entity to which such obligation is owed ("**Lien**"). Disputes over such unpaid amounts shall not be subject to the terms of Section 7.12 unless Declarant or any Related Party (as defined in Section 7.12) is a party to such Dispute, and in such event, only the dispute resolution provisions in Section 7.12 and the rights and remedies therein shall apply to such Dispute. To evidence the Lien, the person or entity entitled to the Lien may, but shall not be required to, prepare a written Notice of Lien setting forth the nature and amount

of the unpaid indebtedness, the date the indebtedness first became due, and the name of the Owner and legal description of the Lot subject to the Lien. The Notice of Lien may be recorded in the real estate records of the County at any time more than ten (10) days after demand by the person or entity entitled to the Lien to the subject Owner for such payments and the failure to pay of such non-paying Owner. Once a Notice of Lien is duly recorded, the Lien may be foreclosed by judicial foreclosure in the same manner as foreclosure of a mortgage or deed of trust on real property. The Lien shall be subordinate to the liens of first mortgages and first deeds of trust, but shall be superior to any homestead exemption. Except as provided in Section 7.12 with respect to Disputes involving Declarant or a Related Party, in any proceeding to foreclose a Lien or to recover amounts due from an Owner, the prevailing party in such proceeding, in addition to any other relief awarded, shall be awarded his, her or its costs, expenses and reasonable attorneys' fees incurred in connection with the recording and enforcement of the Lien, including, without limitation, reasonable attorneys' fees and costs incurred in any proceeding to enforce the Lien. If the non-paying Owner satisfies the indebtedness before a Lien foreclosure action is commenced, the holder of the Lien shall promptly execute and cause to be recorded an appropriate instrument releasing and discharging the Lien.

7.11 Mutual Cooperation. Each Owner shall reasonably cooperate with the other Owner's request for cooperation in obtaining a building permit or such other license as may be required from a governmental agency for the purpose of repairing, replacing or remodeling the improvements on the requesting Owner's Lot.

7.12 Dispute Resolution for Claims Involving Declarant or a Related Party.

7.12.1 Any controversy or claim between any Owners and/or such Owners' Related Users and/or predecessors or successors in title (each individually an "**Owner Party**" and collectively, "**Owner Parties**"), on the one hand, and Declarant and/or its respective design professionals, contractors, subcontractors, managers, members, officers, directors, shareholders, parents, subsidiaries, affiliates, agents and/or employees (individually a "**Related Party**" and collectively, "**Related Parties**"), on the other hand, arising out of or relating to (a) this Declaration; (b) the breach of this Declaration; (c) the Property (including, without limitation, as to any Lot, Dwelling Unit, or the Duplex Building); (d) the development, construction, marketing, sale, warranty and/or repair of the Property; (e) the Project; or (f) any resulting transaction (collectively referred to hereafter as the "**Dispute**") shall be fully and finally resolved by arbitration conducted in accordance with the Colorado Uniform Arbitration Act, as amended ("**COUAA**"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. **OWNERS AGREE AND UNDERSTAND THAT, EXCEPT TO THE EXTENT NECESSARY TO OBTAIN EMERGENCY DECLARATORY RELIEF TO ENFORCE THIS ARBITRATION CLAUSE, BY ACCEPTANCE OF A DEED TO ANY LOT, EACH OWNER ACKNOWLEDGES AND AGREES THAT THEY ARE WAIVING THEIR RIGHTS, AND THE RIGHTS OF ANY RELATED USERS, TO FILE SUIT AGAINST OR SUE DECLARANT OR ANY RELATED PARTIES IN COURT, INCLUDING ANY RIGHT TO A JURY TRIAL.**

7.12.2 As a condition precedent to arbitration, the Owner and the other Owner Parties, on the one hand, and Declarant and the other Related Parties, on the other hand, further agree that they shall first attempt to settle the Dispute by mediation before commencing arbitration. Mediation is a process in which parties attempt to resolve a dispute by submitting to an impartial

neutral mediator who is authorized to facilitate the resolution of the dispute but who is not empowered to impose a settlement on the parties.

7.12.3 In any mediation involving Declarant, Declarant shall be responsible for the mediator's fees and any filing or administration fees for a one (1) day mediation. Mediation fees for any further mediation shall be divided equally among the parties involved.

7.12.4 Before mediation begins, the parties shall sign a document acknowledging and agreeing consistent with State law that no statements or admissions made, or documents prepared or furnished, in the course of the mediation, shall be admissible in any subsequent mediation or civil action.

7.12.5 If any Dispute is asserted against Declarant or any of Declarant's Related Parties and is based, in whole or in part, on an alleged defect in the design or construction of any improvements related to the Project, subject to the applicable Owner's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, Declarant shall have the right to access the affected area for the purposes of inspecting the condition complained of, and the correction thereof, including, without limitation, any necessary redesign. This right shall include, without limitation, notice prior to conducting any investigative or destructive testing. The applicable Owner shall meet with the Declarant and/or its designees to discuss, in good faith, ways to resolve the Dispute. The inspecting party shall indemnify, defend and hold harmless the Owners, tenants, guests, employees and agents thereof, against any and all liabilities, claims, demands, losses, costs and damages incurred, including, without limitation, court costs and attorneys' fees, resulting from or in performance of this provision, or as a result any inspecting party's breach of this provision.

7.12.6 By acceptance of a deed to any Lot, each Owner, on behalf of such Owner and the other Owner Parties, agrees that (a) any Dispute involving any of Declarant or any of Declarant's Related Parties will be resolved by arbitration as set forth herein and not in a court of law; and (b) Declarant will have the option to include any of its Related Parties in the arbitration. **By accepting a deed to his, her or its Lot, the Owner also agrees that the provisions of this Section shall be a covenant running with the Property, and binding upon the Owner and such Owner's Related Users, heirs, personal and legal representatives, successors and assigns.** By accepting a deed to his, her or its Lot, the Owner further agrees that any action brought by an Owner Party against Declarant or any Related Party shall be brought by independent action and that no Owner Party shall serve as a class representative or become a class member to pursue such action, and Owner expressly waives any and all rights to any other means of pursuing a cause of action against Declarant or any Related Party, including, without limitation, a court action, and agrees that binding arbitration pursuant to this Section is the Owner Party's sole remedy to solve any Dispute with Declarant or any Related Party, in the following manner:

7.12.6.1 The arbitration shall be conducted by a single arbitrator who shall be a retired State court or Federal judge or attorney licensed to practice law in the State. If the parties are unable to agree upon an arbitrator within thirty (30) days from the date of the demand for arbitration, then the arbitrator shall be chosen in accordance with the rules governing the selection of an arbitrator under the COUAA.

7.12.6.2 No person shall serve as the arbitrator who may have any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall

immediately disclose in writing to all parties any circumstance likely to affect the appearance of impartiality and/or actual impartiality, including, without limitation, any bias or financial or personal interest or relationship in the outcome of the arbitration (“**Arbitrator’s Disclosure**”). If any party objects to the service of any arbitrator within fourteen (14) days after receipt of that Arbitrator’s Disclosure, such arbitrator shall be replaced in the same manner as provided in Section 7.12.7.1 above.

7.12.6.3 The arbitration shall not be open to the public. The decision shall not be published. The arbitrator’s decision shall not establish a precedent.

7.12.6.4 The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in the county in which the Property is located, unless otherwise agreed by the parties.

7.12.6.5 If Declarant is a party to a Dispute, Declarant shall have the right to join any Related Party or Related Parties in the arbitration.

7.12.6.6 The arbitrator shall apply the substantive law of the State to all claims and defenses, without regard to conflicts of law principles. The State Rules of Civil Procedure shall govern disclosure, discovery and all other pre-hearing, hearing and post-hearing proceedings in the arbitration. The State Rules of Evidence shall govern the admissibility of evidence at the hearing.

7.12.6.7 The arbitrator shall issue an award within thirty (30) days of the completion of the arbitration hearing or, if post-hearing briefs are submitted, within thirty (30) days of receipt of the briefs. If the parties file post-hearing briefs, they shall submit such briefs within twenty (20) days of the completion of the hearing. No extensions of time will be permitted.

7.12.6.8 In the event the arbitrator requires any advance fees to be paid, the parties will divide those equally. All arbitrator and arbitrator fees shall be split equally among the parties to the arbitration. If the arbitration award requires any party to pay more than one-half of the fees, the parties shall adjust credit for payment of the advance fee to accurately reflect payment required under the award.

7.12.6.9 Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

7.12.6.10 The arbitrator shall have no authority to award attorneys’ fees. The arbitrator shall have no authority to award punitive, statutory damages, consequential damages or any damages other than actual damages.

7.12.6.11 Except as may be required by law, for confirmation of an arbitration award, or by another provision of this Declaration, neither a party nor an arbitrator may disclose the existence of an arbitration or any matters regarding an arbitration, including, without limitation, contents or results, without the prior, written, discretionary consent of all parties to such arbitration.

7.12.7 Each party shall be responsible for its own attorney’s fees in any mediation and/or arbitration conducted pursuant to the mediation and arbitration provisions set forth above.

7.12.8 In the event of a Dispute relating to a Duplex Building, a Dwelling Unit and/or a Lot, which Dispute involves an Owner (or Owners) and/or one or more Owner Parties, on the one hand, and the Declarant and/or one or more Related Parties, on the other hand, the terms

of this Section 7.12 shall govern resolution of such Dispute, rather than any dispute resolution terms contained in the Master Declaration, any sub-association declaration and/or any other document.

[The remainder of this page is intentionally left blank.]

In witness whereof, the undersigned Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

RICHMOND AMERICAN HOMES OF COLORADO, INC., a Delaware corporation

By: [Signature]
Name: Matt Hengel
Title: Senior Vice President

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The above and foregoing Party Wall Declaration and Agreement was acknowledged before me on September 28th, 2021, by Matt Hengel as Senior Vice President for Richmond American Homes of Colorado, Inc., a Delaware corporation, on behalf of such corporation.

My commission expires: 2-01-2024
Witness my hand and official seal.

[Signature]
Notary Public

