

After Recording Return To:

Sara M. Frear  
Mulliken Weiner Berg & Jolivet P.C.  
102 S. Tejon Street, Suite 900  
Colorado Springs, CO 80903

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR DELTA PLACE**

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR DELTA PLACE ("Amendment") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2024 by Delta2020 Limited Liability Company, a Colorado limited liability company, as Declarant, and consented to by the Delta Place Homeowners Association, Inc., a Colorado nonprofit corporation (the "Association"). Together, the Association and the Declarant are known as "Party" or "Parties."

**RECITALS**

**WHEREAS**, on April 12, 2023, Declarant and the Association entered into the Declaration for Covenants, Conditions, Restrictions and Easements for Delta Place, which was recorded in the real estate records of El Paso County, Colorado on April 12, 2023 under reception no. 223029898 ("Declaration").

A. The Declarant and the Association are the sole owners of the Community Area, as set forth and defined in the Declaration.

B. The Parties desire to amend the Declaration to incorporate the changes set forth below.

C. All capitalized terms used in this Amendment, unless more particularly defined herein, shall have the meanings ascribed in the Declaration.

**AGREEMENT**

**THEREFORE**, in exchange for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual promises contain herein, the Declarant, with the consent of the Association, pursuant to Section 15.2 of the Declaration, amends the Declaration as follows:

1. Article XII INSURANCE of the Declaration is hereby deleted in its entirety and replaced with the following:

"12.1 Insurance. The Association shall maintain insurance as required by the Act and other applicable law, including the following types of insurance, on the Association Property to

the extent that such insurance is reasonably available, considering the availability, cost, and risk coverage provided by such insurance, and the cost of said coverage to be paid by the Association as part of the Common Assessments is reasonable. In addition, the Association may maintain such insurance on such other property as the Board of Directors may determine in its discretion from time to time, or as may hereafter be required. The Association may also consider, in determining the type and amount of insurance it needs to obtain, the then-existing requirements of any applicable governmental agencies.

(a) Property insurance on the Association Properties for broad form covered causes of loss; and, if reasonably available, the total amount of insurance must not be less than the full insurable replacement cost of all the insured property less applicable deductibles at the time the insurance is purchased and such renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Association Property, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, insuring the Board of Directors, the Association, any managing agent and their respective employees, agents and all Persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Board of Directors. The Owners shall also be included as additional insureds but only for claims and liabilities arising in connection an Owner's membership in the Association. The insurance shall cover claims of one or more insured parties against other insured parties.

(c) If reasonably available, as determined by the Board, a policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Community Area and/or any Owner who disburses funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Community Area to carry more fidelity insurance coverage than required hereinabove. In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subsection (c).

(d) If any Association Properties are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

(i) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

(ii) one hundred percent (100%) of current replacement costs of all

buildings and other insurable property located within a designated flood hazard area.

(e) In addition, the Association may obtain insurance against such other risks of similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including but not limited to personal liability insurance to protect directors and officers of the Association and the members of the Architectural Committee and other representatives.

12.2 General Provisions of Insurance Policies If available at reasonable rates, all policies of insurance carried by the Association shall be carried in blanket policy form naming the Association, as insured, or its designee, as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory clause in favor of each First Mortgagee or other mortgagee (collectively, "Security Interest Holder") and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured and to each Security Interest Holder, insurer or guarantor of a security interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest including Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association. Insurance obtained by the Association, to the extent reasonably feasible, shall name Declarant as an additional insured and shall contain a waiver of subrogation rights against Declarant. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Association Properties and property of Declarant.

12.3 Deductibles. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters of claims adjustment.

(a) To the extent the Association settles a claim for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than any one (1) Lot and/or related Improvements are damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

(b) Any loss to any Lot or to any Association Property or other property that the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the repair and maintenance of the property that is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, his tenants, family members, guests or invitees. Upon said determination by the Association, any such loss or

portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any general assessment.

12.4 Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Article 12 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Article 9 of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated.

12.5 Acceptable Insurance Companies. Each insurance policy purchased by the Association must be written by an insurance carrier that is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where: (a) under the terms of the insurance company's charter, bylaws, or policy contributions or assessments may be made against the mortgagor or mortgagee's designee; (b) under the terms of the carrier's charter, bylaws, or policy loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members; or (c) the policy includes any limiting clauses (other than insurance conditions) which would prevent a Security Interest Holder or any Owner from collecting insurance proceeds.

12.6 Insurance to be Maintained by Owners. IT IS THE RESPONSIBILITY OF EACH OWNER TO OBTAIN APPROPRIATE FULL INSURABLE REPLACEMENT COST PROPERTY AND CASUALTY INSURANCE, AS WELL AS SUCH OTHER POLICIES OF INSURANCE DEEMED PRUDENT BY THE UNIT OWNER, INSURING THE OWNER'S LOT, TOWNHOME AND ANY LIMITED COMMON AREAS. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Lot, Townhome, Maintenance Area and any other Improvements thereon, including but not limited to casualty, property, flood and public liability insurance coverage on each Lot and the Improvements thereon, and the possessions therein, shall be the responsibility of the Owner of such Lot and each Owner shall maintain appropriate insurance. The Association shall have no responsibility regarding the obtaining or continuation of any such insurance. Each Owner shall provide evidence of Owner's insurance if requested by the Association within two (2) business days of the request.

12.7 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors to ascertain that the coverage provided by such policies adequately covers those risks intended to be insured by the Association. In making the aforesaid determination, the Board of Directors or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance.

12.8 Notice of Cancellation. If the insurance described in Section 12.1 is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to

be hand delivered, or sent prepaid by United States Mail, to all Owners. If the insurance described in Section 12.1 is not reasonably available, the Association may carry any other insurance it considers appropriate. In addition, if the insurance described in Section 12.6 for any Lot is cancelled or not renewed without a replacement policy therefore having been obtained, the Lot Owner shall notify the Association within two (2) business day thereof. Notwithstanding the provisions of Section 12.6, if any Owner fails to maintain appropriate insurance, the Association may, but is not obligated to do so, obtain or continue such insurance as is appropriate in the Association's discretion and the costs associated therewith may be collected as a Site Assessment.

12.9 Owners' Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of any or all of the Association Property or Maintenance Area is caused by the willful or negligent act or omission of any Owner, or a Related User of such Owner, the cost of such repair, maintenance or reconstruction shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction may be collected as a Site Assessment as provided in this Declaration or by the Association exercising any rights or remedies under the Association Documents or otherwise as permitted by law. A determination of the negligence or willful act or omission of any Owner's liability therefore shall be determined by the Board at a hearing after any notice required by the Bylaws to be given to the Owner, but any determination by the Board shall be subject to judicial review as appropriate.

12.10 Applicable Insurance for Losses Coverable under Multiple Insurance Policies. As this Declaration provides, both the Association and Owners are responsible for maintaining various insurance policies. When there is overlapping insurance coverage, the Owner's policy will always be the primary insurance policy to be utilized. The Association's policy will provide a secondary coverage as available and needed. In the event of any loss that is covered under (i) any policy in the name of the Association, and (ii) any policy of insurance in the name of any Owner, then such Owner's insurance policy shall be the applicable insurance for covering such a loss without any contribution or coverage under the Association's applicable insurance policy. If an Owner's insurance policy only covers a portion of any loss that is also covered by any policy in the name of the Association, then such Owner's insurance policy shall be the primary insurance to the extent it covers any such loss."

2. Except as expressly modified by the terms of this Amendment, the Amended and Restated Declaration shall remain unaltered and in full force and effect.

*[Signatures on following page]*

IN WITNESS WHEREOF, the Parties have executed this Amendment effect as the day first written above.

DECLARANT:

**Delta2020 Limited Liability Company,**  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: Thomas L. Bouziden  
Its: Manager

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF EL PASO         )

The foregoing instrument was ascribed to and acknowledged before me this this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Thomas L. Bouziden as manager of **Delta2020 Limited Liability Company**, a Colorado liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**CONSENT**

This Declaration is hereby consented to by **Delta Place Homeowners Association, Inc.**,  
a Colorado nonprofit corporation.

**Delta Place Homeowners Association, Inc.**,  
a Colorado nonprofit corporation

By: \_\_\_\_\_  
Name: Thomas L. Bouziden  
Its: President

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF EL PASO                 )

The foregoing instrument was ascribed to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Thomas L. Bouziden as President of **Delta Place Homeowners Association, Inc.**, a Colorado nonprofit corporation.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_