

Amended Restrictive Covenants Page 1 of 59  
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FOTHERINGHAM LLP - UTAH SLC

**SUNRIVER ST GEORGE COMMUNITY ASSOCIATION INC.**  
**ST GEORGE, UTAH 84790**

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**2021 AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
SUNRIVER ST GEORGE COMMUNITY ASSOCIATION  
AN AGE-RESTRICTED, PLANNED UNIT DEVELOPMENT**

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This 2021 Amended and Restated Declaration is made as of the date of the recording in the Washington County Recorder's Office by the SunRiver St George Community Association, Inc., a Utah Nonprofit Corporation ("Association").

### RECITALS

1. SUNRIVER ST GEORGE COMMUNITY ASSOCIATION, INC. IS A COMMUNITY FOR PERSONS FIFTY-FIVE (55) YEARS OF AGE AND OLDER. AS MORE FULLY DESCRIBED HEREIN OCCUPANCY IS LIMITED BY AGE. IN COMPLIANCE WITH THE HOUSING FOR OLDER PERSON ACT (42 USC § 3607(B)(2)(C), AS AMENDED FROM TIME TO TIME), THE ASSOCIATION SHALL (I) PUBLISH AND ADHERE TO POLICIES AND PROCEDURES THAT DEMONSTRATE THE INTENT TO OPERATE THE ASSOCIATION AS A COMMUNITY FOR PERSONS WHO ARE FIFTY-FIVE (55) YEARS OF AGE AND OLDER; AND (II) ESTABLISH POLICIES FOR AGE VERIFICATION OF EACH RESIDENT BY RELIABLE SURVEYS AND AFFIDAVITS WHICH ARE OF THE TYPE THAT MAY BE ADMISSIBLE IN ADMINISTRATIVE AND JUDICIAL PROCEEDINGS FOR THE PURPOSES OF SUCH VERIFICATION. HOWEVER, PERSONS UNDER AGE EIGHTEEN (18) MAY RESIDE AS A VISITOR IN ANY DWELLING UNIT FOR A PERIOD NOT EXCEEDING THIRTY (30) CONSECUTIVE DAYS NOR MORE THAN NINETY (90) DAYS IN ANY CALENDAR YEAR.
2. This Declaration supersedes and replaces in its entirety the previously recorded Corrected Second Restated and Amended Declaration of Covenants, Conditions, and Restrictions for SunRiver St George that was recorded as Entry No. 20160044333 on November 21, 2016, at the Washington County Recorder's Office, and all amendments thereto and prior versions thereof predating the recording of this Declaration ("Prior Declaration").
3. The Association is the authorized representative of the Owners of certain real property known as SunRiver St George, located in Washington County, State of Utah and more particularly described on Exhibit A attached to and incorporated in this Declaration by reference.
4. Pursuant to Article XVI, Section 16.2 of the Prior Declaration and Article VI, Sections 6.6 (b) of the Prior Bylaws, this Declaration and the attached Bylaws have been duly approved and adopted. A Certificate of Approval of the amendment is attached as Exhibit B and incorporated into this Declaration by reference.
5. The Association desires to establish, for its own benefit and for the mutual benefit of all current and future Residents of SunRiver, certain covenants, conditions,

restrictions, easements, rights, privileges, assessments, and liens as set forth in this Declaration.

### SUBMISSION

1. The Property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act (defined in Article 1, below).
2. The Property and the Association are made subject to and shall be governed by Utah law, including but not limited to the Utah Community Association Act, and the Utah Revised Nonprofit Corporation Act, the Articles, this Declaration, and the covenants, conditions and restrictions set forth herein and the Bylaws. The Property is also subject to the right of governing municipalities to access the roads within SunRiver for emergency vehicles, service vehicles, and for all of the utility installations up to the residential meters.

3. The Property is subject to described easements and rights of way, including dedicated roadways and public utility easements that are depicted on the Plat (defined in Article 1, below).

### COVENANTS, CONDITIONS, AND RESTRICTIONS GENERALLY

In consideration of the Recitals above, the Association, in order to further preserve and maintain the integrity of SunRiver, declares that the Property shall be held, sold and conveyed subject to the following easements, covenants, conditions, and restrictions, which run with the Property and are binding upon all parties having or acquiring any right, title, or interest in such Property or any part thereof and shall inure to the benefit of each Owner thereof.

### ARTICLE 1 DEFINITIONS

When used in this Declaration (including the "Recitals" and "Submission"), the following terms have the meaning indicated. Capitalized terms are defined in this Article. Terms that are applicable to a single section are defined in that section. Any term used in this Declaration, which is defined by the Act, to the extent permitted by the context of this Declaration, has the meaning given by the Act. This Declaration incorporates all terms defined in the Act under Utah Code § 57-8a-102.

1.1 "Amenities" shall include the Community Center and Recreational Facilities.

1.2 "Architectural Review Committee" or "ARC" shall mean a committee appointed by the Board to review applications for modifications to Lots or Dwelling Units and administer the architectural controls as more fully described in Section 9.3 herein. If the Board does not appoint an ARC the Board shall serve as the ARC.



1.3 Articles and Bylaws shall mean the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended. The Articles, among other things, establish the Board to manage the affairs of the Association and are filed with the State of Utah. The Bylaws, among other things, set forth the number of persons constituting the Board, the method of the Board's selection, the Board's general powers, the method of calling a meeting of Members of the Association and the Members required to constitute a quorum for the transaction of business.

1.4 Assessments shall mean any monetary charge, fine or fee imposed or levied against an Owner by the Association, as provided in this Declaration or the Bylaws, regardless of whether said assessment is identified as a Regular Assessment, Special Assessment, Individual Assessment, or other charge.

1.5 Association shall mean the SunRiver St George Community Association, Inc., a Utah non-profit corporation, incorporated under the laws of the State of Utah, and its successors and assigns.

1.6 Association Policies and Rules shall mean the policies and rules adopted from time to time by the Association pursuant to Article 8 hereof.

1.7 Board shall mean the Board of Trustees of the Association

1.8 Building shall mean any structure which (a) is permanently affixed to the land, and (b) has one or more floors and a roof.

1.9 Business and Trade shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit, including business not for profit; or (c) a license is required.

1.10 Capital Improvement shall mean any addition or improvement, made in the sole discretion of the Board, to the Common Areas with a useful life of three or more years including that part of any expansion or other modification to an existing improvement which increases the total value of the improvement over its repair or replacement cost. An addition or improvement is not discretionary if it is (a) necessary to replace or repair items covered in the Association's then current reserve study; or (b) necessary for health or safety purposes; or (c) mandated by a governmental authority.

1.11 City shall mean the City of St. George, Utah, a municipal corporation of the State of Utah.

1.12 Common Areas shall mean all real and personal property and other interests therein, together with the facilities, fixtures, and improvements located thereon, which the Association owns or otherwise holds and related improvements, including any additional such areas and facilities contained in any Expansion Property which are subsequently annexed herein. Common areas shall include, without limitation, all easements running in favor of the Association and the improvements, fixtures situated within or upon said easements; all Common Areas specifically set forth

and designated as such on the Plat or Plats of the Property; all Limited Common Areas; all Exclusive Common Areas; and all Common Areas as defined in the Act, whether or not expressly listed herein or on the Plat or Plats of the Property.

1.13 "Common Expenses" shall mean the actual and estimated costs of any item or items approved by the Board and incurred, or anticipated to be incurred, in connection with the Common Areas, administration of the Association, this Declaration, the Articles or the Bylaws, or in furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by this Declaration, including any reasonable reserve.

1.14 "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property or as may be described in the Design Guidelines.

1.15 "Declarant" shall mean SunRiver St George Community Association, Inc., its successors and assigns.

1.16 "Design Guidelines" shall mean the guidelines adopted from time to time by the Board at its sole discretion setting forth certain architectural standards and specifications regarding the location and design of the improvements, construction materials, lighting, landscaping, signage and other matters relating to Improvements on the Property.

1.17 "Dwelling Unit" shall mean all buildings or structures situated upon a Lot, and which is intended for use and occupancy as a Residence for a single family.

1.18 "Exclusive Common Area" shall mean a portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all Owners as more particularly described herein.

1.19 "Expansion Property" shall mean real property that may be added to SunRiver by recording additional Plats.

1.20 "Governing Documents" shall mean a written instrument by which the Association may (a) exercise powers; or (b) manage, maintain, or otherwise affect the Property. Governing Documents includes the Articles, the Bylaws, any Plat, this Declaration, the Design Guidelines, and Association Policies and Rules.

1.21 "Guest" shall mean a person who is invited onto the Association's property, including such legal categories as permittees, invitees and licensees.

1.22 "Hazardous Material" shall mean (a) any waste, material or substance (whether in the form of a liquid, a solid or a gas and whether or not airborne), which is deemed to be a pollutant or a contaminant or to be hazardous, toxic, ignitable, reactive, corrosive, dangerous, harmful or injurious to public health or to the environment, and which is or may become regulated by or under the authority of any applicable local, state or federal laws, judgments, ordinances, orders, rules, regulations, codes or other government restrictions or requirements, any amendments or successors thereto, replacements thereof or publications promulgated pursuant thereto (collectively "Environmental Regulations" and individually, an "Environmental Regulation"); (b) petroleum; (c) asbestos; (d) polychlorinated biphenyls; and (e) any

radioactive material. In addition to the foregoing, the term "Environmental Regulations" shall be deemed to include, without limitation, local, state and federal laws, judgments, ordinances, orders, rules, regulations, codes and other government restrictions and requirements, any amendments and successors thereto, replacements thereof and publication promulgated pursuant thereto, which deal with or otherwise in any manner relate to, environmental matters of any kind.

1.23 "Improvements" shall mean any object, thing or activity of any kind installed, located or occurring on the Property which changes the external appearance of any portion of the Property of any Lot or of any structure or thing affixed on the Property or any Lot, from its external appearance as it existed immediately prior to the installation, location or occurrence of the object, thing or activity. Improvements include, but are not limited to, all Buildings, structures, landscaping and lawns, exterior walkways, parking areas, drives and truck loading areas, signs, fences, poles, walls, utility lines, lighting, excavations, grading, berms, drainage facilities, repairs, alterations, painting and all other structures or objects of any type or kind installed or constructed on the Property.

1.24 "Individual Assessment" shall mean any Individual Assessment levied by the Board against an Owner of a particular Lot for expenses incurred or to be incurred by the Association as defined in Section 4.5.

1.25 "Institutional Mortgagee" shall mean a Mortgagee which is a bank, or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any insurance company, any federal or state agency, or any other institution specified by the Board.

1.26 "Internal Occupant" shall mean a person who resides in an "Internal Accessory Dwelling Unit" (as defined by Utah code § 10-9a-530) on a Lot under any lease, license or concession agreement, or other instrument or arrangement under which such rights to occupy the Internal Accessory Dwelling Unit are acquired.

1.27 "Limited Common Area" shall mean all property designated on the recorded Plat Maps or as described in this Declaration as Limited Common Area, being intended for the exclusive use and enjoyment of one or more appurtenant Lots but fewer than all of the Lots, except that the sidewalks are intended for the use and enjoyment of all Residents and will be maintained by the Association. Limited Common Areas in Reflections are intended for the use of the Residents of Reflections only.

1.28 "Lot" shall mean each or any individual Lot as more particularly described in this Declaration, and any other Lot or parcel shown on any Plat to the extent such Lots or parcels are part of the Property. References in the Declaration to a specific Lot shall refer to the particular Lot as set forth in this Declaration and, as applicable, on the Plat for such Lot.

1.29 "Meeting of the Board" shall mean a gathering of the Board, whether in person or by electronic system that allows for oral communication in real time (such as web conferencing, video conferencing, and telephone conferencing), at which the Board can take binding action. Communication by email shall not be considered a Meeting.

1.30 "Member" shall mean every individual or entity who qualifies for membership in the Association pursuant to Article 2.

1.31 "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Lot.

1.32 "Mortgagee" shall mean the mortgagee or beneficiary under any Mortgage. A "First Mortgagee" shall refer to a Mortgagee whose Mortgage has priority over any other Mortgage encumbering a specific Lot.

1.33 "Owner" shall mean one or more persons or entities who are alone or collectively the record owner of fee simple title to a Lot, and the purchaser under an installment land sales contract, but excluding those having such interest merely as security for the performance of an obligation.

1.34 "Plat" shall mean any subdivision plat, any plat of a planned unit development, or any plat or map similar to any of the foregoing: (a) which covers the Property; (b) which describes or creates one or more Lots, Buildings, improvements, or Residences; (c) on which or in an instrument recorded in conjunction therewith is expressed the intent that the Buildings, improvements, or Residences created by the Plat shall comprise SunRiver, and (d) which is filed for record in the office of the County Recorder of Utah.

1.35 "Primary Dwelling Unit" shall mean the largest square foot Building on a Lot that is used or designated for use as a Residence by one or more persons.

1.36 "Property" shall mean the real property described on Exhibit A attached hereto and incorporated herein by this reference and any Expansion Property which shall become subject to this Declaration.

1.37 "Reflections" shall mean the separately developed residential area within SunRiver in which the Owners of Lots have common interests that are unique to that separately developed area and additional to those common to all Members of the Association. Reflections is subject to assessments including Reflections Regular, Reflections Special and Reflections Individual Assessments in addition to the assessments levied upon all Owners of the Association.

1.38 "Reflections Regular Assessment" shall mean the fee paid by the Owner of each Reflections Lot to the Association every year in an amount based on the Association's projected annual operating expenses for Reflections and includes a capital contribution to the Association's reserve fund for Reflections.

1.39 "Reflections Special Assessment" shall mean a fee paid by the Owner of each Reflections Lot from time to time to cover unbudgeted expenses or expenses in excess of those budgeted for Reflections.

1.40 "Regular Assessment" shall mean the fee paid by the Owner of each Lot to the Association every year in an amount based on the Association's projected annual operating expenses and includes a capital contribution to the Association's reserve fund.

1.41 "Reserve Fund" shall mean funds set aside by the Association specifically to pay for the major maintenance, repair and replacement of Common Area

assets, including limited common area assets that will require major maintenance, repair, or replacement in more than one and fewer than thirty years."

1.42 "Residence" shall mean and refer to any building situated upon a Lot which is designed and intended for residential use and occupancy.

1.43 "Resident" shall mean any person who occupies the Primary Dwelling Unit on a Lot in the Association under any interest in real property, including ownership, any lease, license or concession agreement, or other instrument or arrangement under which such rights are acquired.

1.44 "Single Family" shall bear the same meaning as that term or its equivalent bears in the City ordinances.

1.45 "Special Assessments" shall mean a fee paid by the Owner of each Lot from time to time to cover unbudgeted expenses or expenses in excess of those budgeted.

1.46 "SunRiver" shall mean all of the Property as described on Exhibit A, together with all of the buildings and other Improvements constructed thereon.

1.47 "Utah Community Association Act" or the "Act" shall refer to the applicable provisions of the Community Association Act described in Utah Code § 57-8a-101 et seq., as amended from time to time.

1.48 "Voting Interest" is based on one vote per Lot. For the Association, the Voting Interests is equal to the number of Lots in SunRiver. For voting pertaining only to Reflections, the Voting Interests is equal to the number of Lots in Reflections.

## **ARTICLE 2 MEMBERSHIP IN THE ASSOCIATION**

2.1 Members, Owners, Residents, Internal Occupants, Guests. Every Owner shall be a Member of the Association subject to the terms of the Governing Documents. Throughout the Governing Documents, the terms "Member" and "Owner" are interchangeable and synonymous, although "Owner" is preferred. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall also be subject to the terms and provisions of the Articles, Bylaws, Policies and Rules of the Association to the extent the provisions thereof are not in conflict with the Declaration. Membership in the Association shall be appurtenant to each Lot and may not be separated from the interest of an Owner in any Lot. Ownership of a Lot shall be the sole qualification for membership in the Association. Notwithstanding the foregoing, an Owner's Voting Interest and privileges in the Common Areas may be regulated or suspended for noncompliance with the Governing Documents.

Only Residents are entitled to enjoy the Amenities of the Association. Guests and Internal Occupants may be permitted to use the Amenities pursuant to Policies and Rules as determined by the Board.

When an Owner leases their Lot, they retain the Voting Interest but are deemed to have automatically assigned the right to enjoy the Amenities of the Association to the

Resident(s) of the Lot. An Owner who has leased their Lot may continue to use the Common Areas to the extent required to attend Association meetings or manage the leased property.

If a Lot is owned by more than one Owner (including but not limited to tenants in common and joint tenants), all co-Owners shall share the privileges of membership, subject to reasonable Board regulation, including but not limited to, reasonable fees as may be established in Article 3, and the restrictions on voting set forth in the Bylaws. All such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by an officer, director, partner or trustee, or by any other individual having apparent authority as designated from time to time by the Owner in a written instrument provided to the Association.

**2.2 Transfer.** Membership in the Association is not a separate interest from ownership of a Lot in the Association. Because there is no separate interest in membership, no membership can or may be transferred, pledged or alienated in any way. Membership in the Association is transferred automatically with transfer of the ownership of the Lot. Any attempt to separate the membership in the Association from the Lot to which it is appurtenant shall be void and will not be reflected upon the books and records of the Association.

**2.3 Voting Interest.** All Voting Interest shall be subject to the restrictions and limitations provided herein and in the other Governing Documents. The Association shall have one class of Members. For voting purposes, only one Voting Interest may be cast per Lot. If a Lot is owned by more than one Owner, the Voting Interest of the Owners will be subject to the requirements set forth in the Bylaws.

**2.4 Neighborhoods.** Every Lot shall be located within a specified geographic boundary ("Neighborhood") for the purposes of selecting representatives to the Board. The boundaries of each Neighborhood may be adjusted by the Board as needed to maintain equality in representation. (See Exhibit C)

**2.5 Reflections.** Reflections has Exclusive Common Areas that are reserved for the use of Reflections Lot Residents only. The Exclusive Common Area may include, without limitation, recreational facilities, landscaped rights-of-way and medians, and other portions of the Common Area within Reflections. All costs associated with maintenance, repair, replacement, and insurance of the Exclusive Common Area shall be assessed as a part of the Reflections Assessment. Every Lot located within Reflections (See Exhibit D) may be subject to additional covenants including the following:

- a. Reflections Lot Owners may, upon the written consent of a majority, request that the Association provide an increased level of service or special services for a benefit of Lots in Reflections. The cost of such services shall be assessed as a Reflections Assessment.
- b. During the annual budget development process, Reflections Lot Owners may, upon the written consent of a majority, request that the Association provide a decreased level of service or special services provided for the exclusive

benefit of Lots in Reflections. The decreased cost of such services shall be reflected in the Reflections Regular Assessment.

- c. Reflections Lot Owners shall hold a meeting at least annually or as otherwise required by the Board or by a request of a majority of Reflection's Voting Interests. All Lot Owners in Reflections shall be entitled to attend Reflection's meetings.
- d. The Voting Interests of at least twenty-five percent (25%) of the Reflections Lots shall constitute a quorum at any Reflections meetings.

### **ARTICLE 3 PROPERTY RIGHTS**

3.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- a. the Governing Documents.
- b. any restrictions or limitations contained in any deed conveying such property to the Association.
- c. the right of the Board to adopt rules, regulations or policies regulating the use and enjoyment of the Common Area including rules restricting use of the Amenities to Residents of Dwelling Units and their Guests, and rules limiting the number of Residents and Guests who may use the Common Area, and rules designating certain portions of the Common Area as gardening plots for Residents and regulating the use thereof. The right to set hours of operation and reasonable restriction of minors for facilities.
- d. the right of the Board to suspend the right of an Owner or Resident to use the Amenities.
- e. the right of the Association, acting through the Board to dedicate or transfer all or any part of the Common Area.
- f. the right of the Board to impose reasonable membership requirements and charge reasonable admission or other use fees for the use of the Amenities.
- g. the right of the Board to permit use of any Common Area by non-Owners upon payment of use fees established by the Board.
- h. the right of the Board to create, enter agreements with, and grant easements to tax-exempt organizations.
- i. the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for Association obligations subject to restrictions regarding debt.
- j. the rights of certain Owners or Residents to the exclusive use of those portions of the Common Area designated "Exclusive Common Area."

- k. the right of the Association to rent or lease any portion of the Amenities on a short-term basis to any Person approved by the Association for the exclusive use of such Person and such Person's family and Guests.

Each Lot shall be entitled to receive one name badge and access device (key fob, access card, etc.) per Resident of the Primary Dwelling Unit, to a maximum of two per occupied bedrooms.

The Board may establish policies, limits and fees with regard to the issuance of additional cards, access devices and guest privilege cards, including privileges for multiple Owners of Lots.

**3.2 Change of Use of Common Area.** Changes in the use of a Common Area may be made by the Association if the following conditions are met: (i) the present use or service is no longer in the best interest of the Owners, (ii) the new use is for the benefit of the Owners, and (iii) the new use is consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Area.

The Board will provide notice within thirty (30) days of the proposed changes and set a date for an Owners meeting to consider disapproval. Such change shall become effective unless disapproved by a majority of the Voting Interests of the Association. A quorum shall not be required at the meeting for the action to become effective.

**3.3 Limited Common Areas.** Each Lot Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas appurtenant to their respective Lots and identified on the official Plats filed on the Properties. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to every Lot with which it is associated.

**3.4 Reflections Common, Exclusive and Limited Common Areas.** The side yards of and between adjacent Lots are designated as Common Area. Nevertheless except as provided in the following paragraphs, side yard Common Area may be converted to Limited Common Area by an Owner fencing in the side yard beginning at the rear most portion of the roof line of that Owner's Dwelling Unit or the rear most portion of the roof line of the adjacent Dwelling Unit (whichever is closer to the rear yard Lot line of the two Lots) and running thence to the rear of the Lot and/or Limited Common Area appurtenant to the Lot and bisecting the side yard Common Area between the two adjacent Lots. All other side yard Common Area between adjacent Lots shall remain Common Area and no fences shall be permitted in that area.

Side yard Common Area adjacent to and/or between the following Lots and may never be converted to Limited Common Area; (1) Lots 1091 and 1092 and 1091 and 1093.

Side yard Common Area adjacent to and/or between the following Lots and Common Area properties may only be converted to Limited Common Area if approved in advance in writing by the Architectural Review Committee and the City of St. George: (1) Lots 1074, 1075, and 1076; (2) Lot 1077 and the Community Center (Exclusive Common area); (3) Lot 1078 and the Community Center (Exclusive Common Area); (4) Lot 1098 and the Community Center (Exclusive Common Area); (5) Lot 1097 and Lots 1096 and



1095; (6) Lots 1099 and 1109; (7) Lots 1024 and 1025; (8) Lot 1025 and Lots 1026 and 1027; (9) Lot 1019 and Lots 1020 and 1021, and (10) Lot 1018 and Lots 1037 and 1038.

Exclusive Common Area may not be converted to Limited Common Area.

Limited Common Area may be encroached into with rockery retaining walls built as a part of original construction by the developer.

Rockery retaining walls located in Limited Common Area which is bordered by Common Area shall be maintained and repaired by the Sun River St. George Community Association, Inc., in accordance with any Board Resolution.

**3.5 Adjoining Ownership.** The Owners of properties served by a party structure (common wall, block wall, fence, etc.) shall own that portion of the party structure lying within the boundaries of their respective properties and shall have an easement for use and enjoyment and, if needed for support or repair, to that portion of the party structure lying within the boundaries of the adjoining property. Each Owner shall be responsible for maintaining property insurance on that portion of any party structure lying within the boundaries of such Owner's Lot and shall be entitled to all insurance proceeds paid under such policy on account of any insured loss.

With respect to party structures between Lots, the responsibility for the repair and maintenance of party structures and the reasonable cost thereof shall be shared equally by the Owners; provided, however, any Owner that is solely responsible for damage to a party structure shall be responsible for its repair. To the extent damage to a party structure from fire, water, soil settlement, or other casualty is not repaired out of the proceeds of insurance, any Owner may restore it. If other Owners, thereafter, use the party structure, they shall contribute to the restoration cost in equal shares without prejudice to any Owner's right to larger contributions from other users under any rule of the law. Any Owner's right to contribution from another Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article 21.

**3.6 No Partition.** Except as permitted in this 2021 Restated and Amended Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof without the written consent of all Owners and Mortgagees. The Articles shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this 2021 Restated and Amended Declaration.

**3.7 Condemnation.** If a Lot or portion thereof shall be taken by eminent domain, any compensation for the Owner's interests in the Common Area shall inure to the benefit of the Association. In addition, if any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least sixty-seven percent (67%) of the total votes in the Association) by any authority having the power of condemnation or eminent domain,

each Owner shall be entitled to written notice. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows: (a) if the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking at least sixty-seven percent (67%) of the total vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board; (b) if the taking does not involve any improvements on the Common Area, or if a decision is made to not repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

3.8 Provisions & Restrictions on Leases, Subleases and Rentals. The Board may adopt reasonable rules regulating leasing, subleasing and rental of properties. As used in this section, the terms "Internal Accessory Dwelling Unit" shall have the same meaning as provided in Utah Code § 10-9a-530, as may be amended from time to time. In this document, the terms "Lease" and "Rental" are synonymous.

a. Leasing. The leasing of a Dwelling Unit shall not be considered a Business or Trade within the meaning of this subsection except as stated in Section 3.6(d). "Leasing," for purposes of this 2021 Restated and Amended Declaration, is defined as regular, exclusive occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. No structure on a Lot other than the Primary Dwelling Unit shall be leased or otherwise occupied for residential purposes, except the use of a casita for caretaker purposes. A casita shall not be used for occupancy by an Owner who is leasing the Primary Dwelling Unit.

b. Subleasing. There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board.

c. No Lease for Transient or Hotel Purposes. No Owner shall be permitted to lease a Dwelling Unit for transient or hotel purposes or for an initial term of less than thirty (30) days. No timesharing or vacation trading of a Dwelling Unit shall be permitted. Any use of the Dwelling Unit for vacation rentals such as Airbnb or VRBO or other similar uses is prohibited.

d. Entire Dwelling Unit. No Owner shall lease less than the entire Dwelling Unit except as permitted by the laws and ordinances of the governing municipality.

e. Internal Accessory Dwelling Unit. An Owner who occupies a Residence as their primary residence may lease an "Internal Accessory Dwelling Unit" within a Primary Dwelling Unit only to the extent permitted by, and in accordance with all requirements of the laws and ordinances of a governing municipality.

f. All Leases Subject to this Declaration. Any lease agreement shall be required to provide that the terms of such lease shall be subject in all respects to the provisions of the Governing Documents and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease and that the Board shall have

authority to remedy any such default by all remedies available under the law including, without limitation, by legal action against the tenant including eviction. Any Owner who leases their Primary Dwelling Unit shall be responsible for assuring compliance by such Owner's lessee with the Governing Documents. An Owner who leases their Dwelling Unit shall be deemed to have assigned to the lessee of such Dwelling Unit all rights to the use of the Amenities. A lessee of a Dwelling Unit shall be deemed to have submitted himself to all the obligations of compliance with the Governing Documents of the Association, including the enforcement of such compliance. A lease does not transfer the Owner's Voting Interest.

g. Form of Leases. All rentals shall be based on a written lease agreement.

h. Owner to Provide Information Regarding Leases. Within seven (7) days of entering into a lease, the Owner shall provide to the Association a copy of the lease, including the lease addendum described below.

i. Lease addendum. Every lease shall have a written lease addendum for the benefit of the Association that must be executed by the Owner and the tenant(s). The addendum shall include the following:

1. The name and age of all persons intending to reside on the Lot.
2. The Lot number the tenant is leasing.
3. The date the rental period begins.
4. The contracted termination date of the lease, which may be no less than 30 days from the commencement of the lease term.
5. A current telephone number, email and mailing address for the Owner and tenant(s).
6. A provision that the effectiveness of the lease agreement and the addendum are subject to and contingent upon:
  - (i) Owner's compliance with all requirements of the Association for the leasing of Owner's Dwelling Unit; and
  - (ii) Owner and tenant providing a fully executed copy of the Lease addendum, without modification to the Association prior to tenant's occupancy of the Dwelling Unit.
7. A provision by which the tenant acknowledges having received from the Owner a copy of the Governing Documents and agrees that failure to abide by Association's Governing Documents will constitute a default ("Default") under the lease agreement and the addendum. In addition to any rights Owner may have against tenant, tenant understands that pursuant to the Governing Documents and/or the addendum, Association may take action against tenant to:
  - (i) suspend tenant's privileges to use the Association's Amenities.
  - (ii) suspend non-essential services.
  - (iii) assess monetary penalties against tenant; and evict tenant from the leased Lot by means of a court action.
8. A provision that the Owner shall remain responsible for the conduct of tenant and any and all fines and other charges imposed on tenant by the Association.

9. A provision that the Owner assigns to the Association the right, power and authority to collect all rent and other charges due from tenant to Owner, upon ten (10) days advance written notice to Owner and tenant, in the event that the Owner becomes delinquent in the payment of their obligations owed to Association. The tenant shall pay all rent and other charges due under the terms of the lease agreement directly to the Association following receipt of said written notice until the delinquency owed by Owner is cured.
10. A provision that the tenant shall hold the Association, its officers and directors, management agents, employees, and each of them, free and harmless of and from all liability, judgments, costs, damages, claims or demands arising out of:
  - (i) any claim or dispute in connection with the lease agreement and/or the addendum
  - (ii) any injury, claim, or loss in connection with the Lot.
11. A provision that if there is any conflict between the addendum and the lease agreement, the terms of the addendum shall prevail. Notwithstanding the provisions of the addendum, if there is any conflict between the provisions herein and Association's Governing Documents, then the Association's Governing Documents shall take precedence.
12. A provision that the prevailing party in any action to enforce the terms of the addendum shall be entitled to recover all costs and reasonable attorney's fees incurred in addition to such other damages and/or relief that may be awarded.

j. Termination of Lease. The Owner shall notify the Association in writing of termination of any lease within seven (7) days of such termination

k. Restriction on the Number of Units That May be Rented. No more than five percent (5%) of the total number of Dwelling Units in SunRiver shall be leased at any given time; provided however that the Board may, at its discretion, allow an additional two percent (2%) for hardship situations as determined by the Board. The right to lease a particular Dwelling Unit shall not survive a transfer of such Residence.

l. Tracking Number of Rentals. The Board shall create procedures to determine and track the number of rentals in SunRiver and ensure consistent administration and enforcement of these rental restrictions. Such procedures shall be made available to the Owners in a document describing the Association's Policies and Rules or in another written document. In determining who shall be permitted to rent, the Board shall give first priority to the first request made in time, second priority to the second request made in time, and so forth. Notwithstanding the foregoing, the Board may refuse any Owner permission to rent if, at the time of the Owner's request, they have not paid all Assessments, fines, and fees charged against them by the Association

3.9 Rental Cap. A person wishing to rent their Dwelling Unit shall make prior application to the Board of Trustees for approval to do so. In the event that the total number of rented homes in the community reaches or exceeds five percent (5%), the Association shall create a list of those who desire to rent their homes. Names shall be added to the list on a first come, first added basis. If the renter defaults on the lease

or rental agreement as stated in Article 3, the Board of Trustees may have the authority to enforce eviction. If the total number of rentals are above the five percent (5%) cap at the time this amendment is approved by the Community Association, those who are currently renting may continue until the current renter leaves or discontinues the lease agreement. Upon such event, the Owner of the home shall be added to the end of the then existing list of persons wishing to rent their home. Any new lease agreement must be approved by the Board of Trustees or an authorized representative of the Board. If a home that is being rented is sold, an existing lease agreement may continue until the lease agreement term expires. All lease agreements must be approved by the Board of Trustees and must meet the restriction as set forth in Article 3 and contain all of guidelines of the Housing for Older Person Act. Notwithstanding anything to the contrary in this section, the rent cap set forth in this section shall not be applicable to any Lots that are subject to a Mortgage that is insured and/or guaranteed by the Federal Housing Administration, and Lots that are subject to a Mortgage that is insured and/or guaranteed by the Federal Housing Administration shall not be included in calculations to determine the percentage of homes in the community that are rented.

#### **ARTICLE 4 COVENANT FOR ASSESSMENTS**

4.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association all Assessments to be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with interest thereon provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made without the necessity of recording such lien into the county deed records; Recording of this Declaration shall constitute perfection and notice of such lien. Each such Assessment, together with such interest, late charges and costs and reasonable attorney's fees, shall also be the personal obligation of each Owner of such Lot at the time when the Assessment fell due, and of each subsequent Owner other than a Mortgagee. Each subsequent Owner of a Lot shall be deemed to have notice of the Assessments, whether or not a lien has been recorded. No Owner may waive or otherwise escape liability for an Assessment by abandonment of the Lot.

4.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the comfort, health, safety, security and welfare of the Owners and to perform the duties and exercise the powers of the Association enumerated in its Governing Documents.

4.3 Regular Assessments. Regular Assessments shall be payable in such manner and at such intervals as determined by the Board and shall be levied equally against all Lots. Prior to the beginning of each fiscal year of the Association, the Board shall prepare a budget estimating the total Common Expenses to be incurred for the upcoming fiscal year. The Board shall then determine the amount of the Regular Assessment to be paid by each Owner.

Written notice of the annual Regular Assessments and a copy or summary of the budget shall be sent to every Owner within thirty (30) days of adoption; however, failure to provide adequate notice does not relieve the Owner's obligation to pay the Regular Assessment. The Board shall set a date for an Owner's Meeting to consider ratifying the budget no less than thirty (30) nor more than sixty (60) days from the date of adoption of the budget. The budget and Regular Assessment shall be effective unless disapproved at that meeting by at least fifty-one percent (51%) of the total votes in the Association. A quorum is not required for the budget meeting to be valid. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue.

In the event the Board shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all Common Expenses for any reason, it shall immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessments against each Owner, and the date or dates when due except that, prior to the imposition or collections of any such revised amount, the Board shall pass a resolution containing written findings as to the necessity of the extra costs involved and why the costs were not or could not have been reasonably foreseen in the budgeting process and such resolution shall be distributed to the Members with notice of the revised amount. In the event the amount budgeted to meet Common Expenses for any year proves to be excessive in light of the actual Common Expenses, the Board in its sole discretion may either reduce the amount of the Regular Assessment, may abate collection of Regular Assessments or apply any unused Expense funds to the Reserve Fund as the Board deems appropriate.

The Regular Assessments shall include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Areas. All amounts collected as reserves, whether pursuant to the preceding sentence of this Section or otherwise, shall be deposited by the Board in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association.

4.4 Special Assessments. In addition to any other Assessments authorized herein, the Board may, at its discretion and on behalf of the Association, levy a Special Assessment or Special Assessments from time to time to cover any unexpected expenses, operating shortfalls, major repairs, additions, or Capital Improvements. Special Assessments shall be payable in such manner and at such intervals as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved if the Board so determines. Without the written consent or vote of a majority of the Association Voting Interests, the Board shall not levy a Special Assessment or Special Assessments on the general Membership that in aggregate exceeds twenty-five percent (25%) of the budgeted Common Expenses of the Association for that fiscal year. Notwithstanding this twenty-five percent (25 %) limitation, Reflections Owners may be levied a Special

Reflections Assessment only to cover operating shortfalls or major repairs not covered by the reserve fund.

4.5 Individual Assessments. In addition to any other Assessments authorized herein, the Board may, at its discretion and on behalf of the Association, levy an Individual Assessment against any Owner individually and against such Owner's Lot for the following:

- a. to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or Resident thereof upon request of the Owner and approval by the Board, which assessments may be levied and collected prior to commencement of the benefit, items, or services, including Owner obligations for landscaping.
- b. to reimburse the Association for costs incurred in bringing the Owner or their Lot or the Limited Common Area appurtenant to their Lot into compliance with the provisions of the Governing Documents together with attorney's fees, management fees, consultant fees, interest and other charges related thereto which Individual Assessment may be levied by the Association after notice to an Owner and an opportunity for a hearing.

4.6 Reflections Assessments. In addition to any other Assessments authorized herein, the Board, prior to each fiscal year, shall prepare a separate budget covering the estimated Reflections Expenses expected to be incurred during the coming year. Reflections may request that additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to the Reflections budget. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as an Expense. Expenses shall be allocated equally among all Lots within Reflections as an assessment.

The Board shall cause a copy of such budget and notice of the amount of the Reflections Regular Assessment for the coming year to be delivered to each Owner of a Lot in Reflections with the budget and notice for Regular Assessments and a meeting shall be held for the Reflections Owners.

The Association may also levy a Special Reflections Assessment against the Lots within Reflections to reimburse the Association for costs incurred in bringing Reflections into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Lots in Reflections and an opportunity for such Owners to be heard before levying any such assessment.

4.7 Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the Assessments on a specified Lot have been paid, and the amount of delinquency, if any. A reasonable charge may be collected by the Board for the issuance of these certificates, such certificates shall be conclusive evidence of payment of any Assessments therein stated to have been paid.

4.8 Exempt Property. The following portions of the Property shall be exempt from the Assessments created herein, all properties dedicated to and accepted by, or otherwise acquired by a public authority; the Common Areas; any property owned by a religious organization and used for religious purposes; any property owned by a person or entity qualifying for Section 501(c) status and granted an exemption from Assessments by the Board which exemptions the Board shall have authority to grant in its discretion. However, an Owner may be levied an assessment relating to the maintenance or repair of the Limited Common Area appurtenant to an Owner's Lot.

4.9 Reserves and Capital Improvement Expenditures. The Board shall annually prepare reserve budgets for both the Association and Reflections, respectively, which consider the number and nature of replaceable Association assets and Reflection's assets, the expected life of each such asset, and the expected repair or replacement cost. Such reserve budgets may also anticipate making additional capital improvements and purchasing additional capital assets.

The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended. Such policies may differ for the Association and for Reflections.

Notwithstanding the foregoing, without the written consent or vote of at least a majority of the Voting Interests of the Association the Board shall not incur expenditures in any fiscal year for Capital Improvements that in aggregate exceed five percent (5%) of the budgeted Common Expenses of the Association and/or Reflections for that fiscal year.

4.10 Limitation on Increases. Notwithstanding anything to the contrary herein and except for assessment increases necessary for emergency situations, the Board may not impose a Regular Assessment that is more than twenty percent (20%) greater than each of those assessments for the immediately preceding fiscal year without a majority vote of a quorum of the Voting Interests which are subject to the applicable assessment at a meeting of the Association and/or Reflections.

For purposes of this Section, "Quorum" means the Voting Interests of more than fifty percent (50%) of the Lots which are subject to the applicable assessment. In addition, the terms "Regular Assessment" and "Reflections Regular Assessment" shall each be deemed to include the amount assessed against each Lot plus a pro rata allocation of any amounts the Association received through any subsidy or maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

For the purposes of this Section, an "Emergency situation" is any of the following:

- a. an extraordinary expense required by an order of a court.
- b. an extraordinary expense necessary to repair or maintain SunRiver or any part thereof for which the Association and/or Reflections is responsible in order to mitigate or eliminate a threat to personal health or safety.

4.11 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for



any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Governing Documents.

4.12 **Reinvestment Fee.** Within thirty (30) days after the effective date of any transfer of legal title to a Lot, the new Owner(s) shall pay to the Association, in addition to any other required amounts, a reinvestment fee, in an amount determined by the Board from time to time. However, notwithstanding the foregoing, the following are not subject to the above referenced reinvestment fee:

- a. an involuntary transfer.
- b. a transfer that results from a court order.
- c. a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity, or to a legal entity, such as a trust, in which the Owner or the Owner's spouse, son, daughter, father or mother hold a beneficial interest of at least fifty percent (50%) for estate planning purposes.
- d. a transfer or change of interest due to death, whether provided in a will, trust or decree of distribution; or
- e. the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of the Association's costs directly related to the transfer of the burdened property, not to exceed the statutory maximum established by law.

## **ARTICLE 5 NONPAYMENT OF ASSESSMENTS**

5.1 **Delinquency.** Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said due date (the "delinquency date"). The Board shall have authority to establish and charge late fees and interest. The Board may, by resolution, determine the amount, rate, and timing of late fees and interest.

5.2 **Enforcement Rights.** The Association shall have the right to take any of the following actions against one or more Owners after the delinquency date:

- a. The Association may bring an action to recover a money judgment against the Owner for unpaid Assessments, interests, late fees, costs, and attorney's fees.
- b. The Association may foreclose the Association's lien against the Lot for the unpaid Assessments, interest, late fees, costs, and attorney's fees pursuant to Utah Code § 57-8a-304.
- c. The Association may, after giving notice and an opportunity to be heard in accordance with Utah Code § 57-8a-309(2), terminate an Owner's right to receive utility services for which the Owner pays for as a common expense and access to and use of Common Areas.

- d. Subject to Utah Code § 57-8a-310, the Association may require tenants of a Lot to make future lease payments directly to the Association until all delinquent Assessments for the Lot are paid.

5.3 Other Remedies. The Association shall have all other rights and remedies available by applicable law including the right to assess fines, restrict use of the Amenities and suspend Voting Interest for any period during which any Assessment against an Owner's Lot remains unpaid.

5.4 Intent. No provision of this Article shall be interpreted so as to limit in any way the rights of the Association for collection of Assessments.

5.5 Payment by tenant. The Association shall be entitled to demand and collect from a tenant of any Lot, the amount of any assessment that is more than sixty (60) days past due.

5.6 Attorney Fees and Management Fees. In addition to the recovery of costs and attorney fees as provided herein, the Association shall be entitled to recover all reasonable attorney fees, management fees, and costs incurred as a result of an Owner breach of the Governing Documents, including meetings, research, memoranda, monitoring and other legal work incurred in response to an Owner breach or violation of the Governing Documents. These fees may be collected by special or individual assessment against the subject Owner or Lot.

## ARTICLE 6 COVENANTS, CONDITIONS, AND RESTRICTIONS

6.1 Policies and Rules. Each Owner shall comply strictly with all Association Policies and Rules, and other regulations adopted by the Association for the governance of the Lots, the Common Areas, and SunRiver, as such Policies and Rules may be modified, amended, and construed by the Association. Each Owner shall be held responsible for the noncompliance of the same by its Guests, tenants, licensees, or invitees

6.2 Permitted Use. No Lots shall be used except as Single-Family Dwelling Units for residential purposes. All Buildings and Lots must comply with the Design Guidelines.

6.3 Occupancy. Dwelling Units shall not be occupied by more than two persons per bedroom in a Dwelling Unit. For the purposes of this provision, "Occupancy" shall be defined as staying overnight in a Dwelling Unit more than thirty (30) days in any ninety (90) day period.

6.4 Age Restriction. At least eighty percent (80%) of the occupied Dwelling Units within the Property shall at all times, except as otherwise provided herein, be occupied by at least one (1) person not less than fifty-five (55) years of age. No person under the age of eighteen (18) may reside in any Residence. Each Owner shall be restricted by this provision in the occupancy, rental, and sale of their Residence. For the purposes of this Section, a Residence is occupied when a Resident has possession of the Residence and has the right to use or control the same. In

compliance with the Housing for Older Person Act (42 USC § 3607(b)(2)(C), as amended from time to time), the Association shall (i) publish and adhere to policies and procedures that demonstrate the intent to operate the Association as a community for persons who are fifty-five (55) years of age or older; and (ii) establish policies for age verification of each Resident by reliable surveys and affidavits which are of the type that may be admissible in administrative and judicial proceedings for the purposes of such verification, such as driver's licenses, birth certificates, passports, immigration cards, or military identification. An exception to the age-restriction provisions of this Section shall be made for any non-age qualified surviving spouse of an age qualified decedent Owner who had occupied their Residence until such time as the non-age qualified surviving spouse remarries at which time the exception shall expire.

6.5 Commercial Business. Except in areas designated for commercial use in any Governing Document, no Business, Trade, garage sale, moving sale, rummage sale, or similar activity may be conducted in or from any Residence, except that a Resident may conduct business activities within the Residence so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Residence; (b) the business activity conforms to all applicable zoning ordinances; (c) the business activity does not involve regular visitation of the Residence by clients, customers, suppliers, or other business invitees or door-to-door solicitation of other Residences; and (d) the business activity is consistent with the residential character of SunRiver and does not constitute a nuisance or a disturbance as determined in the sole discretion of the Board. However, nothing in this article shall be construed to prevent the Association from (a) entering into contracts with utility providers which contracts would involve installing and maintaining equipment within SunRiver which may be used for providing services to parties that are not members of the Association; (b) conducting a community garage sale or similar event; or (c) permitting leases.

6.6 Use for Personal Profit. Common Area, Association property and Association capital may not be used for personal profit, unless specifically authorized by the Board.

6.7 No Alterations to Common Areas. No Owner shall, without the prior written consent of the Association in each specific instance, make, or cause to be made any alteration, addition, removal, or improvement in or to the Common Areas or any part thereof, or do any act that would impair the structural soundness or integrity of the Common Areas or other Improvements thereon or thereto, or jeopardize the safety of persons or property or impair any easement or hereditament appurtenant to SunRiver.

6.8 No Obstructions. No Owner shall obstruct the Common Areas or any part thereof. No Owner shall store or cause to be stored in the Common Areas any property whatsoever unless the Association shall consent thereto in writing.

6.9 Prohibition of Damage and Certain Activities. Except with the prior written consent of the Association, nothing shall be done or kept on any Lot, in the Common Areas, or in any other part of SunRiver that would result in cancellation of the insurance on SunRiver or any part thereof, nor shall anything be done or kept on any Lot that would increase the rate of insurance on SunRiver or any part thereof over that

which the Association, but for such activity, would pay. Nothing shall be done or kept on any Lot or in the Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental authority. No damage to, or waste of, the Common Areas or any part thereof shall be committed by an Owner, tenant or Guest, and each Owner shall indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by such Owner, tenant or Guest.

6.10 Political signs. Political signs are prohibited within the Association boundaries. If the law requires the Association to allow political signs, the Board shall establish rules governing the display of such signs in accordance with Utah law.

6.11 Antennas. The Association shall have authority to create and enforce Association Policies and Rules regulating the placement of satellite dishes, outdoor antennas, and other similar appliances for the purpose of addressing legitimate safety concerns in a manner that is no more burdensome to the Owner than necessary. All satellite dishes, outdoor antennas, or other similar appliances shall comply with the Design Guidelines.

6.12 Emissions/Discharge, etc. The following are prohibited within SunRiver:

- a. Emission of smoke, fumes, odors, gases, vapors, steam, dust, sweepings, dirt, cinders, or other particles or substances into the atmosphere which may be detrimental to the health, safety, welfare, or comfort of any Owner or any other person outside the boundaries of the Lot of orientation, to the condition of any other portion of the Property, or to any vegetation within the Property.
- b. Discharge of harmful materials into any drainage canal or other waterway which may adversely affect the health, safety, welfare or comfort of any Owner or other person outside the boundaries of the Lot of orientation or the condition of any portion of the Property.
- c. Discharge of glare or heat, subsonic or ultrasonic sounds, or atomic, electromagnetic, microwave, ultra-violet, laser or other radiation which may be detrimental to the health, safety, welfare, or comfort of any Owner or any other person outside the boundaries of the Lot of orientation, to the condition of any other portion of the Property, or to any vegetation within the Property.
- d. Recurrent or continuous emission of sound or noise from any Lot which may be heard without instruments outside the boundaries of the Lot of orientation and which may adversely affect the welfare or comfort of any Owner or other person outside the boundaries of the Lot of orientation.
- e. Recurrent or continuous ground vibrations perceptible without instruments at any point exterior to the Lot of orientation.
- f. Physical hazard by reason of fire, radiation, explosion or other similar cause to either the Property or the surrounding area.

- g. Persisting unsightly condition (as determined by the Board in its sole discretion) on or in any Lot which is visible from any street or any other portion of the Property.
- h. Unreasonable risk of fire or explosion that increases the casualty insurance premiums for improvements on adjacent Lots.
- i. Violation of any applicable statute, ordinance, rule, regulation, permit or other validly imposed requirement of any governmental body.

6.13 Waste Disposal. No trash, garbage or waste material, including, but not limited to, scraps, grass, shrub or tree clippings, lumber, metals and plant waste, shall be kept, stored or allowed to accumulate on any portion of the Property except in an approved bin or contained within an enclosed structure appropriately screened from view. All trash, garbage and other waste materials shall be regularly removed from each Lot and the Property.

6.14 Pets and Animals. Up to two (2) household domestic pets may be kept or housed on each Lot. Notwithstanding the foregoing, in no instance shall the maximum number of pets allowed in a Residence exceed those permitted by City ordinance. In no event shall any animal be permitted in any portions of the Common Area other than the secured, dog park area, unless on a leash. Each individual who keeps an animal shall promptly remove all animal waste from all areas of the community. Each individual who keeps an animal on a Lot shall indemnify and hold all other individuals and the Association harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such animal in SunRiver. No poultry, livestock or exotic animals shall be permitted within SunRiver. No animal shall be kept for breeding or commercial use within SunRiver. If an animal causes an unreasonable disturbance or a threat to persons or property, the Association will give notice to the owner of such animal that such annoyance shall be discontinued; and if such annoyance is not discontinued and corrected, the Association may revoke its permission to keep the animal in SunRiver and the animal shall be removed therefrom.

6.15 Parking Restrictions. The Board may adopt rules and policies imposing parking restrictions and regulations. No commercial vehicles, recreational vehicles, off-road vehicles, trailers, or boats, etc. may be parked within SunRiver except pursuant to Association Rules. Parking on each Lot is limited to the Lot garage and driveway. Residents' vehicles shall be parked in the garage or parked fully within the driveway in accordance with Association Rules. No vehicle may be stored except in the garage. No vehicle may be parked on the street overnight except pursuant to Association Policies and Rules. Any vehicle parked overnight on the street in violation of the Association Rules may be towed by the Association at the expense of the owner of the said vehicle.

6.16 Subdivision of Lots. A Lot may not be subdivided without the prior approval of the Board. Each Owner waives the right of partition as may be permitted under applicable law.

6.17 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot or within SunRiver, including the creation of loud or

offensive noises or odors that detract from the reasonable enjoyment of nearby Lots. No Resident shall engage in activity within SunRiver in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body.

6.18 No Hazardous Activity. No activity may be conducted on any Lot or within SunRiver that is or would be considered by a reasonable person to be unreasonably dangerous or hazardous, which would cause the cancellation of conventional homeowners' insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or Hazardous Materials in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks. Gas and propane fueled fire are permitted in contained fire pits and barbeques when properly supervised.

## ARTICLE 7 GENERAL CONSTRUCTION REQUIREMENTS

7.1 Construction of Improvements on Each Lot. All work performed in the construction, maintenance, repair replacement, alteration or expansion of any Improvement on a Lot shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (a) access to or from any other Lot, or part thereof, to or from any of the Common Areas, (b) construction work being performed on any other Lot; or (c) the use, enjoyment or occupancy of any other Lot. Any replacement, alteration or expansion of any Improvement on a Lot shall be in compliance with all applicable laws, rules, regulations, orders and ordinances of the city, county, state and federal government, or any department or agency thereof and no such work shall cause any Improvement located on any other Lot to be in violation of any such laws, rules, regulations, orders or ordinances. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot shall be done in a good and workmanlike manner and in accordance with engineering standards.

7.2 Staging of Construction of Improvements. Staging for the construction, maintenance, repair, replacement, alteration or expansion of any Improvement on a Lot, including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, shall be limited to such Lot. No such placement, or storage may occur on any street in SunRiver. Parking restrictions for the Association shall apply to all vehicles related to such construction.

7.3 Enforcement. Any construction, alteration or other work done in violation of the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the requester or restore the property, Lot and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Association or its designees, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then

allowed by law), may be assessed against the benefitted Lot and collected as an Individual Assessment.

All approvals granted by the Architectural Review Committee shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline set forth in the approval, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the Governing Documents, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as an Individual Assessment.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor agent, employee, or other invitee of any Owner who fails to comply with the terms and provisions of the Governing Documents may be excluded from the Properties, subject to the event, notice and hearing procedures contained in the Governing Documents. In such event, neither the Association, its officers, or Trustees shall be held liable to any person for exercising the rights granted by this section.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this section and the decisions of the Architectural Review Committee.

## **ARTICLE 8 DUTIES AND POWERS OF THE ASSOCIATION**

8.1 Organization of the Association. The Association has been organized as a nonprofit corporation pursuant to the Utah Nonprofit Corporation Act. If, at any time, such nonprofit corporation is dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers, and obligations of the nonprofit corporation existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. To the greatest extent possible, the successor unincorporated association shall be governed by the Articles and Bylaws as if they had been drafted to constitute the governing documents of the unincorporated association. Notwithstanding the foregoing, upon dissolution of the nonprofit corporation, the Board, in its sole discretion, may reincorporate the Association by renewing the dissolved nonprofit corporation or by incorporating a new nonprofit corporation with a name that is substantially similar to the previously dissolved nonprofit corporation and with Articles that adopt the Declaration and Bylaws and that are otherwise substantially similar to the Articles of the previously dissolved nonprofit corporation. In the event that the Board incorporates a new nonprofit corporation as described above, the new nonprofit corporation shall be a successor of the previously dissolved nonprofit corporation and all of the property, powers, warranties, and obligations of the nonprofit corporation existing immediately prior to its dissolution shall thereupon automatically vest in the new nonprofit corporation.

8.2 General Duties and Powers of the Association. In addition to the duties and powers enumerated in the Governing Documents, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- a. enforce the provisions of the Governing Documents by appropriate means and carry out the obligations of the Association hereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of actions, the promulgation of the Association Rules and Association Policies as provided below, which shall include the establishment of a system of fines or penalties enforceable as Individual Assessments.
- b. acquire, maintain and otherwise manage all of the Common Areas, and all improvements and landscaping thereof, and all personal property acquired by the Association, and maintain all other areas within and in the vicinity of the Property which the Association deems appropriate to maintain or is obligated to maintain, including, without limitation, the landscaped areas, the roadways, the sidewalks and the parking areas, as provided in this Declaration or pursuant to agreement with the City or other governmental agency, or authority;
- c. pay any real and personal property taxes and other charges assessed against the Common Areas unless the same are separately assessed to the Owners.
- d. obtain, for the benefit of the Common Areas, all water, gas and electric, refuse collections and other services.
- e. grant easements where necessary for utilities and sewer facilities over the Common Areas to serve the Property as provided below.
- f. contract for and maintain such policy or policies of insurance as may be required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members.
- g. delegate its powers to committees, officers, or employees as provided in the Bylaws, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of condominium developments or planned unit developments to perform all or any part of the duties and responsibilities of the Association.
- h. establish and maintain a working capital and contingency fund in an amount to be determined by the Board.
- i. have the power of entry upon any Lot where necessary in connection with construction, maintenance or repair for the benefit of the Common Areas, or the Owners.
- j. acquire real property by lease or purchase for offices or other facilities that may be necessary or convenient for the management of the Common Areas, the administration of the affairs of the Association or for the benefit of the Members.



- k. have the power to establish in cooperation with the City a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right to convey or lease, with or without the payment of monetary consideration, all or any portion of the Common Areas to said district.

8.3 Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations for the benefit of the Properties, the Association, its Members and Residents. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense of the Association and included as a line item in the Association's annual budget.

For the purposes of this Section, a " Tax-Exempt Organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as but not limited to entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be, amended from time to time.

8.4 Association Policies and Rules. The Board shall also have the power to adopt, amend, and repeal such Policies and Rules as it deems reasonable (the "Association Policies and Rules"). The Association Policies and Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Lots and Common Areas; provided, however, that the Association Policies and Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles, or Bylaws. A copy of the Association Policies and Rules, as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner in the same manner established in this Declaration for the delivering of notices. Upon such delivery, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. The Association Policies and Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Mortgagee upon request. In the event of any conflict between any such Association Policies and Rules and any other provisions of this Declaration, the Articles or the Bylaws, the provisions of the Association Policies and Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

8.5 Delegation of Powers. The Association shall have the right according to law, to delegate any of its powers under the Governing Documents, provided, however, no such delegation, whether to a professional management company, committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

8.6 Schedule of Fines and Penalties. The Association has the authority to set forth in the Association Rules a schedule of fines and penalties for violations of the Association's governing documents.

## **ARTICLE 9 REPAIR AND MAINTENANCE**

9.1 Repair and Maintenance by Association. Without limiting the generality of the statement of duties and powers contained in this Declaration, the Association shall have the duty to accomplish the following upon the Lots, Common Areas, Limited Common Areas, or other land within and about SunRiver in such a manner and at such times as the Board shall prescribe and shall have a right of entry sufficient to allow accomplishment of the same:

- a. maintain the Common Areas and all other areas within and in the vicinity of the Property which the Association deems appropriate to maintain or is obligated to maintain; including other property which it does not own, including, without limitation, property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law.
- b. maintain all private streets.
- c. maintain all perimeter walls or fences constructed by surrounding the Properties or which separate a Lot from the Common Area or any golf course, regardless of whether such wall or fence is located on the Common Area or on a Lot; provided that, the Association may assess an Owner half the cost of maintaining any portion of a perimeter wall or fence that abuts such Owner's property.
- d. cause the appropriate public utility to maintain any utility easements located within the Common Areas.
- e. maintain the landscaping in the front yards of each Residence to the extent deemed reasonable and practical by the Board of Trustees.
- f. The Association may assume maintenance responsibility for property in SunRiver if, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of such maintenance shall be assessed as an Individual Assessment against each Owner of the noncompliant Lot. If the noncompliant property is a Common Area of the Reflections, the maintenance cost will be assessed equally as an Individual Assessment against each Lot in the Reflections.

9.2 Repair and Maintenance by Owner. Every Owner shall:

- a. repair and maintain all portions of such Owner's Lot, all Improvements thereto and the Limited Common Areas appurtenant to the Owner's Lot, (excluding sidewalks) including, without limitation, all exteriors, underground utility lines, landscaping, including the fences and walls appurtenant to their Lot, in a clean, safe, and attractive condition, and painted as required at all times and in compliance with the Governing Documents. The Owner's responsibility includes, without limitation, maintenance of side yards and curb strips.
- b. repair any structural or visible defects or damages to such Owner's Lot, the Limited Common Areas appurtenant to the Lot and all Improvements thereto; however, the Owner shall not be responsible for repair of any sidewalks or curbing in the Limited Common Areas.

- c. keep such Owner's Lot free from weeds, trash, and debris, and keep all lighting clean and functional.
- d. maintain the landscaping in the front yards of their Lot except to the extent such maintenance has been assumed by the Association.
- e. Every Owner whose property is abutted by a party wall shall share equally in the cost of maintaining such wall. For the purposes of this paragraph, a party wall shall mean and refer to a wall or fence that is located on or adjacent to a boundary line between adjoining Lots or that separates adjoining Lots. Perimeter walls and fences separating Lots from Common Area are not party walls for the purposes of this paragraph. Walls that are connected to a party wall or perimeter wall are to be maintained by the Owner of the Lot upon which the wall resides.
- f. Each Owner covenants and agrees that in the event of damage to or destruction of structures on or comprising their Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Article. The Owner shall pay any costs which are not covered by insurance proceeds.

#### 9.3 Architectural Review Committee and Design Guidelines

- a. The Board shall appoint an Architectural Review Committee ("ARC") and may establish provisions related to the ARC in the Association Rules. The ARC may consist entirely or in part of members of the Board. If the Board does not appoint an ARC, the Board shall serve as the ARC. The ARC shall prepare design and development guidelines (the "Design Guidelines") for approval by the board, including application and review procedures applicable to the Association Properties or any portion thereof. The Design Guidelines and procedures shall be those of the Association subject to approval of the City (if applicable). Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Design Guidelines, the Board shall hold a meeting at which it provides the Members an opportunity to be heard. The Board shall deliver to the Members notice of the meeting and its purpose at least 15 days prior to the meeting. The Association shall make copies of the guidelines and procedures available, upon request, to Owners, builders, and developers who seek to engage in development of or construction upon any portion of the Association Properties, and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.
- b. Any construction, alteration, modification, removal or destruction within SunRiver, including the location of all improvements, must be approved in writing by the ARC prior to the commencement of the same. No person commencing such construction, alteration, modification, removal or destruction prior to receipt of such written approval shall acquire any vested rights in any such Improvement. A majority of the members of the ARC shall have the power to act on behalf of the ARC, without the necessity of a

meeting. All decisions rendered by the ARC must be by written instrument setting forth the action taken by the members consenting thereto.

- c. The ARC may, at its sole discretion, withhold approval of any proposal if the ARC finds the proposal would be inappropriate for the particular Lot or incompatible with the Design Guidelines. Considerations such as siting, shape, size, color, design, height, solar access or other effects on the enjoyment of other Lots or Common Area, and any other factors which the ARC reasonably believes to be relevant, may be taken into consideration by the ARC in determining whether or not to approve any proposal.
- d. Approval or disapproval by the ARC of any matter proposed to it or within its jurisdiction shall not be deemed to constitute precedent, waiver or estoppel impairing its right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to it.
- e. The ARC's approval of any proposal shall automatically be revoked within three (3) months after issuance unless construction or other work relating to the proposal has been commenced or the Owner has applied for and received an extension of time from the ARC.
- f. The ARC may inspect from time to time all work performed and determine whether it is in substantial compliance with the approval granted. If the ARC finds that the work was not performed in substantial conformation with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner in writing of the noncompliance. The notice of noncompliance shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance by a specific date. Any Owner who receives a notice of noncompliance may appeal the notice in accordance with the appeals procedure set forth by the Board.
- g. Neither the Board nor the ARC shall be liable to any Owner, Resident, builder, Guest or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the ARC or a member thereof, provided only that the member has in accordance with the actual knowledge possessed by them, acted in good faith. The ARC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

#### 9.4 Standards for Maintenance and Construction.

- a. Maintenance and modifications of the exterior of Buildings and Improvements shall be accomplished in accordance with the Design Guidelines.
- b. Throughout any period of construction upon a Lot, the Owner of such Lot shall keep the Lot and all streets used by construction equipment or trucks in a clean and safe condition, shall remove daily all trash, rubbish, debris, mud and dirt therefrom, shall take all measures necessary or appropriate to control dust, blowing sand and erosion, whether by wind or water, on the Lot and

shall so conduct all such construction so as not to interfere with free and ready access to existing Buildings and neighboring Lots.

9.5 Right of Association to Maintain and Install. In the event that the need for exterior maintenance or repair of a Dwelling Unit or the Improvements thereto is caused through the willful or negligent acts of the Owner, Resident or Guest, the cost of such exterior maintenance or repair shall be assessed against the Owner and their Lot as hereinafter set forth.

- a. Upon finding by the Board that the need for exterior maintenance or repair was caused by the willful negligent acts of the Owner, the Resident or Permittee, the Board shall give notice of its finding to the responsible Owner which shall briefly describe the maintenance or repair needed and the willful or negligent acts and set a date for hearing before the Board or a committee selected by the Board for such purpose.
- b. Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.
- c. Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt and which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine adverse witnesses. If the Board or any committee renders a decision against the responsible Owner, it shall further set a date by which the deficiency is to be corrected by the responsible Owner. A decision of a committee may be appealed to the Board, but a decision of the Board shall be final.
- d. If, after a hearing as described herein, the Board reaches a decision that the need for exterior maintenance or repair was caused by the willful or negligent acts of the Owner, Resident or Permittee, and the Association pays for such maintenance or repair, such amount shall be an Individual Assessment to each Owner of the Lot and a lien against the Lot.

## ARTICLE 10 INSURANCE

10.1 Insurance Obtained by the Association. The Association shall purchase and maintain all insurance required to be obtained by the Association under the Act, Declaration, and Bylaws, and any additional insurance the Board deems necessary.

10.2 Hazard Insurance. The Association shall maintain a blanket policy of property insurance covering the Common Areas against loss or damage.

10.3 Liability Insurance. The Association shall obtain comprehensive general liability (CGL) insurance insuring the Association, the agents and employees of the Association and the Owners, against liability incident to the use, ownership, or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000) covering

all claims for death or injury to any one person or property damage in any single occurrence.

10.4 Directors and Officers Insurance. The Association shall obtain Directors' and Officers' (D&O) liability insurance protecting the Board of Trustees, Architectural Review Committee, other committees, the officers, and the Association against claims of, including without limitation, wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, etc.

10.5 Additional Insurance. The Association may, in the sole discretion of the Board, obtain additional insurance including, without limitation, a fidelity bond and insurance coverage for computer fraud, funds transfer fraud, and workers compensation.

10.6 Adjustments. Any loss covered by insurance maintained by the Association shall be adjusted with the Association in accordance with the terms and conditions of the Act. The insurance proceeds payable for any such loss shall be paid in accordance with the terms and conditions of the Act.

10.7 Insurance by Lot Owners. Each Owner is responsible for obtaining, at such Owner's expense, insurance against their liability and property insurance covering their Lot, dwelling, other related improvements, and personal property.

10.8 Waiver by Members. As to each of said policies which will not be voided or impaired thereby, the Members hereby waive and release all claims against the Association, the Board, and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

10.9 Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association for Reflections shall be a Common Expense to be included in the Reflections Regular Assessments levied by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in Article 11 hereof. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers.

#### **ARTICLE 11 DESTRUCTION OF IMPROVEMENTS**

In the event of partial or total destruction of Improvements upon the general Common Areas of the Association, and/or the Common Areas of the Reflections Neighborhood, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained pursuant hereto shall be used for such purpose. In the event that the amount available

from the proceeds of such insurance policies for such restoration and repair shall be insufficient to accomplish such repair or restoration, a general Reconstruction Assessment and/or a Reflections Assessment, as necessary, may be levied by the Association to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose. In the event any excess insurance proceeds remain, the Board shall distribute pro rata such excess funds to the Members, subject to the prior rights of Mortgagees whose interest may be protected by insurance policies carried by the Association. The rights of an Owner and the Mortgagee of their Lot as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Lot. All amounts collected as Reconstruction Assessments shall only be used for the purposes set forth in this Article and shall be deposited by the Board in a separate bank account to be held in trust for such purposes. Such funds shall not be commingled with any other funds of the Association.

#### **ARTICLE 12 EMINENT DOMAIN**

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Areas, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. In the event of a taking of less than all of the Common Areas, the rules as to restoration and replacement of the Common Areas and the improvements thereon shall apply as in the case of destruction of the improvements upon the Common Areas. In the event of a total taking, the Board shall distribute pro rata any award to the Members. The rights of an Owner and the Mortgagee of such Owner's Lot as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such Lot.

#### **ARTICLE 13 RIGHTS TO THE COMMON AREAS**

13.1 Right of Enjoyment. There is hereby reserved and established for the benefit of each Owner and Resident a nonexclusive easement for use and enjoyment in and to the Common Areas and such right shall be appurtenant to and shall pass with the interest required to be an Owner to every Lot, subject to the following provisions:

- a. The right of the Association to establish reasonable Policies and Rules pertaining to the use of the Common Areas.
- b. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility or other entity for such purposes and subject to such conditions as may be agreed to by the

Members. No such dedication or transfer, including, without limitation, the conveyance, lease or other transfer of any portion of the Common Areas to a special tax assessment district or to the City, shall be effective unless approved by Members holding not less than sixty-seven percent (67%) of the voting power of the Members.

- c. The right of the Association to establish, in cooperation with the City, a special assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association, together with the right of the Association to convey, lease or otherwise transfer, subject to the provisions of subsections 13.1(b) above, all or any portion of the Common Areas to said district.

13.2 Waiver of Use. No Member may exempt such Member from personal liability for Assessments duly levied by the Association, nor release the Lot owned by such Member from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas or the abandonment of their Lot.

## **ARTICLE 14 EASEMENTS**

14.1 Owners' Rights and Duties: Utilities and Communication Lines. The rights and duties of the Owners with respect to water, sewer, electricity, gas, telephone, cable television lines and drainage facilities shall be governed by the following:

- a. Wherever sanitary sewer, water, electricity, gas, telephone and communication lines or drainage facilities are installed within the Property, there is hereby reserved and established for the benefit of the Owners of any Lot served by said lines or facilities a nonexclusive easement for the full extent necessary therefore, to enter upon the Lots owned by others, in or upon said lines or facilities, or any portion thereof, to repair, replace and generally maintain said lines and facilities as and when the same may be necessary as set forth below, provided that such Owner or utility company shall promptly repair any damage to a Lot caused by such entry as promptly as possible after completion of work thereon.
- b. Wherever sanitary sewer, water, electricity, gas, telephone or communication lines or drainage facilities are installed within the Property, which lines or facilities serve more than one (1) Lot, the Owner of each Lot served by said lines or facilities shall be entitled to the full use and enjoyment of such portions of said lines or facilities which service such Owner's Lot.
- c. The foregoing provisions of this Section shall not be deemed to give any Owner the right to connect to any utility line or facility without first complying with all the requirements of the utility company providing the service in question, including without limitation, the payment of all required connection fees and related charges.

14.2 Utilities. Easements over the Property for the installations and maintenance of electric, telephone, communication lines, water, gas, sanitary sewer



lines and drainage facilities as shown on the recorded subdivision maps of the Property are hereby reserved and established for the benefit of each Owner and their respective successors and assigns.

14.3 Easements for Golf Courses.

- a. An easement on every Lot and the Common Area is hereby reserved permitting golf balls unintentionally to come upon such Lots or Common Area and for golfers in a reasonable manner to come upon the Common Area or exterior portions of a Lot to retrieve errant golf balls; provided, however, if any Lot is fenced, walled, or signed the golfer shall obtain the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstance shall any of the following persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Association or its Members (in their capacity as such); the management company of the Association; any officer, director, or partner of any of the foregoing or any officer or director of any partner, golf course owner, management, operator or staff of the foregoing.
- b. A non-exclusive easement is hereby reserved over all properties immediately adjacent to any golf course located on the Common Areas for over spray of water materials used in connection with fertilization, weed, and pest control, and effluent from any irrigation system serving such golf course. Under no circumstances shall the Association be held liable for any damage or injury resulting from such over spray or the exercise of this easement.

14.4 Common Area Easements. The following nonexclusive easements are hereby reserved and established for the benefit of each Owner, Resident and Guest of each Owner:

- a. General, nonexclusive easements for the purpose of pedestrian traffic over, upon, and across any portion of privately-owned property located within SunRiver which has been improved or made available for such use by the owner of such property.
- b. General, nonexclusive easements for the purpose of vehicular traffic over, upon, and across (1) any portion of privately-owned property located within SunRiver which has been improved or made available for such use by the owner of such property; (2) the public streets and alleys now and hereafter abutting any portion of the Property.

14.5 Signage Monument Easement. An agreement was recorded in the records of the Washington County Recorder as Document No. 20120039417 on November 19, 2012. This easement provides access to the Association to a sign on commercial property lying just outside the boundaries of the Association.

**ARTICLE 15**  
**NATURE OF EASEMENTS AND RIGHTS GRANTED**

15.1 Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of the Property and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance to such portions. For the purposes of such easements and rights, the particular areas of the Property which are benefited by such easements shall constitute the dominant estate, and the particular areas of the Property which are burdened by such easements and rights shall constitute the servient estate.

15.2 Nature and Effect of Easements. Each and all of the easements, covenants, restrictions and provisions contained in this Declaration:

- a. are made for the direct, mutual and reciprocal benefit of the Owners, Residents and Guests of the respective Lots.
- b. create mutual equitable servitudes upon each Lot in favor of the other Lots.
- c. constitute covenants running with the land.
- d. and shall bind every person or entity having any fee, leasehold or other interest in any portion of the Property at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, restriction or provision is to be performed on such portion.

#### **ARTICLE 16 RIGHTS OF LENDERS**

16.1 Filing Notice; Notices and Approvals. A mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee or its mortgage servicing contractor has delivered to the Board a written notice providing its mailing address and stating that such Mortgagee is the holder of a mortgage encumbering a Lot within the Property. Such notice shall state whether such mortgagee is a First Mortgagee. Such Mortgagee shall keep its address updated with the Association and any notice sent to the same shall be deemed effective upon delivery to the address most recently provided to the Association by the Mortgagee. Where the approval of any percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of the percentage of only those mortgagees who have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section, a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such a notice or request remain unchanged.

16.2 Priority of Mortgage Lien. No breach of the covenants, conditions, or restrictions herein contained nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Lot but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot, except as otherwise provided in this Article.

16.3 Relationship with Assessments Liens.

- a. The lien provided for in Article 4 hereof for the payment of Assessments shall be subordinate to the lien of any Mortgage only to the extent required by law, if any.
- b. If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a Mortgage, the foreclosure of the lien of said Mortgage or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "Events of foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.
- c. Any Mortgagee who obtains title to a Lot by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale shall take title to such Lot free of any lien or claim for unpaid Assessments against such Lot which accrue prior to the time such Mortgagee or purchaser takes title to the Lot, except for liens or claims for a share of such Assessments resulting from a reallocation of such Assessments to all Lots within the Property.
- d. Nothing in this Section shall be construed to release any Owner from their obligation to pay for any Assessment levied pursuant to this Declaration.

16.4 Other Rights of Institutional Mortgagees. Any Institutional Mortgagee, or its mortgage servicing contractor, shall, upon written request to the Association, be entitled to:

- a. Inspect the books and records of the Association during normal business hours subject to the same limitations that a Member is entitled to under the law regarding inspection of the same; and
- b. Upon written request, receive the annual audited financial statement, if any, of the Association ninety (90) days following the end of the Association's fiscal year; and
- c. Receive written notice of all annual and special meetings of the Members or of the Board, and Institutional Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not

been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give an Institutional Mortgagee the right to call a Meeting of the Board or of the Members for any purpose or to vote at any such Meeting; and

- d Receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the Owner whose Lot is encumbered by such Institutional Mortgage, which default has not been cured within sixty (60) days of a request therefore by the Association; provided, however, the Association shall only be obligated to provide such notice to Institutional Mortgagees whose written request thereof to the Association specifies the Lot or Lots to which such request relates.

16.5 Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

16.6 Voting Interest of Institutional Mortgagees. In the event of a default by the Owner of any Lot in any payment due under the terms of any Institutional Mortgage or the promissory note secured thereby, the Institutional Mortgagee or their representative shall have the right, upon giving written notice to such defaulting Owner and the Association and placing of record a notice of default, to exercise the Voting Interest of such defaulting Owner attributable to such Lot at any regular or special meeting of the Members held during such time as such default may continue. Any such Owner's Voting Interest shall be restored to him at such time as such default is cured.

## ARTICLE 17 GOLF COURSE

17.1 Assumption of Risk and Indemnification. Each Owner, by its purchase of a Lot in the vicinity of any golf course hereby expressly assumes the risk of noise, personal injury, or property damage caused by maintenance and operation of any such golf course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that maintenance typically takes place around sunrise or sunset), (b) noise caused by golfers, (c) use of pesticide, herbicides, and fertilizers, (d) use of effluent in the irrigation of the golf course, (e) reduction in privacy caused by constant golf traffic on the golf course or the removal or pruning of shrubbery or trees on the golf course, (f) errant golf balls, golf clubs, and golf carts and (g) design of the golf course.

Each such Owner agrees that neither the Association, the golf course owner, nor agents, management, operator, or staff of the foregoing shall be liable to Owner or any other person claiming any loss or damage, including, without limitation, indirect destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owner's Lot to the golf course, including, without limitation, any claim arising in whole or in part from the negligence of the Association, its agents, affiliates, or assigns. The Owner hereby agrees to indemnify and hold harmless the Association, golf course owner, management, operator, and agents, affiliates, and assigns of the

foregoing against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

17.2 View Impairment. The Association does not guarantee or represent that any view over any golf course from adjacent Lots will be preserved without impairment. No provision of the Governing Documents shall be deemed to create an obligation of the Association to relocate, prune, or thin trees or other landscaping except as otherwise specifically provided herein. The owner of the golf course, if any, may, in its sole discretion, change the location, configuration, size and elevation of the trees, bunkers, tee boxes, fairways and greens on such golf course from time to time. Any such additions or changes to such golf course may diminish or obstruct any view from the Lots and any express or implied easements for view purpose or for the passage of light and air are hereby expressly disclaimed. Any such addition or change to any golf course may not adversely affect drainage flow across SunRiver.

#### **ARTICLE 18 AMENDMENTS**

18.1 Manner of Amending. This Declaration may be amended by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the total of those who vote, provided that at least forty percent (40%) of the total votes in the Association are cast. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Notwithstanding the foregoing, this Declaration may be terminated only by an instrument signed by Owners of at least eighty percent (80%) of the total Lots and recorded in the County recorder's office.

18.2 Consent to Amend. If an Owner consents to the Amendment of this Declaration or the Association Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

18.3 Acceptance of Deed. By acceptance of a deed of conveyance to a Lot or Residence, each Owner thereby gives its full, irrevocable, and unqualified consent on behalf of itself, its mortgagees, and its successors-in-title to the amendment of this Declaration in the manner provided in this Article.

#### **ARTICLE 19 GENERAL PROVISIONS**

19.1 Enforcement. Either the Association or any Owner shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations, and the right to recover damages for such violation; provided, however, that the Association shall have the exclusive right to enforce assessment liens. The Association or any Member shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles, Bylaws, or Association Policies and Rules, and any amendments thereto. Failure by the

Association, or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles and the Bylaws, in any certain instance or on any particular occasion, shall not be deemed a waiver of such right on any such future breach of the same covenant, condition or restriction.

19.2 Not a Public Dedication. Nothing contained in this Agreement shall, or shall be deemed to, constitute a gift or dedication of any portion of the property to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the purposes expressed herein.

19.3 Severability. Notwithstanding invalidation of any one of these covenants, conditions or restrictions by judgment or court order, all other provisions hereof shall remain in full force and effect.

19.4 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of residential units on the Property and for the maintenance of the Property and the Common Areas. The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

19.5 Singular Includes Plural. Whenever the context of this Declaration requires, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

19.6 Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenants, easement, or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

19.7 Attorneys' Fees. In the event action is instituted to enforce any of the provisions contained in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be an Individual Assessment with respect to the Lot involved in the action. In any action to recover delinquent assessments or fines, the Association shall be entitled to recover its Attorney's Fees and legal costs whether or not a lawsuit or legal action is filed.

19.8 Notices. Any notice to be given to an Owner or Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

- a. Notice to an Owner shall be deemed to have been properly delivered when delivered personally, sent by fax or email, electronic communications, or placed in the first-class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the

purpose of giving notice or, if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice sent by fax, email, or electronic communication shall be deemed delivered the earlier of one (1) hour after being sent or confirmed receipt. Any notice deposited in the mail shall be deemed delivered the earlier of five (5) days after such deposit or upon confirmed receipt. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners, on behalf of all co-Owners, and shall be deemed delivered on all such co-Owners.

- b. Notice to a Mortgagee or its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first-class United States mail, postage prepaid, to the address furnished to the Association by such Mortgagee or such contractor for the purposes of notice.

19.9 Effect of Declaration. This Declaration is made with the intent to establish a general scheme for the use, occupancy and enjoyment of the Property and each and every Lot and portion thereof. The Association makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

19.10 Personal Covenant. To the extent the acceptance of a conveyance of a Lot creates a personal covenant between the Owner of such Lot and the Association or other Owners, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

19.11 Non-liability of Officials. To the fullest extent permitted by law, neither the Board, nor any other committee of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties.

## **ARTICLE 20 INDEMNIFICATION**

### 20.1 Indemnification.

- a. Third Party Actions. The Association shall indemnify every officer, Trustee, and committee member against all damages and expenses, and liabilities including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Trustees) to which he or she may be a party by reason of being or having been an officer, Trustee, or committee member, except that such obligation to indemnify shall (i) not apply to any action, suite, or other proceeding brought by the Association upon decision by the Board; and (ii) be limited to those actions under this Section and as may be limited by Utah law.

Pursuant to this subsection the officers, Trustees, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful actions of the following offenses: misfeasance, malfeasance, misconduct, or bad faith. The officers and Trustees shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or Trustees may also be Members of the Association). The Association shall indemnify and forever hold each such officer, Trustee and committee member harmless from any and all liability to others if such insurance is reasonably available.

- b. Association Actions. The Association shall indemnify every officer, Trustee, and committee member against all damages and expenses, and liabilities including attorney fees, reasonably incurred in connection with any action, suit, or other proceeding to which he or she may be a party by reason of being or having been an officer, Trustee, or committee member if such action, suit, or proceeding is brought by the Association upon decision by the Board and: (i) the person seeking indemnification has been successful on the merits in defense of such action, suit, or proceeding; or (ii) in instances where there will be no adjudication on the merits, it is determined in writing by independent legal counsel, the hiring of which has been mutually consented to by the Board and the person seeking indemnification (which consent shall not be unreasonably withheld), that the person seeking indemnification acted in good faith and in a manner he or she reasonably believed to be in the best interests of the Association. Notwithstanding the foregoing, no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence, criminal conduct, or intentional misconduct in the performance of their duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability and in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

20.2 Assumption of Risk. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to promote the health, safety and welfare of the Owners and occupants of Lots. Notwithstanding anything contained in the Governing Documents or any other document binding the Association, neither the Association, the Board or the Association's management company shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Resident of any property of the Association. Each Owner and Resident of a Lot and each tenant, Internal Occupant, or Guest and invitee of any Owner or Resident shall assume all risks associated with the use and enjoyment of the Association's Properties, including all recreational facilities.



Each Owner and Resident of a Lot and each tenant, Internal Occupant, or Guest, and invitee, of any Owner or Resident shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines or utility sub-stations and further acknowledges that the Association, the Board, or the management company of the Association, or any successor Declarant have made no representations or warranties, nor has any Owner or Resident, or any tenant, Internal Occupant, or Guest and invitee of any Owner or Resident relied upon any representations or warranties, expressed or implied by the foregoing parties, relative to the condition or impact of utility lines or utility sub-stations.

No provision of the Governing Documents shall be interpreted as creating a duty of the Association, the Board, or the Association's management company, to protect or further the health, safety or welfare of any Person(s), even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of their acceptance of title to their Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Property shall be bound by this section and shall be deemed to have waived any and all rights, claims, demands and causes of action against the Association, and its Trustees, officers, committee and Board members, employees, agents, contractors, subcontractors, management company successors and assigns arising from or connected with any matter for which the liability has been disclaimed.

20.3 Security. It is the goal of all Owners, and the Association, to have a safe and healthy environment. However, no written or oral representations regarding the safe and secure nature of SunRiver St George shall be construed in whole or in part as guarantees thereof, it being recognized that circumstances beyond the control of the Association may arise. The Association may maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be provided however, that the Association shall not be obligated to maintain or support such activities.

Neither the Association or the management company of the Association shall in any way be considered insurers or guarantors of security within the Properties. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, entry gate, patrol, burglar alarm system or other security system or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in any case prevent loss or provide the detection or protection for which the system is designed or intended.

Each Owner and Resident acknowledges, understands and covenants to inform its tenants, Internal Occupants, Guests and invitees that the Association, its Board of Trustees and committees and the management company are not insurers. All Owners and Residents of any Lot and all tenants, Internal Occupants, Guests, and invitees, of any Owner assume all risks for loss or damage to Persons, to Lots, and to the contents of Lots and further acknowledge that the Association, its Board and committees, and the

management company of the Association have made no representations or warranties, nor has any Owner, Resident, or any tenant, Internal Occupant, Guest, or invitee of any Owner or Resident relied upon any representations, whether expressed or implied, relative to any entry gate, patrolling of the Properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties.

## **ARTICLE 21 DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

21.1 Agreement to Avoid Litigation. The Association, its officers, Trustees, and committee members, all persons subject to this 2021 Restated and Amended Declaration, any Builder, and any Person not otherwise subject to this 2021 Restated and Amended Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Property without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Sections 21.2 ("Claims") shall be resolved using the procedures set forth in Section 21.3 in lieu of filing suit in any court.

21.2 Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents shall be subject to the provisions of Section 21.3. The following claims are exempt from this Article 21:

- a. Any suit by the Association against any Bound Party to enforce the provisions of Articles 3, 4, 5, 9 or any provision of the Association's Polices and Rules.
- b. Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of its Governing Documents.
- c. Any suit between Owners, which does not include the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents.
- d. Any suit in which any indispensable party is not a Bound Party; and
- e. Any suit which otherwise would be barred by an applicable statute of limitations.

### 21.3 Mandatory Procedures.

- a. Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:
  - (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim.
  - (ii) the legal basis of the Claim (i.e., the authority out of which the Claim

arises).

(iii) Claimant's proposed remedy; and

(iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

**b. Negotiation and Mediation.**

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

(ii) If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in Utah.

(iii) IF CLAIMANT DOES NOT SUBMIT THE CLAIM TO MEDIATION WITHIN THIRTY (30) DAYS AFTER TERMINATION OF NEGOTIATIONS, OR DOES NOT APPEAR FOR THE MEDIATION, CLAIMANT SHALL BE DEEMED TO HAVE WAIVED THE CLAIM, AND RESPONDENT SHALL HAVE BEEN RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY TO CLAIMANT ON ACCOUNT OF SUCH CLAIM; PROVIDED NOTHING HEREIN SHALL RELEASE OR DISCHARGE RESPONDENT FROM ANY LIABILITY TO ANY PERSON OTHER THAN THE CLAIMANT.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

**c. Legal Action.**

IF THE PARTIES DO NOT AGREE IN WRITING TO A SETTLEMENT OF THE CLAIM WITHIN FIFTEEN (15) DAYS OF THE TERMINATION OF MEDIATION, THE CLAIMANT SHALL HAVE THIRTY (30) ADDITIONAL DAYS TO FILE A LEGAL ACTION IN COURT. IF THE CLAIMANT FAILS TO TIMELY FILE A LEGAL ACTION IN COURT, THE CLAIM SHALL BE DEEMED ABANDONED. THE RESPONDENT SHALL BE RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY TO CLAIMANT ARISING

OUT OF SUCH CLAIM; PROVIDED, NOTHING HEREIN SHALL RELEASE OR DISCHARGE RESPONDENT FROM ANY LIABILITY TO PERSONS OTHER THAN CLAIMANT.

21.4 Allocation of Costs of Mediation. Each Party shall bear its own mediation costs, including any attorney's fees incurred, and each Party shall share equally all charges rendered by the Mediators.

21.5 Enforcement of Resolution. After resolution of any claim, if any Party fails to abide by the terms of any agreement or binding award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or award without the need to again comply with the procedures set forth in Section 21.3. In such event, the Party taking action to enforce the agreement or award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

## EXHIBIT "A"

## LEGAL DESCRIPTION

All of Phases 1 through 57, including any and all Common Area, as shown on the Official Plats, according to the official records of the Washington County Recorder:

Phase	Lots	Tax ID Nos.
1A	1-12	SG-SUR-1-1A-1-12
1B	14/15; 16-A-17-A 18-24; 25-A 27-80; 81-A 83-84; 85-A 86-87; 88-A-101-A 102-107	SG-SUR-1-1B-14/15; SG-SUR-1-1B-16-A-17-A SG-SUR-1-1B-18-24; SG-SUR-1-1B-25-A SG-SUR-1-1B-27-80; SG-SUR-1-1B-81-A SG-SUR-1-1B-83-84; SG-SUR-1-1B-85-A SG-SUR-1-1B-86-87; SG-SUR-1-1B-88-A-101-A SG-SUR-1-1B-102-107
1C	252-293; 295-296	SG-SUR-1-1C-252-293; SG-SUR-1-1C-295-296
1D	194-251	SG-SUR-1-1D-194-251
1E	108-146	SG-SUR-1-1E-108-146
2A	147-193	SG-SUR-2A-147-193
2B	442-449	SG-SUR-2B-442-449
3A	297-367; 368-A; 370-371	SG-SUR-3A-297-367; SG-SUR-3A-368-A; SG-SUR-3A-370-371
3B	372-441	SG-SUR-3B-372-441
4	450-497; 808-828	SG-SUR-4-450-497; SG-SUR-4-808-828
5A	498-513	SG-SUR-5A-498-513
5B	514-562	SG-SUR-5B-514-562
6	563-609	SG-SUR-6-563-609
7	610-650	SG-SUR-7-610-650
8	651-695	SG-SUR-8-651-695
9	696-739	SG-SUR-9-696-739
10	740-807	SG-SUR-10-740-807
11	829-875	SG-SUR-11-829-875
12	876-929	SG-SUR-12-876-929
13	1129-1155; 1157-1165 1167-1172; 1186-1188 1209-1211; 1226-1227 1232; 1235-1245	SG-SUR-13-1129-1155; SG-SUR-13-1157-1165 SG-SUR-13-1167-1172; SG-SUR-13-1186-1188 SG-SUR-13-1209-1211; SG-SUR-13-1226-1227 SG-SUR-13-1232; SG-SUR-13-1235-1245
14	1110-1128; 1166 1173-1185; 1189-1208 1212-1225; 1228-1231 1233-1234	SG-SUR-14-1110-1128; SG-SUR-14-1166 SG-SUR-14-1173-1185; SG-SUR-14-1189-1208 SG-SUR-14-1212-1225; SG-SUR-14-1228-1231 SG-SUR-14-1233-1234
15	930-1013	SG-SUR-15-930-1013

16	1014-1109; 1019-B; 1913	SG-SUR-16-1014-1109; SG-SUR-16-1019-B; SG-SUR-16-1913
17A	1251-1285	SG-SUR-17A-1251-1285
17B	1286-1313	SG-SUR-17B-1286-1313
18	1314-1346	SG-SUR-18-1314-1346
19	1896-1912; 2035	SG-SUR-19-1896-1912; SG-SUR-19-2035
20	1396-1437	SG-SUR-20-1396-1437
21	1347-1395	SG-SUR-21-1347-1395
22	1516-1519; 1520-A; 1520-C; 1521-1530; 1531-A; 1532-1555	SG-SUR-22-1516-1519; SG-SUR-22-1520-A; SG-SUR-22-1520-C; SG-SUR-22-1521-1530; SG-SUR-22-1531-A; SG-SUR-22-1532-1555
23	1556-1586	SG-SUR-23-1556-1586
24	1587-1627	SG-SUR-24-1587-1627
25	A; 1667-1687	SG-SUR-25-A; SG-SUR-25-1667-1687
26	1628-1666	SG-SUR-26-1628-1666
27	1246-1250	SG-SUR-27-1246-1250
28	1438-1479	SG-SUR-28-1438-1479
29	1726-1741	SG-SUR-29-1726-1741
30	A; 1480-1515; 1711- 1725	SG-SUR-30-A; SG-SUR-30-1480-1515; SG-SUR-30-1711-1725
31	1742-1787	SG-SUR-31-1742-1787
32	1862-1895	SG-SUR-32-1862-1895
33	1788-1808	SG-SUR-33-1788-1808
34	1809-1826	SG-SUR-34-1809-1826
35	A; 1688-1708	SG-SUR-35-A; SG-SUR-35-1688-1708
36	1827-1861	SG-SUR-36-1827-1861
37	1914-1920 1935-1941	SG-SUR-37-1914-1920 SG-SUR-37-1935-1941
38	1921-1934	SG-SUR-38-1921-1934
39	1942-1952	SG-SUR-39-1942-1952;
40	1953-1961; 1984-1993	SG-SUR-40-1953-1961; SG-SUR-40-1984-1993
41	A; 1962-1983	SG-SUR-41-A; SG-SUR-41-1962-1983
42	1994-2015	SG-SUR-42-1994-2015
43A	2016-2020	SG-SUR-43A-2016-2020
43B	2021-2034	SG-SUR-43B-2021-2034
44	A; 2036-2058	SG-SUR-44-A; SG-SUR-44-2036-2058
45	A; 2059-2082	SG-SUR-45-A; SG-SUR-45-2059-2082
46	A; 2083-2108	SG-SUR-46-A; SG-SUR-46-2083-2108
47	A; 2109-2128	SG-SUR-47-A; SG-SUR-47-2109-2128
48	2295-2322	SG-SUR-48-2295-2322
49	2129-2149	SG-SUR-49-2129-2149
50	2150-2171	SG-SUR-50-2150-2171
51	A; 2172-2193	SG-SUR-51-A; SG-SUR-51-2172-2193
52	2194-2209	SG-SUR-52-2194-2209
53	2210-2220	SG-SUR-53-2210-2220
54	2221-2236	SG-SUR-54-2221-2236

55  
56  
57

2237-2253  
A, 2254-2274  
A, 2275-2294

SG-SUR-55-2237-2253  
SG-SUR-56-A; SG-SUR-56-2254-2274  
SG-SUR-57-A; SG-SUR-57-2275-2294

**EXHIBIT B  
CERTIFICATE OF APPROVAL OF AMENDMENT**

The undersigned, being duly authorized Trustees of the SunRiver St George Community Association, Inc., being duly sworn, certify as follows:

1. Attached to this Certification is the 2021 AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUNRIVER ST GEORGE COMMUNITY ASSOCIATION INC, an age restricted, Planned Unit Development situated in St George, Washington County, State of Utah.
2. The Prior Declaration and other proceeding amendment(s) were properly amended by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the total of those who voted, and at least forty percent (40%) of the total votes in the Association were cast
3. The Association sought approval for these amendment(s) from all parties it was required to seek consent from pursuant to the Prior Declaration.

Dated: 18th December, 2021  
SunRiver St George Community Association, Inc.

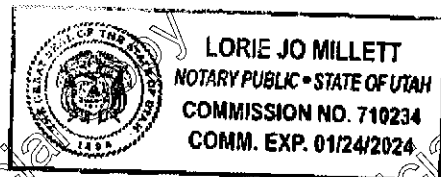
By: [Signature]  
Representative of the Board of Trustees

Attest: [Signature]  
Co-member of the Board of Trustees

STATE OF UTAH )  
) ss  
WASHINGTON COUNTY )

Subscribed and sworn before me this 18 day of December, 2021.

[Signature]  
NOTARY PUBLIC





**EXHIBIT C  
NEIGHBORHOOD MAP**

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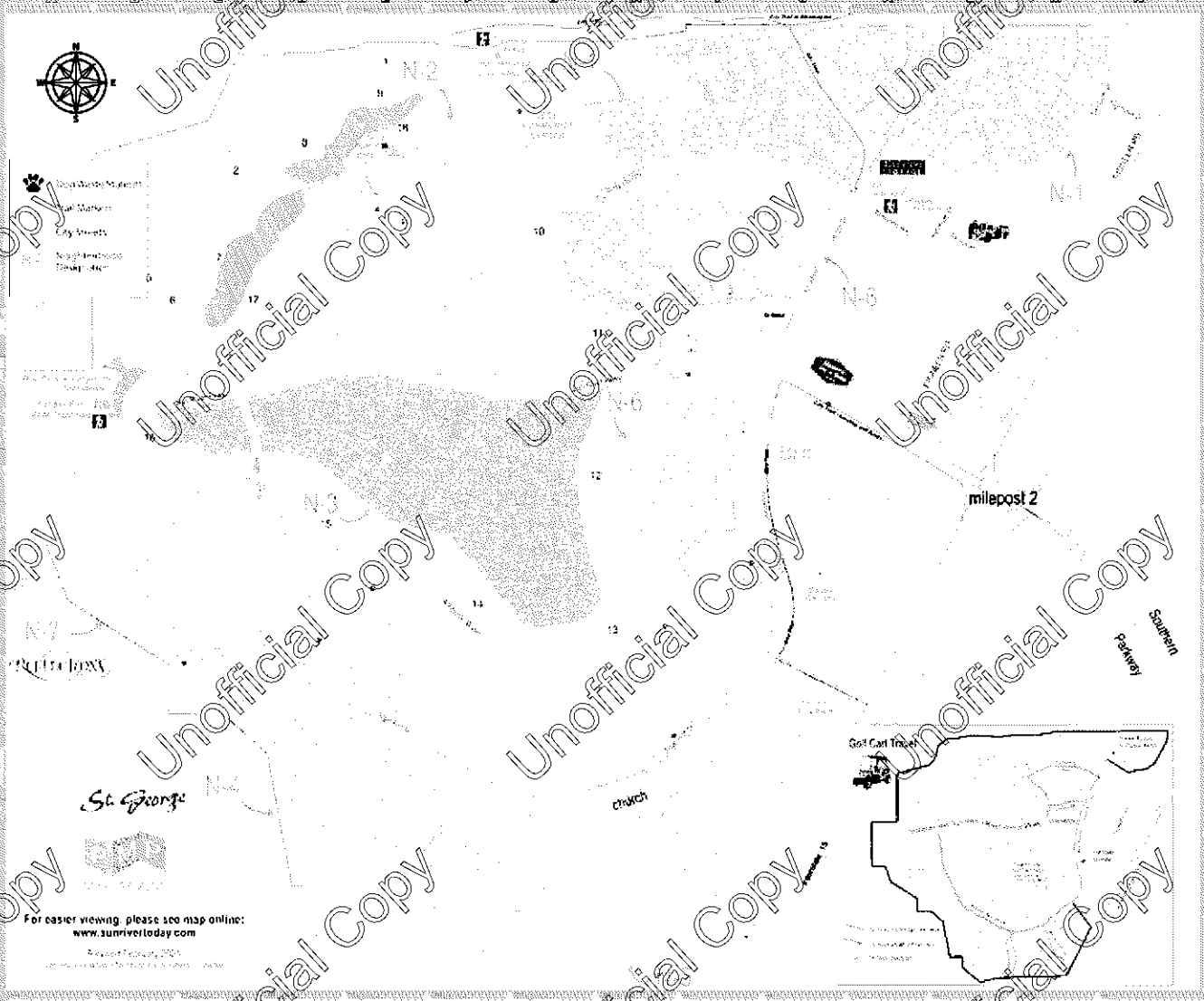
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# Community Map



**EXHIBIT D  
SUPPLEMENTAL COVENANTS**

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